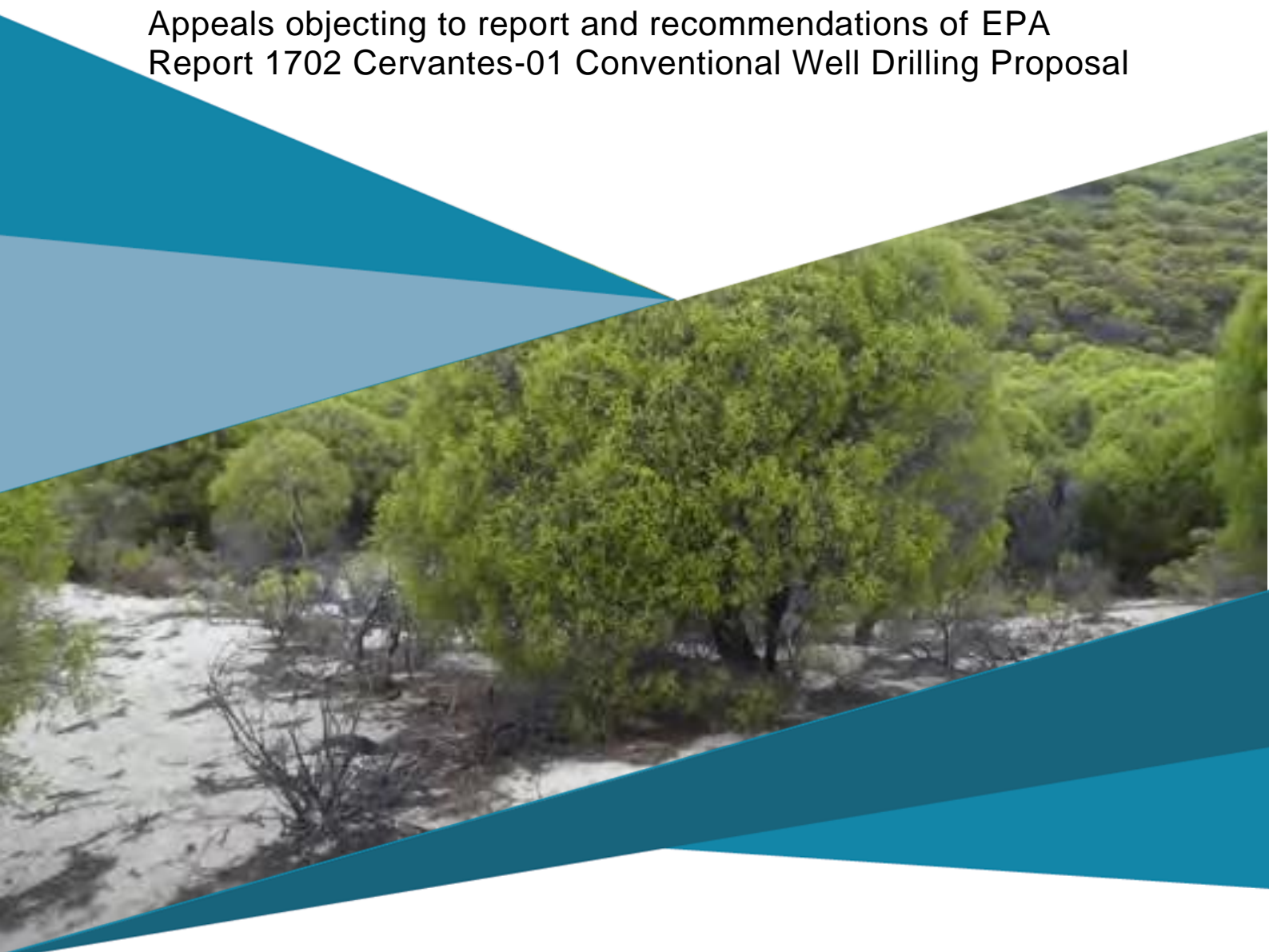




Government of **Western Australia**
Office of the **Appeals Convenor**
Environmental Protection Act 1986

Appeals Convenor's Report to the Minister for Environment

Appeals objecting to report and recommendations of EPA
Report 1702 Cervantes-01 Conventional Well Drilling Proposal



| | |
|-------------------|--|
| Appellants | Australian Native Plants Society (Australia) Inc. Dominique Griffiths |
| Proponent | RCMA Australia Pty Ltd |
| Authority | Environmental Protection Authority (EPA) |
| Appeal No. | 027 of 2021 |
| Date | October 2021 |

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Acknowledgement of Country

The Office of the Appeals Convenor acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community.

We pay our respects to all members of the Aboriginal communities and their cultures, and to Elders past, present and emerging.

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1 Executive summary

1.1 Decision under appeal

RCMA Australia Pty Ltd proposes to drill one conventional oil exploration well in the Cervantes Oil Exploration Prospect located 11 kilometres south of Dongara / Port Denison, predominantly within Beekeepers Nature Reserve. The location of the proposal is shown in Figure 2 in Section 3.

Beekeepers Nature Reserve is vested with the Conservation and Parks Commission (CPC) and managed by Department of Biodiversity, Conservation and Attractions (DBCA) for the purpose of the protection of apiculture and the conservation of flora.

The Environmental Protection Authority (EPA) assessed the proposal and released its report and recommendations on 25 June 2021 (Report 1702)

1.2 Grounds of appeal and appellant concerns

Appeals against Report 1702 were received from the Australian Native Plant Society (Australia) Inc. and Ms Dominique Griffiths.

Table 1 Grounds of appeal

| Ground | Main concerns the appellant submitted |
|--|---|
| 1. Flora and vegetation | Objection to clearing 5.3 hectares (ha) of native vegetation within Beekeepers Nature Reserve, particularly 0.99 ha of a Priority Ecological Community (PEC). |
| 2. Adequacy of flora and vegetation conditions | Recommended conditions are inadequate and will not protect flora and vegetation, particularly in relation to rehabilitation and offsets. |
| 3. Cumulative impacts | The EPA did not appropriately consider cumulative impacts, particularly from previous disturbance and clearing within Beekeepers Nature Reserve. |
| 4. Beekeepers Nature Reserve | Objection to the proposal being located within a nature reserve. |

1.3 Key issues and conclusions

The appeal relates to the EPA's report and recommendations on a proposal to drill one conventional oil exploration well, predominantly within Beekeepers Nature Reserve. Having regard for the appellants' concerns, which relate to potential impacts to flora and vegetation in a nature reserve and cumulative effects, the key question for the appeal investigation to determine is, was the EPA's assessment adequate? And if so, given the EPA's recommendation that implementation be allowed, are the recommended conditions adequate? The appeal investigation focused on these issues, which are summarised below. Section 2 provides our further details about our reasons and supporting information is provided in Section 3.

