



**Appeals Convenor**

*Environmental Protection Act 1986*

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**REPORT TO THE  
MINISTER FOR ENVIRONMENT**

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**APPEALS IN OBJECTION TO THE DECISION OF THE ENVIRONMENTAL  
PROTECTION AUTHORITY TO NOT ASSESS A PROPOSAL**

**CLEARING OF NATIVE VEGETATION TO UNDERTAKE VARIOUS  
COMMERCIAL PURPOSES DEVELOPMENTS ON LOT 616, LOT 1221  
AND PORT DRIVE ROAD RESERVE, SHIRE OF BROOME**

**PROPONENT: BROOME PORT AUTHORITY**

**Appeal numbers: 097 to 098 of 2014**

**May 2014**

## Appeal summary

This report addresses two appeals lodged in objection to the decision of the Environmental Protection Authority (**EPA**) not to assess a proposal by the Broome Port Authority (**BrPA**) to clear 24.55 hectares of native vegetation in order to undertake various commercial purposes developments on Lot 616 on Plan 240107, Lot 1221 on Plan 182648 and Port Drive road reserve, Minyirr, within the Shire of Broome.

The main grounds raised in the appeals related to the environmental values of the site, the adequacy of the public consultation, and the cumulative impacts of clearing. Appellants sought for the proposal to be remitted to the EPA for formal assessment. Appellants also raised matters that are not directly related to the EPA's decision not to formally assess the environmental impacts of the proposal.

During the investigation of the appeals, the Appeals Convenor noted the following:

- the lands on which the proposal is located is zoned 'Port' under the *Shire of Broome Town Planning Scheme No. 4 District Zoning Scheme* (as amended);
- a clearing permit was granted for the proposal footprint by the Department of Environment Regulation under the *Environmental Protection Act 1986 (EP Act)*;
- legislative requirements apply in respect to rare flora and contaminated sites;
- the BrPA referred the proposal under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, and the former Department of Sustainability, Environment, Water, Population and Communities determined that the proposal was 'not a controlled action if undertaken in a particular manner';
- the EPA published the referral for public comment between 2-8 January 2014, the application for clearing permit and the EPBC Act referral for the proposal were open to public comment, and any applications for works approvals and licences for proposed development are also likely to be open to public comment; and
- the BrPA is required to comply with the conditions of its clearing permit under Part V of the EP Act, and with its Environmental Management Plan under the *Port Authorities Act 1999*;
- proposed developments on Port of Broome (**Port**) lands may be subject to planning approvals and to works approvals and licences under the EP Act; and
- tenants of Port lands may be subject to the BrPA's management plans, development guidelines, standard operational procedures, and Tenant Environmental Management Agreements, which are understood to be binding under the provisions of the *Port Authorities Act 1999*.

### Recommendation

The Appeals Convenor considered that the EPA has appropriately identified the preliminary environmental factors relevant to the proposal, and that the potential environmental impacts associated with the proposal are not so significant as to warrant a formal assessment under Part IV of the EP Act. The Appeals Convenor recommends, therefore, that the appeals be dismissed.

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## INTRODUCTION

This report addresses appeals lodged by Environs Kimberley and Ms Louise Middleton in objection to the decision of the Environmental Protection Authority (**EPA**) not to assess a proposal by the Broome Port Authority (**BrPA; proponent**) to undertake various commercial purposes developments within Lot 616, Lot 1221 and Port Drive road reserve, in the Shire of Broome.

This document is the formal report of the Appeals Convenor to the Minister for Environment under section 109(3) of the WA *Environmental Protection Act 1986* (**EP Act**).

## BACKGROUND

The BrPA proposes to clear approximately 24.55 hectares (**ha**) of native vegetation within Lot 616, Lot 1221 and Port Drive road reserve, Broome, in order to establish a wash-down facility, supply bases to support exploration of the Browse Basin (drilling fluid facility) and ancillary small businesses (**proposal**). The proposal footprint comprises two sites, which are shown in Figure 1.

The lands on which the proposal is located is zoned 'Port' under the Shire of Broome *Town Planning Scheme No. 4 District Zoning Scheme* as amended (DoP, 2013).

In September 2009 clearing permit CPS 3104/1 was granted by the Department of Environment Regulation (**DER**) to the BrPA authorising the clearing of 21.13 ha of native vegetation on Lot 616 and Lot 1221 for the purpose of commercial development and relocation of utilities corridor. It is understood that subsequent amendments were made to the clearing permit in January 2010 (CPS 3104/2), March 2012 (CPS 3104/3), August 2012 (CPS 3104/4) and March 2014 (CPS 3014/5). The extent of clearing authorised under clearing permit CPS 3104/5 is now 24.55 ha.

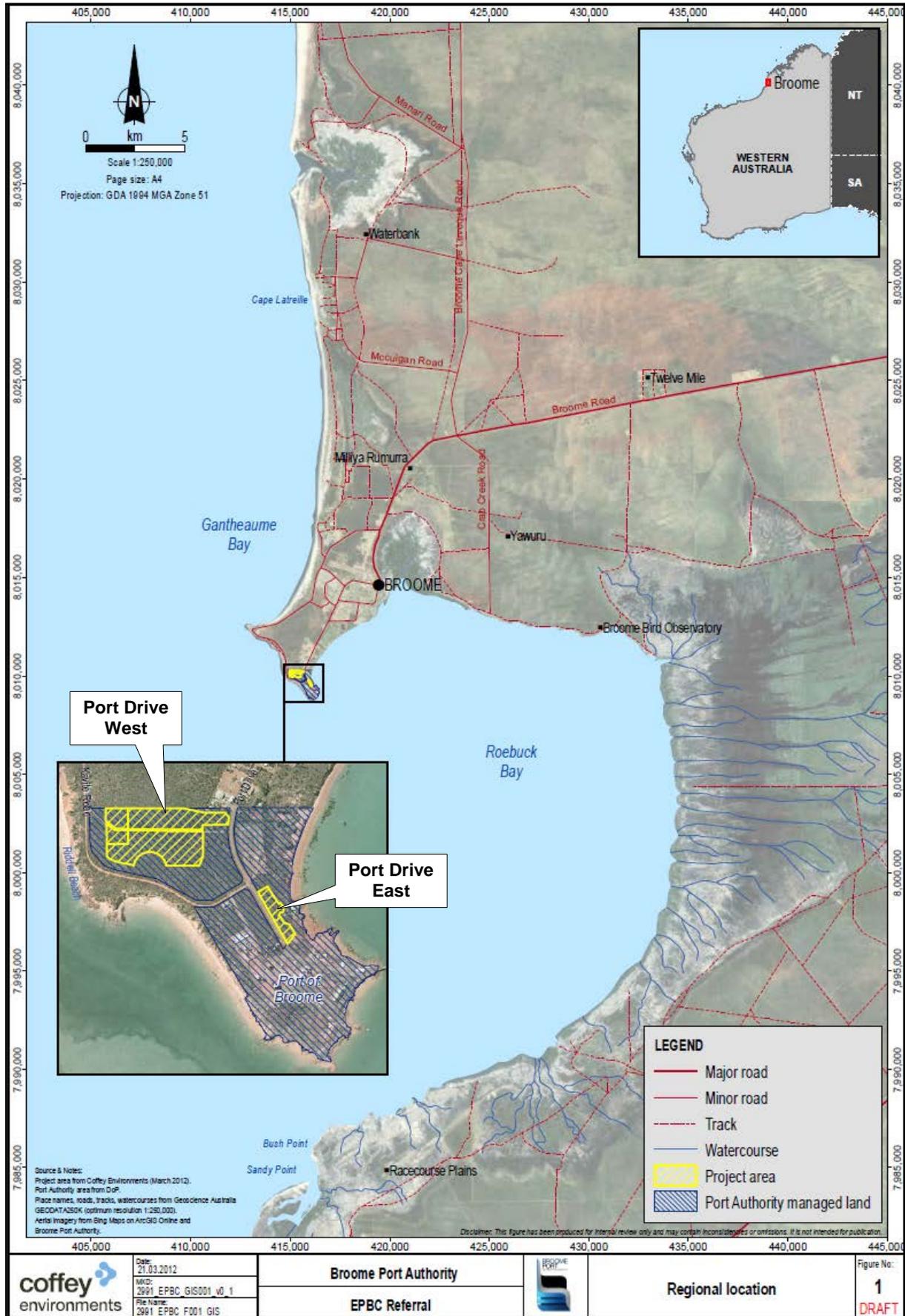
In April 2012 the BrPA referred a proposal to develop approximately 22.6 ha within Lot 616 and Lot 1221 to the (former) Department of Sustainability, Environment, Water, Population and Communities (**DSEWPC**) under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**) (DSEWPC, 2012a). The DSEWPC published the referral on its website on 30 April 2012 for public comment. On 12 December 2012 the DSEWPC determined that the proposal was 'not a controlled action if undertaken in a particular manner', and specified the manner in which the proposed action must be undertaken to avoid significant impacts on listed threatened species and communities if it is implemented (DSEWPC, 2012b).

