

Environmental Protection Act 1986

Section 43A

**NOTICE OF DECISION TO CONSENT TO CHANGE TO PROPOSAL DURING
ASSESSMENT**

PERSON TO WHOM THIS NOTICE IS GIVEN

- a) Fortescue Metals Group Limited (ACN: 57 002 594 872)
Level 2, 87 Adelaide Terrace
EAST PERTH WA 6004
- b) Relevant Decision-Making Authorities, see attachment 2

PROPOSAL TO WHICH THIS NOTICE RELATES:

Eliwana Railway Project
Assessment No. 2129

Pursuant to section 43A of the *Environmental Protection Act 1986* (EP Act), the Environmental Protection Authority (EPA) consents to the proponent making the following changes to the proposal during assessment without a revised proposal being referred -

- A change to the Rail Development Envelope to accommodate an alternative alignment for the purpose of reducing impacts to social surroundings as described in Schedule 1 and shown in Figure 1 of Attachment 1; and
- Changes to the indicative rail disturbance footprint near Hamersley Station, Kumpanha Dancing Ground and Nharraminju Wuntu Rock Art complex as shown in Figure 1 of Attachment 1.

EFFECT OF THIS NOTICE:

1. The proponent may change the proposal as provided for in this notice.

RIGHTS OF APPEAL:

There are no rights of appeal under the EP Act in respect of this decision.



Dr Tom Hatton
Delegate of the Environmental Protection Authority
CHAIRMAN

11 February 2019

Schedule 1

Change to Proposal

Element	Current Proposal	Changed Proposal
Disturbance area	Clearing of up to 3,690 ha of native vegetation within a 38,029 ha development envelope.	Clearing of up to 3690 ha of native vegetation within a 38,199 ha development envelope.

Figure 1 – Overview of Changes to Rail Development Envelope and Indicative Disturbance Footprint

Figure 1 A – Changes to Development Envelope and Indicative Disturbance Footprint - Area A

Figure 1 B – Changes to Indicative Disturbance Footprint - Area B

Figure 1 – Overview of Changes to Rail Development Envelope and Indicative Disturbance Footprint

