



Environmental
Protection
Authority

Cape Preston East – Multi-commodity Export Facility – inquiry
under section 46 of the *Environmental Protection Act 1986* to
amend Ministerial Statement 949 and 1149

Leichhardt Port Pty Ltd

Report 1801
February 2026

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 question of whether the implementation conditions, relating to the Cape Preston East – Multi-commodity Export Facility proposal, should be changed.

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*.



Darren Walsh
Chair
Environmental Protection Authority

15 January 2026

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1 Proposal

The Cape Preston East – Multi-commodity Export Facility (the proposal) is to construct and operate a multi-commodity export facility on the eastern side of Cape Preston in the Pilbara region of Western Australia. The proponent for the proposal is Leichhardt Port Pty Ltd (the proponent).

The Environmental Protection Authority (EPA) assessed the proposal at the level of Assessment on Proponent Information (API) and published its report in May 2013 (Report 1476). In this report, the EPA considered the key environmental factors relevant to the proposal to be:

- marine fauna
- marine environmental quality.

The EPA concluded in Report 1476 that the proposal could be managed to meet the EPA's environmental objectives, provided there was satisfactory implementation of the recommended conditions set out in Appendix 2 of Report 1476. On 9 September 2013, the then Minister for Environment approved the proposal for implementation, subject to the implementation conditions of Ministerial statement (MS) 949.

Previously approved amendments to the proposal

The following changes to the proposal have been approved under section 45C of the *Environmental Protection Act 1986* (EP Act):

- Increase in the disturbance footprint required for marine infrastructure from 3.2 hectares (ha) to 4.8 ha (Attachment 1 to MS 949, approved 8 April 2015).
- Revision of the access road alignment, increasing the total disturbance from 402.8 ha to 413.2 ha (Attachment 2 to MS 949, approved 1 May 2017).
- Change to the purpose of the proposal from a single commodity export facility (iron ore) to a multiple commodity export facility (iron ore and salt) incorporating a change to the name of the proposal (Attachment 3 to MS 949, approved 19 September 2018).
- Increase in the DE to allow for trestle jetty alignment flexibility. This amendment introduced a 0.7 ha limit to the impact on coral reef habitat within the 4.8 ha benthic communities and habitat disturbance extent (Attachment 4 of MS 949, approved 6 November 2023).

Previously approved amendments to the conditions

On 6 August 2020, the then Minister for Environment approved a s.46 application to change condition 3 of MS 949 to extend the time limit for proposal implementation by 5 years. This is reflected in MS 1149 which extended the time limit for proposal implementation to 9 September 2023.

Eramurra Solar Salt Project

The EPA is currently assessing the Eramurra Solar Salt Project (ESSP) proposal. The ESSP would use evaporation of seawater to produce a concentrated salt product that would be exported through the Cape Preston East – Multi-commodity Export Facility. The ESSP includes dredging of up to 400,000 cubic metres for a

shipping channel at the Cape Preston East port, an outfall (diffuser) to allow for discharge of up to 5.9 gigalitres per annum (GL/a) of bitterns and a seawater intake and associated pipelines.

Much of the Cape Preston East – Multi-commodity Export Facility development envelope overlaps with the larger ESSP development envelope. This is due to the operational relationship between the two proposals. The ESSP intends to use the Cape Preston East facility to export the salt product it would produce nearby. The Cape Preston East facility provides the port infrastructure necessary for loading and transshipment.

The joint location enables both projects to leverage common marine infrastructure rather than duplicating facilities. This overlap also provides flexibility for design and alignment of components like pipelines, outfalls, jetty structures and haul roads, while maintaining separate environmental assessments for each proposal to address their distinct and cumulative impacts.

The potential impacts associated with the ESSP to marine fauna, marine environmental quality and native vegetation will be considered as part of the EPAs assessment of that proposal, both separately and cumulatively, including considering the combined impacts with the approved Cape Preston East port proposal.

2 Requested amendments to the conditions

Condition 3-1 of MS 1149 states that the proponent shall not commence implementation of the proposal after 9 September 2023, and any commencement, prior to this date, must be substantial.

The proponent has not yet substantially commenced implementation of the proposal.

In December 2023, the proponent requested an amendment to condition 3 of MS 949 (as amended by MS 1149) to extend the authorised time limit for proposal implementation.

The proponent has not proposed any amendments to the proposal however has identified that additional conditions may be required to contemporise MS 949 (as amended by MS 1149) and ensure the management of proposal impacts aligns with current EPA guidance.

In response to the proponent's request, on 11 June 2024 the then Minister for the Environment requested that the EPA inquire into and report on the question of whether the implementation conditions, relating to the Cape Preston East – Multi-commodity Export Facility, should be changed. This report satisfies the requirements of the EPA's inquiry.

3 Inquiry into amending 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 amend the relevant conditions under s.46 of the 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 of the proposal (Report 1476)
- previous s. 46 inquiry (Report 1680)
- MS 949 and MS 1149
- information provided by the proponent.

In conducting this inquiry, the EPA reviewed information provided by the proponent and considered the original assessment of the proposal detailed in Report 1476. In considering whether it was appropriate to recommend an extension of the authorised timeframe for substantial commencement of the proposal, the EPA considered whether (since Report 1476) there was any change to, or new information relating to, the key environmental factors relevant to the proposal. The EPA also considered whether any new key environmental factors had arisen since its original assessment of the proposal.

In conducting the s. 46 inquiry the EPA also had the opportunity to consider:

- any changes in environmental, scientific or technological knowledge that may have arisen since the initial assessment
- whether the proposal will be implemented using best practice and contemporary methods so that the EPA objectives for the key environmental factors can be met.

EPA procedures

In conducting this inquiry, the EPA followed the procedures in the *Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2024* (Government of Western Australia 2024) and the *Environmental Impact Assessment (Part IV Divisions 1 and 2) Procedures Manual* (EPA 2024b).

4 Inquiry findings

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

- marine fauna
- marine environmental quality
- flora and vegetation and terrestrial fauna
- social surroundings (Aboriginal cultural heritage).

Given the age of MS 949 (as amended by MS 1149), and the request from the proponent to contemporise MS 949 (as amended by MS 1149) to ensure that the management of impacts are aligned with current EPA guidance, the EPA considers it appropriate to recommend that MS 949 (as amended by MS 1149) is superseded by a new contemporary Ministerial statement and conditions. The inquiry findings and recommendations have therefore been discussed in this context. Appendix A summarises the EPA's inquiry findings for each condition in MS 949 and MS 1149 and provides a recommendation as to whether the condition should be deleted or replaced.

4.1 Marine Fauna

The EPA environmental objective for marine fauna is *to protect marine fauna so that biological diversity and ecological integrity are maintained* (EPA 2016d).

Conclusions from EPA Reports 1476 and 1680

Report 1476

In assessing the original proposal, the EPA considered the proposal to have the potential to impact on marine fauna during construction and operation from:

- temporary or permanent displacement
- collisions with vessels and entrapment of small marine fauna within intake pipes
- behavioural disruption or injury of marine fauna at close range from high impact noises such as pile driving
- changes to turtle nesting beaches as a result of altered coastal processes
- light spill impacts on turtle nesting.

In Report 1476 the EPA had particular regard for the:

- population and distribution of marine fauna in the area of the proposal including the regional significance of habitats elsewhere in the Pilbara
- the short-term nature of the construction activities
- the mitigation and management measures proposed by the proponent.

The EPA concluded that the proposal could be managed to meet the EPA's environmental objective for marine fauna provided that the recommended conditions were implemented. The EPA recommended conditions requiring:

- a marine fauna observer to be present at all times
- soft-start procedures before pile driving
- immediate cessation of piling if cetaceans or dugongs are within 500 metres (m), or marine turtles within 100 m of the activity
- no construction activities at night during turtle hatching season (20 October to 10 March)
- the implementation of an introduced marine pests monitoring program and introduced marine pest management strategy.

Report 1680

In Report 1680 the EPA noted that the proponent was not proposing any changes to the proposal that would change the potential impacts, or any changes to the conditions relating to the management of impacts, to marine fauna. As a result, no further marine fauna studies had been carried out.

The EPA further noted that there had been no change in the conservation status for six of the seven conservation significant marine fauna species and that the conservation status of the humpback whale had changed from vulnerable to conservation dependent under the *Biodiversity Conservation Act 2016*.

The EPA was satisfied that its objectives for marine fauna could be met and that the potential impacts of the proposal could be managed through the existing implementation conditions.

Assessment of requested amendments 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 – Marine fauna* (EPA 2016d)
- *National Light Pollution Guidelines for Wildlife including Marine Turtles, Seabirds and Migratory Shorebirds* (DCCEEW 2023).

Conservation listed marine fauna

To support the s. 46 inquiry, the proponent provided marine survey reports used to inform the assessment of the ESSP. These contemporary surveys identified two marine fauna species within the proposal area that had not previously been recorded, being:

- the green sawfish (*Pristis zijsron*) (vulnerable) which is known to utilise the mudflats and mangroves of the Pilbara region for pupping, foraging and shelter
- the leaf-scaled sea snake (*Aipysurus foliosquama*) (critically endangered) which has been known to occur in distinct breeding populations on reef flats throughout the Pilbara (O2 Environment 2023a).

The EPA notes the limited extent of the marine infrastructure, the relatively small scale of potential impact of the proposal relative to the extent of habitat of the two species in the Pilbara region, and further notes that no biologically important areas for the green sawfish or leaf-scaled sea snake are known to occur in or adjacent to the proposal area. The EPA considers that the proposal is unlikely to result in significant impacts to habitat required for critical life function of the two species.

In determining whether to impose conditions relating to the additional identified conservation listed species, the EPA noted that the nature and extent of impacts attributed to the proposal have not changed, and the proponent's proposed management measures remain adequate and appropriate to manage potential impacts to all identified marine fauna. The EPA therefore considers that no further assessment is required other than the original assessment in relation to conservation listed marine fauna species.

Noise

In Report 1476 the EPA noted that pile driving activities and vessel noise have the potential to impact a range of marine faunal groups while acknowledging that the proposal area does not contain critical habitats for marine fauna. The EPA also noted that while turtle nesting beaches at Cape Preston were not considered to be regionally significant, turtle hatchlings may emerge from nests between October to March.

The proponent has not proposed any changes to the construction methods or operational activities that were considered during the original assessment. The EPA therefore considers that no further assessment is required other than the original assessment in relation to the potential effects of noise of marine fauna.

Given existing conditions align with contemporary best practice, the EPA recommends condition 6 Marine Fauna is deleted and replaced with recommended condition B1-2 to reflect the current approach to condition setting and ensure potential impacts to conservation listed species are minimised to the greatest extent possible during marine construction activities (Appendix B).

Marine turtles

The EPA notes the Cape Preston area is within a biologically important area for flatback turtles for the purposes of reproduction. Nesting locations of the flatback turtle are more likely to occur on the coastal islands from Cape Preston to Locker Island south of Onslow and the inter-nesting buffer is designated as 60 km for the species (DEE 2017). The Cape Preston area is also considered to be habitat critical to the survival of marine turtles in Australian waters for the purposes of nesting for the flatback, green and hawksbill turtles.

Light Spill

Additional surveys were conducted in areas of suitable nesting habitat adjacent to the proposal during the 2022/2023 and 2023/2024 marine turtle nesting seasons. The surveys confirmed hawksbill turtle nesting activity and hatchling fans at beaches to the east and west of the proposal (Pendoley Environmental 2023; 2024).

The EPA notes that the proponent has not proposed changes to the lighting locations or intensities as assessed during the original assessment. Further, the proponent has committed to undertaking marine and coastal construction and

operational activities in accordance with principles of best practice lighting design provided for in the revised *National Light Pollution Guidelines for Wildlife*.