On 8 November 2013 the current proposal was referred to the EPA by Environs Kimberley Inc. The EPA identified the preliminary environmental factors for the proposal to be 'Inland Waters Environmental Quality', and 'Flora and Vegetation'. The EPA published the referral for public comment between 2 and 8 January 2014, and it is understood that six submissions were received, all opposed to the proposal and requesting that it be formally assessed under the EP Act.

On 15 January 2014 the EPA made the determination 'Not Assessed – Public Advice Given' in respect to the proposal. In its public advice, the EPA considered that the potential impacts associated with the proposal can be further evaluated, regulated and mitigated by the Department of Environment Regulation (DER), the Shire of Broome and the Kimberley Joint Development Assessment Panel to meet the EPA's objectives for the environmental factors identified for the proposal.

By section 100(1)(a) of the EP Act, any person who disagrees with the recorded decision of the EPA that a proposal is not to be assessed may lodge an appeal in writing, setting out the grounds of that appeal. It is under this section that two appeals were lodged.

**Figure 1: Location of proposal (labelled as 'project area')**



(Source: EPBC Act referral (DSEWPC, 2012) Figure 1: draft Regional Location plan dated 21/03/12)

## **APPEALS PROCESS**

Pursuant to section 106 of the EP Act, a report was obtained from the EPA in relation to the matters raised in the appeals. The BrPA was also invited to respond to the appeals.

As part of the investigation of the appeals, appellants were invited to discuss their concerns with the Office of the Appeals Convenor. These discussions were conducted by telephone. The Office of the Appeals Convenor also met with the BrPA to discuss the appeals.

The environmental appeals process is a merits based process. Appeal rights in relation to the EPA's decision not to assess a proposal normally consider the environmental significance, relevance of factors, additional information not considered by the EPA, and whether other approvals processes can adequately address the relevant environmental factors without the need for formal assessment by the EPA.

## **OUTCOMES SOUGHT BY APPELLANTS**

The appellants sought for the Minister to remit the proposal to the EPA with a direction that the proposal be formally assessed.

## **GROUNDINGS OF APPEAL**

The main grounds raised in the appeals related to the following:

1. environmental values of the site;
2. adequacy of the public consultation; and
3. cumulative impacts of clearing.

Appellants also raised matters that are not directly related to the EPA's decision not to formally assess the environmental impacts of the proposal. These are discussed under 'Other Matters'.

## GROUND 1: ENVIRONMENTAL VALUES

By this ground of appeal, appellants submitted that the EPA did not identify or consider all environmental factors relevant to the proposal and adequately apply the significance test. These matters are considered in turn.

### 1.1 *Inland Waters Environmental Quality*

Appellants submitted that polluted and poor quality stormwater is impacting the Port area, and the quality and quantity of unmanaged stormwater runoff has changed the fundamental physical, chemical and biological aspects of runoff and infiltration processes; existing infrastructure within the Port of Broome (**Port**) area is affecting natural groundwater recharge; impacts of erosion and overflowing stormwater compensation basins on Roebuck Bay; impacts on a Ramsar-listed site in Roebuck Bay; and marine pollution generally.

#### Consideration

The EPA's public advice identified 'Inland Waters Environmental Quality' as a relevant preliminary environmental factor for the proposal. However, the EPA advised that the statutory decision making processes including planning and Part V of the EP Act can regulate the potential effects on Roebuck Bay to achieve the EPA's objectives. The EPA also advised that the potential impacts associated with proposed developments can be further evaluated, regulated and mitigated by the DER and the KJDAP to meet its objective for this environmental factor.

During discussions with the Office of the Appeals Convenor, appellants reiterated concerns in respect to hydrological changes as a result of the proposal and the adequacy of current surface water management practices within Port lands, and questioned whether existing statutory mechanisms would be enforced in any works approvals, licences and planning approvals.

The Shire of Broome *Town Planning Scheme No. 4 District Zoning Scheme* identifies that part of the Port Drive West section of the proposal footprint as a 'Flood Prone Land', for which the objective "*To control development in order to minimise flood damage and manage drainage*" is stated. The Scheme also identifies the whole of the proposal footprint as a 'Possible Contamination Sites', for which the objective is "*... to ensure that sites which currently or formerly contained land uses with potential for site contamination are investigated and all contaminants removed prior to any development, rezoning or subdivision*". In both cases, the Scheme states that the Council may impose restrictions and conditions over any proposed development.

The BrPA advised that the Department of Water (**DoW**) and the Department of Planning have approved a Stormwater Drainage Management Plan for the Port Drive West section of the proposal footprint, and that a whole-of-Port drainage plan is currently in preparation, and that these plans will minimise indirect hydrological impacts associated with the proposal and may assist in reducing natural erosion of the pindan cliffs by re-directing surface water along routes less susceptible to erosion.

During a meeting with the Office of the Appeals Convenor, the BrPA advised that tenants of Port lands proposing developments will be subject to the requirements of a series of Tenant Environmental Management Agreements (**TEMRs**).

It is understood that the BrPA's Stormwater Drainage Management Plan outlines how this proposal and any subsequent developments on Port lands will address water use and management for local planning purposes, and details specific water management measures and strategies to be implemented to manage the total water cycle. It is understood that these measures are consistent with the BrPA's TEMRs, and include the management of water quality through the treatment and irrigation of wastewater onsite, the construction of a compensation basin and vegetated drainage swales, and the implementation of pre- and post-development monitoring programs.