Did the EPA appropriately assess flora and vegetation?

The proposal involves clearing 5.3 hectares (ha) of native vegetation, including 0.99 ha of the priority 1 listed 'Coastal sands dominated by *Acacia rostellifera*, *Eucalyptus oraria* and *Eucalyptus obtusiflora*' PEC. No other conservation significant flora species were recorded within the disturbance footprint.

The EPA's assessment also identified potential indirect impacts from weed and dieback incursion and changes to fire regimes of native vegetation within the vicinity of the proposal area.

In its assessment, the EPA considered the proponent's management measures to avoid, minimise and mitigate potential impacts to flora and vegetation. The adequacy of these measures and the conditions recommended by the EPA, to address the identified impacts to flora and vegetation, is considered below.

Based on the available evidence, we find that the EPA's assessment in relation to the key environmental factor Flora and vegetation was acceptable.

Are the recommended conditions adequate to protect flora and vegetation?

The EPA has recommended conditions to limit clearing to 5.3 ha, which includes 0.99 ha of the priority 1 listed PEC; avoid impacts from fire, dieback and weeds through a requirement for an environmental management plan; and requires a rehabilitation plan, rehabilitation performance bond and contingency offset.

We generally agree that the EPA has recommended appropriate controls through the recommended conditions to mitigate direct and indirect impacts to flora and vegetation, based on the available evidence.

However, for clarity and consistency, we recommend that this ground of appeal be upheld to the extent that Conditions 3-1(1) and 5-2 be amended as follows:

- 3-1 The proponent shall ensure the following outcomes are achieved:
 - (1) no more than 0.99 ha direct disturbance [emphasis added] to Coastal sands dominated by *Acacia rostellifera*, *Eucalyptus oraria* and *Eucalyptus obtusiflora* **PEC**; and
- 5-2 The proponent must not commence ground disturbing works until the CEO has endorsed the latest version of the [emphasis added] Rehabilitation Management Plan in writing.

Did the EPA appropriately assess cumulative impacts?

Our conclusion is that the EPA considered cumulative impacts in its assessment of the proposal, based on the available evidence.

We find that the EPA appropriately applied the impact mitigation sequence during the assessment in order to avoid, minimise and reduce adverse environmental impacts to Beekeepers Nature Reserve.

The EPA's assessment found that the proposal can be implemented in a manner that would not significantly impact on the significant environmental values of Beekeepers Nature Reserve, provided the recommended conditions are imposed on the proposal.

This ground of appeal should be dismissed.

Designated purpose of Beekeepers Nature Reserve

Beekeepers Nature Reserve, established in 1979, was set aside for the purpose of apiculture and the conservation of flora, and supports significant flora, vegetation and fauna habitat values. The area of the nature reserve is approximately 69,161 ha.

The EPA noted that while Beekeepers Nature Reserve is vested with the CPC and managed by DBCA for the purpose of the protection of apiculture and the conservation of flora, consent can be given for activities, such as exploration activities, subject to conditions to minimise and manage the risks of damage to any native fauna or flora on the land.

In this case the EPA sought advice from DBCA during its assessment who advised that it is the view of the CPC that proposals involving impacts on conservation reserves warrant due consideration of risk and application of financial assurances that can be accessed in the event of a default on decommissioning and rehabilitation requirements.

The EPA recommended a condition for a financial assurance bond for plugging, decommissioning and abandonment of the well and DBCA advised that they were satisfied that the rehabilitation management plan in conjunction with the financial assurance and contingency offset, ensured the best environmental outcome for the proposal and increases likelihood of successful rehabilitation.

Our conclusion is that the EPA appropriately considered Beekeepers Nature Reserve in its assessment of the proposal.

We recommend that this ground of appeal be dismissed.

1.4 Recommendation to the Minister

Overall, we consider that the EPA's assessment was adequate, and the recommended conditions are proportionate to the scale of the proposal and potential impacts. However, we recommend that, for clarity and consistency, the appeals be allowed to the extent that conditions 3-1(1) and 5-2 be amended as follows:

- 3-1 The proponent shall ensure the following outcomes are achieved:
- (1) no more than 0.99 ha direct disturbance [emphasis added] to Coastal sands dominated by *Acacia rostellifera*, *Eucalyptus oraria* and *Eucalyptus obtusiflora* **PEC**; and
- 5-2 The proponent must not commence ground disturbing works until the CEO has endorsed the latest version of the [emphasis added] Rehabilitation Management Plan in writing.

The appeals are otherwise recommended to be dismissed.

The final decision on whether or not the proposal may be implemented, and the conditions which apply to any such implementation, is a matter for the Minister for Environment and key decision-making authorities to consider under section 45(3) of the *Environmental Protection Act 1986* (EP Act).

2 Reasons for recommendation

2.1 Did the EPA appropriately assess flora and vegetation?

We find that the EPA's assessment in relation to the key environmental factor Flora and vegetation was acceptable.

We conclude that further assessment of this factor is not warranted and recommend that this ground of appeal is dismissed. We explain our reasoning below.

Appellants' concerns

The appellants objected to the proposed clearing of 5.3 ha of native vegetation within Beekeepers Nature Reserve. An appellant was particularly concerned that the proposed clearing includes 0.99 ha of the priority 1 listed PEC.