The EPA acknowledges that cumulative light impacts have increased in the area since the original assessment and notes that the proposal would be the source of light with the greatest potential to impact on beaches directly adjacent to the proposal owing to the low topography of the proposal area.

Noting the above new information since the original assessment, the EPA considers that the potential effects of light spill on marine turtles as a result of the proposal should be subject to a new condition B1-1, to ensure outcomes related to marine turtle orientation are achieved at Cape Preston beaches adjacent to the proposal. The EPA further considers that in order to achieve this outcome the proponent should be required to design and implement the proposal to be consistent with the *National Light Pollution Guidelines for Wildlife* and has recommended new condition B1-2 to ensure this occurs.

The EPA notes that the assessment of the ESSP will address light impacts from that project on a proposal-specific basis and in the context of cumulative impacts of existing and approved proposals such as the Cape Preston East port. This approach will ensure that the combined impacts of both projects on marine turtle nesting and hatchling orientation is appropriately considered in line with the national guidelines.

Coastal Processes

The EPA acknowledges that maintaining beach profiles is critical to supporting ecological functions for marine turtles and migratory shorebirds.

The proponent has not proposed any changes to the design or alignment of the rock breakwater since the original assessment and proposes to manage sediment to maintain beach profiles. The EPA supports the implementation of the proposed measures to monitor coastal profiles and actively manage beach stability.

While impacts to adjacent beaches used by turtles for nesting are likely, the EPA considers that the impacts to marine turtles from habitat loss as a result of the proposal are unlikely to be significant with the implementation of the proponent's proposed management measures.

The EPA considers that no further assessment is required other than the original assessment in relation to the potential impacts on marine turtles related to changes to coastal processes as a result of the proposal.

Introduced Marine Pests

While contemporary guidance and procedures have evolved, the original assessment identified the risk of marine pest introduction as low provided appropriate monitoring and management strategies were implemented. The EPA considers that no further assessment is required other than the original assessment in relation to introduced marine pests.

The EPA therefore recommends that condition 7 (Invasive Marine Pests) of MS 949 is deleted and replaced by condition B2, which provides for contemporary outcomes and management actions aligned with Department of Primary Industries and Regional Development procedures to minimise the potential of introducing marine pests.

Summary

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 marine fauna for this proposal.

The EPA, after considering the information provided by the proponent, considers that it is appropriate to contemporise and update the existing condition 6 Marine Fauna (condition B1) and condition 7 Introduced Marine Pests (condition B2) to align with the current approach to condition setting as set out in Appendix B.

The EPA is therefore satisfied that the revised condition 3 (condition D4) for the extension of Time Limit for Proposal Implementation for a period of five years would, when implemented, ensure that the outcome of the proposal would be consistent with the EPA objective for marine fauna.

4.2 Marine Environment Quality

The EPA environmental objective for marine environment quality is *to maintain the quality of water, sediment and biota so that environmental values are protected* (EPA 2016c)

Conclusions from EPA Reports 1476 and 1680

Report 1476

In assessing the proposal, the EPA considered there were potential impacts to marine environment quality associated with:

- brine discharge
- loading of ore onto barges and transferring to the transshipment vessels
- hydrocarbon (oil) spills.

The EPA formed the view that the proposal could be managed to meet the EPA's environmental objective for this factor without the requirement for Ministerial conditions, having particular regard to:

- predicted mixing zone of around 25 m in an already highly mixed environment and therefore the small area of impact on marine water quality
- management measures proposed by the proponent
- ability of the Works Approval and Licence under Part V of the EP Act to manage bulk loading activities.

Report 1680

In Report 1680 the EPA considered that matters related to the assessment of marine environmental quality were unlikely to have changed significantly since the issue of MS 949.

Assessment of requested amendments 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 – Marine Environmental Quality* (EPA 2016c)
- *Technical Guidance: Protecting the Quality of Western Australia’s Marine Environment* (EPA 2016g).

The EPA notes that *The Pilbara Coastal Water Quality Consultation Outcomes: Environmental Values and Environmental Quality Objectives* (DWER 2019) defined the Cape Preston area as a maximum/high ecological protection area with final boundaries of moderate/low ecological protection to be determined following project design of a large iron export port and associated facilities.

The proponent has not proposed any amendments to the discharge rate of brine which remains at 3 GL/a. The discharge of brine from the desalination plant may result in a small, localised moderate ecological protection area in the immediate vicinity (25 m) of the diffuser which likely poses a low risk to the surrounding marine environment given the already highly mixed nature of the area.

In conducting this inquiry, the EPA notes it is currently assessing the ESSP and its potential impacts on marine environmental quality from the discharge of up to 5.9 GL/a of bitterns at Cape Preston. The EPA notes that if the ESSP receives environmental approval, the proponent has stated that the desalination brine associated with the Cape Preston East facility will be incorporated with the ESSP bitterns and disposed of through a combined pipeline and diffuser at a single location 600 m north from the end of the Cape Preston East facility trestle jetty.

As a result, the boundaries of levels of ecological protection defined for the Cape Preston area would need to be revised to accommodate the mixing zone associated with both the desalination plant from this proposal and the bitterns discharge diffuser from the ESSP. When assessing the ESSP, the EPA will apply its *Technical Guidance – Protecting the Quality of Western Australia’s Marine Environment* to determine whether ESSP proposal-specific levels of ecological protection are appropriate and meets the EPA’s objective for marine environmental quality.

Summary

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 marine environmental quality for this proposal. This conclusion is based on the fact that the impacts considered in this inquiry relate solely to this proposal. Any future considerations for marine environmental quality, such as those arising from the ESSP, will be addressed through the EPA’s assessment of that proposal.

The EPA considers that the proposal can be managed to meet the EPA’s environmental objective for this factor provided that a works approval and licence under Part V of the EP Act are obtained to manage bulk loading activities and the volume of brine discharge is limited through recommended contemporary condition A1 (Appendix B).

The EPA is satisfied that the revised condition 3 (condition D4) for the extension of time limit for proposal implementation for a period of five years would, when implemented, ensure that the outcome of the proposal would be consistent with the EPA objective for marine environmental quality.

4.3 Flora and Vegetation and Terrestrial Fauna

The EPA environmental objectives for flora and vegetation and terrestrial fauna are:

- *to protect flora and vegetation so that biological diversity and ecological integrity are maintained (EPA 2016b)*
- *to protect terrestrial fauna so that biological diversity and ecological integrity are maintained (EPA 2016e).*

There is a high level of connectivity between the environmental factors of flora and vegetation and terrestrial fauna. For the purposes of this inquiry, the EPA has considered impacts to these factors in a single assessment.

Conclusions from EPA Reports 1476 and 1680

Report 1476

The EPA, in Report 1476, concluded that flora and vegetation and terrestrial fauna were not key environmental factors warranting discussion and evaluation on the basis that:

- there was no clearing of declared rare flora or threatened ecological communities
- the proposal had been revised to avoid and minimise impacts to flora and vegetation
- there were further opportunities to modify the proposal's infrastructure based on flora surveys prior to the commencement of construction
- clearing of northern quoll habitat was avoided
- there was no impact to samphire and claypan habitats for Airlie Island skink.

The EPA did not recommend any conditions relating to flora and vegetation or terrestrial fauna in Report 1476.

While the EPA did not consider flora and vegetation and terrestrial fauna were key environmental factors during the course of the original assessment, the EPA provided other advice to the then Minister in relation to residual impacts. The EPA noted that it had previously recommended offsets for the clearing of good to excellent condition native vegetation in the Pilbara bioregion while clarifying that impacts to the coastline (the area of the proposal) differ from those in the hinterland.

At the time of the original assessment, the EPA advised that cumulative impacts to coastal vegetation were not considered significant and therefore the trigger for offsets as a result of clearing of coastal vegetation in good to excellent condition was not appropriate at that time.

The EPA advised that in the case of the proposal, there were no significant residual environmental impacts as the impacts could be mitigated and managed, therefore no offset was required.

Report 1680

In Report 1680 the EPA noted that database searches had identified that the mapped extent of a P3 priority ecological community (PEC), being the Horseflat land

system of the Roebourne Plains (Horseflat PEC), extended to within the proposal area. The EPA considered that the clearing of up to 90 ha of this PEC for the proposal was unlikely to have a significant impact on the ecological community and concluded that the new information would not change the conclusions reached by the EPA during its original assessment.

The EPA was satisfied that the existing condition 1, which limits the amount of clearing for the proposal, was sufficient to manage the potential impacts to flora and vegetation.

The EPA did not consider impacts to terrestrial fauna in Report 1680.

Assessment of requested amendments to conditions

To inform the s.46 inquiry, the proponent relied on biological surveys conducted for the ESSP to identify environmental values within the proposal area. Since the original assessment of the proposal, technical guidance relating to flora and vegetation and terrestrial fauna surveys have been updated. The EPA considers that the following current environmental policy and guidance is relevant to its assessment of the proposal for these factors:

- *Environmental factor guideline – Flora and vegetation (EPA 2016b)*
- *Technical Guidance – Flora and vegetation surveys for environmental impact assessment (EPA 2016f)*
- *Environmental factor guideline – Terrestrial fauna (EPA 2016e)*
- *Technical Guidance – Terrestrial vertebrate fauna surveys for environmental impact assessment (EPA 2020).*

Flora and Vegetation

The detailed flora and vegetation survey identified several flora species and one PEC within the DE that were not considered during the EPA's original assessment:

- *Eremophila forrestii* subsp. *viridis* – priority 3
- *Rostellularia adscendens* var. *latifolia* – priority 3
- *Portulaca filifolia* – range extension
- Horseflat PEC – priority 3 (Phoenix Environmental Sciences 2022).

None of the flora species are expected to be directly impacted by the proposal.

[Horseflat land system of the Roebourne Plains priority ecological community](#)

The regional extent of the Horseflat PEC is estimated at 194,996 ha, of which approximately 88 ha would be disturbed by the proposal.

The EPA has considered cumulative impacts to the Horseflat PEC, including from surrounding projects (Table 1). Of the currently authorised impacts to the Horseflat PEC, the proposal represents a relatively small incremental component (88 ha) of the combined loss (4,971 ha). The EPA notes however that mining and infrastructure development pressures in the region are such that the EPA considers it appropriate to manage the incremental loss of this community.

The EPA considers that the disturbance of 88 ha of Horseflat PEC for the proposal is a significant residual impact and has recommended a new condition B5 to require

the proponent to contribute funds to the Pilbara environmental offsets fund (PEOF) to counterbalance the significant residual impacts to the Horseflat PEC.

Table 1: Extent of approved impacts to the Horseflat land system of the Roebourne Plains priority ecological community in the Cape Preston area.

| Proposal | Impacts (hectares) |
|---|--------------------|
| West Pilbara Infrastructure Project – Rail | 2,006 |
| Balla Balla Magnetite Project | 1,515 |
| Balmoral South Iron Ore Project | 690 |
| Woodside Solar Facility | 527 |
| Optimised Mardie Project – Revised Proposal | 145 |
| Cape Preston East – Multi-commodity Export Facility | 88 |

In assessing the ESSP, the EPA will consider the proposal-specific impacts as well as cumulative impacts from other projects on the Horseflat PEC against its objective for flora and vegetation. While the disturbance from Cape Preston East itself represents a relatively small incremental loss of the regional extent of the PEC, cumulative pressures from multiple developments in the Pilbara highlight the potential need for strategic management and mitigation. The EPA will apply its technical guidance and offset framework to ensure that combined impacts are appropriately counterbalanced and consistent with its environmental objectives.

