



Reference Number: NVC FOI 22/01

81-95 Waymouth Street
Adelaide SA 5000

GPO Box 1047
Adelaide SA 5001
Australia

Ph: +61 8463 6625
www.environment.sa.gov.au

Dear [REDACTED]

I refer to your application pursuant to the *Freedom of Information Act 1991* (the Act) received by the Department for Environment and Water (DEW) on 02 February 2022, seeking access to:

*"Minutes of meetings of the Native Vegetation Council
Timeline: 04 November 2020 to 04 August 2021"*

As the documents sought were not held by DEW but relate directly to the Native Vegetation Council, this Freedom of Information (FOI) application was transferred to the Native Vegetation Council to that agency on 17 February 2022 and you were advised by email accordingly.

On 17 February 2022 the scope was amended by agreement to:

*"Documents concerning the Native Vegetation Council assessment of the Southern Launch, Whalers Way Orbital Launch Complex development including relevant Minutes of Native Vegetation Council meetings.
Timeline: between 4/11/2020 to 4/08/2021."*

As the agency did not determine the application within 30 days of receiving it, by the operation of section 19(2)(b) of the FOI Act, the agency is taken to have determined the application by refusing access. Section 19(2a) of the FOI Act provides that an agency may give access to a document on an application after the period within which it was required to deal with the application (and any such determination is to be taken to have been made under this Act).

DETERMINATION

Searches of the Native Vegetation Council's records have found seven (7) documents (inclusive of attachments) held by this agency within scope of your request.

As Principal Officer, I have determined to grant you partial access to seven (7) documents.

Section 20 of the Act provides that an agency may refuse access to a document if it is an exempt document under the Act. The documents, or parts of the document to which I am refusing access, the reasons for the refusal and the public interest test are summarised in the attached document schedule. The FOI Act exemption clauses relevant to this determination are listed below for your reference.

Schedule 1, Clause 4(1)(a) of the Act states:

4— Documents affecting law enforcement and public safety

- (1) A document is an exempt document if it contains matter the disclosure of which could reasonably be expected—
- (a) to endanger the life or physical safety of any person;

Schedule 1, Clause 6(1) of the Act states:

6— Documents affecting personal affairs

- (1) *A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).*

Schedule 1, Clause 7(1)(b) of the Act states:

7— Documents affecting business affairs

- (1) A document is an exempt document—
- (b) if it contains matter—
 - (i) consisting of information (other than trade secrets) that has a commercial value to any agency or any other person; and
 - (ii) the disclosure of which—
 - (A) could reasonably be expected to destroy or diminish the commercial value of the information; and
 - (B) would, on balance, be contrary to the public interest;

Schedule 1, Clause 9 of the Act states:

9— Internal working documents (1) A document is an exempt document if it contains matter—

- (a) that relates to—
 - (i) any opinion, advice or recommendation that has been obtained, prepared or recorded; or
 - (ii) any consultation or deliberation that has taken place, in the course of, or for the purpose of, the decision-making functions of the Government, a Minister or an agency;
- and (b) the disclosure of which would, on balance, be contrary to the public interest

As advised, information in documents not relevant to the scope of your application have been redacted.

The Council will provide the determination electronically.

In accordance with [PC045 – Disclosure logs for Non-personal information](#) once a determination has been provided, the agency is required to make available on our website information and documents that have been disclosed. Information will be publicised online at <https://www.environment.sa.gov.au/about-us/boards-and-committees/native-vegetation-council/nvc-foi-disclosure-log>.

FEES AND CHARGES

There will be no further charges to process this application.

YOUR APPEAL RIGHTS

If you are dissatisfied with this determination, you have the right to apply for an external review. All applications for an external review should be made to the Ombudsman SA.

An external review must be done within 30 calendar days after being notified of the determination. The Ombudsman SA can extend this time limit at their discretion. There is no fee or charge for external reviews undertaken by the Ombudsman. Contact details for the Ombudsman are:

Ombudsman SA
Phone: 8226 8699
Toll Free: 1800 182 150 (outside metro SA)
Email: ombudsman@ombudsman.sa.gov.au

Should an FOI applicant believe an agency has failed to identify all of the documents within the scope of their FOI application, they can make a complaint to the Ombudsman under the Ombudsman Act 1972. Attachment 4 of this determination outlines this process. You can also visit: www.ombudsman.sa.gov.au.