Consideration

The issues raised above relate primarily to the EPA's assessment of the key environmental factor Flora and vegetation, which is considered below. The EPA's environmental objective for this factor is 'to protect flora and vegetation so that biological diversity and ecological integrity are maintained.'¹

The EPA's Report 1702 states that the proposal involves clearing 5.3 ha of native vegetation, including 0.99 ha of the priority 1 listed 'Coastal sands dominated by *Acacia rostellifera*, *Eucalyptus oraria* and *Eucalyptus obtusiflora*' PEC, within a development envelope of 36.5 ha and disturbance footprint of 7 ha. The development envelope and disturbance footprint are shown in Figure 3 in Section 3.

The proponent undertook a reconnaissance and targeted flora and vegetation survey in February 2020², and a targeted spring flora survey of the disturbance footprint in September 2020 (Spring Targeted Flora Survey³). Report 1702 states that the proponent's surveys were generally conducted in accordance with relevant EPA technical guidance⁴.

From the information provided in Report 1702, we note:

- vegetation within the development envelope is mostly in excellent condition, with small areas associated with access tracks rated as degraded to good condition
- no conservation significant flora species were recorded within the disturbance footprint
- the Spring Targeted Flora Survey recorded individual plants of priority 3 and priority 4 listed flora species within the development envelope, but not within the areas proposed to be cleared
- the proposal will directly impact less than 1 per cent of the mapped regional extent of the priority 1 listed PEC.

In addition to the direct impact through clearing, the EPA's assessment also identified potential indirect impacts from weed and dieback incursion and changes to fire regimes of native vegetation within the vicinity of the proposal area.

In response to this ground of appeal, the EPA advised:

¹ EPA, Environmental Factor Guideline: Flora and Vegetation, December 2016, page 2.

² Woodman Environmental, Cervantes 1 Conventional Well Level 1 Fauna Survey, Reconnaissance and Targeted Flora and Vegetation Survey, September 2020.

³ Woodman Environmental, Cervantes 1 Conventional Well Spring Targeted Flora Survey, October 2020.

⁴ EPA, Technical Guidance – Flora and vegetation surveys for environmental impact assessment, December 2016.

The proponent has undertaken comprehensive baseline studies to understand and assess potential impacts to biological diversity and ecological integrity. The EPA notes that the proponent has identified measures to avoid or minimise impacts to flora and vegetation.⁵

The proponent advised:

Although there is currently no management plan for the Northern Beekeepers Nature Reserve, the Nambung National Park Management Plan (1998-2008) (CALM, 1998) with the Southern Beekeepers Nature Reserve to the south, provides guidance that is likely relevant to the Northern Beekeepers Nature Reserve. The Plan states that commercial and other uses including mining, mineral and petroleum exploration are 'managed in a manner that minimises their impact on other values'. Strategies to manage potential impacts of mining, mineral and petroleum exploration include:

- a. Ensure that stringent conditions are in place in order to minimise the adverse impacts of mining and exploration should they be permitted in the Park and Reserves, and
- b. As far as possible, minimise the impact that any mining operations might have on the Park and Reserves, particularly with regard to introducing or spreading plant diseases, reducing landscape values, biological values and decreasing water quality.

The Cervantes 1 Conventional Oil Exploration Well Environment Plan [RCMA-02-EM-PLN-001] outlines the proposed management measures to be in place for the exploration activity to include:

- Minimise the impact on flora and vegetation
- Minimise the impact on fauna and fauna habitat
- Minimise the impact on soil and landform
- Prevent impact to groundwater
- Prevent the introduction and spread of plant diseases
- Successful rehabilitation

Areas to be cleared will be surveyed to ensure no more than the permitted area of vegetation is impacted.⁶

In summary, the EPA considered that the impacts to flora and vegetation can be managed consistent with the EPA's objectives for this factor, due to:

- the proponent's management measures to avoid, minimise and mitigate potential impacts to flora and vegetation
- the small impact the proposal will have on the PEC at a regional scale, which is unlikely to change the status of the priority 1 listed PEC
- the EPA has recommended conditions to limit clearing to 5.3 ha, which includes 0.99 ha of the PEC; avoid impacts from fire, dieback and weeds through a requirement for an environmental management plan; and require a rehabilitation plan, rehabilitation performance bond and contingency offset.

We find the EPA's approach appropriate.

⁵ EPA, Response to the appeals, 24 August 2021, page 4.

⁶ RCMA Australia Pty Ltd, Response to the appeals, 9 August 2021, page 3.

2.2 Are the recommended conditions adequate to protect flora and vegetation?

We find the EPA's view that the impacts to the key environmental factor Flora and vegetation can be managed provided the recommended conditions are implemented, is supported by the available information.

However, for clarity and consistency, we recommend that this ground of appeal be upheld to the extent that conditions 3-1(1) and 5-2 be amended as follows:

3-1 The proponent shall ensure the following outcomes are achieved:

- (1) no more than 0.99 ha direct disturbance [emphasis added] to Coastal sands dominated by *Acacia rostellifera*, *Eucalyptus oraria* and *Eucalyptus obtusiflora* **PEC**; and

5-2 The proponent must not commence ground disturbing works until the CEO has endorsed the latest version of the [emphasis added] Rehabilitation Management Plan in writing.

We explain our reasoning below.

Appellant's concerns

One of the appellants contended that the recommended conditions are inadequate and will not protect flora and vegetation. The appellant submitted:

The proposed Rehabilitation Plan will not be adequate to restore the cleared area to its pre-cleared condition as many of the species growing in the Reserve are not easily propagated. No satisfactory like for like offset is available when this rehabilitation fails. The proposed conditions are not adequate to meet the EPA's objective to "protect flora and vegetation so that biological integrity are maintained".⁷

Consideration

As noted above, the EPA's assessment found that the proposal can be managed to ensure consistency with the EPA's objective for Flora and vegetation provided the recommended conditions are imposed on the proposal.

The EPA recommended the following conditions with relevance to flora and vegetation:

- Condition 3 Flora and Vegetation Outcomes
- Condition 5 Rehabilitation Plan
- Condition 6 Rehabilitation Performance Bond
- Condition 7 Offsets
- Condition 8 Environmental Management Plan(s): Monitoring and Adaptive Management Program
- Condition 9 Environmental Management Plan(s): General Provisions

In addition, Condition 11 (Compliance and Exceedance Reporting) specifies compliance monitoring, record keeping and reporting requirements. Condition 12 (Public Availability of Data) requires the proponent to make publicly available relevant environmental data, management plans and reports relevant to the assessment of this proposal and implementation of proposal.