It is noted that the BrPA's *Local Water Management Strategy* (GHD, 2012a) incorporates management measures for total suspended solids, gross pollutants, total phosphorus and total nitrogen within stormwater discharged from catchments on Port lands. It is also noted that Figure 13 of the Strategy provides a proposed stormwater management strategy for Port lands.

In respect to the management of stormwater associated with the proposed drilling fluids facility, it is noted that the document *M-I Australia Pty Ltd Operational Broome Environment Management Plan* (MIA, 2014), as required by conditions of planning approval granted to M-I Australia Pty Ltd for this proposed premises, refers to the testing of stormwater in retention basins prior to its discharge to the environment.

It is noted that unlawful discharges resulting in environmental harm are subject to the provisions of Part V of the EP Act. It is also noted that the BrPA's TEMR *Water Management* makes reference to the management of impacts to surface water and groundwater quality.

In respect to the values of the Ramsar-listed site in Roebuck Bay, it is understood that this site is located approximately six kilometres (**km**) north-east of the proposal footprint. Given the distance between the proposal footprint and the Ramsar-listed site, and noting the BrPA's water management measures, it is considered that the proposal can be managed so that it is unlikely to have a significant impact on the Ramsar-listed site.

In respect to marine pollution, the BrPA advised that its Marine Oil Spill Response Plan and Emergency Response Plan address the prevention and response measures in place for oil spills, and that the plans are approved by the Department of Transport.

It is understood that in the event of an oil spill within Port lands, a number of policies and legislation are applicable, including the National Plan to Combat Pollution of the Sea by Oil (reference), the State Emergency Management Advisory Committee Policy Statement No. 7 (reference), *Pollution of Waters by Oil and Noxious Substances Act 1987*, *Contaminated Sites Act 2003*, and EP Act (BPA, 2010). It is also noted that the BrPA's TEMRs *Storage and Handling of Dangerous Goods and Hazardous Materials* and *Waste Management* are relevant to this issue.

Noting the above, it is considered that the EPA identified Inland Waters Environmental Quality to be a preliminary environmental factor for the proposal, and was justified in forming the view that the impacts of the proposal in respect to this factor were not so significant as to warrant formal assessment under Part IV of the EP Act. It is considered that any impacts resulting from the proposal in respect to surface water, groundwater, drainage and marine pollution can be managed through the implementation of the BrPA's management plans and regulated through the relevant statutory mechanisms.

## **1.2 Flora and Vegetation**

Appellants submitted that the potential for irreversible and catastrophic threats to threatened ecological community (**TEC**) '*Roebuck Bay mudflats*' (Vulnerable); impacts on priority ecological community (**PEC**) '*Relict dune system dominated by extensive stands of Mangarr*' (Priority 1), and '*Corymbia paractia dominated community on dunes*' (Priority 1), which is yet to be mapped and may occur within the proposal footprint.

Appellants submitted that there has been no satisfactory assessment of the proposal's impacts on the rare flora *Keraudrenia exastia* (Fringed Keraudrenia), in particular from native vegetation clearing, hydrological changes, weeds, fragmentation and modification of habitat, and that the EPA has not had regard for the Interim Recovery Plan for this species.

Appellants also submitted that the EPA has not considered the proposal's impacts on conservation areas and ecological corridors.

## Consideration

The EPA identified 'Flora and Vegetation' as a preliminary environmental factor for the proposal and noted that a clearing permit was issued by the DER for the land the subject of this appeal.

The clearing permit granted to the proponent contains conditions requiring the permit holder to avoid the clearing of native vegetation, minimise the amount of native vegetation to be cleared, reduce the impact of clearing on any environmental value, and report on the clearing undertaken. It is also noted that the BrPA's TEMR *Flora and Vegetation* acknowledges potential impacts and statutory requirements associated with the clearing of native vegetation.

The appeals make reference to the proposal's potential impacts to the TEC 'Roebuck Bay mudflats' and to the PECs 'Relict dune system dominated by extensive stands of Mangarr' and 'Corymbia paractia dominated community on dunes'. In addition to this TEC, it is noted that the decision report relating to the clearing permit (**Decision Report**) acknowledges the presence of the TEC 'Monsoon thickets' and the PEC 'Dwarf pindan heath community of Broome coast' within the local area. Descriptions of these TECs and PECs are provided in Appendix 2.

In respect to the TEC 'Roebuck Bay mudflats', it is noted that the Decision Report states that the proposed clearing is separated from the TEC by infrastructure, and that potential secondary impacts caused by hydrological, dust or ecological changes were considered to be negligible given the intertidal nature and large extent of the ecosystem (DEC, 2009). The BrPA advised that its Environmental Management System, dangerous goods requirements and site development requirements would minimise the risk of negative impacts within the proposal footprint and the intertidal zone.

In respect to the PEC 'Corymbia paractia dominated community on dunes', the BrPA advised that a 2008 flora survey did not find this PEC within the proposal footprint. The BrPA also advised that the description of the PEC by the Department of Parks and Wildlife (**DPaW**) is limited and does not provide any detail of the floristic structure of the community. It is noted that *Floristic Community Types of the Broome Peninsula* (Woodman Environmental, 2008) states "This community is not located within the Port of Broome managed lands". The EPA noted advice from DPaW that there is no record of the PEC on the DPaW's Threatened and Priority Ecological Communities Database within the proposal footprint.

In respect to the PEC 'Relict dune system dominated by extensive stands of Mangarr', the BrPA advised that a 2013 flora survey identified 15 Mangarr (*Sersalisia sericea*) specimens within the proposal footprint. It is noted that environmental advice to the BrPA from its consultant (Coffey Environments, 2013b) stated "Forty-six Mangarr (*Sersalisia sericea*) trees were recorded from the Port Drive West and Bush Tucker Park site boundaries ... Fifteen were located within the Port Drive West boundary, while the remaining 31 were located within the Bush Tucker Park ...", and concluded "... it can be assumed with high confidence that the PEC occurs in association with the Mangarr plants recorded from the Bush Tucker Park and Port Drive West". It is noted that in subsequent correspondence to the EPA, the BrPA's consultant advised "However, the presence of this species does not necessarily represent the presence of the P1 PEC Mangarr Community ..." (Coffey Environments, 2013d).

As noted above, part of the EPA's reason for identifying 'Flora and Vegetation' to be a preliminary environmental factor for the proposal is the presence of this PEC within the proposal footprint. In respect to this PEC, the EPA's public advice stated:

Only a small proportion of the known area of the mapped PEC known as *Relict dune system dominated by extensive stands of Mangarr* may be directly impacted by the proposal. The Department of Parks and Wildlife (DPaW) has advised that it is likely that this community is more extensive than currently mapped. ...

From the information presented in the appeals, it is acknowledged that the proposal may impact a PEC. However, noting EPA and DPaW advice that the PEC is likely to be more extensive than currently mapped, and that approximately 68% of the recorded Mangarr trees within Port lands are located within Bush Tucker Park, it is considered that the proposal is not likely to have a significant impact to the PEC's overall extent or survival. It is also noted that the BrPA's TEMRs *General Environmental Requirements* and *Flora and Vegetation* acknowledge the presence of this PEC.