If you have any queries in relation to the above please contact a Freedom of Information Officer on telephone (08) 8303 9777 or email nvc@sa.gov.au.

Yours sincerely



Vaughan Levitzke PSM
Principal Officer, Freedom of Information
Native Vegetation Council

25/10/ 2022

Encl: 1. Document Schedule
2. Documents

3. FOI Fact Sheet – Your Rights to Review and Appeal
4. Sufficiency of Search – Factsheet – Ombudsman SA

Native Vegetation Council - Freedom of Information application: NVC FOI 22/01

Scope: "Documents concerning the Native Vegetation Council assessment of the Southern Launch, Whalers Way Orbital Launch Complex development including relevant Minutes of Native Vegetation Council meetings".
 Timeline: between 4/11/2020 to 4/08/2021

Number	Date	Author	Description	Page number	No of Pages	Determination	Clause	Reason	Public Interest Test - Contrary to release	Public Interest Test - In favour of release
1	4/11/2020	DEW	Briefing	1	3	Partial release	S6(1) - Documents affecting personal affairs	Signature withheld.	The withholding of this information does not detract from the readability of the requested information.	
1.1	4/11/2020	DEW	Maps	4	1	Full release				
1.2	4/11/2020	DTTI	Space Industry Flyer	5	4	Full release				
2	4/11/2020	Native Vegetation Council	NVC Meeting 230 approved Minutes	9	10	Partial release	Out of scope	Information not relevant to applicant's request withheld.	Processing material that is out of scope of the applicant's request, including necessary consultations, if carried out would unreasonably divert the agency's resources from their use by the agency in the exercise of its functions.	
							S4(1)(a) - Documents affecting law enforcement and public safety	Names of personnel and contractors withheld.	Due to the subject matter of the document, there is a reasonable expectation those individuals will experience adversity by way of threats or harassment.	
							S6(1) - Documents affecting personal affairs	Personal information (signatures) withheld	The withholding of this information does not detract from the readability of the requested information.	

							S9 - Internal Working Document	The document contains provisional advice, which is subject to an ongoing approval process.	Disclosure of the information would: a. reduce the attractiveness and feasibility of doing business with the South Australian government b. reduce the confidence in DEW and the Native Vegetation Council and the application and approval process.	The importance of promoting transparency and openness in government in order to support and enhance the interest the public has in accountability and the good operations of agencies and government.
3	24/11/2020	DEW	Online Chat Board	19	7	Partial release	Out of scope	Information not relevant to applicant's request withheld	Processing material that is out of scope of the applicant's request, including necessary consultations, if carried out would unreasonably divert the agency's resources from their use by the agency in the exercise of its functions	
							S6(1) - Documents affecting personal affairs	Personal information (photo) withheld	The withholding of this information does not detract from the readability of the requested information.	
4	18/12/2020	Native Vegetation Council	Letter	26	3	Partial release	S4(1)(a) - Documents affecting law enforcement and public safety	Names of Southern Launch personnel and contractors withheld.	Due to the subject matter of the document, there is a reasonable expectation those individuals will experience adversity by way of threats or harassment.	
							S7(1)(b)- Documents affecting business affairs	The document contains provisional advice, which is subject to an ongoing approval process.	Disclosure of the information would: a. reduce the attractiveness and feasibility of doing business with the South Australian government b. reduce the confidence in DEW and the Native Vegetation Council and the application and approval process.	The importance of promoting transparency and openness in government in order to support and enhance the interest the public has in accountability and the good operations of agencies and government.
5	6/05/2021	Native Vegetation Council	NVC Meeting 232 approved Minutes	29	7	Partial release	Out of scope	Information not relevant to applicant's request withheld	Processing material that is out of scope of the applicant's request, including necessary consultations, if carried out would unreasonably divert the agency's resources from their use by the agency in the exercise of its functions	
							S6(1) - Documents affecting personal affairs	Personal information (signatures) withheld.	The withholding of this information does not detract from the readability of the requested information.	