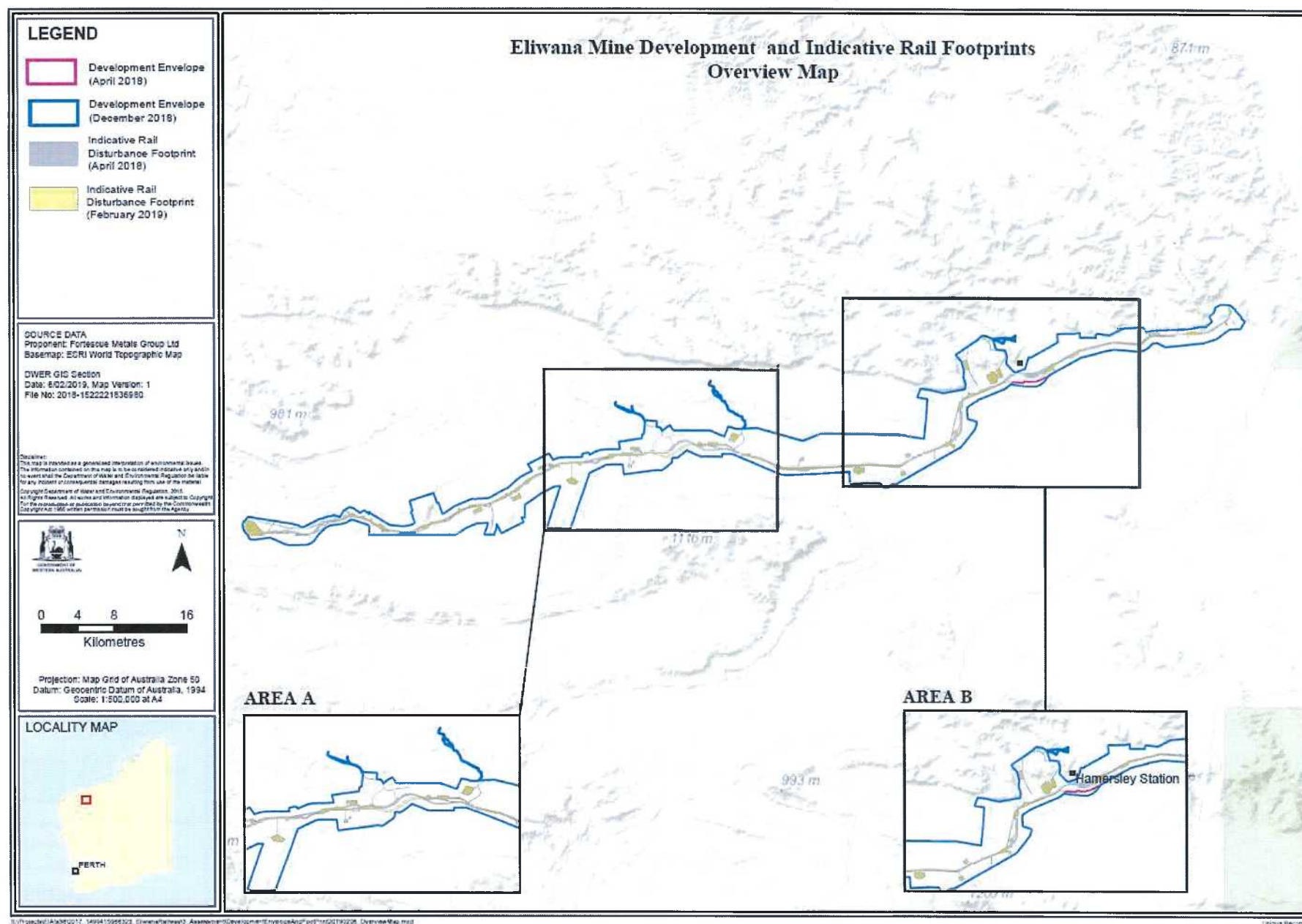


Figure 1 A – Changes to Development Envelope and Indicative Disturbance Footprint - Area A