⁷ Appeal 027-21.001, Appeal form, 16 July 2021.

Condition 3 Flora and Vegetation Outcomes, requires the proponent to:

3-1 The proponent shall ensure the following outcomes are achieved:

- (1) no more than 0.99 ha to [sic] Coastal sands dominated by *Acacia rostellifera*, *Eucalyptus oraria* and *Eucalyptus obtusiflora* **PEC**; and
- (2) avoid impacts from the implementation of the proposal to flora and vegetation from changes to fire regime, dieback (*Phytophthora spp*) and weeds.

It is noted that recommended Condition 1 Limitations and Extent of Proposal describes the limitation or maximum extent of 'Direct disturbance of priority 1 'Coastal sands dominated by *Acacia rostellifera*, *Eucalyptus oraria* and *Eucalyptus obtusiflora*' Priority Ecological Community (**PEC**)' as 'Up to 0.99 hectares'.

For clarity and consistency, it is recommended that Condition 3-1(1) be amended as follows:

3-1 The proponent shall ensure the following outcomes are achieved:

- (1) no more than 0.99 ha direct disturbance [emphasis added] to Coastal sands dominated by *Acacia rostellifera*, *Eucalyptus oraria* and *Eucalyptus obtusiflora* **PEC**; and

Rehabilitation Management Plan

In relation to site rehabilitation and revegetation, the EPA advised:

The proponent provided a draft rehabilitation management plan (29 April 2021) during the assessment. The primary method for reintroducing the native vegetation will be through the returned topsoils and vegetation with seed collected and stockpiled during site clearing. Previous rehabilitation activities within Beekeepers Nature Reserve (e.g. Woodman Environmental 2009) have found the reintroduction of species is effective with the return of stockpiled topsoil and the overlay of stockpiled vegetation within 1-2 years from clearing. Given the short duration of the proposal, three to six months, and previous experience in the area with rehabilitation, there is a high degree of confidence in the rehabilitation.

Nevertheless, the EPA recommended conditions requiring a rehabilitation management plan, an unconditional performance bond and contingency offsets. These were developed in conjunction with the Conservation and Parks Commission (CPC) and Department of Biodiversity, Conservation and Attractions (DBCA). The land is vested with CPC and managed by DBCA for the purpose of the protection of apiculture and the conservation of flora. DBCA has advised that they were satisfied that the rehabilitation management plan in conjunction with the financial assurance and contingency offset, ensured the best environmental outcome for the proposal.⁸

DBCA's endorsement of the rehabilitation management plan is considered to be particularly relevant, given it has overall management responsibility for Beekeepers Nature Reserve.

In Report 1702 the EPA recommended Condition 5 Rehabilitation Plan, which requires:

- 5-1 The proponent shall update and implement the Rehabilitation Management Plan (29 April 2021) for approval by the CEO, on advice from **DBCA**. The Rehabilitation Management Plan shall contain provisions for update and review.
- 5-2 The proponent must not commence ground disturbing works until the CEO has endorsed the Rehabilitation Management Plan (29 April 2021) in writing.

⁸ EPA, Response to the appeals, 24 August 2021, page 3.

5-3 The proponent shall implement the Rehabilitation Management Plan referred to in condition 5-1 until such time as the CEO agrees that the proponent's rehabilitation completion criteria have been fulfilled.

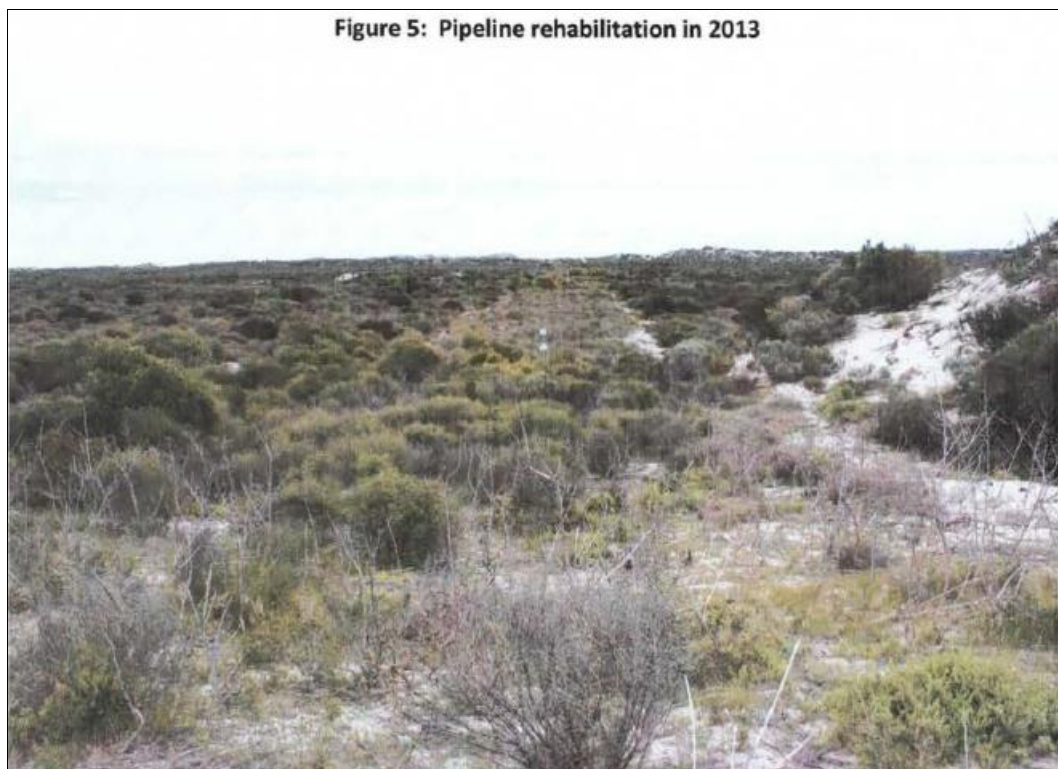
In its response, the proponent advised:

RCMA consulted with the Department of Biodiversity, Conservation and Attractions (DBCA) including the development of a Vegetation Management Plan [RCMA-02-EM-PLN-004], Fauna Management Plan [RCMA-02-EM-PLN-007] and Rehabilitation Plan [RCMA-02-EM-PLN-008] to minimise the risk of damage to native fauna and flora in BKNR. The stipulations in the Management Plans were developed collaboratively and once deemed acceptable to DBCA the Project and associated Management Plans were presented to the Conservation Commission.⁹

The proponent also advised that:

Some species present in the vegetation to be cleared are not easily propagated. However, rehabilitation of some of the cleared areas are in long narrow polygons (rather than blocks), with likely benefits to plant recruitment from the proximate adjacent area of undisturbed vegetation. Cleared areas disturbed for nearby pipeline activities, within the Beekeepers Nature Reserve have been successfully rehabilitated to a high standard (Woodman Environmental 2009)...