Vegetation in ‘Good’ to ‘Excellent’ condition

The proposal will result in the direct disturbance of approximately 396 ha of vegetation in good to excellent condition within the Roebourne IBRA subregion of the Pilbara bioregion, an area identified as being at risk of ongoing mining and infrastructure development. The EPA notes that this impact, while significant in a cumulative context, is unlikely to affect the biological diversity or ecological integrity of the subregion when considered individually or cumulatively. The EPA further notes that the proponent has proposed contributions to the PEOF to counterbalance this impact.

The EPA considers it appropriate to limit the extent of disturbance of good to excellent condition vegetation within the Roebourne IBRA subregion through recommended condition B3 and to require a contribution of funds to the PEOF to counterbalance the significant residual impacts through condition B5.

Terrestrial Fauna

Fauna surveys identified twelve fauna habitats within the DE that support conservation listed terrestrial fauna species (Phoenix Environmental Sciences 2023). The proposal will result in the direct disturbance of:

- 7.2 ha of supporting foraging habitat for the northern quoll (*Dasyurus hallucatus*) – endangered
- 395.7 ha of broad foraging habitat for the Pilbara leaf-nosed bat (*Rhinonictoris aurantia* (Pilbara)) – vulnerable

- 395.7 ha of broad foraging habitat for the ghost bat (*Macroderma gigas*) – vulnerable
- 395.8 ha of broad foraging habitat for the north-western free-tailed bat (*Mormopterus cobourgianus*) – priority 1.

The EPA notes that no critical foraging or breeding habitat for any individual species is proposed to be impacted and therefore considers that the proposal is unlikely to affect the biological diversity and ecological integrity of terrestrial fauna. However, the EPA notes that from a cumulative perspective the impacts constitute a significant residual impact. To counterbalance this, the proponent has proposed contributions to the PEOF.

Based on the above, the EPA considers it appropriate to limit the extent of disturbance of habitat suitable for northern quoll, Pilbara leaf-nosed bat and ghost bat (condition B3). This would have the effect of limiting the extent of impact to habitat suitable for the north-western free-tailed bat. The EPA also considers it appropriate to require a contribution of funds to the PEOF to counterbalance the significant residual impacts through condition B5.

Pilbara environmental offsets fund

In its 2014 section 16(e) advice, the EPA concluded that, without intervention, cumulative impacts from development and land use in the Pilbara region would significantly affect biodiversity and environmental values (EPA 2014).

Since the EPA's original assessment of the proposal, the PEOF has been established to provide a strategic landscape-scale approach to deliver environmental offset outcomes greater than can be achieved by individual proposals.

In the case of this proposal, there are likely significant residual impacts to flora and vegetation and fauna habitat values as discussed above. While environmental offsets are not appropriate in all cases, the EPA considers offsets are appropriate in this case because the proposal would result in significant residual impacts to:

- 'Good' to 'Excellent' condition native vegetation
- Horseflat PEC
- supporting foraging habitat for northern quoll
- broad foraging habitat for Pilbara leaf-nosed bat and ghost bat.

Due to the remaining quantity and quality of these values in the local area and region, the EPA considers that the significant residual impact could be counterbalanced in accordance with the WA Environmental Offsets Guidelines by a contribution to the PEOF.

The EPA recommends that the following offset rates (calculated on the 2024-2025 financial year, subject to annual indexation) should apply in the form of a contribution to the PEOF for landscape scale actions to protect biodiversity in the Pilbara:

- \$1016 AUD (excluding GST) per hectare of 'Good' to 'Excellent' condition native vegetation and supporting habitat for the northern quoll, ghost bat and Pilbara leaf-nosed bat cleared as a result of the proposal

- \$2031 AUD (excluding GST) per hectare of Horseflat land system of the Roebourne Plains PEC cleared or indirectly impacted as a result of the proposal.

The EPA considers that these contributions should ensure the proposal's outcomes are consistent with the EPA's environmental objectives for flora and vegetation, and terrestrial fauna.

Summary

In considering the information provided by the proponent and relevant EPA policies and guidelines, the EPA considers that the proposal can be managed to meet the EPA's environmental objective for the factors flora and vegetation and terrestrial fauna provided that the extent of impact to vegetation and fauna habitat is limited through recommended contemporary condition B3 and the significant residual impacts are counterbalanced through the contribution of funds to the PEOF as set out in recommended condition B5 (Appendix B).

The EPA is satisfied that the revised condition 3 (condition D4) for the extension of Time Limit for Proposal Implementation for a period of five years would, when implemented, ensure that the outcome of the proposal would be consistent with the EPA objective for flora and vegetation and terrestrial fauna.

4.4 Social Surroundings (Aboriginal Cultural Heritage)

The EPA environmental objective for social surroundings is *to protect social surroundings from significant harm* (EPA 2023a).

Conclusions from EPA Reports 1476 and 1680

Report 1476

The EPA, in Report 1476, concluded that heritage was not a key environmental factor warranting discussion and evaluation on the basis that:

- cultural heritage surveys would be completed prior to ground disturbance and project design would take into account location of heritage sites and avoid where practicable
- the relevant Department would assess direct impact to sites under section 18 of the *Aboriginal Heritage Act 1972* (AH Act).

The EPA did not recommend any conditions relating to heritage in report 1476.

Report 1680

In Report 1680, the EPA noted that heritage surveys had been conducted over the entire development envelope and the proponent was not proposing any changes to the proposal that would change the potential impacts to social surroundings. The EPA was satisfied that the proponent was aware of its obligations under the AH Act and was consulting with the Yaburara Mardudhunera people in regard to management of Aboriginal heritage.

The EPA was satisfied that existing condition 1, and the provisions of the AH Act were sufficient to manage the potential impacts to social surroundings.

Assessment of requested amendments to conditions

Since the original assessment, the EPA has released new technical guidance regarding the assessment of Aboriginal cultural heritage. The revised technical guidance includes strengthened direction for consultation with relevant native title parties. 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 – Social Surroundings* (EPA 2023a)
- *Technical Guidance: Environmental impact assessment of Social Surroundings – Aboriginal cultural heritage* (EPA 2023b).

The proposal is located wholly within the Mardudhunera People Native Title Claim area, and there are a number of registered Aboriginal Heritage sites within or adjacent to the DE. The EPA notes that Aboriginal heritage values have been identified through cultural heritage surveys and consultation with the Mardudhunera people and Wirrawandi Aboriginal Corporation (WAC).

For the purposes of this inquiry, the EPA considers the likely residual impacts associated with implementation of the proposal on social surroundings to be potential direct and indirect impacts to cultural heritage, and loss of access or restriction of access to Country.

The EPA considers risks to Aboriginal cultural heritage can be mitigated by the operation of the AH Act in relation to direct impacts to Aboriginal Heritage sites within the development envelope. Any proposed disturbance to heritage sites will require a section 18 approval under the AH act. The amendments made to the AH Act in 2023 included a strengthened requirement for consultation with native title parties, in accordance with the AH Act Guidelines (DPLH 2023a) and Consultation Policy (DPLH 2023b).

The EPA notes that the AH Act does not apply to impacts to values of Aboriginal cultural significance which are not sites, indirect impacts within the development envelope and/or impacts to sites outside the development envelope. To ensure the objective for this factor will be met, the EPA recommends the inclusion of a contemporary Aboriginal cultural heritage condition, condition B4, which complements the AH Act requirements. The EPA's recommended condition requires:

- no interruption of ongoing access to land utilised for traditional use or custom by the native title party/ies
- avoid, and where unavoidable, minimise adverse impacts to Aboriginal cultural heritage values within and surrounding the development envelope
- ongoing consultation and engagement with relevant native title party/ies for the life of the proposal.

Summary

In considering the information provided by the proponent and relevant EPA policies and guidelines, the EPA considers that the proposal can be managed to meet the EPA's environmental objective for social surroundings provided it is implemented in accordance with recommended contemporary condition B4 (Appendix B).

The EPA is satisfied that the revised condition 3 (condition D4) for the extension of time limit for proposal implementation for a period of five years would, when implemented, ensure that the outcome of the proposal would be consistent with the EPA objective for social surroundings.

4.5 Other Environmental Factors

Given the time since the original assessment and the previous s. 46 inquiry, the proponent is required to consider the relevancy of any new or additional environmental factors in its request for a change to conditions. The assessment of other factors is outlined below.

Benthic Communities and Habitats

Conclusions from Report 1476

Report 1476 concluded that benthic communities and habitat was not a key environmental factor warranting discussion and evaluation on the basis that:

- surveys found the benthic communities and habitat were not regionally significant
- proposal design & orientation avoided significant coral communities
- no mangroves were proposed to be cleared
- no dredging was required.

Although benthic communities and habitats was not considered a key environmental factor, the EPA imposed condition 1 to limit impacts on benthic subtidal, intertidal, and coastal areas to 3.2 ha as specified in Schedule 1 of MS949.

Amendments to the proposal approved under section 45C of the EP Act (Attachments 1 and 4 of MS949) authorised the disturbance of up to 4.8 ha of benthic subtidal and intertidal communities, and coastal areas, including 0.7 ha of coral reef benthic communities and habitat.

Assessment of 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 – Benthic communities and habitat (EPA 2016a)*

The proponent undertook benthic habitat surveys to inform the inquiry, confirming that the proposal area is dominated by mudflats, salt flats, and algal mats, with small coral reef assemblages near the shoreline (O2 Environment 2023b). These habitat types are consistent with the findings of the original assessment. While the surveys provide updated baseline information, the EPA considers that the results do not change the original assessment or warrant additional conditions noting:

- the identified habitats are widespread throughout the Pilbara region
- the proponent has not proposed any changes to the proposal
- the authorised marine disturbance footprint is small and limited

- any indirect impacts are expected to be localised and temporary.

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

The EPA considers that the proposal can be managed to meet the EPA's environmental objective for this factor provided that the extent of impact is limited through recommended contemporary condition A1 (Appendix B).

The EPA is satisfied that the revised condition 3 (condition D4) for the extension of time limit for proposal implementation for a period of five years would, when implemented, ensure that the outcome of the proposal would be consistent with the EPA objective for benthic communities and habitats.

Greenhouse Gas Emissions

In April 2020, greenhouse gas (GHG) emissions was added as an environmental factor. The EPA's environmental objective for GHG emissions 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 2024a) sets out that generally, emissions from a proposal will be considered where they are reasonably likely to exceed 100,000 tonnes of scope 1 or scope 2 emissions measured in carbon dioxide equivalents (CO₂-e) in any year.

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 – Greenhouse gas emissions* (EPA, 2024a).

The proponent estimated construction scope 1 emissions would be approximately 46,000 tonnes CO₂-e over two years associated with diesel usage and land use change. Operational scope 1 GHG emissions were estimated to be approximately 7,500 tonnes CO₂-e per year.

The proponent considers that there will be no scope 2 GHG emissions associated with the proposal.

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 assessment of greenhouse gas emissions for this proposal.

The EPA is therefore satisfied that the revised condition 3 (condition D4) for the extension of time limit for proposal implementation for a period of five years would, when implemented, ensure that the outcome of the proposal would be consistent with the EPA objective for GHG emissions.

4.6 Other conditions

Ministerial statement 949 contains other conditions not related to the key environmental factors discussed above. The EPA's recommendations regarding these other conditions and its recommendations regarding other new proposed conditions are summarised in Appendix A.

5 Conclusions and recommendations

Amendment to condition 3 of MS 949, as amended by MS 1149

The proponent has requested the amendment of condition 3 of MS 949 (as amended by MS 1149) 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 5 years from the publication date of the Ministerial statement resulting from this report.

Amendment to contemporise MS 949, as amended by MS 1149

The proponent has requested that the conditions of Ministerial statement 949 be reviewed and contemporised to reflect the EPA's current approach to condition setting. The EPA considers it is appropriate to replace all conditions in MS 949, as amended by MS 1149, as described in Appendix A with the recommended conditions discussed in this report and provided in Appendix B.