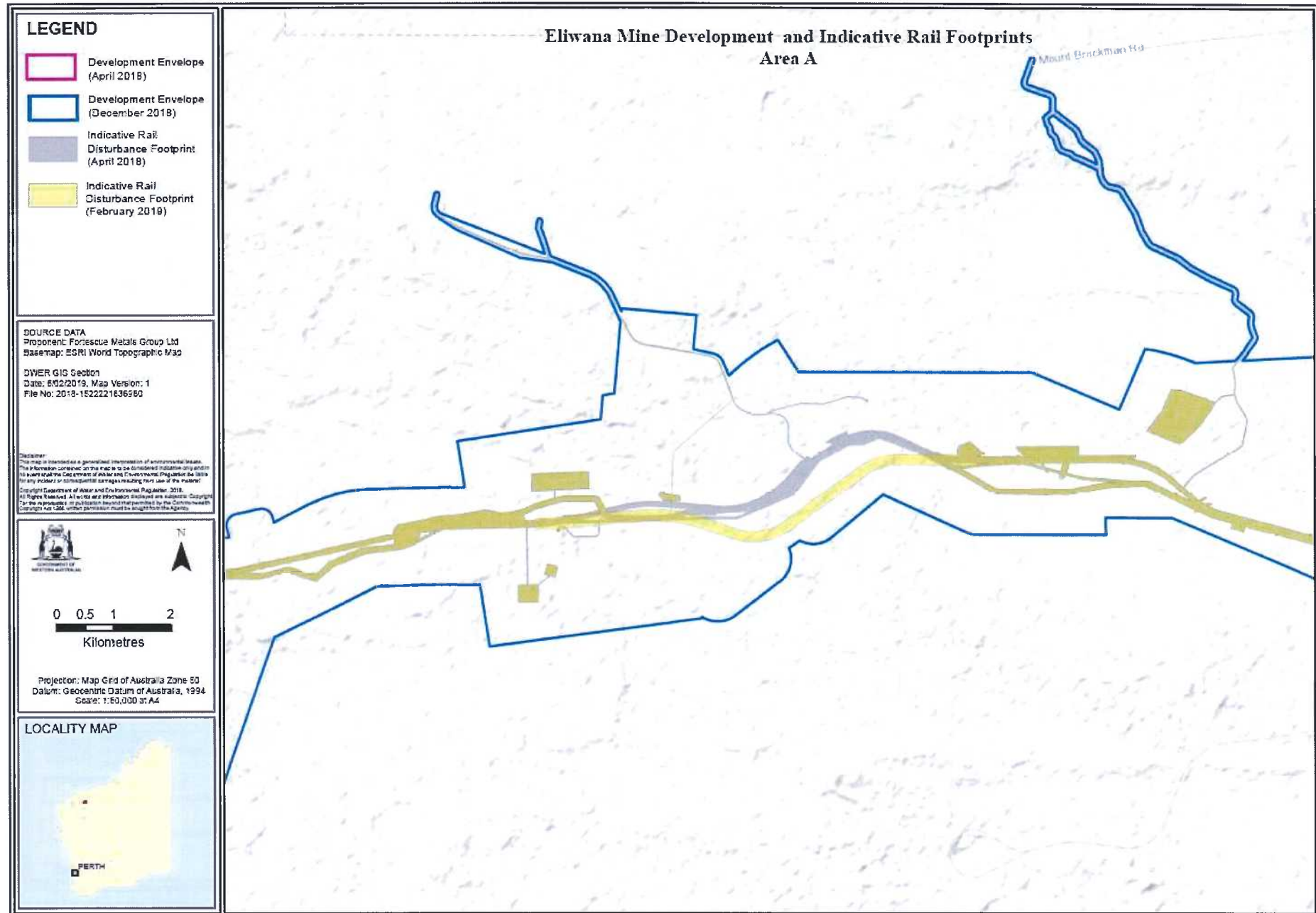
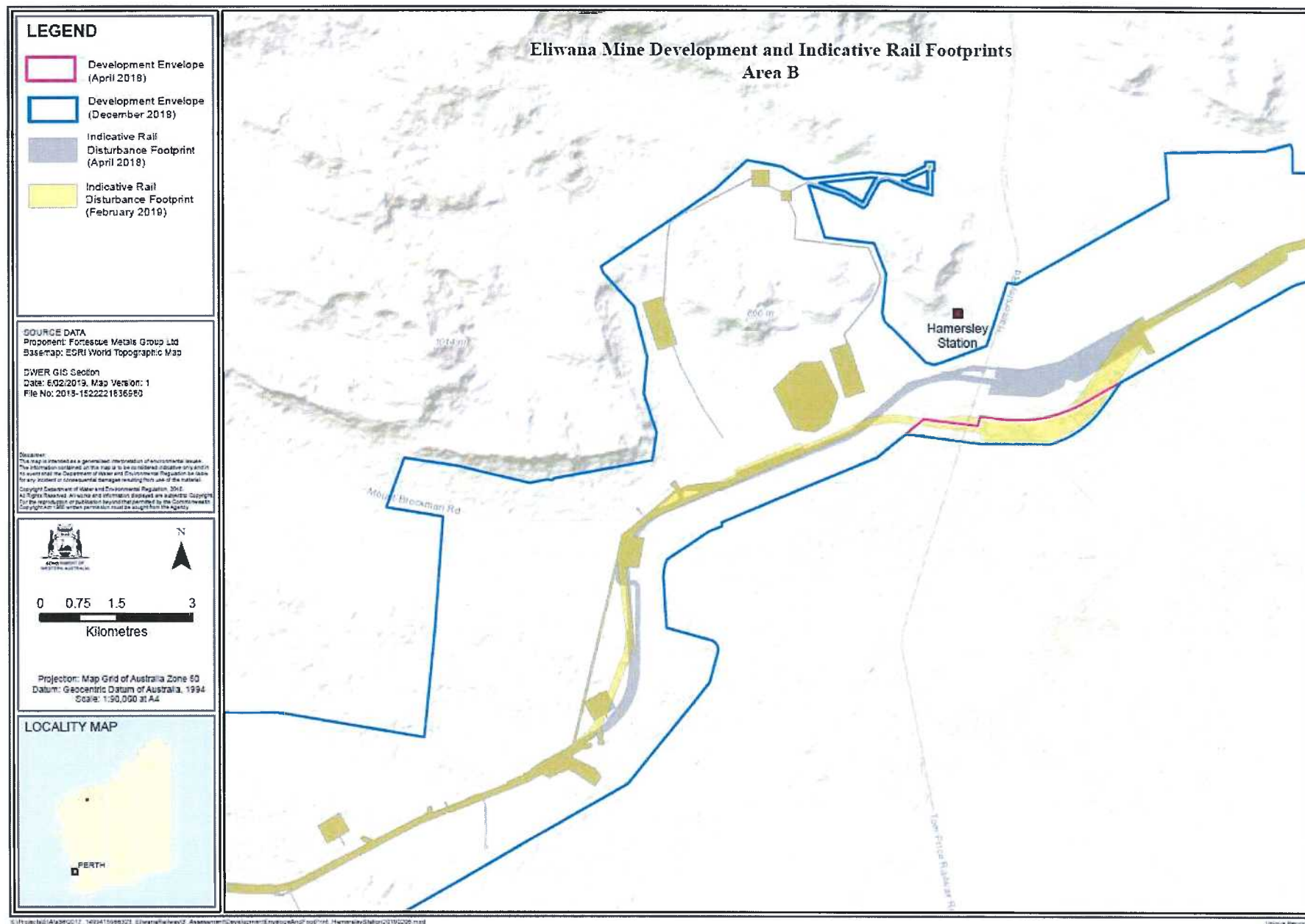


