

14 May 2021

**Lynas Kalgoorlie Pty Ltd**  
Level 1, 45 Royal Street,  
East Perth, Western Australia, 6004

Prof. Matthew Tonts  
The Chairman  
Environmental Protection Authority  
Prime House – 8 Davidson Terrace Joondalup  
Locked Bag 10, JOONDALUP DC WA 6919

**Your Ref: CMS17898**

Dear Prof. Tonts,

**Proposed Lynas Kalgoorlie Rare Earths Processing and By-Products Storage Facilities Revised Environmental Review Document (Version 1)**

In response to your letter of 24 November 2020, please find below a link to a revised Environmental Review Document (ERD) that addresses the Environmental Protection Authority's (EPA) requests for additional information in relation to the above Proposal.

We have responded to each request and updated the Referral Supporting Document (KASA Consulting, December 2020), now presented as the ERD for the Proposal. Based on informal advice received on a draft ERD provided to EPA Services on 9 April 2021, this ERD also addresses the following:

- Inclusion of the final report on the third and final targeted flora survey conducted following summer rainfall events at the Yarri Road By-Products Storage Facility (BSF) site;
- Minor updates to projected traffic movement data during the construction phase (these do not alter the original conclusion of this factor);
- Minor updates to the volumes and tank specifications of onsite fuel storage; and
- Updates to stakeholder consultation, including the proposed establishment of a Pop-up Information Stall in Kalgoorlie to coincide with the pending 4-week Public Review Period in order to offer the local community additional opportunity to provide input to the Proposal.

Informal discussions with EPA/s have indicated that cultural heritage issues associated with the BSF site warrant further investigation and assessment by Lynas. The revised ERD articulates the current status of actions conducted by Lynas to date in attempting to resolve potential cultural heritage constraints as described below.

Currently, relevant Aboriginal Heritage registers indicate no recorded sites exist at the BSF site. Notwithstanding, in accordance with the EPA's policy defined in the EPA Environmental Factor Guideline: Social Surroundings, Lynas is committed to engage with relevant stakeholders and conduct required heritage surveys prior to ground-breaking activities.

Lynas' recent applications for a GPL and Miscellaneous Licence under the *Mining Act 1978*, is an action which attracts the right to consult under the *Native Title Act. 1993*. At the time of this submission, Native Title objections are still being assessed through the tenure process:

- Maduwongga (WAD186/2017 registered on 08 August 2017; and
- Marlinyu Ghoorlie (WAD647/2017 registered on 28 March 2019).

Consultation between Lynas and the two respective Native Title claimants (namely the Maduwongga and Marlinyu-Ghoorlie Claimant Groups) have commenced and are ongoing. A third claimant (Jardu Mar) submitted its application to the National Native Title Tribunal (NNTT) (WC2021/001) however their claim was determined not to be conforming and has been rejected by the Federal court (Decision WAD4/2021) on 3 March 2021.

Accordingly, the outcomes of early consultation with both registered Native Title claimants are recorded in Table 3-1 of the ERD.

Engagement to date has been limited by claimant representative availability, as well as advice from Lynas' specialist heritage consultants, that the groups have been overwhelmed by engagement requests across the region and are fatigued. Lynas has therefore been hamstrung to some extent in being able to engage with the groups, not least to identify appropriate Traditional Owner representatives to be commissioned to conduct the required archaeological and ethnographic surveys. Lynas has investigated the possibility of engaging both groups separately, despite neither having their Native Title claims determined by DPLH, however the quoted costs and fees have been significant, and in excess of \$600,000 solely for the monitoring effort.

Accordingly, Lynas' preference is to allow the native title claims process be completed in accordance with due process. Subsequently, Lynas will be able to reinstate the consultation process and commence the archaeological and ethnographic surveys as soon as archaeologists/anthropologists and nominated Traditional Owner representatives endorsed by the NNTT are identified. Needless to say, Lynas will ensure that all heritage related requirements for tenure are addressed.

Furthermore, as part of its commitment to ensuring heritage matters are appropriately addressed and managed, Lynas will develop and implement a Cultural Heritage Management Plan in consultation with the EPA and Traditional Owners that reflects the outcomes and any recommendations of the Native Title determination process, including the scope of proposed archaeological and ethnographic surveys at the BSF site.

Lynas is cognisant of recent unfortunate events that have impacted on archaeological and ethnographic sites of significant heritage value. We also appreciate the public expectations that the EPA's assessment and approvals process is robust in order to adequately regulate and prevent similar occurrences.

In light of the above, as well as considering that due process in achieving appropriate native title determination of claims over the BSF site require significant time. Unfortunately, such deliberations will curtail Lynas' BSF component of the Proposal which is currently linked to the overall Proposal as referred, despite the fact that the Rare Earths Processing Facility (REPF) is unencumbered by archaeological and ethnographic constraints, as informed by completed surveys.

As a resolution to this critical matter, Lynas requests the EPA advise on whether the following approach could be adopted, so as not to jeopardise the schedule and the Project itself:

- In light of the current pending status of Native Title determinations at Yarri Road, as part of its commitment to ensuring heritage matters are appropriately addressed and managed, Lynas will develop and implement a Cultural Heritage Management Plan in consultation with the EPA, DPLH and Traditional Owners that reflects the outcomes and any recommendations of the Native Title determination process, including the scope of proposed archaeological and ethnographic surveys at the Yarri Road site.
- Lynas will ensure it complies with all requirements of the Aboriginal Heritage Act (WA) 1972. Through its agreements with contractors, it will require personnel to be trained in the implications of the Aboriginal Heritage Act (WA) 1972 during the construction period.
- Additionally, as demonstration of Lynas' commitment to investigating and mitigating potential cultural heritage constraints, Lynas will not object to the Minister for Environment granting approval of the Proposal subject to Ministerial Condition(s) being imposed on the organisation to address the matter of cultural heritage at the BSF site prior to commencement of ground disturbance at Yarri Road BSF, including completion of surveys and development of the aforementioned Cultural Heritage Management Plan.

Please do not hesitate to contact me should you wish to discuss our proposed management of heritage issues at the BSF site.

Yours sincerely



**Kam Leung**  
**VP Upstream**

Encl. Revised ERD: [Click here](#)