Addition of new condition B3

The EPA considers it appropriate for the addition of condition B3 to limit the extent of impact to flora and vegetation and terrestrial fauna values.

Addition of new condition B4

The EPA considers it appropriate for the addition of condition B4 requiring that the proponent:

- not disturb Aboriginal sites or cultural heritage without authorised consent
- not interrupt access to land utilised for traditional use or custom, subject to health and safety requirements
- avoid or minimise adverse impacts to Aboriginal cultural heritage within and surrounding the proposal
- undertake ongoing consultation and engagement with relevant native title parties.

Addition of new condition B5

The EPA considers it appropriate for the addition of condition B5 to require a contribution of funds to the Pilbara Environmental Offsets Fund to counterbalance significant residual impacts to vegetation and terrestrial fauna foraging habitat in the Roebourne IBRA subregion.

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 conditions
- impacts to the key environmental factors are considered manageable, based on the imposition of the attached recommended conditions

- the authorised timeframe for substantial commencement of 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 the Environment under s. 46 of the *Environmental Protection Act 1986*:

1. It is appropriate to replace Ministerial statement 949 (as amended by Ministerial Statement 1149) with a new Ministerial statement which will extend the authorised time limit for proposal implementation by 5 years from the publication date of the Ministerial statement resulting from this report and contemporise all conditions in the manner provided for in the attached recommended Statement.
2. It is appropriate to add new conditions requiring the proponent to achieve the specified environmental outcome for marine turtles (condition B1-1) by designing and implementing the proposal consistent with the *National Light Pollution Guidelines for Wildlife* (condition B1-2).
3. It is appropriate to add a new condition (condition B3) limiting the extent of impacts to flora and vegetation and terrestrial fauna habitat values.
4. It is appropriate to add a new condition (condition B4) requiring the proponent to avoid impacts to Aboriginal cultural heritage and undertake reasonable consultation with the relevant native title parties.
5. It is appropriate to add a new condition (condition B5) requiring the proponent to contribute funds to the Pilbara Environmental Offsets Fund to achieve the objective of counterbalancing the significant residual impacts.
6. After complying with s. 46(8) of the EP Act, the Minister issues a statement of decision to replace Ministerial statements 949 and 1149 in the manner provided for in the attached recommended statement (Appendix B).

Appendix A: Assessment of proposed amendments to implementation conditions of Ministerial Statements 949 and 1149

| Ministerial Condition | Proposed amendment | Assessment and evaluation of proposed amendment |
|---|--|--|
| Ministerial Statement 949 | | |
| <p>1 Proposal Implementation</p> <p>1-1 When implementing the proposal, the proponent shall not exceed the authorised extent of the proposal as defined in Column 3 of Table 2 in Schedule 1, unless amendments to the proposal and the authorised extent of the proposal has been approved under the EP Act.</p> | Delete conditions and replace with contemporary style condition. | Recommend condition A1 and introduction and PCD. EPA recommends condition 1 is replaced with a new condition setting a defined maximum extent of proposal elements which will ensure the implementation of the proposal is consistent with the EPA's objectives. This condition reflects contemporary condition setting approach recommended by the EPA. |
| <p>2 Contact Details</p> <p>2-1 The proponent shall notify the CEO of any change of its name, physical address or postal address for the serving of notices or other correspondence within twenty eight (28) days of such change. Where the proponent is a corporation or an association of persons, whether incorporated or not, the postal address is that of the principal place of business or of the principal office in the State.</p> | Delete conditions and replace with contemporary style condition. | Recommend condition D3. The requirements of this condition remain relevant and will be retained consistent with contemporary condition setting approach recommended by the EPA. |
| <p>3 Time Limit for Proposal Implementation</p> | N/A | This condition was superseded by condition 3 of Ministerial Statement 1149 (see below). |
| <p>4 Compliance Reporting</p> <p>4-1 The proponent shall prepare and maintain a compliance assessment plan to the satisfaction of the CEO.</p> <p>4-2 The proponent shall submit to the CEO the compliance assessment plan required by condition 4-1 at least six (6) months prior to the first compliance assessment report</p> | Delete conditions and replace with contemporary style condition. | Recommend condition D1, condition D2 and condition D5. The requirements of this condition remain relevant and will be retained consistent with contemporary condition setting approach recommended by the EPA. |

| Ministerial Condition | Proposed amendment | Assessment and evaluation of proposed amendment |
|---|--------------------|---|
| <p>required by condition 4-6, or prior to implementation, whichever is sooner.</p> <p>The compliance assessment plan shall indicate:</p> <ul style="list-style-type: none"> (1) the frequency of compliance reporting; (2) the approach and timing of compliance assessments; (3) the retention of compliance assessments; (4) the method of reporting of potential non-compliances and corrective actions taken; (5) the table of contents of compliance assessment reports; and (6) public availability of compliance assessment reports. <p>4-3 The proponent shall assess compliance with conditions in accordance with the compliance assessment plan required by condition 4-1.</p> <p>4-4 The proponent shall retain reports of all compliance assessments described in the compliance assessment plan required by condition 4-1 and shall make those reports available when requested by the CEO.</p> <p>4-5 The proponent shall advise the CEO of any potential non-compliance within seven (7) days of that potential non-compliance being known.</p> <p>4-6 The proponent shall submit to the CEO the first compliance assessment report fifteen (15) months from the date of issue of this statement addressing the twelve (12) month period from the date of issue of this statement and then annually from the date of submission of the first compliance assessment report.</p> <p>The compliance assessment report shall:</p> | | |

| Ministerial Condition | Proposed amendment | Assessment and evaluation of proposed amendment |
|---|---|---|
| <p>(1) be endorsed by the proponent's Managing Director or a person delegated to sign on the Managing Director's behalf;</p> <p>(2) include a statement as to whether the proponent has complied with the conditions;</p> <p>(3) identify all potential non-compliances and describe corrective and preventative actions taken;</p> <p>(4) be made publicly available in accordance with the approved compliance assessment plan; and</p> <p>(5) indicate any proposed changes to the compliance assessment plan required by condition 4-1.</p> | | |
| <p>5 Public Availability of Data</p> <p>5-1 Subject to condition 5-2, within a reasonable time period approved by the CEO of the issue of this statement and for the remainder of the life of the proposal the proponent shall make publicly available, in a manner approved by the CEO, all validated environmental data (including sampling design, sampling methodologies, empirical data and derived information products (e.g. maps)) relevant to the assessment of this proposal and implementation of this statement.</p> <p>5-2 If any data referred to in condition 5-1 contains particulars of:</p> <p>(1) a secret formula or process; or</p> <p>(2) confidential commercially sensitive information</p> <p>the proponent may submit a request for approval from the CEO to not make this data publicly available. In making such a request the proponent shall provide the CEO with an explanation and reasons why the data should not be made publicly available.</p> | Delete conditions and replace with contemporary style condition | Recommend condition D5 The requirements of this condition remain relevant and will be retained consistent with contemporary condition setting approach recommended by the EPA. |
| <p>6 Marine Fauna</p> | Delete conditions and replace with | Recommend condition B1 |

| Ministerial Condition | Proposed amendment | Assessment and evaluation of proposed amendment |
|--|-------------------------------------|--|
| <p>6-1 Prior to construction and for the duration of the marine construction activities the proponent shall engage dedicated Marine Fauna Observers who must:</p> <ul style="list-style-type: none"> (1) demonstrate a knowledge of marine wildlife species in the Pilbara region, including Threatened and Migratory Species listed under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), and Wildlife Conservation (Specially protected fauna) Notice 2010(2) and priority listing, and their behaviours; (2) have the capacity, subject to safety considerations, to move and make observations and other relevant records independently within 500 metres of marine construction activities; (3) be on duty during all marine construction activities; and (4) maintain a log of: <ul style="list-style-type: none"> (a) observations of cetaceans in a format consistent with the National Cetacean Sightings and Strandings Database; (b) observations of cetaceans, dugongs and marine turtles, including injured or dead fauna within 500 metres of the marine construction activities referred to in condition 6-1(2); (c) observations of cetaceans, dugongs and marine turtles behaviour, in particular any behaviour that could be interpreted as a display of disturbance or distress; (d) management responses implemented by the proponent in relation to observation of disturbed or distressed fauna, and injured or dead fauna; and (e) observation hours in relation to the duration of the marine construction activities. | <p>contemporary style condition</p> | <p>Condition 6 includes provisions to mitigate marine fauna interaction during pile driving and marine construction activities. Requirements of the conditions include a marine fauna observer to be present at all times during marine construction activities, soft start procedures and the cessation of piling activities if cetaceans (whales and dolphins), dugongs or marine turtles enter the construction area.</p> <p>The intent of this condition remains relevant and will be retained with the contemporary outcome and prescriptive condition setting approach recommended by the EPA.</p> |

| Ministerial Condition | Proposed amendment | Assessment and evaluation of proposed amendment |
|--|--------------------|---|
| <p>6-2 The proponent shall within six (6) months of completing marine construction activities, lodge cetacean records with the National Cetacean Sighting and Strandings Database at the Australian Antarctic Division and with the Department of Parks and Wildlife.</p> <p>6-3 The Marine Fauna Observer as required by condition 6-1 is to be present on each vessel undertaking construction activities, unless otherwise authorised by the CEO and will be trained in marine fauna observations and mitigation measures, including the requirements of the Wildlife Conservation (Closed Season Marine Mammals) Notice 1998, as amended or replaced from time to time, and maintain a watch and a log of fauna observed during transit and construction activity consisting of: GPS coordinates; species (if known); and behaviour. Logs are to be submitted to the Department of Parks and Wildlife on an annual basis at the same time as submitting the compliance assessment report required by condition 4-6 to the CEO.</p> <p>6-4 Subject to condition 6-8, no marine construction activities shall commence until the Marine Fauna Observer (or observers) required by condition 6-1 have verified that no cetacean(s) or dugong(s) have been observed within a radius of 1,000 metres or marine turtle(s) within a radius of 300 metres from any marine construction activities during the twenty (20) minute period immediately prior to commencement of marine construction activities.</p> <p>6-5 Prior to commencement of full power marine pile driving, the proponent shall implement soft start-up procedures that slowly increase the intensity of noise emissions over a period of no less than fifteen (15) minutes.</p> <p>6-6 If the Marine Fauna Observer(s) required by condition 6-1, or any other person, observes a marine turtle enter within 100 metres of marine construction activities, or cetacean or</p> | | |

| Ministerial Condition | Proposed amendment | Assessment and evaluation of proposed amendment |
|--|---|---|
| <p>dugong within 500 metres of marine construction activities, those activities are to be suspended.</p> <p>6-7 Marine construction activities that have been suspended in accordance with condition 6-6 shall not recommence until the cetacean, or dugong has moved beyond 1,000 metres from the suspended marine construction activities or the marine turtle beyond 300 metres of their own accord, or the cetacean or dugong has not been observed within 500 metres of the marine construction activities or marine turtles within 100 metres of the marine construction activities for a period of twenty (20) minutes. Marine pile driving that has been suspended for more than fifteen (15) minutes shall recommence with soft start-up procedures as required by condition 6-5.</p> <p>6-8 No marine construction activities shall occur between sunset and sunrise during the turtle nesting season defined as 20 October to 10 March in any year.</p> | | |
| <p>7 Introduced Marine Pests</p> <p>7-1 The proponent shall manage non-trading vessel activities and immersible equipment activities whilst engaged for the construction, operation, maintenance and decommissioning of the proposal so as to prevent the introduction of Introduced Marine Pests into and within State waters.</p> <p>7-2 Prior to any non-trading vessels or immersible equipment entering the Cape Preston East Marine Operations Area as required in condition 8, the proponent shall prepare an Introduced Marine Pest Risk Assessment Procedure to the satisfaction of the CEO in consultation with the Department of Fisheries which includes but is not limited to the following: (1) all factors to be considered in the risk assessment;</p> | <p>Delete conditions and replace with contemporary style condition.</p> | <p>Recommend condition B3.</p> <p>Condition 7 requires the implementation of an Introduced Marine Pests Monitoring Program and Introduced Marine Pests Management Strategy to mitigate the risk of marine pest introduction by managing all vessels and immersible equipment during implementation of the proposal.</p> <p>The intent of this condition remains relevant and will be retained with the contemporary outcome and prescriptive condition setting approach consistent with the requirements of the Department of Primary Industries and Regional Development and recommended by the EPA.</p> |