Figure 1 B – Changes to Indicative Disturbance Footprint - Area B



Relevant Decision Making Authorities

Minister for Environment

Minister for Water

Minister for State Development

Minister for Lands

Minister for Aboriginal Affairs

Director General, Department of Water and Environment Regulation

Chief Executive Officer, Shire of Ashburton

Environmental Protection Act 1986

Section 43A

STATEMENT OF REASONS

CONSENT TO CHANGE PROPOSAL DURING ASSESSMENT

Proposal: Eliwana Railway Project

Proponent: Fortescue Metals Group Limited

Decision

For the reasons outlined below, the EPA has determined to consent to the Proponent changing the Proposal outlined in Schedule 1 attached to this Statement of Reasons.

Background

On 07 July 2017, Fortescue Metals Group Limited (FMG) referred the Proposal to the Environmental Protection Authority (EPA) under section 38 of the *Environmental Protection Act 1986* (EP Act). The proposal includes the construction and operation of a 120km railway linking the proposed Eliwana Iron Ore Mine with the existing Solomon Iron Ore Mine. The proposal would require disturbance of up to 3,690 ha of native vegetation within a 57,000 ha development envelope.

The EPA determined to assess the Proposal at the level of Public Environmental Review with a four - week review period. The Environmental Scoping Document (ESD) for the proposal was approved on 21 December 2017.

On 11 April 2018, the EPA approved a change to the proposal during assessment. The change included an overall reduction in the development envelope from 57,000 ha to 38,029 ha.

Subsequent to the approved change, the Environmental Review Document (ERD) for the proposal was released for public review, resulting in additional consultation between FMG and key stakeholders through the submissions process.