6	6/05/2021	Nature Conservation Society of South Australia	Letter	36	3	Partial release	S6(1) - Documents affecting personal affairs	Personal information (signatures) withheld.	The withholding of this information does not detract from the readability of the requested information.	
6.1	2/11/2020 (?)	Native Vegetation Council	Extract of NVC Meeting 230 Minutes	39	2	Partial release	S4(1)(a) - Documents affecting law enforcement and public safety	Names of personnel and contractors withheld.	Due to the subject matter of the document, there is a reasonable expectation those individuals will experience adversity by way of threats or harassment.	
							S9 - Internal Working Document	The document contains provisional advice, which is subject to an ongoing approval process.	Disclosure of the information would: a. reduce the attractiveness and feasibility of doing business with the South Australian government b. reduce the confidence in DEW and the Native Vegetation Council and the application and approval process.	The importance of promoting transparency and openness in government in order to support and enhance the interest the public has in accountability and the good operations of agencies and government.
6.2	10/03/2021	Southern Launch	Map	41	1	Full release				
6.3	Undated poss 09/04/2021	Nature Conservation Society of South Australia	Photos x 3	42	3	Full release				
7	9/06/2021	NVC	Letter (Signed)	45	2	Partial Release	S6(1) - Documents affecting personal affairs	Personal information (signatures) withheld.	The withholding of this information does not detract from the readability of the requested information.	
							S7(1)(b)- Documents affecting busines affairs	The document contains provisional advice, which is subject to an ongoing approval process.	Disclosure of the information would: a. reduce the attractiveness and feasibility of doing business with the South Australian government b. reduce the confidence in DEW and the Native Vegetation Council and the application and approval process.	



Item 14

Meeting 230

TO NATIVE VEGETATION COUNCIL

RE: Southern Launch Facility

THROUGH: MANAGER, NATIVE VEGETATION BRANCH

Critical Date for Action: None

RECOMMENDATIONS

That the Native Vegetation Council:

1. Note the following information and associated presentation regarding the proposed Southern Launch Facility at Whalers Way;
2. Consider if the variation to the Heritage Agreement would be considered seriously at variance with the Principles of clearance under the Native Vegetation Act;
3. Determine if a variation to the Heritage Agreement (HA) would be supported by the Native Vegetation Council to enable the development to proceed.

BACKGROUND

Southern Launch is proposing to construct the Whalers Way Orbital Launch Complex on land located at the southern tip of the Eyre Peninsula, at Whalers Way, Sleaford.

Southern Launch is seeking to establish infrastructure that will support the launch of domestic and international launch vehicles providing Polar and Sun Synchronous Orbit satellite insertion.

Whalers Way has been identified as the preferred location of the launch complex through a review of potential locations across Australia.

The project has been declared as a major Development under the Subsection (1) of Section 46 of the *Development Act 1993*. For the purposes of the major development declaration, the development will include the following features:

- launch pads
- assembly facilities (both temporary and permanent)
- secure block houses, blast walls and firing bunkers
- lightning rods and anemometer towers
- propellant (liquid, hybrid and solid) storage
- diesel power generators and solar arrays
- bunding for blast wave deflection
- office, laboratory and research related facilities
- visitor viewing facilities
- road transport access.

The project is proposed to be constructed on private land that is predominantly covered with native vegetation and is subject to a Heritage Agreement under the *Native Vegetation Act 1991*. The Heritage Agreement was placed on the land in 1988. Attachment 1 provides a map showing the general location of the proposed development and the extent of the Heritage Agreement.

The development aligns with both State and Federal Government priority which seeks to develop a space industry in South Australia. The Australia Space Agency, which is a federal Government Agency, was opened in Adelaide in February of this year. The state Department for Trade, Tourism and

Investment (DTTI) also actively supports the development of the space industry in the State, including through the formation of the South Australian Space Industry Centre (Attachment 2).

DISCUSSION

Environmental values

The Heritage Agreement area is 2,149 hectares in size and is located in the Talia IBRA Subregion and the Mungerowie IBRA Association, which contains 56% and 87% vegetation remnancy respectively.