In relation to the rare flora *Keraudrenia exastia*, the clearing permit Decision Report notes the species is present approximately 50m south and 20m north of the proposal footprint, and notes that the BrPA has committed to maintaining a 50m buffer and to implement environmental planning and management measures to minimise potential secondary impacts.

The DSEWPC's referral decision document lists measures that must be undertaken to avoid significant impacts on *Keraudrenia exastia* if the proposal is implemented, including the retention and fencing of 14 ha as a conservation area, signage to educate the public and site personnel of the environmental status and value of the species, and weed management, dust suppression and surface water management to minimise impacts (DSEWPC, 2012b).

The EPA advised that it considered the potential impacts to *Keraudrenia exastia* as part of the preliminary key environmental factor 'Flora and Vegetation'. The EPA advised that the DER has issued three clearing permits under Part V of the EP Act relating to this proposal (being CPS 4727/1, CPS 5873/1 and CPS 3104/5). The EPA advised that management measures to minimise potential secondary impacts to the rare flora are outlined in the BrPA's *Environmental Management Plan 2013* (Coffey Environments, 2013c) and include mitigation through TEMRs, stormwater management and audits. The EPA advised that, based on the DER's assessment and the management methods detailed by the BrPA for this rare flora, it considers this issue has been adequately addressed.

It is noted that the taking of rare flora is subject to the provisions of the *Wildlife Conservation Act 1950*. It is also noted that the BrPA's TEMRs *General Environmental Requirements* and *Flora and Vegetation* acknowledge the presence of *Keraudrenia exastia*.

In respect to the values of the proposal areas for conservation and as ecological linkages, the BrPA advised that it has established conservation areas which have been designed to maintain ecological linkages between areas of remnant vegetation near the proposal footprint and other remnant native vegetation further north on the Broome peninsula. The BrPA also advised that the proposed development is consistent with its statutory requirement to operate the Port under the *Port Authorities Act 1999* while minimising the environmental impacts of its operations.

It is noted that the conservation areas established by the BrPA include the foreshore corridor along the eastern side of the Port Drive East section of the proposal, a linkage (bisected by Port Drive) between the two sections of the proposal, and a buffer of vegetation around the western, southern and eastern sides of the Port Drive West section of the proposal (GHD, 2012a). It is understood that the conservation areas include approximately 68% of the recorded Mangarr trees and the recorded extent of the rare flora *Keraudrenia exastia* occurring on Port lands, as well as areas of Aboriginal heritage.

Noting the above, it is considered that the EPA correctly identified 'Flora and Vegetation' to be a preliminary environmental factor for the proposal, and was justified in forming the view that the impacts of the proposal before it in respect to this factor were not so significant as to warrant formal assessment under Part IV of the EP Act. It is considered that any impacts to flora and vegetation resulting from the proposal can be managed through the BrPA's compliance with clearing permit CPS 3104/5 and other relevant statutory mechanisms.

### **1.3 Coastal Processes**

Appellants submitted that the effects of climate change and rising sea levels on the coastal environment, and the potential for damage to proposed infrastructure; erosion of the foreshore as a result of the clearing of native vegetation; the Shire of Broome should complete its Coastal Vulnerability Study prior to approving any developments on the Roebuck Bay foreshore; and the BrPA should conduct physical studies to determine the intertidal, near shore and offshore marine ecology specific to the proposal.

#### Consideration

It is noted that the EPA did not consider coastal processes or climate change to be preliminary environmental factors for this proposal.

The EPA advised that in making its decision on whether to assess the proposal it considered the extent (intensity, duration, magnitude and geographic footprint) of the likely impacts, the presence of strategic planning policy framework and the extent to which other decision-making processes can regulate the mitigation of the potential effects on the environment to meet its objectives and principles for environmental impact assessment.

As discussed above, the BrPA advised that tenants within the proposal footprint will be required to comply with TEMRs along with other plans that may be in place, such as the Stormwater Drainage Management Plan, to ensure that impacts to the environment are minimised wherever practicable.

The BrPA advised that it considered that physical studies to determine the intertidal, near shore and offshore marine ecology specific to the proposal would not be necessary as no impacts to the intertidal, near shore and offshore marine ecology are anticipated as a result of the proposal's implementation. The BrPA also advised that the protection of future developments against sea level rise is the responsibility of planning processes managed by other statutory agencies.

It is noted that the BrPA's *Broome Port Authority Statement of Corporate Intent 2013 – 2014* (BPA, 2013a) lists ten safety, cultural and heritage, and environmental obligations, including to "Divest sections of the intertidal zone from Port limits in order to ensure that a better resourced and higher qualified entity is assigned the management task for these high value environmental areas".

In respect to the Shire of Broome Coastal Vulnerability Study, the EPA advised that it considers that coastal vulnerability and impacts of climate change will be considered as part of the statutory planning process. The EPA advised that it also notes that the Shire of Broome's report to the KJDAP states that the BrPA has addressed this issue by engaging a consultant to conduct an assessment of the application against the Western Australian Planning Commission's *State Planning Policy No. 2.6 – State Coastal Planning Policy* (WAPC, 2013) (**SPP 2.6**) .

During a meeting with the Office of the Appeals Convenor, the BrPA advised that a Coastal Vulnerability Study has been completed for five areas on Port lands (including the proposal footprint). It is understood that the Coastal Vulnerability Study for the Port lands found that the proposal has sufficient setback distance to the coastline even under the worst possible circumstances of storm surge, erosion and climate change, and that the proposed management measures are adequate.

In respect to erosion due to clearing, the Decision Report states that the proposed clearing is not likely to cause appreciable land degradation given that the topography of the proposal footprint is relatively flat, and that the proposal footprint has been somewhat disturbed. The Decision Report also states that there is a risk of wind erosion but that this would not be significant if the clearing was undertaken during the dry season.

The BrPA advised that Broome is subject to monsoonal weather patterns which include high rainfall during the wet season. The BrPA also advised that large areas of Broome township experience pooling of water on roadways and other surfaces after heavy rain, and that this is not unique to the Port area. The BrPA advised that the proposed development is not located on or immediately adjacent to the shoreline, and that all parts of the proposed development are on the lee side of the coastal dunes. The BrPA advised that the Port Drive West section of the proposal footprint is approximately 150 metres (m) from the high water mark, that the Port Drive East section is approximately 80 m from the high water mark, and that the foreshore and dunes themselves are within the established conservation areas.

Given the EPA's advice that coastal vulnerability and impacts of climate change will be considered as part of the statutory planning process, and the BrPA's advice that it liaises with the Shire of Broome about proposed developments on Port lands, it is considered that any impacts on coastal processes resulting from the proposal can be managed through the implementation of the BrPA's management plans.

#### **1.4 Heritage**

Appellants submitted that the EPA did not identify that the Yawuru Conservation Estate is adjacent to the proposal footprint; significant Aboriginal sites, provisions of the *Aboriginal Heritage Act 1972* and principles of the *Racial Discrimination Act 1975*; and heritage-listed dinosaur footprints within the intertidal zone.

#### Consideration

It is noted that the EPA did not consider heritage to be a preliminary environmental factor for this proposal.