Additional consultation has prompted changes to the rail alignment. Therefore, in advance of the EPA preparing a report on the outcome of its assessment of the proposal, FMG has sought the EPA's consent to the proponent further changing the proposal.

Relevant Statutory and Administrative Provisions

Section 3.8 of the Environmental Impact Assessment (Part IV Divisions 1 and 2) Procedures Manual 2016 guides what information the EPA requires from a person wanting to change its proposal during assessment.

In considering the request for consent, the EPA considered the:

- details of the proposed change
- statement of the significance of the change and
- rationale for the change.

Materials considered in making this decision

In determining whether to consent to the proponent changing the proposal the EPA has considered the following:

1. Proponent letter – Request for change to proposal under S43A - received 21 January 2019.
2. Eliwana Railway Development Envelope updated Shape files – received 21 January 2019
3. Information provided by FMG and Wintawari Guruma Aboriginal Corporation (WGAC) and meeting hosted by EPA, 15 January 2019.
4. Environmental Review Document – Eliwana Railway Project – Assessment 2129, August 2018.
5. Revised Spatial Data provided by FMG and held by DWER. (Development Envelope - Reference No. 2019-1548228686856, Indicative Disturbance Footprint - Reference No. 2019-1549439977046)

Consideration

1. Nature of the proposed change

The proposed changes to the proposal include:

- Alteration of the Rail Development Envelope as shown in Figure 1, resulting in an increase in the area of the RDE of 169.1 ha; and
- Changes to the indicative rail alignment in the vicinity of Hamersley Homestead, Kumpanha Dancing Ground, and Duck Creek Rock Art complex.

The rationale for the proposed changes are to reduce the direct and indirect impacts to social surroundings, including significant cultural sites and cultural values. The changes have been proposed in response to additional consultation with key stakeholders following the public review of the ERD.

The changes to the proposal are in line with the EPA's expectation that the proponent will amend the proposal throughout the assessment to reduce significant impacts, including impacts to Social Surroundings.

6. The proposed changes are described in Schedule 1 and shown in Figure 1 of Attachment 1 of this document. Updated spatial data for the Rail Development Envelope and the Indicative Disturbance footprint have been provided and are held by DWER (Development Envelope - Reference No. 2019-1548228686856, Indicative Disturbance Footprint - Reference No. 2019-1549439977046)

The key impact of the proposed change would be an increase to the direct disturbance of the Themeda Grasslands Threatened Ecological Community (TEC), and to the Brockman Cracking Clay Priority Ecological Community (PEC), as described in Table 1 below.

Table 1 – increased impacts to TEC and PEC

Community	DBCA Mapped extent (ha)	Original proposed disturbance (ha)	Revised proposed disturbance (ha)	Total revised impact (%) DBCA area
TEC	4,736.8	5.69	40.0	0.84
PEC	12,404.8	0.53	1.37	0.011

2. Stage of the assessment process

The ERD for the proposal was released for public review from 27 August 2018 until 25 September 2018. Additional time was given to Native Title holders in the project area to provide their submissions.

The proponent is in the process of preparing a Response to Submissions document. The Response to Submissions document will incorporate the changes described in this document. The finalised Response to Submissions will be published on the EPA website.

Following finalisation of the Response to Submissions, the EPA will commence its assessment of the proposal.

3. Currency, relevance and reliability of the information, including submissions

The proposal was referred in July 2017 and all information submitted in support of the referral remains current. The proposed changes to the Development Envelope for the proposal remain within the areas in which FMGL's environmental investigations were undertaken. Updated spatial data has been provided by the proponent.

4. Community engagement

The EPA has engaged with the community through the referral and public review process. This decision document will be released on the EPA's website for public information.

The EPA and FMG have consulted with the key stakeholders, the Wintawari Guruma Aboriginal Corporation, in relation to these changes.