The HA area is highly exposed to the Great Australian Bight, with shallow and rocky soils or dune systems. As a result, the vegetation is generally characterised by low or very low coastal shrublands which transitions to mallee vegetation further inland with deeper soils and less exposed sites.

The quality of the vegetation on the site varies with some highly disturbed sites with poor condition vegetation in some locations, however a majority of the vegetation is in good condition, with species and structural diversity comparable with what would be expected in the respective vegetation communities.



Example photos of typical vegetation located in the areas of the proposed development.

It is not expected that the site will contain any vegetation communities of conservation significance. However, the site is considered highly likely to provide habitat for a range of threatened species. In particular, the site is known to provide habitat for the following species of conservation significance;

Common name	Species name	NP&W Act	EPBC Act
Diamond Firetail	<i>Stagonopleura guttata</i>	Vulnerable	
Eastern Osprey	<i>Pandion haliaetus</i>	Endangered	Migratory and Marine
Rock Parrot	<i>Neophema petrophila</i>	Rare	
Southern Emu-wren (Eyre Peninsula)	<i>Stipiturus malachurus parimeda</i>	Endangered	Vulnerable
Western Whipbird (eastern)	<i>Psophodes leucogaster leucogaster</i>	Endangered	Vulnerable
White-bellied Sea- Eagle	<i>Haliaeetus leucogaster</i>	Rare	Marine

The HA may also provide core or general habitat for additional threatened species. Detailed assessment, particularly during spring, will be needed to confirm the presence of these species or suitable habitat.

NVC Considerations

Given this project has been declared a Major Development under the *Development Act 1993*, the subsequent clearance associated with the development will be considered under Native Vegetation Regulation 12, Schedule 1; Clause 27 – Major Developments. Under this regulation, clearance of native vegetation is permitted if the environmental impact statement, public environmental report or development report has been provided to the NVC for comment and the comments have been included (wholly or substantially) in the relevant Assessment Report. The NVC must also approve the achievement of the Significant Environmental Benefit (SEB) for the clearance. Therefore, in relation to Major Developments, the NVC is not responsible for approving the clearance of native vegetation, but does make the determination in relation to the SEB.

However, the Major Development regulation does not apply to land that is subject to a Heritage Agreement. Therefore, should the development receive approval, the clearance would not be able to occur on land to which Heritage Agreement applies. In order to enable the clearance to proceed, the Heritage Agreement would need to be varied in order to remove the land that will be impacted by the development from the agreement. Under Section 23 of the Native Vegetation Act, the Minister for the Environment and Water can, with the agreement of the owner of the land, vary or terminate a Heritage Agreement. However, the Minister cannot vary or terminate a Heritage Agreement without first consulting and obtaining the approval of the Native Vegetation Council.

It is understood that Southern Launch are seeking to commence construction for the Whalers Way Orbital Launch Complex in 2021. To provide further context and explanation to the NVC in relation to the selection of the site, the aspects of the development, the steps taken to avoid and minimise clearance and the proposed approach to providing the SEB, the proponents will provide a presentation to the NVC. The proponents are seeking feedback on the proposal and for a level of certainty in relation to the ability for the development to proceed.

Therefore, the NVC needs to consider if, given the details of the proposed development, it is willing to approve a variation to the Heritage Agreement to accommodate development. Noting, this is an indicative approval only at this stage, as the variation of the Heritage Agreement will require the redrafting of the agreement and the approval of the Minister and the owner of the land as well as the NVC. This also provides the NVC an opportunity to provide feedback in relation to other aspect of the development including the impacts on native vegetation and the proposed SEB approach.

In making a decision on the proposed variation to the HA and providing advice, the NVC should have regard to its functions as described under Section 14 of the Native Vegetation Act. In particular, subsection 2 states that in performing a function, or exercising a power, under this Act, the Council must, amongst other things, not act in a manner that is seriously at variance with the principles of clearance of native vegetation.

S6(1)



Adam Schutz
A/Manager
Native Vegetation Branch

ATTACHMENTS

Attachment 1 – Maps of the land subject to the development
Attachment 2 – DTTI Space Industry Flier

Attachment 1



Location of Whalers Way



Extent of Heritage Agreement 148 on Allotment 101 DP71437 in the Hundred of Sleaford

Space industries

DEVELOP. LAUNCH. LEAD.