As noted above, the EPA advised that it considered the values, sensitivity and quality of the environment which is likely to be impacted by the proposal, the extent of the likely impact, the presence of other statutory processes to mitigate environmental impacts, and the public concern about the likely effect of the proposal if implemented, as part of the application of the 'significance test' in determining whether or not to assess the proposal. It is also noted that the BrPA's TEMR *Heritage* has regard to national, indigenous and non-indigenous heritage.

In respect to the Yawuru Conservation Estate, the EPA advised that it considered the Yawuru Conservation Estate as part of the application of the 'significance test' in determining whether or not to assess the proposal. The EPA advised that this included values, sensitivity and quality of the environment which is likely to be impacted, and the extent of the likely impacts, and that a key consideration was the presence of other statutory processes to mitigate environmental impacts to the Yawuru Conservation Estate.

The EPA advised that it notes that the Yawuru Conservation Estate is jointly managed by the Shire of Broome and the Yawuru Park Council. The EPA advised that relevant agencies and stakeholders including the Department of Aboriginal Affairs (DAA) were consulted as part of the statutory planning process, and that the DAA advised the Shire of Broome that no registered heritage sites or other heritage places were located in the proposal footprint on Lot 1221.

The EPA advised that it received and considered a submission from the Yawuru Native Title Holders Aboriginal Corporation during the public comment period, and that the key issues raised in the submission were consistent with the preliminary key environmental factors of 'Flora and Vegetation' and 'Inland Waters Environmental Quality'.

The EPA also advised that the Shire of Broome's *Minutes - Ordinary Meeting of Council, 14 April 2011* consider a Quarantine and Logistics Facility on Lot 616 and Lot 1221 and state that an Aboriginal heritage clearance was received for the site from the Nyamba Buru Ltd.

The BrPA advised that the EPA was provided with information regarding the location of the proposed development in relation to conservation estates, and that the EPA concluded that the risk of impact to the Yawuru Conservation Estate was not so significant as to require formal assessment of the proposal. The BrPA advised that it is aware of, and complies with, its statutory obligations in respect to the protection of Aboriginal heritage sites. The BrPA also advised that it has consulted with Nyamba Buru Yawuru and the DAA, and as a result of that consultation is of the understanding that there are no Aboriginal heritage sites within the proposal footprint.

It is noted that Appendix B of the BrPA's *Environmental Management Plan 2013* (Coffey Environments, 2013c) contains a number of Environmental Management Procedures guidance cards, including one entitled "*Management of Environmentally and Culturally Sensitive Areas*".

In respect to dinosaur footprints, the EPA advised that it acknowledges that dinosaur footprints are present in the intertidal zone at various locations in the Broome. The EPA advised, however, that this proposal is not located in the intertidal zone and that no indirect impacts to dinosaur footprints are considered likely as a result of the implementation of the proposal, and that, as such, it considers that this not a relevant consideration for this proposal.

The BrPA advised that it acknowledges that the intertidal zone (which contains the dinosaur footprints) forms part of the West Kimberley National Heritage Place listing, and advised that no direct impacts to the intertidal zone are expected as the proposed development is not located within or adjacent to it. The BrPA advised that the location of the dinosaur footprints in a photograph provided in one appeal is about 200 m offshore and one km from the proposed development, and is only exposed during large spring tides in the dry season.

Noting the above, it is considered that any issues relating to the proposal's impacts on heritage can be managed through the implementation of the BrPA's management plans and regulated through the relevant statutory mechanisms.

### **1.5 Marine Fauna**

Appellants submitted that a robust and detailed assessment on the cumulative and additive discharge impacts on fish and reptiles should be undertaken; impacts on the humpback whale, dugong, pygmy blue whale, freshwater sawfish, marine turtles (flatback, green, loggerhead and hawksbill species), snubfin dolphin, seagrass beds, coral reefs and filter feeder communities, and fish aggregation areas; and lack of review of existing data and/or lack of data in respect to migration paths, critical habitats and food sources.

#### Consideration

It is noted that the EPA did not consider marine fauna to be a preliminary environmental factor for this proposal.

As discussed above, the BrPA did not consider studies to be necessary as it anticipated no impacts to the intertidal, near shore and offshore marine ecology as a result of the proposal. The BrPA advised that it has supported the Roebuck Bay Working Group (**RBWG**) for several years to conduct marine ecological studies in the Roebuck Bay area, including in the intertidal zone.

It is noted that Appendix B of the BrPA's *Environmental Management Plan 2013* (Coffey Environments, 2013c) contains a number of Environmental Management Procedures, including one entitled "*Protection of Marine Mammals and Sensitive Aquatic Habitats*". It is also noted that the BrPA's TEMRs *General Environmental Requirements* and *Fauna and Pests* acknowledge marine fauna.

Noting the above, it is considered that impacts to marine fauna as a result of the proposed clearing are unlikely, and that any impacts to marine fauna as a result of developments within the proposal footprint can be managed through the implementation of the BrPA's management plans and regulated through the relevant statutory mechanisms.

### **1.6 Terrestrial Environmental Quality**

Appellants submitted that environmental issues including erosion, stormwater drainage, landfill sites and toxic washouts are not being addressed and managed by the BrPA.

#### Consideration

It is noted that the EPA did not consider terrestrial environmental quality to be a preliminary environmental factor for this proposal. Erosion as a result of clearing is discussed above under 'Coastal Processes / Climate Change'.

It is noted that the EPA's public advice discusses drainage and containment measures, advice from the DoW in respect to best management practices (including chemical storage, containment of spills and emergency response), works approval and licence applications required under Part V of the EP Act, and planning approval conditions relating to the preparation, implementation and monitoring of a stormwater drainage system.

As discussed above, the Shire of Broome *Town Planning Scheme No. 4 District Zoning Scheme* as amended (DoP, 2013) indicates that part of the Port Drive West section of the proposal footprint as a 'Flood Prone Land' and the whole of the proposal footprint as a 'Possible Contamination Sites'.

The BrPA advised that it acknowledges that the Port lands contain several sites of landfills and other inappropriate dumping of waste from the 1950s to the 1980s. The BrPA advised that it manages these sites in accordance with the *Contaminated Sites Act 2003*, and that management of these sites is ongoing. The BrPA advised that stormwater drainage will be managed in accordance with its Stormwater Drainage Management Plan, and that it is not aware of any toxic washouts within the proposal footprint.

Noting the above, it is considered that impacts on terrestrial environmental quality as a result of the proposed clearing are unlikely, and that any impacts on terrestrial environmental quality as a result of developments within the proposal footprint can be managed through the implementation of the BrPA's management plans and regulated through the relevant statutory mechanisms.

### **1.7 Quarantine risks**

Appellants submitted that the EPA should have considered matters relating to quarantine in its consideration of the proposal's impacts. In particular, appellants submitted that there do not appear to be adequate contingencies in place for the proposed quarantine washdown facility, and that there is no Quarantine Inspection Service or an Approved Contingency Plan as required by the AQIS Quarantine Approved Premises Conditions of Approval for this proposal.

#### Consideration

During discussion with the Office of the Appeals Convenor, one appellant submitted that any proposed developments within Port lands which involve the receipt of materials from ships, such as the proposed drilling fluids facility, should have their own quarantine facility.

The EPA advised that the Shire of Broome has previously approved the development of a quarantine facility on Lot 616 subject to conditions.