Figure 5 shows the pipeline rehabilitation in 2013. Given the narrow linear nature of the clearing there is a high degree of confidence that very high species richness has re-established in the rehabilitation...¹⁰



It is noted that the Rehabilitation Management Plan (RMP) (29 April 2021) contains completion criteria (among other things).

In the RMP (29 April 2021), the proponent states that:

⁹ RCMA Australia Pty Ltd, Response to the appeals, 9 August 2021, page 10.

¹⁰ RCMA Australia Pty Ltd, Response to the appeals, 9 August 2021, pages 6 and 8.

The objective for rehabilitation is to achieve the completion criteria within 3 years following rehabilitation works.¹¹

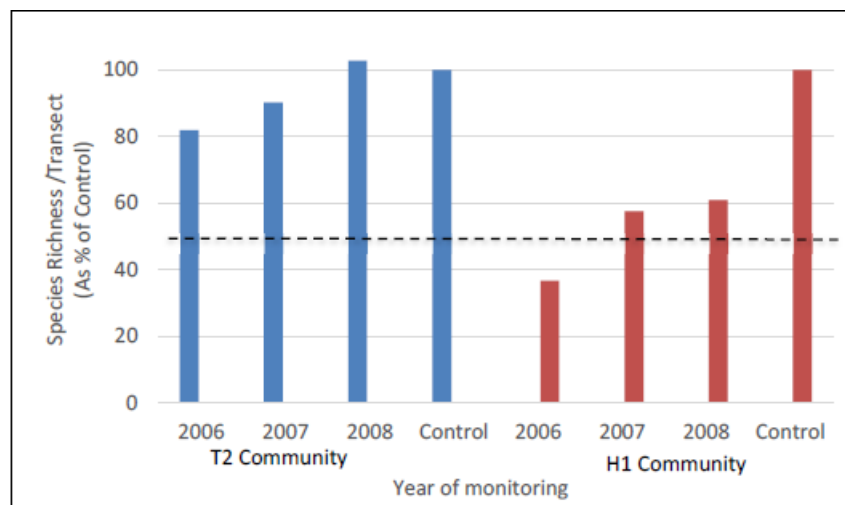
and

The completion criteria and performance indicators included in this rehabilitation plan will be agreed by DBCA prior to rehabilitation commencement to ensure that rehabilitation as far as practicable achieves a stable and functioning landform and ecological system consistent with preexisting and surrounding landscape and environmental values.¹²

The RMP (29 April 2021) outlines that previous rehabilitation activities within Beekeepers Nature Reserve for the pipeline project shown above (as reported in Woodman Environmental 2009¹³) were used as an analogue system, upon which the rehabilitation process and particularly the completion criteria for the current proposal were based. Analogue data was selected for the most similar vegetation communities to that of the Cervantes-01 Conventional Well Drilling Proposal area.

For example, Figure 1 (below) shows the changes over time in the native species richness of the rehabilitation vegetation for the previous pipeline project. Figure 1 indicates that both the T2 and H1 rehabilitation vegetation community achieved the proposed completion criteria of 50% within the three years of monitoring. The proponent used vegetation communities T2 and H1 as analogues for similar vegetation communities within the Cervantes-01 Conventional Well Drilling Proposal area.

Figure 1 Changes in species richness present within rehabilitated vegetation communities (for a previous pipeline project) over time compared with the undisturbed control vegetation. The dashed line represents the completion criteria¹⁴



During the appeal investigation, the proponent advised that the RMP (29 April 2021)—document number RCMA-02-EM-PLN-008v1, has been revised and updated to RMP (9 June 2021)—document number RCMA-02-EM-PLN-008v2. The proponent noted that the RMP (29

¹¹ RCMA Australia Pty Ltd, Cervantes 1 Rehabilitation Plan, Document number RCMA-02-EM-PLN-008v1, submitted 29 April 2021, page 24.

¹² Ibid., page 9.

¹³ Woodman Environmental, Cliff Head Pipeline Rehabilitation Completion Monitoring Report, 2009. Spring Assessment 2008. Unpublished Report to ROC OIL Pty Ltd.

¹⁴ RCMA Australia Pty Ltd, Cervantes 1 Rehabilitation Plan, Document number RCMA-02-EM-PLN-008v1, submitted 29 April 2021, page 24.

April 2021) 'has been superseded by changes requested in the conditions published in the EPA's Report'.¹⁵

It is noted that the revised RMP (9 June 2021) contains threshold and trigger criteria for rehabilitation outcomes. The RMP (9 June 2021) states that the threshold criteria provide a limit beyond which the rehabilitation outcomes are deemed not to have been achieved, and the trigger criteria provide an early warning that the rehabilitation outcomes are not likely to be met. In addition, the RMP (9 June 2021) outlines how the criteria will be monitored and contingency measures that will be implemented if threshold or trigger criteria are met.

The RMP (9 June 2021) states that the threshold for rehabilitation outcomes include (among other things):

- the species richness of keystone species per monitoring plot is at least 50% of the control monitoring plot within 3 years
- at least one of the keystone species is represented (as % cover) in >90% of monitoring quadrats within each vegetation type within 3 years
- species richness of the rehabilitation is greater than 50% of monitoring transects within each vegetation type within 3 years.¹⁶

Noting the above, it is recommended Condition 5-2 be amended as follows:

5-2 The proponent must not commence ground disturbing works until the CEO has endorsed the latest version of the [emphasis added] Rehabilitation Management Plan in writing.