South Australia's ecosystem.

Here in South Australia we're proud to have fostered a strong relationship between government, industry and academia. Over time, these key relationships have cultivated a highly-skilled workforce, developed cutting-edge research, and delivered labour costs which are around 10 per cent below the Australian average. This competitive environment supports highly profitable investments and makes South Australia a place where your business can truly innovate and grow.

Space industries in our state

South Australia is Australia's space state. The Australian Space Agency is located at innovation neighbourhood Lot Fourteen, alongside a mission control centre and space discovery centre.

The state's space sector is incredibly active with more than 80 organisations, companies and educational institutions and a workforce of approximately 800 people.

The South Australian Space Industry Centre, a cross-government group working with key stakeholders to grow the state's space economy, complements numerous innovative initiatives including a space incubator program, scholarship, internship and work experience program.

South Australia has a long history in the space sector with the Woomera military test range being declared a prohibited area in 1947 and is the largest land testing range in the world.



How we can support you

The South Australian Government has a framework for providing assistance to industry through funds including:

- A\$150 million
Regional Growth Fund
- A\$100 million
Economic and Business Growth Fund
- A\$28 million
Research, Commercialisation and Start Up Fund.

In addition to this support, there is a A\$203 million Skilling South Australia fund to create an extra 20,800 apprenticeships and traineeships. This will help grow business, the economy and provide opportunities for young people in South Australia.

The South Australian Landing Pad is a program established to support eligible companies looking to make their first investment in South Australia. Up to A\$80,000 per eligible business case will be available.

For local industry looking to grow, there is the South Australia Export Accelerator grant, an initiative to assist small to medium sized businesses in South Australia to grow in international markets and create jobs.

The Department for Trade, Tourism and Investment regularly leads both inbound and outbound trade missions – making sure industry connects globally.

Why South Australia?



Through the Adelaide-based Australian Space Agency, Australia aims to grow its market segment from \$3.9 billion to \$12 billion by 2030.



South Australia's global research strengths are led by three world-class universities, the Australian Institute for Telecommunications Research, the Australian Institute for Machine Learning and the Australian Institute for Photonics and Advanced Sensing and the Federal SmartSat Co-operative Research Centre (to be headquartered at Lot Fourteen).

Get in touch

South Australia's Department for Trade, Tourism and Investment has experienced professionals who understand your business requirements and priorities.

www.dtti.sa.gov.au

Contact:

The Department for Trade,
Tourism and Investment

P +61 (8) 8303 2400

E dtti.reception@sa.gov.au



NATIVE VEGETATION COUNCIL

NVC Meeting 230, 4 November 2020

U-City Building, Franklin Street, Adelaide

MINUTES

Present:

Presiding Member

Members

Emily Jenke

Maurice Roche

Natalie Sommerville (via VC)

John Neal

Bob Hill

Apologies: Catherine Hollingsworth, Ross Sawers.

In Attendance:

A/Director, Heritage and Native Vegetation

A/Manager, Native Vegetation Branch

Information not relevant to scope

Governance Officer

A/Coordinator, Governance and Policy (Minutes)

Sarah Reachill

Adam Schutz

Information not relevant to scope

Tina Falcone

Sue Agars

Acknowledgment

Emily Jenke acknowledged the traditional lands that the NVC were meeting upon, Elders of the Kaurna land, and leaders past, present and future.

1. Meeting open

Information not relevant to scope

2. Confirmation of Agenda

Item for Approval

Emily Jenke provided an overview of the Agenda for Meeting 230. Information not relevant to scope

, and guest speakers to present on the Southern Launch facility at Whalers Way, Information not relevant to scope