| Ministerial Condition | Proposed amendment | Assessment and evaluation of proposed amendment |
|--|--------------------|---|
| <p>(2) limits for unacceptable risk of introducing an Introduced Marine Pest;</p> <p>(3) a tool for performing Introduced Marine Pest Risk Assessments; and</p> <p>(4) measures to be implemented to reduce risks to an acceptable level, where the risk assessment identifies an unacceptable risk.</p> <p>7-3 The proponent shall ensure that any non-trading vessels or immersible equipment are subject to an Introduced Marine Pest Risk Assessment, prior to entering or demobilising from the Cape Preston East Marine Operations Area as required in condition 8, in accordance with the Introduced Marine Pest Risk Assessment Procedure approved pursuant to condition 7-2.</p> <p>7-4 The proponent shall ensure that any Introduced Marine Pest Risk Assessment undertaken pursuant to condition 7-3 is recorded and that record is provided to the Department of Fisheries within seven (7) days of the Introduced Marine Pest Risk Assessment being undertaken.</p> <p>7-5 The proponent shall ensure that any non-trading vessel or immersible equipment that poses an unacceptable risk, as defined by the limits identified under condition 7-2(2), of introducing Introduced Marine Pests, as determined by an Introduced Marine Pest Risk Assessment undertaken pursuant to condition 7-3, does not enter the Cape Preston East Marine Operations Area as required in condition 8.</p> <p>7-6 Prior to any non-trading vessels or immersible equipment entering the Cape Preston East Marine Operations Area as required in condition 8, the proponent shall prepare an Introduced Marine Pests Monitoring Program to the</p> | | |

| Ministerial Condition | Proposed amendment | Assessment and evaluation of proposed amendment |
|---|--------------------|---|
| <p>satisfaction of the CEO in consultation with the Department of Fisheries that:</p> <ul style="list-style-type: none"> (1) is consistent with monitoring design, implementation and reporting standards as set out in the National System for the Prevention and Management of Marine Pest Incursions (Marine Intergovernmental Agreement, April 2005); (2) includes a minimum monitoring frequency of once every two years and/or consistent with the National System for the Prevention and Management of Marine Pest Incursions (Marine Intergovernmental Agreement, April 2005); and (3) requires opportunistic sampling and analysis of specimens removed during port, vessel and immersible equipment monitoring activities. <p>7-7 The proponent shall implement the Introduced Marine Pests Monitoring Program approved pursuant to condition 7-6, or amended versions approved by the CEO for the life of the proposal, prior to any entry to the Cape Preston East Marine Operations Area as required in condition 8 by a non-trading vessel or immersible equipment.</p> <p>7-8 The proponent shall provide the results of monitoring undertaken pursuant to condition 7-7 to the CEO and the Department of Fisheries annually.</p> <p>7-9 Prior to any non-trading vessel or immersible equipment entering the Cape Preston East Marine Operations Area as required in condition 8, the proponent shall prepare an Introduced Marine Pest Management Strategy to the satisfaction of the CEO in consultation with the Department of Fisheries, to prevent wherever practicable, the establishment and proliferation of any Introduced Marine Pest, aiming to</p> | | |

| Ministerial Condition | Proposed amendment | Assessment and evaluation of proposed amendment |
|--|--------------------|--|
| <p>control and potentially eradicate that Introduced Marine Pest, and to minimise the risk of that Introduced Marine Pest being transferred to other locations within Western Australia.</p> <p>7-10 The proponent shall notify the CEO, Department of Fisheries and any relevant Port Authority:</p> <p>(1) within 24 hours following initial detection of a suspected Introduced Marine Pest; and</p> <p>(2) within 24 hours following subsequent analysis and confirmation of species identification of the suspected Introduced Marine Pest.</p> <p>7-11 In the event that any Introduced Marine Pests are suspected or detected, the proponent shall, in consultation with the Department of Fisheries and the CEO implement the Introduced Marine Pests Management Strategy.</p> <p>7-12 The proponent is to submit a report detailing the outcomes of any implementation of the Introduced Marine Pests Management Strategy to the Department of Fisheries and the CEO within thirty (30) days of the commencement of the implementation of the Introduced Marine Pests Management Strategy and thereafter as required by the CEO in consultation with the Department of Fisheries.</p> | | |
| <p>8 Infrastructure Plan</p> <p>8-1 Prior to the commencement of marine construction activities, unless otherwise agreed by the CEO, the proponent shall prepare an Infrastructure Plan in consultation with the Department of Transport which is to be approved by the CEO.</p> <p>8-2 The Infrastructure Plan required pursuant to condition 8-1 shall:</p> <p>(1) detail the boundary of the Cape Preston East Marine Operations Area; and</p> | Delete conditions | <p>Recommend condition A1 and introduction and PCD. The implementation of infrastructure plans is no longer the approach recommended by the EPA. Condition A1 and the PCD will define the extent of impacts related to the proposal.</p> |

| Ministerial Condition | Proposed amendment | Assessment and evaluation of proposed amendment |
|---|---|--|
| <p>(2) detail the alignment, dimensions and locations of the key proposal elements as referred to in Columns 1 and 2 of Schedule 1.</p> <p>8-3 The proponent shall provide spatial data for the Cape Preston East Marine Operations Area and the constructed key elements of the proposal as set out in Columns 1 and 2 of Table 2 in Schedule 1 to the CEO, 2 months prior to the commencement of construction activities.</p> | | |
| Ministerial Statement 1149 | | |
| <p>3 Time Limit for Proposal Implementation</p> <p>3-1 The proponent shall not commence implementation of the proposal after the expiration of five (5) years from the date of this statement, and any commencement, within this five (5) year period, must be substantial.</p> <p>3-2 Any commencement of implementation of the proposal, within five (5) years from the date of this statement, must be demonstrated as substantial by providing the CEO with written evidence, on or before the expiration of five (5) years from the date of this statement.</p> | Delete condition and replace with contemporary style condition. | <p>Recommend condition D4.</p> <p>The intent of this condition remains relevant and will be retained with the contemporary condition setting approach recommended by the EPA which requires the proponent to implement the proposal within five years of the publication date of the Ministerial Statement resulting from this report.</p> |

Appendix B: Recommended conditions

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

CAPE PRESTON EAST – MULTI-COMMODITY EXPORT FACILITY

Proposal: To design, construct and operate a multi-commodity export facility on the eastern side of Cape Preston East in the Pilbara region of WA

Proponent: Leichhardt Port Pty Ltd
Australian Company Number 40 656 481 051

Proponent address: Level 3, 502 Hay Street
SUBIACO WA 6008

Assessment number: 2467

Report of the Environmental Protection Authority: 1801

Introduction: Pursuant to section 45 (8) as applied by section 46 (8) of the *Environmental Protection Act 1986*, an amendment to the implementation conditions has been agreed, and the proposal entitled Cape Preston East – Multi-commodity Export Facility described in the ‘Proposal Content Document’ of 24 December 2024 must now be implemented in accordance with the following implementation conditions and procedures.

Ministerial Statements 949 and 1149 for the Cape Preston East – Multi-commodity Export Facility proposal are now superseded.

Conditions and procedures

Part A: Proposal extent

Part B: Environmental outcomes, prescriptions and objectives

Part C: Environmental management plans and monitoring

Part D: Compliance and other conditions

PART A: PROPOSAL EXTENT

Limitations and Extent of Proposal

A1-1 The proponent must ensure that the proposal is implemented in such a manner that the following limitations or maximum extents are not exceeded:

| Proposal element | Location | Maximum extent |
|-----------------------------------|--|--|
| Physical elements | | |
| Development envelope | Figure 1 | 2,563 ha |
| Terrestrial disturbance footprint | Within the development envelope | 408.4 ha |
| Marine disturbance footprint | Within the development envelope | 4.8 ha of benthic and intertidal communities; and coastal areas, including: <ul style="list-style-type: none"> • 0.7 ha of coral reef communities |
| Operational elements | | |
| Desalination plant | Within the development envelope | <ul style="list-style-type: none"> • Brine discharge up to 8.2 ML/day (3 GL/year) • Intake velocity not to exceed 0.15 m/second |
| Marine infrastructure | Within the development envelope | <ul style="list-style-type: none"> • Trestle jetty extending up to 1.5 km offshore • 200 m long supporting rock breakwater |

PART B – ENVIRONMENTAL OUTCOMES, PRESCRIPTIONS AND OBJECTIVES

B1 Marine Fauna

B1-1 The proponent must ensure the implementation of the proposal achieves the following environmental outcome:

- (1) no **detectable** change in adult **marine turtle** and **marine turtle** hatchling orientation (i.e. misorientation or disorientation) at **Cape Preston East beaches** adjacent to the proposal.

B1-2 To achieve the environmental outcome defined in condition B1-1 the proponent must design and implement the proposal to be consistent with the ***National Light Pollution Guidelines for Wildlife***.

B1-3 The proponent must:

- (1) implement noise management procedures during **marine construction activities** to:
 - (a) avoid temporary and permanent changes to hearing sensitivity of **significant marine fauna**; and
 - (b) minimise behavioural responses of **significant marine fauna**;
- (2) prior to construction and for the duration of the **marine construction activities**, engage dedicated **marine fauna observers** who must:
 - (a) have the capacity, subject to safety considerations, to move and make observations and other relevant records independently within 500 m of **marine construction activities**;
 - (b) be on duty during all **marine construction activities**;
 - (c) maintain a log of recorded sightings, locations and behaviours indicative of stress or **disturbance** of cetaceans, and submit these to the **National Marine Mammal Data Portal**; and
 - (d) document and report to relevant regulators any incidents relating to **significant marine fauna** injury/mortality;
- (3) commence **marine construction activities** once the **marine fauna observers** required by condition B1-3(4) verifies that:
 - (a) no cetacean(s) or dugong(s) have been observed within a radius of one (1) km, or **marine turtle(s)** within a radius of 300 m from any **marine construction activities** during the twenty (20) minute period immediately prior to commencement of **marine construction activities**;

- (4) implement soft start-up procedures for a period of at least thirty (30) minutes prior to the commencement of each pile driving event;
- (5) suspend **marine construction activities** if the **marine fauna observers** required by condition B1-3(3), or any other person, observes cetacean(s) or dugong(s) enter within 500 m, or **marine turtle(s)** enter within 100 m of **marine construction activities**;
- (6) **marine construction activities** that have been suspended in accordance with condition B1-3(6) shall not recommence until:
 - (a) the cetacean(s) or dugong(s) has moved beyond one (1) km, or the **marine turtle(s)** beyond 300 m from the suspended **marine construction activities** of their own accord;
 - (b) the cetacean(s) or dugong(s) has not been observed within 500 m, or **marine turtle(s)** within 100 m of the **marine construction activities** for a period of twenty (20) minutes;
- (7) only recommence marine pile driving that has been suspended for more than fifteen (15) minutes with soft start-up procedures as required by condition B1-3(5); and
- (8) only conduct **marine construction activities** between sunrise and sunset during the **marine turtle** nesting season defined as 20 October to 10 March in any year.