5. Level of public concern

There is a significant level of public concern in relation to this proposal, in relation to cultural sites in proximity to the proposed rail alignment. The purpose of this change to the proposal is to address this concern, by increasing the distance between the rail alignment and three key sites of concern.

Consideration of Whether the Change is Unlikely to Significantly Increase Any Impact that the Proposal May Have on the Environment

The following were considered:

a) Values, sensitivity and the quality of the environment which is likely to be impacted

The change to the proposal would not result in impacts that are different to the originally referred proposal, or in the consideration of different environmental values or factors than those that are identified in the approved environmental Scoping Document (ESD).

b) Extent (intensity, duration, magnitude and geographic footprint) of the likely impacts

The change to the proposal would not result in an increase in the duration of the proposal, or in the total level of disturbance beyond that of the proposal which was originally referred.

The change would result in an increase in disturbance to the TEC from 5.69 ha to 40 ha, and to the PEC from 0.53 ha to 1.37 ha. The proposed change is also likely to result in some fragmentation of the TEC.

Comment on the level of disturbance to these communities has been sought from DWER Terrestrial Ecosystems Branch and from the Department of Biodiversity Conservation and Attractions (DBCA), and will be considered during the assessment of the proposal.

The acceptability of the proposed level of disturbance to the TEC and the PEC will be considered by the EPA during the assessment of the proposal, however the increase in direct disturbance to the TEC and PEC is unlikely to significantly change the outcome of the assessment.

c) Consequence of the likely impacts (or change)

The change to the proposal is likely to result in a significant reduction in impacts to social surroundings in the vicinity of the proposed rail alignment.

The change to the proposal would result in an increase in impacts including direct disturbance and fragmentation to conservation significant vegetation communities, including a TEC and a PEC. Based on currently available information, the proposed changes would result in a loss of 0.84% and 0.11% of the known extent of these communities, and are unlikely to result in the loss

of the communities, or to result in a change to the conservation status of these communities.

The acceptability of the proposed level of disturbance to the TEC and the PEC would be considered by the EPA through further consultation with relevant agencies during the assessment of the proposal, however the increase in direct disturbance to the TEC and PEC is unlikely to significantly change the outcome of the assessment.

d) Resilience of the environment to cope with the impacts or change

As noted above, based on currently available information, the proposed changes are unlikely to result in the loss of the two significant communities that would be impacted, or to result in a change to the conservation status of these communities. Key pressures to these communities include grazing and feral animals.

There is potential for restrictions to cattle and feral animal access as a result of railway construction to result in improved condition for some areas of these vegetation communities.

e) Cumulative impacts with other projects

The change to the proposal could result in an increase to the cumulative impacts to vegetation communities in the region, as a result of the increased impacts to the TEC and PEC. This increase is unlikely to be significant given the known remaining extent of these communities.

The acceptability of the proposed level of cumulative disturbance to the TEC and the PEC would be considered by the EPA through further consultation with relevant agencies during the assessment of the proposal, however the increase in direct disturbance to the TEC and PEC is unlikely to significantly change the outcome of the assessment.

f) Connections and interactions between parts of the environment to inform holistic view of impacts of the whole environment

The change to the proposal would not result in any connections or interactions with the receiving environment that are different from the original proposal.

g) Level of confidence in the prediction of impacts and the success of proposed mitigation

The revised development envelope is within the area in which the proponent's environmental investigations were undertaken. There is no change to the level of confidence in the predicted impacts and the success of the proposed mitigation.

- h) Public interest about the likely effect of the proposal, if implemented, on the environment, and public information that informs the EPA's assessment

There is a significant level of public concern in relation to this proposal, in relation to cultural sites in proximity to the proposed rail alignment. The purpose of this change to the proposal is to address this concern, by increasing the distance between the rail alignment and three key sites of concern.