Information not relevant to scope

APPROVED


3. Declaration of Conflict of Interest

Information not relevant to scope


Information not relevant to scope



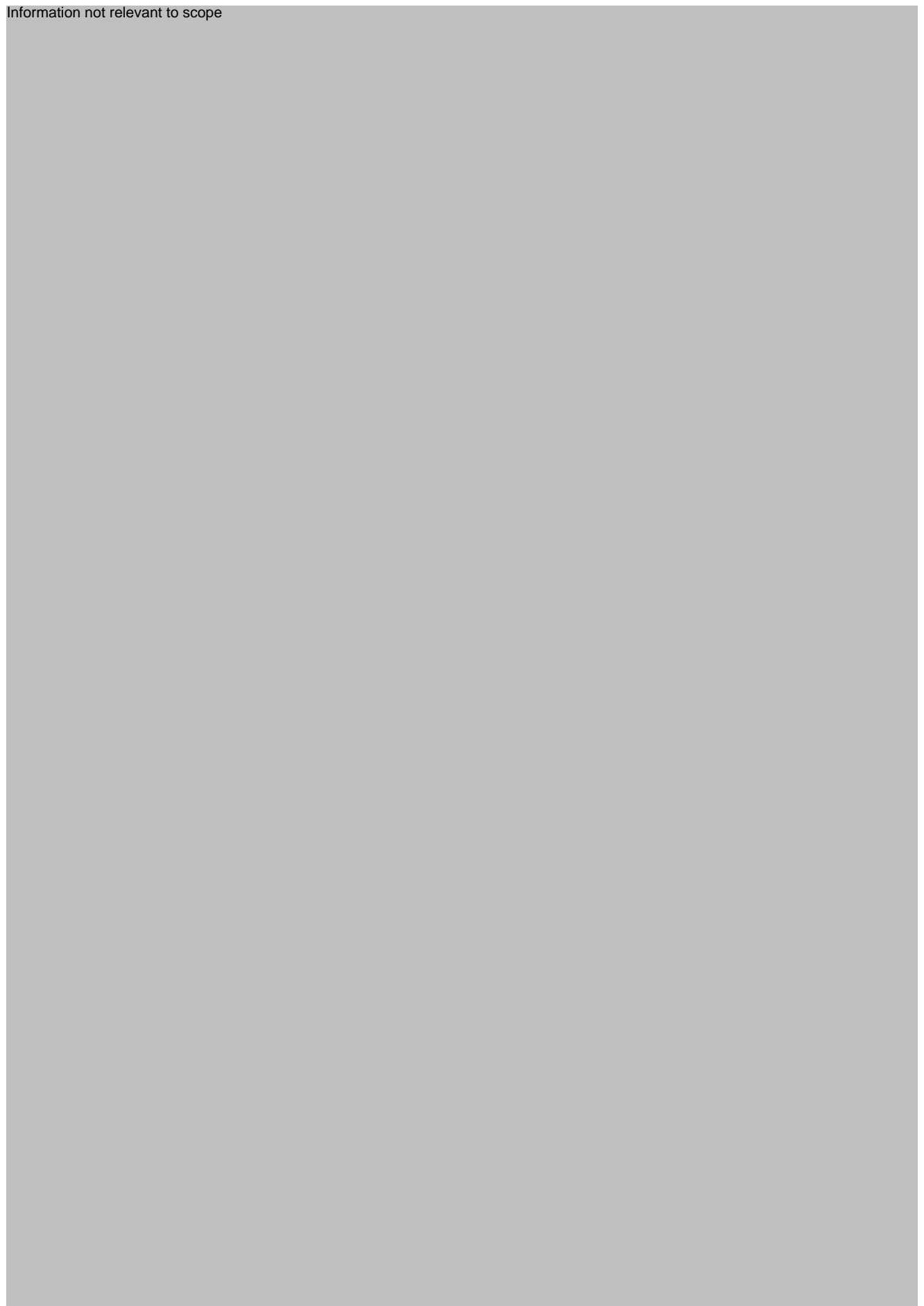