B2 Introduced Marine Pests

B2-1 The proponent shall ensure the implementation of the proposal achieves the following environmental outcome:

- (1) no introduction of marine pests.

B2-2 To achieve the environmental outcome defined in condition B2-1, the proponent shall develop and implement procedures for managing all vessels and immersible equipment prior to mobilisation and during implementation of the proposal consistent with **relevant legislation** and associated policy.

B3 Flora and Vegetation and Terrestrial Fauna

B3-1 The proponent must ensure the implementation of the proposal achieves the following environmental outcomes:

- (1) **Disturb** no more than:
 - (a) 395.8 ha of **'Good' to 'Excellent' condition native vegetation**;

- (b) 88 ha of vegetation representative of **Horseflat land system of the Roebourne Plains priority ecological community**, shown in Figure 2;
- (c) 395.7 ha of **supporting habitat** for Pilbara leaf-nosed bat (*Rhinionictoris aurantia (Pilbara)*) and ghost bat (*Macroderma gigas*); and
- (d) 7.2 ha of **supporting habitat** for northern quoll (*Dasyurus hallucatus*).

B3-2 The proponent must implement weed hygiene measures during construction to prevent the introduction or spread of **environmental weeds**.

B4 Aboriginal Cultural Heritage

B4-1 The proponent must implement the proposal to meet the following environmental outcomes:

- (1) no **disturbance** of the **Aboriginal sites** or to **Aboriginal cultural heritage** in the proposal disturbance footprint other than where consent is granted for the use of the land under the *Aboriginal Heritage Act 1972*; and
- (2) subject to reasonable health and safety requirements, no interruption of ongoing access to land utilised for traditional use or custom by the **native title party/ies**.

B4-2 The proponent must implement the proposal to meet the following environmental objective:

- (1) avoid, and where unavoidable, minimise adverse impacts to **Aboriginal cultural heritage** within and surrounding the proposal development envelope.

B4-3 The proponent must undertake ongoing consultation and engagement with the **native title party/ies** about the achievement of the outcomes and objectives in condition B4-1 and condition B4-2 for the life of the proposal.

B5 Pilbara Environmental Offset Fund

B5-1 The proponent must contribute funds to the **Pilbara Environmental Offsets Fund** calculated pursuant to condition B5-2, to achieve the objective of counterbalancing the significant residual impacts to:

- (1) **'Good' to 'Excellent' condition native vegetation**;
- (2) vegetation representative of **Horseflat land system of the Roebourne Plains priority ecological community**; and

- (3) **supporting habitat** for the Pilbara leaf-nosed bat (*Rhinoicteris aurantia (Pilbara)*), ghost bat (*Macroderma gigas*) and northern quoll (*Dasyurus hallucatus*).
- B5-2 The proponent's contribution to the **Pilbara Environmental Offsets Fund** must be paid biennially, with the amount to be contributed calculated based on the clearing undertaken in each year of the biennial reporting period in accordance with the rates in condition B5-3. The first biennial reporting period must commence from **ground disturbing activities** of the **environmental value(s)** identified in condition B5-3.
- B5-3 Calculated by the 2024-2025 financial year, the contribution rates are:
- (1) \$1,016 AUD (excluding GST) per **ha** of the following environmental values cleared as a result of the proposal within the **Roebourne IBRA subregion**:
- (a) **'Good' to 'Excellent' condition native vegetation**; and
- (b) **supporting habitat** for the Pilbara leaf-nosed bat (*Rhinoicteris aurantia (Pilbara)*), ghost bat (*Macroderma gigas*) and northern quoll (*Dasyurus hallucatus*).
- (2) \$2,031 AUD (excluding GST) per **ha** of **Horseflat land system of the Roebourne Plains priority ecological community** cleared or indirectly impacted for the proposal within the **Roebourne IBRA subregion**.
- B5-4 The rates in condition B5-3 change annually each subsequent financial year in accordance with the percentage change in the **CPI** applicable to that financial year.
- B5-5 To achieve the objective in condition B5-1, the proponent must review and revise the *Impact Reconciliation Procedure – Cape Preston East Multi Commodity Export Facility* (Rev 0, December 2024) (Environmental Management Plan) and submit it to the **CEO**. This procedure must:
- (1) spatially define the environmental value(s) identified in condition B5-1
- (2) include a methodology to calculate the amount of clearing undertaken during each year of the biennial reporting period for each of the **environmental values** identified in condition B5-3;
- (3) state that clearing calculation for the first biennial reporting period will commence from **ground disturbing activities** in accordance with condition B5-2 and end on the second 30 June following commencement of **ground disturbing activities**;

- (4) state that clearing calculations for each subsequent biennial reporting period will commence on 1 January of the required reporting period, unless otherwise agreed by the **CEO**; and
 - (5) be prepared in accordance with Instructions on how to prepare *Environmental Protection Act 1986 Part IV Impact Reconciliation Procedures and Impact Reconciliation Reports* (March 2024) (or any subsequent revisions).
- B5-6 The proponent must submit an Impact Reconciliation Report in accordance with the **confirmed** Impact Reconciliation Procedure (Environmental Management Plan) in condition B5-5.
- B5-7 The Impact Reconciliation Report required pursuant to condition B5-6 must provide the location and spatial extent of the clearing undertaken as a result of the proposal during each year of each biennial reporting period.
- B5-8 Condition C2 applies to the **confirmed** Impact Reconciliation Procedure required by condition B5-5 as if it were an environmental management plan.
- B5-9 Failure to implement a **confirmed** Impact Reconciliation Procedure or submit an Impact Reconciliation Report represents a non-compliance with these conditions.

PART C – ENVIRONMENTAL MANAGEMENT PLANS AND MONITORING

C1 Environmental Management Plans: Conditions Related to Commencement of Implementation of the Proposal

C1-1 The proponent must not undertake:

- (1) **ground disturbing activities** until the **CEO** has confirmed in writing that the *Impact Reconciliation Procedure – Cape Preston East Multi Commodity Export Facility* (Rev 0, December 2024) (environmental management plan) required by condition B5-5 meets the requirements of that condition.

C2 Environmental Management Plans: Conditions Relating to Approval, Implementation, Review and Publication

C2-1 Upon being required to implement an environmental management plan under Part B, or after receiving notice in writing from the **CEO** under condition C1-1 that the environmental management plan(s) required in Part B satisfies the relevant requirements, the proponent must:

- (1) implement the most recent version of the **confirmed** environmental management plan; and
- (2) continue to implement the **confirmed** environmental management plan referred to in condition C2-1(1), other than for any period which the **CEO** confirms by notice in writing that it has been demonstrated that the relevant requirements for the environmental management plan have been met, or are able to be met under another statutory decision-making process, in which case the implementation of the environmental management plan is no longer required for that period.

C2-2 The proponent:

- (1) may review and revise a **confirmed** environmental management plan provided it meets the relevant requirements of that environmental management plan, including any consultation that may be required when preparing the environmental management plan;
- (2) must review and revise a **confirmed** environmental management plan and ensure it meets the relevant requirements of that environmental management plan, including any consultation that may be required when preparing the environmental management plan, as and when directed by the **CEO**; and
- (3) must revise and submit to the **CEO** the **confirmed** environmental management plan if there is a material risk that the outcomes or

objectives it is required to achieve will not be complied with, including but not limited to as a result of a change to the proposal.

C2-3 Despite condition C2-1, but subject to conditions C2-4 and C2-5, the proponent may implement minor revisions to an environmental management plan if the revisions will not result in new or increased **adverse impacts** to the environment or result in a risk to the achievement of the limits, outcomes or objectives which the environmental management plan is required to achieve.

C2-4 If the proponent is to implement minor revisions to an environmental management plan under condition C2-3, the proponent must provide the **CEO** with the following at least twenty (20) business days before it implements the revisions:

- (1) the revised environmental management plan clearly showing the minor revisions;
- (2) an explanation of and justification for the minor revisions; and
- (3) an explanation of why the minor revisions will not result in new or increased **adverse impacts** to the environment or result in a risk to the achievement of the limits, outcomes or objectives which the environmental management plan is required to achieve.

C2-5 The proponent must cease to implement any revisions which the **CEO** notifies the proponent (at any time) in writing may not be implemented.

C2-6 **Confirmed** environmental management plans, and any revised environmental management plans under condition C2-4(1), must be published 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 twenty (20) business days of being implemented, or being required to be implemented (whichever is earlier).

C3 Conditions Related to Monitoring

C3-1 The proponent must undertake monitoring capable of:

- (1) substantiating whether the proposal limitations and extents in Part A are exceeded;
- (2) **detecting** and substantiating whether the environmental outcomes identified in Part B are achieved (excluding any environmental outcomes in Part B where an environmental management plan is expressly required to monitor achievement of that outcome); and
- (3) substantiating whether the environmental objective identified in condition B4-2 is achieved.

C3-2 The proponent must submit as part of the Compliance Assessment Report required by condition D2, a compliance monitoring report that:

- (1) outlines the monitoring that was undertaken during the implementation of the proposal;
- (2) identifies why the monitoring was capable of substantiating whether the proposal limitation and extents in Part A are exceeded;
- (3) for any environmental outcomes to which condition C3-1(2) applies, identifies why the monitoring was scientifically robust and capable of **detecting** whether the environmental outcomes in Part B are met;
- (4) for any environmental objectives to which condition C3-1(3) applies, identifies why the monitoring was capable of confirming whether the environmental objectives in Part B are met;
- (5) outlines the results of the monitoring;
- (6) reports whether the proposal limitations and extents in Part A were exceeded and (for any environmental outcomes and objectives to which condition C3-1 applies) whether the environmental outcomes and objectives in Part B were achieved, based on analysis of the results of the monitoring; and
- (7) reports any actions taken by the proponent to remediate any potential non-compliance.

PART D – COMPLIANCE, TIME LIMITS, AUDITS AND OTHER CONDITIONS

D1 Non-compliance Reporting

D1-1 If the proponent becomes aware of a potential non-compliance, the proponent must:

- (1) report this to the **CEO** within seven (7) days;
- (2) implement **contingency measures**;
- (3) investigate the cause;
- (4) investigate environmental impacts;
- (5) advise rectification measures to be implemented;
- (6) advise any other measures to be implemented to ensure no further impact;
- (7) advise timeframe in which contingency, rectification and other measures have and/or will be implemented; and
- (8) provide a report to the **CEO** within twenty-one (21) days of being aware of the potential non-compliance, detailing the measures required in conditions D1-1(1) to D1-1(7) above.

D1-2 Failure to comply with the requirements of a condition, or with the content of an environmental management plan required under a condition, constitutes a non-compliance with these conditions, regardless of whether the **contingency measures**, rectification or other measures in condition D1-1 above have been or are being implemented.

D2 Compliance Reporting

D2-1 The proponent must provide an annual Compliance Assessment Report to the **CEO** for the purpose of determining whether the implementation conditions are being complied with.

D2-2 Unless a different date or frequency is approved by the **CEO**, the first annual Compliance Assessment Report must be submitted within fifteen (15) months of the date of this Statement, and subsequent reports must be submitted annually from that date.

D2-3 Each annual Compliance Assessment Report must be endorsed by the proponent's Chief Executive Officer, or a person approved by proponent's Chief Executive Officer to be delegated to sign on the Chief Executive Officer's behalf.

