

*Environmental Protection Act 1986*

Section 43A

STATEMENT OF REASONS

CONSENT TO CHANGE PROPOSAL DURING ASSESSMENT

**Proposal:** Jackson 5 (J5) and Bungalbin East Iron Ore Proposal

**Proponent:** Mineral Resources Limited

**Decision**

For the reasons outlined below, the Environmental Protection Authority (EPA) has determined to consent to the proponent changing the proposal outlined in Schedule 1 attached to this Statement of Reasons.

The EPA has also determined that no consultation or public review is necessary in regard to considering the request to consent to the change due to the nature of the changes which either result in a reduction to impacts or remain unchanged from those as described in the proponent's Public Environmental Review (PER) document. In addition the changes to the proposal will be fully assessed in the EPA's report and recommendations to the Minister for Environment which will be subject to a two week appeal period.

**Background**

On 19 May 2014 Mineral Resources Limited (the proponent) referred its proposal to develop two new iron ore mines (J5 and Bungalbin East) in the Shire of Yilgarn, Western Australia, to the EPA under Section 38 of the *Environmental Protection Act 1986* (EP Act). The proposed mining developments would be located on the banded iron formation landforms of the Helena-Aurora Range (HAR), within the Mount Manning-Helena-Aurora Ranges Conservation Park (MMHARCP).

On 12 January 2015 the EPA released its report and recommendations to the Minister for Environment (EPA Report 1537) which concluded that the proposal could not be managed to meet the EPA's objectives. Following consideration of the appeals, on 22 April 2015, the Minister for Environment remitted the proposal back to the EPA pursuant to Section 101(1)(d)(i) of the EP Act and directed that the EPA reassess the proposal by way of a PER.

The EPA issued an Environmental Scoping Document (ESD) for the reassessment in August 2015. The proponent's PER document was released for an eight week public review period from 5 September 2016 to 31 October 2016. The EPA received 1,487 submissions on the PER document.

In response to the submissions on the PER document, and in advance of the EPA's report and recommendations, the proponent has requested a change to the proposal under section 43A of the EP Act (s43A). The s43A changes would result in a reduction of the disturbance footprint (mine pit area) at Bungalbin East by 36 ha (5.9%) from 611 ha outlined in the PER to 575 ha within a 2055 ha total proposal development area. The proponent advises that this change is in order to reduce impacts to conservation significant flora and vegetation.

The proposal would result in the clearing of approximately 575 ha of native vegetation and extract an estimated 65 – 115 million tonnes of iron ore over the 15 – 20 year life of the mines. The proposal would use the approved Jackson 4 mine haul road to haul ore from the J5 and Bungalbin East mining areas to the proponent's existing Carina mine site for crushing and screening. Ore would be processed and exported via existing facilities at the Mt Walton rail siding on the Trans-Australia Railway and the Kwinana Port. The proposal includes:

- Three open-cut pits (one at J5, two at Bungalbin East).
- Three waste rock landforms.
- Haul roads.
- Supporting infrastructure.

### **Relevant Statutory and Administrative Provisions**

The EPA released its *Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2016* on 13 December 2016. Given that the proposal was referred, the level of assessment set, the proposal remitted and the PER document released for public review under the *Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2012* (Administrative Procedures 2012), these remain the relevant administrative procedures for this assessment.

Section 17 of the Administrative Procedures 2012 states that the EPA may consent to the proponent making changes to a proposal without a revised proposal being referred to the EPA. The EPA may only consent to a change if the change is unlikely to significantly increase any impact that the proposal may have on the environment.

In addition, the Administrative Procedures 2012 and 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. EPA Referral Form – J5 and Bungalbin East Iron Ore (16 May 2014).
2. J5 and Bungalbin East Iron Ore Public Environmental Review Document (31 August 2016).
3. Submissions received during the Public Environmental Review period.
4. The proponent's Response to Submissions document (22 December 2016).
5. The proponent's request to change the proposal (1 February 2017).
6. Relevant EPA policy and procedures.

## **Consideration**

### 1. Nature of the proposed change

The change to proposal involves a reduction in the proposed disturbance footprint (mine pit area) at Bungalbin East by 36 ha (5.9%) from 611 ha to 575 ha within a 2055 ha total proposal development envelope.

No change is proposed to the J5 pit, the waste rock landforms, haul roads or supporting infrastructure.

### 2. Stage of the assessment process

The proponent's PER document was released for an eight week public review period from 5 September 2016 to 31 October 2016. The EPA received 1,487 submissions. The proponent submitted its Response to Submissions document on 22 December 2016. The Office of the EPA and relevant government agencies reviewed the Response to Submissions document and provided comment to the proponent on 2 February 2017. The proponent is currently revising its Response to Submissions document.

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

The change to the proposal was submitted to the EPA on 22 December 2016, together with a Response to Submissions document. The EPA considered that it did not have enough information about the proposed changes and requested additional information on 24 January 2017. The proponent submitted the additional information as requested on 1 February 2017. The EPA has reviewed the revised impacts, which are based on surveys and information provided in the PER document which remain current.

### 4. Community engagement

The community has been engaged on the proposal during the public review period for the PER document, but was not engaged in regard to the proposed change.

However, the EPA intends to release information on the proposed changes for public information.

The EPA is yet to complete its assessment of the proposal and opportunities to appeal the report or recommendations of the EPA are yet to open.

5. Level of public concern

A high level of public interest was shown when the PER was released for an eight week public review period with 1,487 submissions being received. The EPA does not consider that the proposed changes to the proposal would result in an increased level of interest in the proposal.