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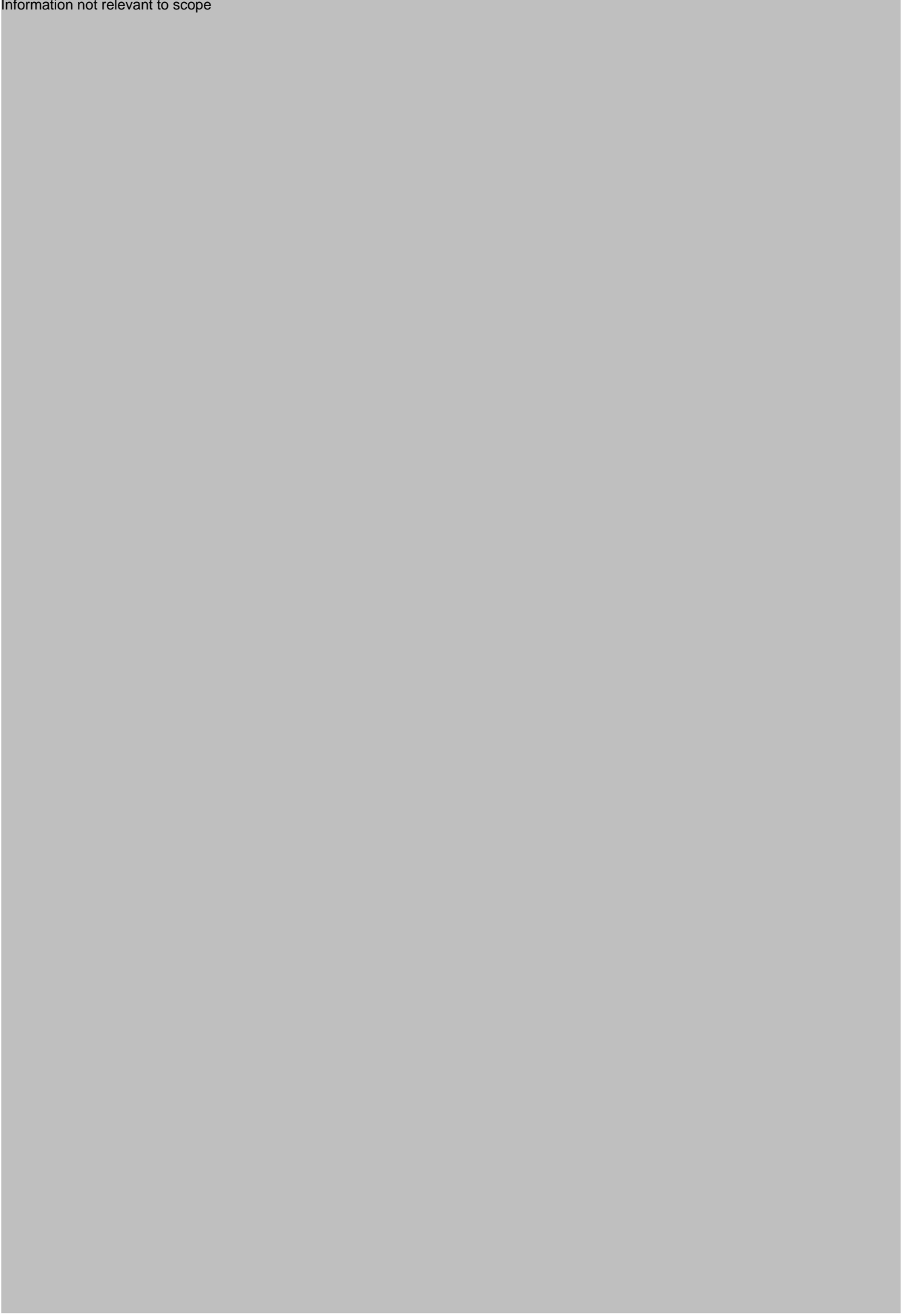
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Information not relevant to scope