The proponent was provided the opportunity to comment on the recommended changes to Conditions 3-1(1) and 5-2 noted above, and agreed to both recommended changes to these conditions.

Offsets

Report 1702 states:

The EPA has assessed the likely residual impacts of the proposal on flora and vegetation and conclude there are:

1. significant direct impacts to 0.99 ha of priority 1 PEC 'Coastal sands dominated by *Acacia rostellifera*, *Eucalyptus oraria* and *Eucalyptus obtusiflora*'
2. potential material impacts to Beekeepers Nature Reserve if the proposal is not rehabilitated
3. potential material impacts to other flora and vegetation, provided minimisation measures for fire, weeds and dieback are implemented.¹⁷

and

There is a potential significant residual impact associated with clearing within a conservation area if the rehabilitation were to fail. The EPA notes that the proponent has provided a rehabilitation management plan and that rehabilitation performance bonds will be conditioned. However, should significant residual impacts be identified after six years from initial rehabilitation, a contingency offset, rather than an immediate offset, would be appropriate.¹⁸

¹⁵ Proponent's representative, email dated 27 September 2021.

¹⁶ RCMA Australia Pty Ltd, Cervantes 1 Rehabilitation Plan, Document number RCMA-02-EM-PLN-008v2, submitted 9 June 2021, page 28.

¹⁷ EPA, Cervantes-01 Conventional Well Drilling Proposal, Report 1702, June 2021, page 8.

¹⁸ Ibid., page 19.

A contingency offset is required by Condition 7 Offsets, should these residual impacts occur:

- 7-1 If completion criteria have not been fulfilled after decommissioning and rehabilitation, and a further three (3) years following additional works, resulting in significant residual impacts on Beekeepers Nature Reserve, then the proponent shall implement offsets to counter-balance any residual impacts on the nature reserve as determined by the CEO, on advice of **DBCA**.

In relation to the appellant's concerns that no like for like offset is available, EPA advised:

A total of four vegetation communities have been mapped within the proposed development envelope. These are:

- Heath (H8)
- Dense Melaleuca thicket (T2)
- Dense Melaleuca thicket (T3)
- Low Woodlands (W1)

Of the plant communities mapped within the Development Envelope, community W1 matches the description of the 'Coastal sands dominated by *Acacia rostellifera*, *Eucalyptus oraria* and *Eucalyptus obtusiflora*' priority 1 PEC. The remaining communities are widespread throughout this area.

Up to 0.99 ha of the priority 1 PEC 'Coastal sands dominated by *Acacia rostellifera*, *Eucalyptus oraria* and *Eucalyptus obtusiflora*' will be cleared. DBCA's Threatened and Priority Ecological Community database currently holds records for 22 occurrences of this PEC. These records cover a total area of approximately 68 ha over 88 km between Bowes and Bonniefield. None of the 22 occurrences recorded in the database are found within CALM Act 1984 managed reserves.

However, Woodman Environmental Consulting recorded an additional 681 ha of the PEC during a 2005 flora and vegetation survey for the Denison 3D seismic survey project (Woodman Environmental 2005). The Woodman 2005 survey represents a range extension as it is approximately 14 km south of the currently mapped area recorded on the database.

Given the abundance of the impacted vegetation communities and the small impact of the proposal, confidence in the ability for the proponent to locate a like for like area to use as offsets is high. The DBCA was satisfied with the contingency offset for the proposal, which the EPA considered in their decision.¹⁹

In response to this issue, the proponent advised:

Should an offset be required, there are private properties in the area potentially containing the Priority 1 'Coastal sands dominated by *Acacia rostellifera*, *Eucalyptus oraria* and *Eucalyptus obtusiflora*' PEC:

- The Department of Biodiversity, Conservation and Attraction (DBCA, then Department of Conservation and Land Management) requested an assessment of conservation values (including flora and fauna) of a private property for a potential land swap in 2006. The property is located to the south of the proposed well site adjacent to the Reserve and found the vegetation to be in excellent condition, and was found to contain the W1 PEC. This report may be available through the DBCA or the Land owner.
- The Denison 30 Seismic Survey studies identified other areas of all present plant communities outside of Conservation Estate in the region.²⁰

¹⁹ EPA, Response to the appeals, 24 August 2021, pages 3-4.

²⁰ RCMA Australia Pty Ltd, Response to the appeals, 9 August 2021, page 8.

We note that the WA Environmental Offsets Policy²¹ outlines that offsets will be used to compensate for residual environmental impacts and be designed to achieve long-term outcomes, building upon existing conservation programs and initiatives.

Principle 1 of the Offsets Policy states that environmental offsets will only be considered after avoidance and mitigation options have been pursued. We note that in assessing this proposal, the EPA applied the impact mitigation sequence in order to avoid, minimise and reduce adverse environmental impacts.

Principle 3 of the Offsets Policy outlines that offsets should be 'like-for-like', and that impacts to an environmental value are required to be offset by actions that benefit the same environmental value being impacted. In this instance, we note the EPA has recommended that any offset is required to be prepared in consultation with DBCA.

We also note that the public Offsets Register has been developed to provide a public record of all offset agreements in WA, which allows monitoring of offset implementation and outcomes.

Based on the above information, we accept the EPA's position on the contingency offset requirements for the proposal.

2.3 Did the EPA appropriately assess cumulative impacts?

Our conclusion is that the EPA considered cumulative impacts in its assessment of the proposal, based on the available evidence.

We agree that the EPA has recommended appropriate controls to avoid, minimise and mitigate potential impacts to the significant environmental values of Beekeepers Nature Reserve, through the recommended conditions.

We explain our reasoning below.

Appellants' concerns

An appellant submitted that the EPA did not appropriately consider cumulative impacts from previous disturbance and clearing within Beekeepers Nature Reserve, in its assessment of the proposal.

The other appellant raised concerns that cumulative impacts from wildfire and climate change threaten wildlife and their habitat within Beekeepers Nature Reserve, and were not adequately considered by the EPA.

Consideration

Report 1702 states that the EPA's assessment of the key environmental factors for the proposal included the consideration of cumulative impacts where relevant.