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

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

The ESD for the proposal identified the preliminary key environmental factors as Flora and Vegetation; Landforms; Subterranean Fauna; Terrestrial Fauna; Hydrological Processes and Inland Waters Environmental Quality; Amenity; Heritage; Rehabilitation and Decommissioning and Offsets.

The proposal would directly impact on two landforms of the HAR (J5 and Bungalbin East). The proposal area is known to include threatened and priority flora and vegetation communities and provides habitat for fauna, including terrestrial and subterranean. The proposal area also includes a number of potential Aboriginal heritage sites. The HAR has amenity values as a visually prominent banded iron formation range rising above the surrounding plains and open woodlands. The HAR is within the MMHARCP which is vested in the Conservation and Parks Commission and managed by Parks and Wildlife for the purpose of "*recreation by members of the public as is consistent with the proper maintenance and restoration of the natural environment, the protection of indigenous flora and fauna and the preservation of any feature of archaeological, historic or scientific interest.*"

The proposed change to the proposal would result in a decrease to the direct impacts to the Bungalbin East landform and flora and vegetation in this area. As such, the values, sensitivity and quality of the environment being impacted remain unchanged when compared to the proposal described in the PER document.

The change gives no cause for additional environmental factors to be considered 'key environmental factors' for the purposes of preparing the EPA's Report and Recommendations to the Minister.

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

The proponent states that the change would reduce the extent of the likely impacts of the proposal to the Bungalbin East landform by reducing the direct impact on the landform by 1.6%, from 6.8% impact in the PER, to 5.2% impact. The change would

reduce the extent of the likely impacts of the proposal to the Local Assessment Unit outlined in the ESD from 6.5% to 5.4%.

The change would reduce the extent of the likely impacts of the proposal to flora and vegetation by reducing the extent of native vegetation clearing required from 611 ha in the PER document to 575 ha.

The potential direct and indirect impacts to threatened flora species *Tetratheca aphylla* subsp. *aphylla* are reduced from 29.4% to 19.7%. The potential direct and indirect impacts to Priority 1 flora species *Lepidosperma bungalbin* are reduced from 39.7% to 8.3%. The potential direct and indirect impacts to Priority 1 flora species *Acacia adinophylla* are reduced from 12.3% to 11.9%. The potential cumulative, direct and indirect impacts to a number of Priority 3 and 4 flora species would also be reduced.

The change to proposal would reduce the extent of the likely impacts to conservation significant vegetation including the *Helena and Aurora Range vegetation complexes (banded ironstone formation) priority ecological community* and restricted vegetation units.

The PER identified 21 potential aboriginal heritage sites within the Bungabin East disturbance footprint (mine pit area), the proponent states that the change to proposal would avoid direct impacts to five of these potential sites.

Overall the proposed changes would result in a decrease in the extent of impacts to the affected landform, flora and vegetation and potential heritage sites. The impacts to subterranean, terrestrial fauna, hydrological processes and inland waters environmental quality and amenity would likely remain unchanged from that of the proposal described in the PER document.

c) Consequence of the likely impacts (or change)

The consequences of the likely impacts of implementing the change would result in a reduction or remain unchanged to those of the proposal described in the PER document.

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

The function of the Bungalbin East landform and the environmental values it supports are no more impacted by the changed proposal being implemented than it would if the current proposal were implemented. The EPA considers the resilience of the environment to cope with the changed proposal would increase (due to reduced extent in impacts) or remain unchanged from that of the proposal described in the PER document should it be implemented.

e) Cumulative impact with other projects

Cumulative impacts will be considered in the assessment of the changed proposal as it were to be considered in assessing the proposal described in the PER document. The proposed change is likely to result in a reduction to cumulative

impacts at a local or regional scale or remain unchanged from that of the proposal described in the PER document.

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

There is a high degree of connectivity and interrelatedness between the environmental values of the Helena-Aurora Range. The landform supports an aggregation of biodiversity values, heritage values and landscape and amenity values including recreation and tourism.

A holistic view of the proposal's impacts to the whole environment will be considered in the assessment of the changed proposal as it were to be considered in the proposal described in the PER document.

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

There is no change to the confidence in the prediction of impacts and the success of 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

The EPA is of the opinion that public interest in the proposal will likely remain the same.

In addition to the above, the EPA notes that the proposal is being assessed at the level of PER, which is the appropriate level to assess the changed proposal. The EPA also notes the following:

1. The EPA is yet to commence the assessment stage for this proposal and as such the EPA may fully consider the changed proposal in preparing its report and recommendations to the Minister for Environment.
2. To date the EPA has not made any appealable decision in regard to the current assessment and as such, the public will not be at a disadvantage in regard to rights of appeal as a result of consenting to the change.
3. In accordance with the Procedures Manual 2016, the EPA will publish its decision to consent to the change – this will allow the EPA to maintain an appropriate level of decision making transparency.

## Schedule 1

### Change to Proposal\*

Element	Current Proposal	Changed Proposal (s43A)
Bungalbin East mine pit	Clearing of <b>no more than 147 ha</b> within a 2055 ha development envelope	Clearing of <b>no more than 111 ha</b> within a 2055 ha development envelope
Bungalbin East waste dump	Clearing of no more than 98 ha within a 2055 ha development envelope	No change
Bungalbin East supporting infrastructure	Clearing of no more than 45 ha within a 2055 ha development envelope	No change
Bungalbin East haul road	Clearing of no more than 68 ha within a 2055 ha development envelope	No change
Bungalbin East waste rock volume	Disposal of approximately 70 million tonnes of waste rock	No change

\* The above Key Characteristics table is derived from the proponents section 43A request and has been used to illustrate the changes as compared to the proposal as described in the PER document. As such this table will be subject to change during the assessment.