The EPA also advised that the Shire of Broome's *Minutes - Ordinary Meeting of Council, 14 April 2011* consider a Quarantine and Logistics Facility on Lot 616 and Lot 1221 and state that the site and operation will comply as a Quarantine Approved Premises for a premises receiving imported sea cargo. The EPA advised that it therefore considers that other statutory decision making processes, including those managed by the AQIS, can regulate the mitigation of the potential effects on the environment to meet its objectives and principles for environmental impact assessment.

The BrPA advised that if a quarantine washdown facility is constructed it would be regulated under the Commonwealth quarantine legislation. The BrPA also advised that any water management issues would be managed under its Stormwater Drainage Management Plan.

It is understood that the Department of Agriculture and Food WA has the responsibility of inspecting international traffic entering the Broome Port, and that inspection is undertaken on-board individual vessels. It is also noted that planning approvals may include conditions. It is also noted that the construction and operation of prescribed premises is subject to works approvals and licensing under Part V of the EP Act.

### ***Recommendation***

Noting that the potential impacts of the proposal can be managed through the implementation of the BrPA's management plans and regulated through the relevant statutory mechanisms, it is considered that the EPA correctly identified 'Inland Waters Environmental Quality' and 'Flora and Vegetation' to be preliminary environmental factors for the proposal, and was justified in forming the view that the impacts of the proposal before it in respect to this factor were not so significant as to warrant formal assessment under Part IV of the EP Act.

It is therefore recommended that this ground of appeal be dismissed.

## GROUND 2: ADEQUACY OF PUBLIC CONSULTATION

By this ground of appeal, appellants submitted that:

- the timing of the EPA's consultation period was unacceptable and did not generate trust that consultation is being undertaken in a genuine and cooperative way, and many people including the Yawuru Park Council and the RBWG have not been able to respond to the EPA's invitation for submissions, or to the KJDAP, or attend Shire of Broome special Council meetings;
- the RBWG should have been given an opportunity to brief the EPA prior to the EPA's decision not to assess the proposal;
- the Yawuru Native Title Holders Aboriginal Corporation RNTBC is opposed to the location of the proposed development on the foreshore of Roebuck Bay, and the KJDAP is required to consult with the Yawuru Park Council prior to a decision being made about the proposal in accordance with an Indigenous Land Use Agreement (**ILUA**); and
- there has been limited information made publicly available by the BrPA on the potential environmental, social and cumulative impacts of developing Port lands.

### ***Consideration***

As discussed under Ground 1, the EPA advised that it considered the public concern about the likely effect of the proposal if implemented as part of the application of the 'significance test' in determining whether or not to assess the proposal. As discussed under the 'Background' section of this report, the EPA published the referral for public comment between 2 and 8 January 2014, and it is understood that six submissions were received, all opposed to the proposal and requesting its formal assessment under the EP Act.

The EPA advised that the submissions informed its decision and assisted it in forming its public advice on the preliminary key environmental factors. The EPA also advised that it is of the understanding that consultation with key stakeholders regarding the final stormwater design, or any works within the conservation estate will occur as part of the statutory planning process.

It is noted that the BrPA's *Broome Port Authority Statement of Corporate Intent 2013 – 2014* (BPA, 2013a) lists ten safety, cultural and heritage, and environmental obligations, including to "*Develop appropriate engagement strategies with Government and stakeholders*". It is also noted that Table 7 'Environmental Risk Assessment' within the BrPA's *Environmental Management Plan 2013* (Coffey Environments, 2013c) lists existing controls for stakeholder engagement, with specific reference to the potential impact "*Stakeholders remain informed about and feel engaged with current issue; Undue stakeholder influence causes BrPA strategic goals not to be met, e.g. popular perceptions leading to less than ideal outcomes (whether for BrPA or the environment)*". These controls are "*Regular meetings with port logistics group; BrPA member of Roebuck Bay working group; Liaison with other stakeholders as required*".

It is noted that the application for the clearing permit and the EPBC Act referral for the proposal were open to public comment. It is understood that any works approval or licence applications under Part V of the EP Act will also be open to public comment, and that consultation on proposed developments may be undertaken by individual developers. It is therefore considered that there are appropriate mechanisms in place to ensure ongoing stakeholder engagement in respect to proposed developments on Port lands.

The BrPA advised that it is a member of the RBWG, and that the RBWG did not appeal the EPA's decision not to assess the proposal. The EPA also advised that no comments or appeals were received from the RBWG in relation to this proposal.

It is noted that the Decision Report states that Main Roads WA advised that the BrPA must liaise with the Yawuru Native Title Holders (RNTBC) Aboriginal Corporation in respect to clearing within the Point Drive road reserve. It is noted that the BrPA's referral document to the DSEWPC advises that the BrPA has liaised with the Kimberley Land Council and Nyamba Buru Yawuru Ltd regarding the proposal, that the confidentiality of heritage assessments has been respected, and that the proposal incorporates the recommendations contained in a heritage report prepared by a consultant anthropologist (DSEWPC, 2012b). It is also noted that, as discussed under Ground 1, the BrPA has consulted with the DAA regarding the proposal.

It is noted that appellants assert that the Yawuru Native Title Holders Aboriginal Corporation RNTBC is opposed to the location of the proposed development. The BrPA advised that the Yawuru people, via Nyamba Buru Yawuru Ltd or otherwise, have not appealed the EPA's decision not to assess the proposal.

According to the National Native Title Tribunal website ([www.nntt.gov.au](http://www.nntt.gov.au)) an ILUA is an agreement between a native title group and others about the use and management of land and waters. It is noted that there are two ILUAs applying to land in the Port area locality: WI2010/003 type Body Corporate Agreement (subject Development) located adjacent the northern boundary of the proposal footprint; and WI2010/004 type Area Agreement (subject Access; Government) located about 1 km north of the proposal footprint. It is understood that the Shire of Broome is a party to both ILUAs, and is a member of the KJDAP. It is therefore considered likely that the KJDAP will be aware of any obligations to consult with native title holders under the ILUAs.

In respect to the consultation timeframe, it is noted that pursuant to section 39A of the EP Act, the EPA must give written notice of whether or not it is going to assess a proposal within 28 days of the proposal being referred to it. Notwithstanding, pursuant to section 38A of the EP Act, this is subject to the provision of any additional information that the EPA requests to assist in making a decision. This process is also outlined in the EPA's *Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2012 (Administrative Procedures)*.

It is understood that in this instance the referral was made in early November 2013. It is also understood that the EPA sought additional information from the BrPA in respect to the proposal on 3 December 2013, and that the additional information was provided to the EPA on 11 December 2014. It is noted that the EPA subsequently published its decision not to assess the proposal on 20 January 2014, and gave public advice to the BrPA in respect to the proposal on the same date.

In respect to the availability of information, the BrPA advised that it notes that not all of the information claimed by appellants to be absent or missing is ordinarily available to third parties, and that the perceived absence of some or all information in the public realm on a particular factor does not mean that that factor has not been considered by the EPA or in other approval processes.

It is noted that the information stated by appellants to be unavailable may have been publicly available during the assessment process for the clearing permit application and the EPBC Act referral relevant to the proposal. It is also noted that information relating to specific infrastructure developments within Port lands may be publicly available through works approval or licence application processes. End land-use is discussed under 'Other Matters'.