Previous disturbance within Beekeepers Nature Reserve

The EPA advised that:

- There are four other projects which have been approved by the EPA within Beekeepers Nature Reserve:
- Cliff Head Oil Field Development (7 ha)
 - EP 413 3D Seismic Acquisition Survey (55 ha)

²¹ The Government of Western Australia, *WA Environmental Offsets Policy*, 2011.

- Expansion of Jurien Gypsum Mining Operation (47.6 ha)
- Freshwater Point 1 Drilling Project (6.5 ha)

Beekeepers Nature Reserve is unclassified and reserved under the *Conservation and Land Management Act 1984* (CALM Act 1984). The area of the nature reserve is approximately 69,100 ha, therefore the cumulative impact of the proposal and the above listed proposals within the nature reserve is around 0.17% of its total area. The additional impact from the Cervantes proposal is 0.008%.²²

As noted in Grounds 2.1 and 2.2, the EPA applied the impact mitigation sequence during the assessment in order to avoid, minimise and reduce adverse environmental impacts.

The EPA advised that given cleared areas will be rehabilitated and the proposal impacts are temporary and of short duration, the impacts to flora and vegetation are unlikely to be significant provided minimisation measures for fire, weeds and dieback are complied with.

We note that the Minerals Council of Australia's *Cumulative Environmental Impact Assessment Industry Guide* states 'cumulative impacts are assessed on the resultant change in the condition of the environmental value or sensitive receptor'.²³

In this regard, the EPA's assessment found that the proposal can be implemented in a manner that would not significantly impact on the significant environmental values of Beekeepers Nature Reserve, provided the recommended conditions are imposed on the proposal.

Fire and climate change

In relation to fire, as noted in Ground 2.1, the EPA's assessment identified potential indirect impacts from changes to fire regimes of native vegetation within the vicinity of the proposal area.

The EPA advised that an environmental management plan is required to ensure impacts to terrestrial fauna from changes to fire regime, introduction of feral animals, spread of dieback and weeds, vehicle strikes, entrapment in excavation and artificial water bodies, light pollution, noise and dust are avoided.

The proponent is required to avoid impacts from unplanned fire through Conditions 3, 4 (Terrestrial Fauna Outcomes), 8 and 9.

In relation to climate change, the EPA advised:

It is not scientifically possible to draw a direct link between the any single proposal's emissions and a specific environmental harm or impact resulting from Climate Change. However, there is acknowledgment in the Greenhouse Gas Guideline (EPA 2020) of the cumulative impacts that arise from development proposals, and that a warming climate will impact the WA environment. The lack of a direct link between a single proposal's emissions and the impacts associated with climate change did not prevent the EPA from assessing the emissions from the proposal. Given the proposal contributes about 800 tonnes CO₂-e per year Scopes 1 and 2 including site preparation and rehabilitation, the EPA did not consider the factor greenhouse gas emissions to be a key environmental factor at the conclusion of its assessment.²⁴

²² EPA, Response to the appeals, 24 August 2021, page 2.

²³ Minerals Council of Australia, *Cumulative Environmental Impact Assessment Industry Guide*, July 2015, page 29.

²⁴ EPA, Response to the appeals, 24 August 2021, page 5.

We note the EPA's advice.

2.4 Designated purpose of Beekeepers Nature Reserve

Our conclusion is that the EPA did consider the designated purpose of Beekeepers Nature Reserve in its assessment of the proposal.

We recommend that this ground of appeal is dismissed. We explain our reasoning below.

Appellants' concerns

The appellants objected to the proposal being located within a nature reserve.

One of the appellants submitted that:

... nature reserves are set aside for conservation and not mining, especially not of fossil fuel. I am hoping that you can use your authority to reverse this decision and set an example once and for all that nature reserves are vitally important for the conservation of species and will not be mined, now or into the future.²⁵

Consideration

We note that Report 1702 states Beekeepers Nature Reserve is:

... is vested with the Conservation and Parks Commission and managed by the Department of Biodiversity, Conservation and Attractions (DBCA) for the purpose of the protection of apiculture and the conservation of flora.²⁶

In response to this issue the EPA advised:

Beekeepers Nature Reserve, established in 1979, was set aside for the purpose of apiculture and the conservation of flora, and supports significant flora, vegetation and fauna habitat values. While the nature reserve is for the purpose of conservation, a proponent can seek 'Consent of Minister required for entry on reserves for purposes of exploration' under Section 15A of the *Petroleum and Geothermal Energy Resources Act 1967* (PGERA).

Before giving consent, the Minister shall consult with the responsible Minister and obtain that Minister's recommendations on the conditions, if any, which should be included in the permit, drilling reservation, access authority, special prospecting authority, lease or licence. The Minister may specify in the consent conditions for the purpose of ensuring, so far as is practicable, that any operations carried out on the land under the authority of the permit, drilling reservation, access authority, special prospecting authority, lease or licence are carried out in such a manner as to minimise the risk of damage to any native fauna or flora on the land.

The Department of Mines, Industry Regulation and Safety (DMIRS) and DBCA have been consulted during the EIA process and have advised that all the environmental impacts and risks associated with the proposal can be adequately regulated under the PGER (Environment) Regulations 2012. DBCA advised that it is the view of the Conservation and Parks Commission that proposals involving impacts on conservation reserves warrant due consideration of risk and application of financial assurances that can be accessed in the event of a default on decommissioning and rehabilitation requirements. For this reason, the EPA has recommended a condition for the requirement for a financial assurance bond for

²⁵ Appeal 027-21.002, Appeal form, 16 July 2021.

²⁶ EPA, Cervantes-01 Conventional Well Drilling Proposal, Report 1702, June 2021, page 2.

plugging, decommissioning and abandonment of the well. DBCA has advised that they were satisfied that the rehabilitation management plan in conjunction with the financial assurance and contingency offset, ensured the best environmental outcome for the proposal and increases likelihood of successful rehabilitation, which the EPA considered in their decision.²⁷

We note the EPA's advice.

In Report 1702, the EPA states:

... The anticipated life of the proposal is three to six months.

This assessment is for one conventional exploration well only and no assessment of full production is undertaken. Should future production be proposed separate assessment and approvals processes will apply.²⁸

Noting the above, it is considered the issues raised by this ground of appeal have been adequately addressed by the EPA and that, based on advice obtained, any future proposal for commercial production would require separate assessment and approvals processes.