D2-4 Each annual Compliance Assessment Report must:

- (1) state whether each condition of this Statement has been complied with, including:
 - (a) exceedance of any proposal limits and extents;
 - (b) achievement of environmental outcomes;
 - (c) achievement of environmental objectives;
 - (d) requirements to implement the content of environmental management plans;
 - (e) monitoring requirements;
 - (f) implement **contingency measures**;
 - (g) requirements to implement adaptive management; and
 - (h) reporting requirements;
- (2) include the results of any monitoring (inclusive of any raw data) that has been required under Part C in order to demonstrate that the limits in Part A, and any outcomes or any objectives are being met;
- (3) provide evidence to substantiate statements of compliance, or details of where there has been a non-compliance;
- (4) include the corrective, remedial and preventative actions taken in response to any potential non-compliance;
- (5) be provided in a form suitable for publication on the proponent's website and online by the Department of Water and Environmental Regulation; and
- (6) be prepared and published consistent with the latest version of the Compliance Assessment Plan required by condition D2-5 which the **CEO** has confirmed by notice in writing satisfies the relevant requirements of Part C and Part D.

D2-5 The proponent must prepare a Compliance Assessment Plan which is submitted to the **CEO** at least six (6) months prior to the first Compliance Assessment Report required by condition D2-2, or prior to implementation of the proposal, whichever is sooner.

D2-6 The Compliance Assessment Plan must include:

- (1) what, when and how information will be collected and recorded to assess compliance;
- (2) the methods which will be used to assess compliance;

- (3) the methods which will be used to validate the adequacy of the compliance assessment to determine whether the implementation conditions are being complied with;
- (4) the retention of compliance assessments;
- (5) the table of contents of Compliance Assessment Reports, including audit tables; and
- (6) how and when Compliance Assessment Reports will be made publicly available, including usually being published on the proponent's website within sixty (60) days of being provided to the **CEO**.

D3 Contact Details

D3-1 The proponent must notify the **CEO** of any change of its name, physical address or postal address for the serving of notices or other correspondence within twenty-eight (28) days of such change. Where the proponent is a corporation or an association of persons, whether incorporated or not, the postal address is that of the principal place of business or of the principal office in the State.

D4 Time Limit for Proposal Implementation

D4-1 The proposal must be substantially commenced within five (5) years from the date of this Statement.

D4-2 The proponent must provide to the **CEO** documentary evidence demonstrating that they have complied with condition D4-1 no later than thirty (30) days after substantial commencement.

D4-3 If the proposal has not been substantially commenced within the period specified in condition D4-1, implementation of the proposal must not be commenced or continued after the expiration of that period.

D5 Public Availability of Data

D5-1 Subject to condition D5-2, within a reasonable time period approved by the **CEO** upon the issue of this Statement and for the remainder of the life of the proposal, the proponent must make publicly available, in a manner approved by the **CEO**, all validated environmental data collected before and after the date of this Statement relevant to the proposal (including sampling design, sampling methodologies, monitoring and other empirical data and derived information products (e.g. maps)), environmental management plans and reports relevant to the assessment of this proposal and implementation of this Statement.

D5-2 If:

- (1) any data referred to in condition D5-1 contains trade secrets; or

- (2) any data referred to in condition D5-1 contains particulars of confidential information (other than trade secrets) that has commercial value to a person that would be, or could reasonably be expected to be, destroyed or diminished if the confidential information were published,

the proponent may submit a request for approval from the **CEO** to not make this data publicly available and the **CEO** may agree to such a request if the **CEO** is satisfied that the data meets the above criteria.

- D5-3 In making such a request the proponent must provide the **CEO** with an explanation and reasons why the data should not be made publicly available.

D6 Independent Audit

- D6-1 The proponent must arrange for an independent audit of compliance with the conditions of this statement, including achievement of the environmental outcomes and/or the environmental objectives and/or environmental performance with the conditions of this statement, as and when directed by the **CEO**.
- D6-2 The independent audit must be carried out by a person with appropriate qualifications who is nominated or approved by the **CEO** to undertake the audit under condition D6-1.
- D6-3 The proponent must submit the independent audit report with the Compliance Assessment Report required by condition D2, or at any time as and when directed in writing by the **CEO**. The audit report is to be supported by credible evidence to substantiate its findings.
- D6-4 The independent audit report required by condition D6-1 is to be made publicly available in the same timeframe, manner and form as a Compliance Assessment Report, or as otherwise directed by the **CEO**.

Table 1: Abbreviations and definitions

| Acronym or abbreviation | Definition or term |
|--|---|
| Aboriginal cultural heritage | Means the tangible and intangible elements that are important to the Aboriginal people of the state, and are recognised through social, spiritual, historical, scientific or aesthetic values, as part of Aboriginal tradition to the extent they directly affect or are affected by physical or biological surroundings. |
| Aboriginal site/s | As defined in section 4 and 5 under the <i>Aboriginal Heritage Act 1972</i> . |
| Adverse impact(s)/ adversely impacted | Negative change that is neither trivial nor negligible that could result in a reduction in health, diversity or abundance of the receptor/s being impacted, or a reduction in environmental value. Adverse impacts can arise from direct or indirect impacts, or other impacts from the proposal. |
| Biologically important areas | Areas used by marine turtles for foraging. The information from www.dcceew.gov.au/environment/marine/bias and advice from the Department of Climate Change, Energy, the Environment and Water will guide interpretation of this definition. |
| Detecting/ Detectable | The smallest statistically discernible effect size that can be achieved with a monitoring strategy designed to achieve a statistical power value of at least 0.8 or an alternative value as determined by the CEO . |
| Cape Preston East beaches | The beach located on the eastern side of Cape Preston, extending approximately 1.5 km north and approximately 2.5 km south of the development envelope . |
| 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. |
| Confirmed | <p>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.</p> <p>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.</p> |
| Contingency measures | Planned actions for implementation if it is identified that an environmental outcome is likely to be, or is being, exceeded, or a |

| Acronym or abbreviation | Definition or term |
|--|--|
| | prescriptive condition cannot be implemented. Contingency measures include changes to operations or reductions in disturbance or adverse impacts to reduce impacts and must be decisive actions that will quickly bring the impact to below any relevant threshold, management target and to ensure that the environmental outcome and/or objective can be met. |
| CPI | The All Groups Consumer Price Index numbers for Perth compiled and published by the Australian Bureau of Statistics. |
| Development Envelope | As shown in Figure 1. |
| Disturb/ Disturbance | <p>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.</p> <p>In relation to flora, vegetation or fauna habitat, includes to result in the death, destruction, removal, severing or doing substantial damage to.</p> <p>In relation to fauna, includes to have the effect of altering the natural behaviour of fauna to its detriment.</p> |
| Environmental value(s) | A beneficial use, or ecosystem health condition. |
| Environmental weeds | Any plant declared under section 22(2) of the Biosecurity and Agriculture Management Act 2007, any plant listed on the Weeds of National Significance List and any weeds listed on the Department of Biodiversity, Conservation and Attractions' Pilbara Impact and Invasiveness Ratings list, as amended or replaced from time to time. |
| 'Good' to 'Excellent' condition native vegetation | The condition of native vegetation rated in accordance with the Technical guidance – Flora and vegetation surveys for environmental impact assessment (EPA 2016) including any revision to this technical guidance. |
| Ground disturbing activities | Any activity or activities undertaken in the implementation of the proposal, including any clearing, civil works or construction. |
| Ha | Hectare |

| Acronym or abbreviation | Definition or term |
|--|---|
| Horseflat land system of the Roebourne Plains priority ecological community | Units 3 (excluding areas of snakewood and hummock grass; mosaic areas, and areas of heavily gilgaied soils), 4, 5, and 7 of the Horseflat land system as described in van Vreeswyk, A M, Leighton, K A, Payne, A L, and Hennig, P (2004) <i>An inventory and condition survey of the Pilbara region, Western Australia</i> . Department of Agriculture and Food, Western Australia, Perth. Technical Bulletin 92 (available online at https://library.dpird.wa.gov.au/tech_bull/7/). |
| GL | Gigalitre |
| km | Kilometre |
| m | Metre |
| Marine construction activities | Activities required for the construction of the trestle jetty and rock breakwater. |
| Marine fauna - observers | Suitably qualified and experience personnel that have demonstrated knowledge of marine wildlife species in the Pilbara region, including Threatened and Migratory Species listed under the <i>Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)</i> , and <i>Wildlife Conservation (Specially protected fauna) Notice 2010(2)</i> and priority listing, and their behaviours, to undertake observations during marine construction activities |
| Marine turtle/s | Includes flatback turtle (<i>Natator depressus</i>), green turtle (<i>Chelonia mydas</i>) and hawksbill turtle (<i>Eretmochelys imbricata</i>). |
| ML | Megalitre |
| National Light Pollution Guidelines for Wildlife | Department of Climate Change, Energy, the Environment and Water 2023, <i>National Light Pollution Guidelines for Wildlife</i> , Department of Climate Change, Energy, the Environment and Water, Canberra, May. CC BY 4.0 (as updated from time-to-time), available at dceew.gov.au/publications |
| National Marine Mammal Data Portal | National Marine Mammal Data Portal, including the Cetacean Sightings Application, maintained by the Commonwealth Department of Climate Change, Energy, the Environment and Water and available at data.marinemammals.gov.au |
| Native title party/ies | As defined in section 18(1AA) under the <i>Aboriginal Heritage Act 1972</i> . |

| Acronym or abbreviation | Definition or term |
|--|---|
| Pilbara Environmental Offset Fund | A special purpose account created pursuant to section 16(1)(d) of the Financial Management Act 2006 by the Department of Water and Environmental Regulation. |
| Relevant legislation | <i>Fish Resources Management Act 1994 and Biosecurity and Agriculture Management Act 2007</i> |
| Roebourne IBRA subregion | As delineated by PIL04 of the <i>Interim Biogeographic Regionalisation for Australia, Version 7</i> (Department of Climate Change, Energy, Environment and Water). |
| Significant marine fauna | Includes cetaceans, dugongs and marine turtles . |
| Supporting habitat | Foraging habitat for Pilbara leaf-nosed bat (<i>Rhinonicteris aurantia (Pilbara)</i>), ghost bat (<i>Macroderma gigas</i>) and northern quoll (<i>Dasyurus hallucatus</i>) as described in the <i>Detailed terrestrial fauna and migratory shorebird surveys for the Eramurra Solar Salt Project</i> (Phoenix Environmental Sciences 2023). |

Figures (attached)

Figure 1 Cape Preston East – Multi-commodity Export Facility – Development Envelope

Figure 2 Cape Preston East – Multi-commodity Export Facility – Horseflat land system of the Roebourne Plains priority ecological community

(Figure 1 and 2 are a representation of the co-ordinates referenced in Schedule 1)