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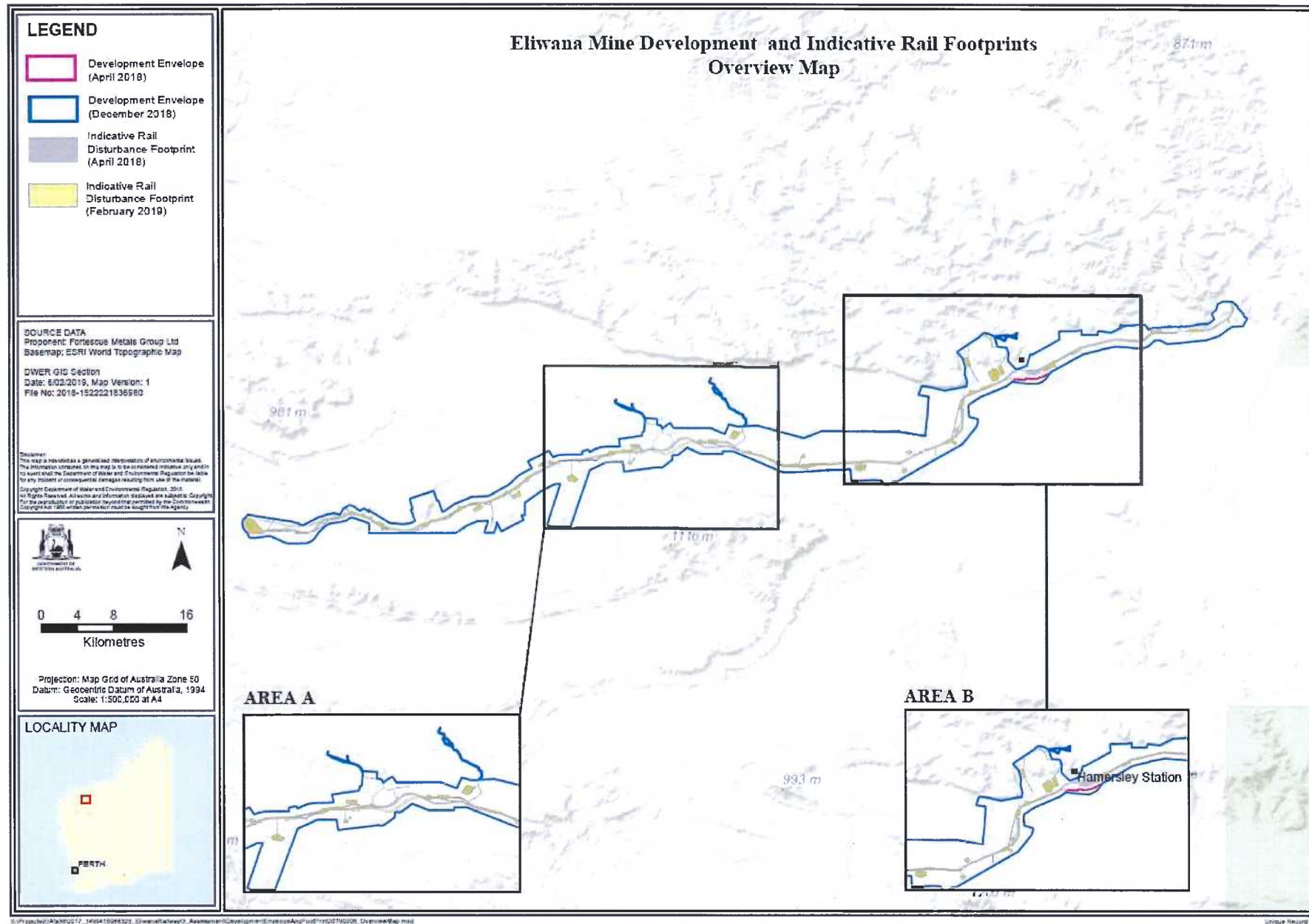