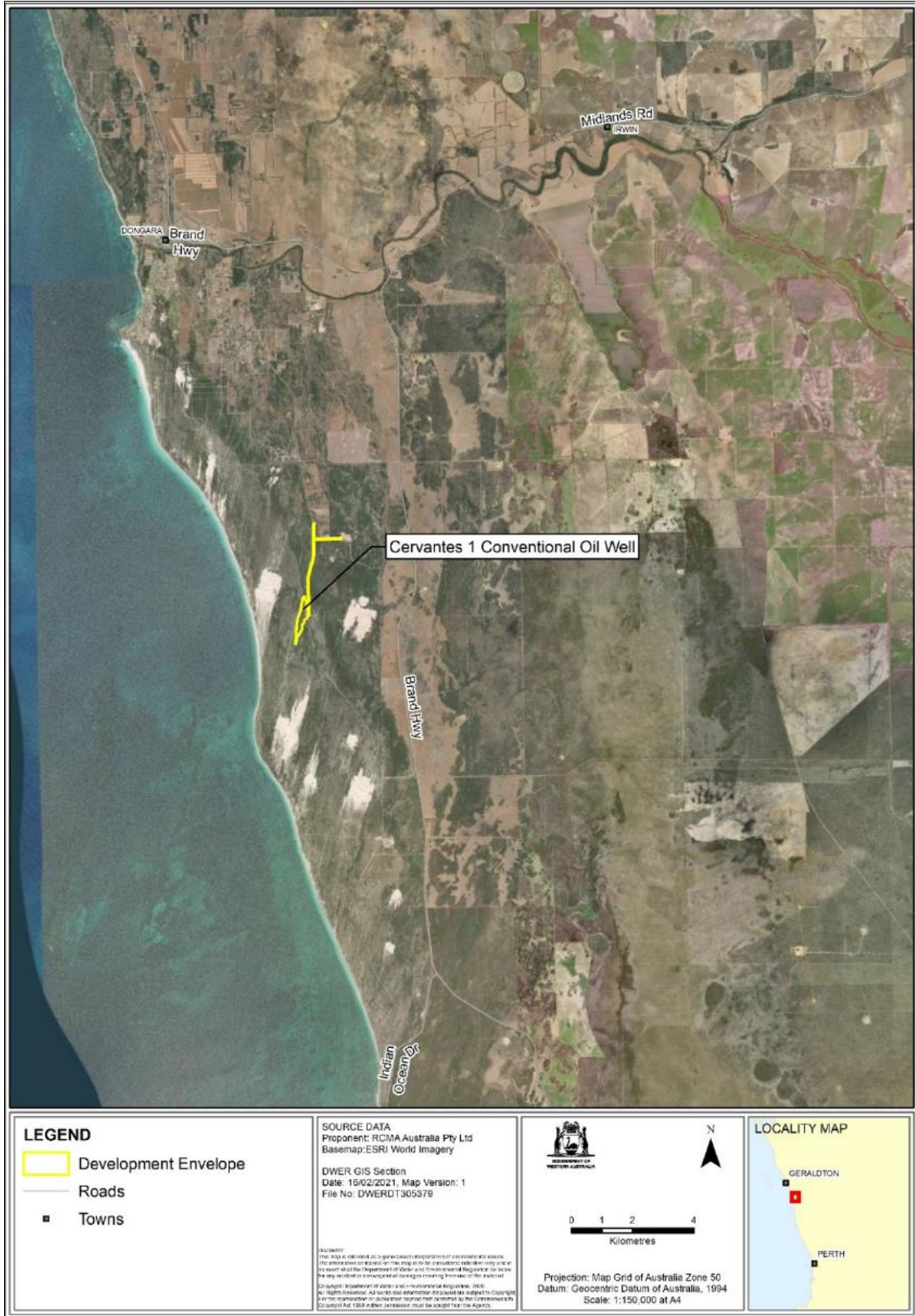
²⁷ EPA, Response to the appeals, 24 August 2021, page 6.

²⁸ EPA, Cervantes-01 Conventional Well Drilling Proposal, Report 1702, June 2021, page i.

3 Supporting information

3.1 Maps

Figure 2 Location of the proposal



(Source: EPA Report 1702, June 2021)

Figure 3 Development envelope and disturbance footprint



(Source: EPA Report 1702, June 2021)

Appendix 1 Appeal process

The Minister assesses the merits of a decision

Environmental appeals follow a merits-based process. This means the Minister can consider all the relevant facts, law and policy aspects of the decision and decide whether it was correct and preferable.

For appeals in relation to an EPA report and recommendations, the Appeals Convenor normally considers the environmental merits of the assessment by the EPA, based on objectives as set by the EPA as well as other environmental factors. The appeals process considers environmental significance, additional information not considered by the EPA, technical errors and attainment of policy objectives.

We report to the Minister, as does the decision-making authority

To decide an appeal's outcome, the Minister for Environment must have a report from both:

- the Appeals Convenor [see section 109(3) of the EP Act], and
- the authority that originally made the decision under appeal [see section 106(1)].

To properly advise the Minister in our report, our investigation included:

- review of the appeals
- review of the referral information and documents provided by the proponent in response to the appeals
- review of the section 106 report from the EPA
- consulting the appellants in relation to the issues raised in the appeals
- a video conference with the proponent on 18 August 2021
- reviewing other information, policy and guidance as needed.

Table 2 Documents we reviewed in the appeals investigation

| Document | Date |
|---|----------------|
| EPA, Cervantes-01 Conventional Well Drilling Proposal, Report 1702 | June 2021 |
| EPA, Response to the appeals | 24 August 2021 |
| RCMA Australia Pty Ltd, Cervantes 1 Rehabilitation Plan, Document number RCMA-02-EM-PLN-008v1 | 29 April 2021 |
| RCMA Australia Pty Ltd, Cervantes 1 Rehabilitation Plan, Document number RCMA-02-EM-PLN-008v2 | 9 June 2021 |
| RCMA Australia Pty Ltd, Response to the appeals | 9 August 2021 |