### ***Recommendation***

Noting the above, it is considered that the EPA undertook public consultation in respect to the proposal in accordance with the Administrative Procedures.

It is therefore recommended that this ground of appeal be dismissed.

### **GROUND 3: CUMULATIVE IMPACTS**

One appellant submitted that the EPA should assess cumulative environmental impacts (in respect to water quality and discharges to the marine environment) for past and proposed activities on Port lands. In particular, the appellant submitted that the cumulative impacts of the following activities should be assessed:

- native vegetation clearing within Port lands;
- increased concentrations of sediments, nitrogen, phosphorus and agricultural chemicals from the Port area have significant effects on the inshore ecosystems of Roebuck Bay;
- the cumulative impacts to groundwater quality and Roebuck Bay from potential spills from the proposed drilling fluids facility in addition to two existing facilities at premises on Decastillia Street and Port Drive in Broome; and emissions and discharges, public health (during production and operating stages), handling and transport of carcinogenic materials, and stormwater management; and
- the increased risk of oil and other toxic spills; the cumulative discharges on marine fauna; the residual radioactive materials resulting from oil and gas extraction (impacts of radionuclides, radon gas, alpha particles and gamma radiation on human health, and disposal of residual radioactive materials); and the supply of large quantities of water to the offshore industry and Barrow Island for construction purposes.

The appellant submitted that there have been no resources provided by the BrPA to allow for independent peer review and expert verification of processes, literature, modelling and data associated with the proposal. The appellant submitted that such information should include assessment of the impacts on spatial habitat, and identification of protection measures to mitigate those impacts.

#### ***Consideration***

In respect to the proposed clearing, as discussed under Ground 1, the EPA's public advice states "*A clearing permit has been issued by DER for the clearing of native vegetation associated with the proposal, and hence the EPA considers that the impacts of the proposal on flora and vegetation can be dealt with under with under [sic] Part V (Division 2) of the EP Act*".

It is noted that the Decision Report has regard to the type, condition and extent of the vegetation association present. The DER noted that the proposed clearing is partly adjacent a previously-granted clearing permit, and formed the views that the proposed clearing would lead to a significant reduction in vegetation on both sides of Port Drive and may impact on an ecological linkage. However the DER also formed the view that the proposed clearing is not likely to significantly reduce the remaining extent of the broader vegetation association, and that the native vegetation proposed to be cleared is not likely to be significant as a remnant of native vegetation in an area that has been extensively cleared.

The BrPA advised that the additional information provided to the EPA to inform its decision on whether or not to assess the referred proposal included information that was prepared by qualified specialists, and included information that provided to the DER in respect to the clearing permit application and to the DSEWPC as part of the EPBC Act referral. The BrPA was of the view that there is no requirement for it to provide additional resources to enable independent peer review and expert verification to assess the proposal, and that this role is performed by the EPA and other decision making authorities.

In respect to proposed developments, the BrPA advised that there are a wide range of activities carried on in the Port lands by various users, and was of the view that it would be impractical and possibly unnecessarily restrictive to compile a list of permitted technologies or infrastructure within the Port lands and that such a list would not be enforceable.

The BrPA advised that it places TEMRs on tenants and users of Port lands to ensure that impacts to the environment are minimised wherever practicable through specific actions that must be taken or outcomes that must be achieved. The BrPA advised that tenants will be required to adhere to the requirements of the TEMRs, the *Environmental Management Plan 2013* (Coffey Environments, 2013c), standard operational procedures, and any other plans that may be in place (e.g. the Stormwater Drainage Management Plan). The BrPA also advised that it has prepared Development Guidelines for lease holders proposing developments within Port lands, and that the Shire of Broome and the KJDAP will assess proposed developments on Port lands as required under the relevant legislation.

The BrPA also advised that any infrastructure or technologies with particular environmental impacts would be further assessed when proposed, and that it is implementing an ISO 14001 environmental management system that identifies the activities within the Port area that have the potential to cause an environmental impact, with the risk of each potential impact rated and controls developed to reduce the effects of that activity.

In respect to the risk of oil spills, as discussed under Ground 1, the BrPA advised that its approved Marine Oil Spill Response Plan and Emergency Response Plan address the prevention and response measures in place for oil spills.

The broader oil and gas industry and its associated potential impacts on the marine environment is considered to be beyond the scope of the appeals rights in respect to the EPA's decision not to assess the proposal.

***Recommendation for this ground***

Noting the above, it is considered that the EPA had regard to the cumulative impacts of the proposed clearing and of the proposed developments in its consideration of the proposal.

It is therefore recommended that this ground of appeal be dismissed.

## **OTHER MATTERS**

Appellants also raised matters that are considered to be beyond the scope of the rights of appeal in objection to the EPA's decision not to assess a proposal, in this instance the proposal of the BrPA's proposal to clear approximately 24.55 ha of native vegetation to facilitate development.

### ***Environmental Management Plan***

Appellants submitted that an adequate management plan that addresses matters including the protection of declared rare flora and locally and culturally significant vegetation, definition and management of environmental corridors, weed management, and impacts of proposed land-uses, as recommended in 2006 by the EPA and the former DEC, is yet to be completed. Appellants also submitted that the BrPA is not acting or managing as a responsible authority in respect to environmental management and coastal planning, and that the BrPA has not adhered to, implemented or upheld its own environmental management plan and policies and does not set minimum best practice parameters for developments within Port lands.

### **Appeals Convenor's advice**

The BrPA advised that a Strategic Development Plan must be prepared and submitted to the responsible Minister each year in accordance with section 51(b) of the *Port Authorities Act 1999*. The BrPA advised that, as a component of the Strategic Development Plan, it is required to develop an Environmental Management Plan that comprehensively addresses key environmental factors associated with proposed developments and includes Guidance Cards (Environmental Management Programs) on key environmental factors, including air emissions, hydrocarbon and hazardous material management, stormwater, erosion and dust control, clearing (and weed management), and management of environmentally and culturally sensitive areas. The BrPA advised that the Strategic Development Plan, incorporating the Environmental Management Plan, is publicly available on its website ([www.broomeport.wa.gov.au](http://www.broomeport.wa.gov.au)). The BrPA advised that it implements and upholds its Environmental Management Plan in respect to the management of Port lands generally.

It is noted that the BrPA's *Environmental Management Plan 2010* (BrPA, 2010), as published on the BrPA's website, was replaced during this appeals investigation by the revised *Environmental Management Plan 2013* (Coffey Environments, 2013c). It is noted that the BrPA provided the 2013 version to the EPA for its consideration following referral of the proposal by a third party. It is also noted that, as discussed under Ground 1, the BrPA has prepared a Stormwater Drainage Management Plan and is preparing a whole-of-Port drainage plan, and that tenants and users of Port lands are required to comply with these plans along with the BrPA's TEMRs.

### ***M-I Australia Pty Ltd current operations***

One appellant submitted that M-I Australia Pty Ltd is currently operating category 73 (bulk storage of chemicals) and category 75 (chemical blending or mixing not causing discharge) premises on Decastillia Street and Port Drive in Broome without appropriate approvals under the EP Act, although M-I Australia Pty Ltd applied to the DER for the relevant approvals required for both premises. In particular, the appellant was raised concerns in respect to the management of heavy industrial wastes from these current operations and how clean-up of these premises would be regulated; and a lack of adequate drainage and storm water management measures in place at the Port Road premises.