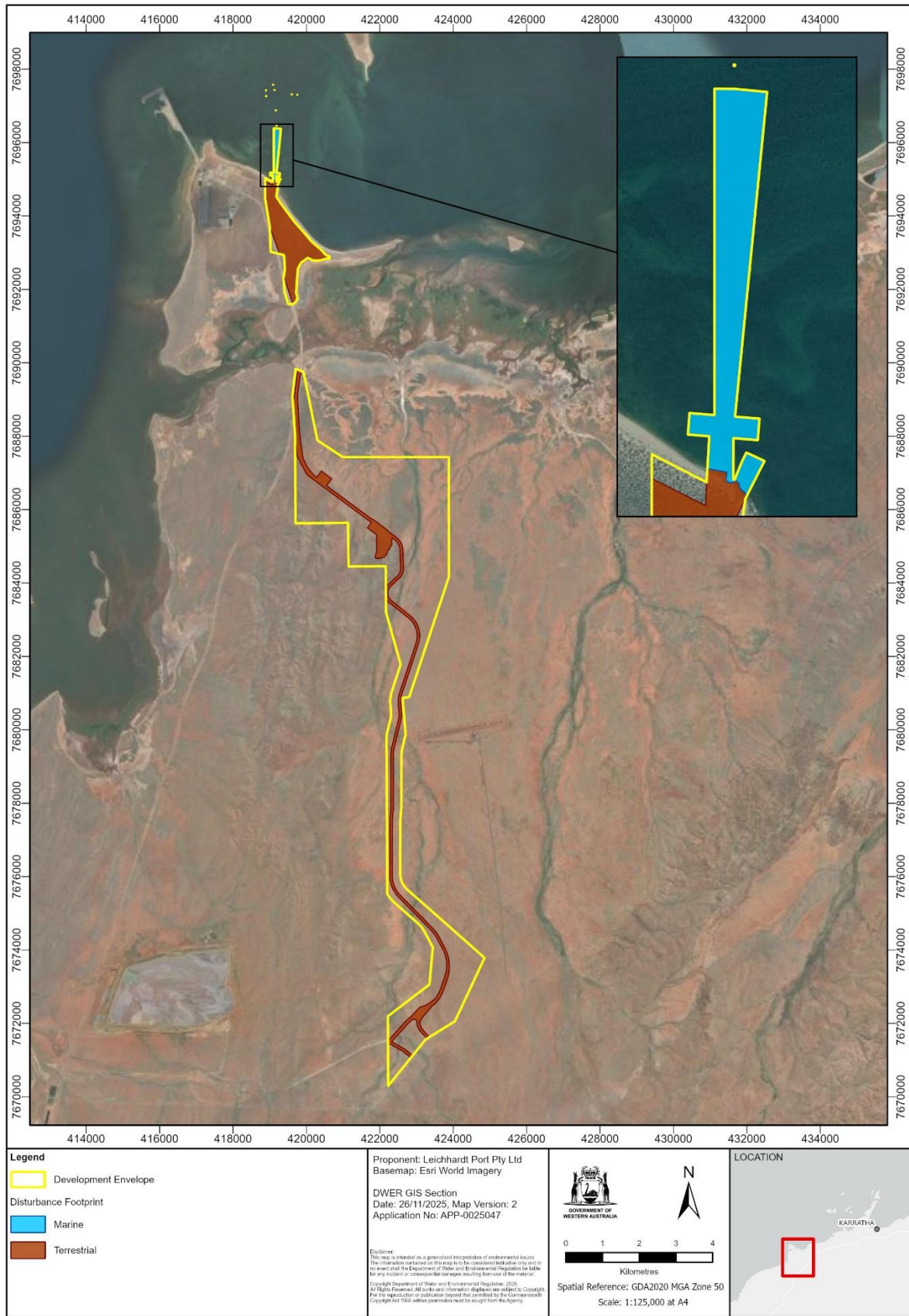


Figure 1 Cape Preston East – Multi-commodity Export Facility – Development Envelope

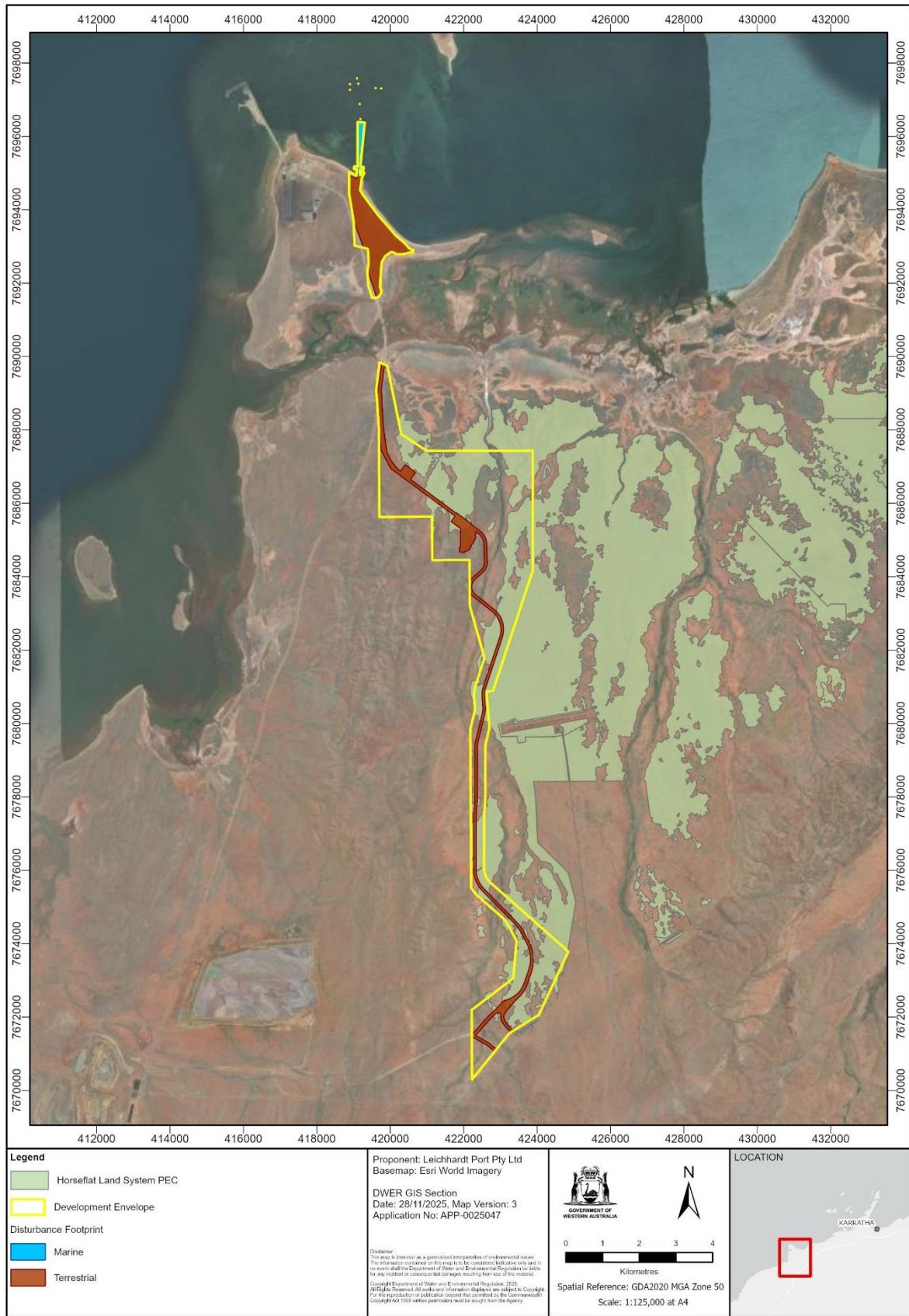


Figure 2 Cape Preston East – Multi-commodity Export Facility – Horseflat land system of the Roebourne Plains priority ecological community

Schedule 1

All co-ordinates are in metres, listed in Map Grid of Australia Zone 50 (MGA Zone 50), datum of Geocentric Datum of Australia 2020 (GDA2020).

Spatial data depicting the figures are held by the Department of Water and Environmental regulation. Record no. APP-0025047.

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*.

| Decision-making authority | Legislation (and approval) |
|--|--|
| 1. Minister for Aboriginal Affairs | <i>Aboriginal Heritage Act 1972</i> <ul style="list-style-type: none"> - Consent to impact a registered Aboriginal heritage site - Excavation of Aboriginal sites <i>Aboriginal Heritage Regulations 1974</i> <ul style="list-style-type: none"> - Approval required before plant, etc. brought onto land - Activities requiring consent |
| 2. Minister for Environment | <i>Biodiversity Conservation Act 2016</i> <ul style="list-style-type: none"> - Taking or disturbance to threatened species and communities |
| 3. Minister for Ports | <i>Port Authorities Act 1999</i> |
| 4. Minister for State Development | <i>Iron Ore (Mineralogy Pty Ltd) Agreement Act 2002</i> |
| 5. Minister for Lands | <i>Land Administration Act 1997</i> |
| 6. Minister for Water | <i>Rights in Water and Irrigation Act 1914</i> |
| 7. Chief Executive Officer, Department of Biodiversity, Conservation and Attractions | <i>Biodiversity Conservation Act 2016</i> <ul style="list-style-type: none"> - Authority to take flora and fauna (other than threatened species) |
| 8. Chief Executive Officer, Department of Water and Environmental Regulation | <i>Environmental Protection Act 1986</i> (Works approval and licence) |
| 9. Chief Executive Officer, Pilbara Port Authority | <i>Port Authorities Act 1999</i> |
| 10. Commissioner, Main Roads Western Australia | <i>Mains Roads Act 1930</i> |
| 11. Chief Executive Officer, City of Karratha | <i>Planning and Development Act 2005</i> |

Note: In this instance, agreement is only required with DMA 1 to 6 since these DMAs are Ministers.

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Department of the Environment and Energy (DEE) 2017. *Recovery Plan for Marine Turtles in Australia*, Canberra, ACT

Department of Water and Environmental Regulations (DWER) 2019, *Pilbara Coastal Water Quality Consultation Outcomes: Environmental Values and Environmental Quality Objective*, Joondalup, WA.

DPLH 2023a, *Aboriginal Heritage Act 1972 Guidelines*, Department of Planning, Lands and Heritage, Perth WA.

DPLH 2023b, *Consultation policy for section 18 applications*, Department of Planning, Lands and Heritage, Perth WA.

EPA 2014, *Cumulative environmental impacts of development in the Pilbara region. Advice of the Environmental Protection Authority to the Minister for Environment under Section 16(e) of the Environmental Protection Act 1986*, Environmental Protection Authority, Perth, WA.

EPA 2016a, *Environmental factor guideline – Benthic communities and habitats*, Environmental Protection Authority, Perth, WA.

EPA 2016b, *Environmental factor guideline – Flora and Vegetation*, Environmental Protection Authority, Perth, WA.

EPA 2016c, *Environmental factor guideline – Marine environmental quality*, Environmental Protection Authority, Perth, WA.

EPA 2016d, *Environmental factor guideline – Marine fauna*, Environmental Protection Authority, Perth, WA.

EPA 2016e, *Environmental factor guideline – Terrestrial Fauna*, Environmental Protection Authority, Perth, WA.

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

EPA 2016g, *Technical Guidance – Protecting the quality of Western Australia's marine environment*, Environmental Protection Authority, Perth, WA.

EPA 2020, *Technical Guidance – Terrestrial vertebrate fauna surveys for environmental impact assessment*, Perth, WA.

EPA 2023a, *Environmental factor guideline – Social surroundings*, Environmental Protection Authority, Perth, WA.

EPA 2023b. *Technical Guidance - Environmental impact assessment of Social Surroundings - Aboriginal cultural heritage*. Environmental Protection Authority, Perth, WA.

EPA 2024a, *Environmental factor guideline – Greenhouse Gas Emissions*, Environmental Protection Authority, Perth, WA.

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O2 Environment 2023b, *Eramurra Solar Salt Project Subtidal Benthic Communities and Habitat Report*, Revision 5, Fremantle, WA.

Pendoley Environmental Pty Ltd 2023, *Eramurra Solar Salt Project: Marine Turtle Monitoring 2022/23*, Revision 0, WA

Pendoley Environmental Pty Ltd 2024, *Eramurra Solar Salt Project: Marine Turtle Monitoring 2023/24I*, Revision 0, WA

Phoenix Environmental Sciences 2022, *Detailed flora and vegetation survey for the Eramurra Solar Salt Project*, Version 2.0, Osborne Park, WA.

Phoenix Environmental Sciences 2023, *Detailed terrestrial fauna and Migratory shorebird for the Eramurra Solar Salt Project*, Version 3.0, Osborne Park, WA.