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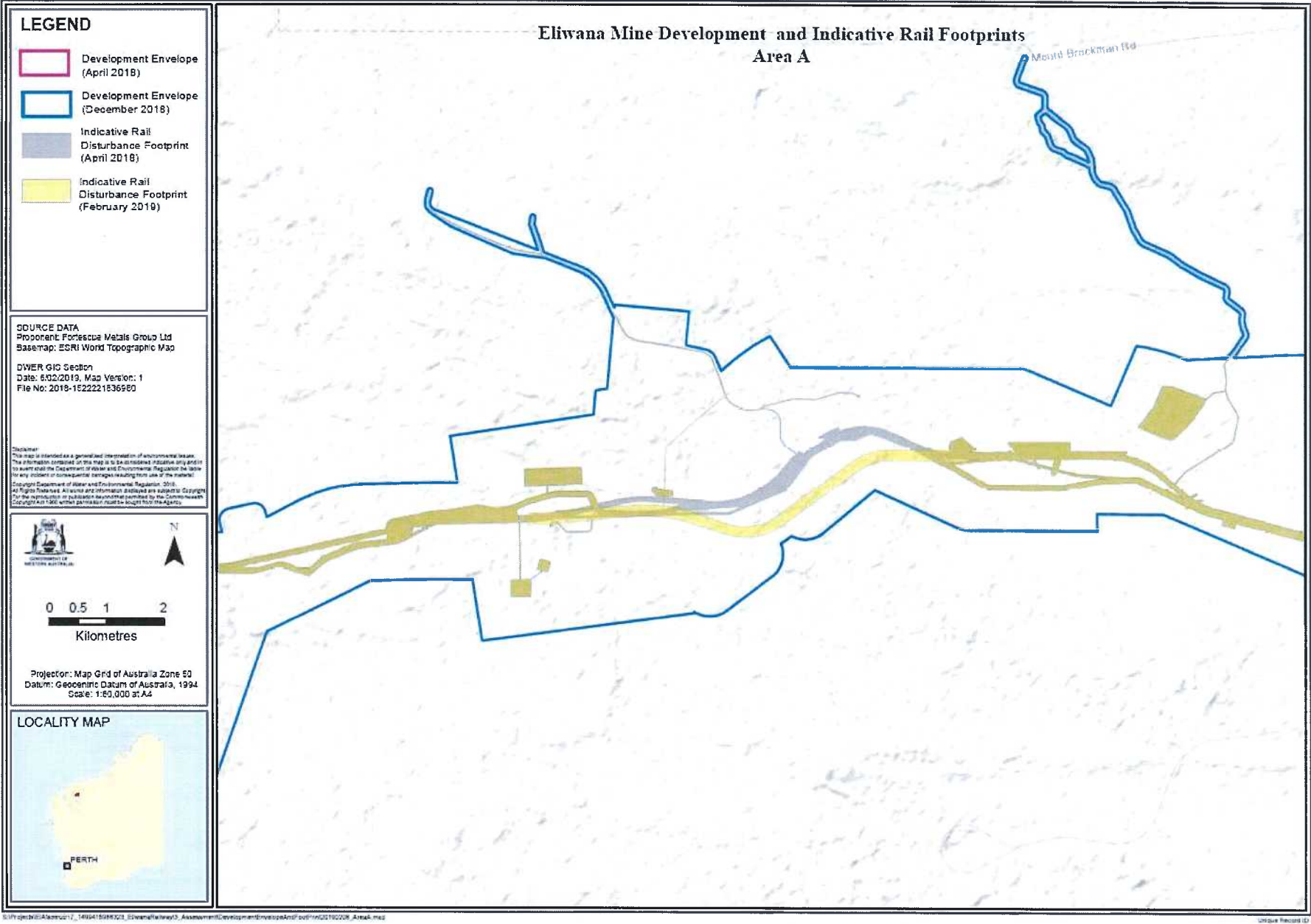


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