### **Appeals Convenor's advice**

It is noted that the appellant's concerns relate to the compliance of current operations. Works approvals and licences for prescribed premises, and emissions and discharges to the environment, are matters for the DER to manage under its statutory powers under the EP Act.

## CONCLUSION AND RECOMMENDATION

In considering the grounds of appeal and the information provided through the appeal process, it can be reasonably concluded that the EPA has appropriately identified the preliminary environmental factors relevant to the proposal, and the potential environmental impacts associated with this proposal are not so significant as to warrant a formal assessment under Part IV of the EP Act. In reaching this conclusion it is noted that there are several statutory mechanisms available that can, should the proposal proceed, ensure that the proposal is regulated and can be managed to achieve the EPA's environmental objectives. Specifically:

- the BrPA is required to comply with the conditions of its clearing permit under Part V of the EP Act, and with its Environmental Management Plan under the *Port Authorities Act 1999*;
- proposed developments on Port lands may be subject to planning approvals and to works approvals and licences under the EP Act;
- tenants of Port lands may be subject to the BrPA's management plans, development guidelines, standard operational procedures, and TEMRs, which are understood to be binding under the provisions of the *Port Authorities Act 1999*; and
- statutory requirements apply in respect to rare flora and contaminated sites.

Accordingly, the decision of the EPA not to assess this proposal is supported and it is recommended that the appeals be dismissed.

Kelly Faulkner  
APPEALS CONVENOR

**Prepared by:**

Emma Bramwell, Senior Environmental Officer

## REFERENCES

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## **APPENDIX 1: TEN ASPECTS OF THE SIGNIFICANCE TEST**

In its determination of whether a proposal is likely to have a significant effect on the environment, the Environmental Protection Authority has regard to the ten aspects of the 'significance test' as set out in clause 7 of the *Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2012*. Clause 7 states as follows:

### **7 Significance Test**

The EPA makes a decision about whether a proposal is likely to have a significant effect on the environment using professional judgement, which is gained through knowledge and experience in the application of EIA. In determining whether a proposal is likely to have a significant effect on the environment, whether the proposal would meet the EPA's objectives for environmental factors and consequently whether or not a referred proposal should be assessed, some of the matters to which the EPA may have regard to include –

- (a) values, sensitivity and quality of the environment which is likely to be impacted;
- (b) extent (intensity, duration, magnitude and geographic footprint) of the likely impacts;
- (c) consequence of the likely impacts (or change);
- (d) resilience of the environment to cope with the impacts or change;
- (e) cumulative impact with other projects;
- (f) level of confidence in the prediction of impacts and the success of proposed mitigation;
- (g) objects of the Act, policies, guidelines, procedures and standards against which a proposal can be assessed;
- (h) presence of strategic planning policy framework;
- (i) presence of other statutory decision-making processes which regulate the mitigation of the potential effects on the environment to meet the EPA's objectives and principles for EIA; and
- (j) public concern about the likely effect of the proposal, if implemented, on the environment.

## APPENDIX 2: THREATENED AND PRIORITY ECOLOGICAL COMMUNITIES

The two threatened ecological communities relevant to this appeal investigation are described in the (former) Department of Environment and Conservation's *List of Threatened Ecological Communities endorsed by the Western Australian Minister for the Environment* (2013) as follows:

### **44 – Roebuck Bay mudflats – Vulnerable**

Species-rich faunal community of the intertidal mudflats of Roebuck Bay

### **67 – Monsoon thickets – Vulnerable**

Monsoon (vine) thickets on coastal sand dunes of Dampier Peninsula ...

The three priority ecological communities relevant to this appeal investigation are described in the Department of Parks and Wildlife's *Priority Ecological Communities for Western Australia – Version 19* (2013) as follows:

### **KIMBERLEY ...**

#### **10 – Dwarf pindan heath community of Broome coast – Priority 1**

Occurs between the racecourse and Gantheame Point lighthouse. Insufficient survey outside of Broome townsite area to determine full extent. Threats: clearing, trampling, weed invasion, inappropriate fire regimes.

#### **11 – *Corymbia paractia* dominated community on dunes – Priority 1**

*Corymbia paractia* behind dunes, Broome township area, Dampier Peninsula. Transition zone where coastal dunes (with vine thickets) merge with Pindan (desert) vegetation. Also, port north of Broome. Threats: clearing, trampling, weed invasion, inappropriate fire regimes.

#### **12 – Relict dune system dominated by extensive stands of Mangarr *Sersalisia* (formerly *Pouteria*) *sericea* – Priority 1**

Contains frequent mature (100 years +) *Sersalisia* (formerly *Pouteria*) *sericea* or otherwise known as Mangarr. Mangarr is a culturally important and renowned local bushtucker species and does not occur in such frequency and longevity in other locations. The community is recorded as a *Eucalyptus*, *Sersalisia* low woodland unit that occurs on parallel dunes in the area south east of Gantheame Point. The community also contains numerous woodland species such as: *Erythroleum chlorostachys* (ironwood), *Eucalyptus* (*Corymbia*) *zygophylla* (Broome bloodwood), *Hakea macrocarpa* and *Corynotheca micrantha* (zig-zag Lilly). Some species are more reminiscent of desert and aridlands country including: *Solanum cunninghamii* (bush tomato), *Scaevola parvifolia*, *Goodenia sepalosa*, *Senna costata*, *Gyrostemon tepperi* and *Triodia* sp. (spinifex). The extensive stands of Mangarr occur in association with species more often found within the nearby threatened ecological community- Monsoon vine thicket. Threats: weed invasion, grazing, inappropriate fire regime, proposed developments. ...

### APPENDIX 3: ABBREVIATIONS USED IN THIS APPEALS REPORT

Administrative Procedures	<i>Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2012</i>
AQIS	Australian Quarantine and Inspection Service
BrPA	Broome Port Authority
DAA	Department of Aboriginal Affairs
Decision Report	decision report prepared by the former DEC for clearing permit CPS 3104/1, insofar as it relates to clearing permit CPS 3104/5
DEC	(former) Department of Environment and Conservation
DER	Department of Environment Regulation (formerly Department of Environment and Conservation)
DoP	Department of Planning
DoW	Department of Water
DPaW	Department of Parks and Wildlife (formerly Department of Environment and Conservation)
DSEWPC	(former) Department of Sustainability, Environment, Water, Population and Communities (Commonwealth)
EPA	Environmental Protection Authority
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Commonwealth)
EP Act	<i>Environmental Protection Act 1986</i>
ha	hectare(s)
ILUA	Indigenous Land Use Agreement
KJDAP	Kimberley Joint Development Assessment Panel
km	kilometre(s)
m	metre(s)
OEMP	Operational Environment Management Plan (as prepared by M-I Australia Pty Ltd)
PEC	priority ecological community
RBWG	Roebuck Bay Working Group
SPP 2.6	Western Australian Planning Commission's <i>State Planning Policy No. 2.6 – State Coastal Planning Policy</i> (2013)
TEC	threatened ecological community