Information not relevant to scope



Information not relevant to scope

14. Southern Launch Facility – variation to Heritage Agreement area

Item for Decision

Guest speakers: S4(1)(a) [redacted], Lloyd Damp, S4(1)(a) [redacted] Observers: Brianna Fyffe, Andrew Burnell (DPTI).

Roundtable introductions provided. Applicant advised seeking to reconfigure existing areas not covered by Heritage Agreement (HA) within the Whalers Way site. Development is based on growing demand for small satellites. Currently no suitable multi-user small lift launch sites exist – existing developments are designed to launch large rockets. Proposal is to launch the rockets due south so they travel over the south pole as this avoids disruption on shipping and air travel. Direct ascent to orbit with no lateral turns required. Orbit trajectory reviewed.

Site selection for Whalers Way reviewed. Availability of suitable sites in Australia extremely constrained. Extensive research to determine site undertaken, with two factors influencing – those which affect the ability to launch, and those which impact the accessibility and viability. Weighting reviewed with latitude and launch trajectories, along with coastal access, weather, land size, critical National infrastructure. Other site candidates reviewed. Weighted criteria reduced list to Port Lincoln SA, and Albany WA. Whalers Way freehold with other sites National Parks.

Current licence agreement with land owners entitles time to lease the site for the purpose of the Orbital Launch Complex. Site is 2.640ha. Site currently has large areas of intact vegetation, however some degradation from visitor use. Project proposed for 2 launch sites over approx. 35ha. Anticipated 36 launches per annum, small rockets only. Launch hazard radius based on international Ammunition Technical Guidelines, assessment of blast waves etc. Proposed clearance envelopes reviewed with buffer of 10 metres minimum. Areas of good quality vegetation avoided.

Ecological review, desktop assessment, baseline ecological survey, targeted fauna bird survey, and targeted flora survey conducted. Impact assessment and considerations reviewed. Niche species and habitat with main risk of threatened species is in highly specialised niches such as cliff edges or hollows that maintain moisture. No flora species of conservation significance recorded in the baseline ecology survey or the targeted flora spring survey. West Coast Mint Bush listed as Vulnerable are likely to occur in the Project Area. Fauna results include rare and vulnerable species: White Bellied Sea Eagle, Diamond Firetail, Western Whipbird, and Rock Parrot.

SEB resulting from ecological review impact assessment includes 35.34ha of clearance. Discussion around mitigation - design is around minimising site impact ie. No storm water, animal proof fence, noise reduction methods, anything from the site is removed by road. Constructing water deluge system which sprays out water droplets for noise reduction. Native Title Determination with Naao indicates support. Existing HA agreement is from early 1980's.

Discussion around HA and whether development could fit into exclusion areas. Not possible due to blast zones. A lot of effort has gone into higher impact on highly degraded areas only. Size of HA not to be altered, boundaries moved only. Remaining HA areas to be retained. Hard copies of Biodiversity Management Strategy and Bedrock Study to be provided to NVC (in confidence). Independent monitoring and oversight assured.

Further discussion around impacts to flora and fauna, number of sites, and frequency of launches. Advised launches anticipated to occur early 2021 with proponent seeking in-principle support for variance to HA and enter into a new HA (with added conditions ie. Management Plans, Monitoring etc.), CEMP etc.


S9

Recommendation endorsed by majority vote of members.

APPROVED

Information not relevant to scope

Information not relevant to scope



Information not relevant to scope



MINUTES CONFIRMED

S6(1)



.....
Emily Jenke
Presiding Member
Native Vegetation Council

22/01/2021

S6(1)



.....
Sue Agars
A/Coordinator, Governance and Policy (Minutes)
Native Vegetation Branch

14/1/2021

The Native Vegetation Council

[Open discussions](#)

NVC Action Items

Posted by Adam Schutz on Nov 24, 2020

S6(1)



Hi All

There were two actions out of the last NVC meeting in which draft correspondence was to be provided to the NVC for review. This related to a letter to be sent to Southern Launch to confirm the position of the NVC in response to their presentation regarding the proposal to vary the Heritage Agreement. The second

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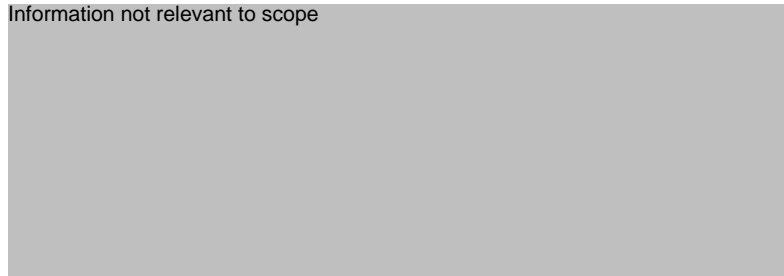
Please review the two documents attached and provide any comments by
COB Thursday the 26 December.

If there are any questions, please let me know.

Thanks

Adam

Information not relevant to scope



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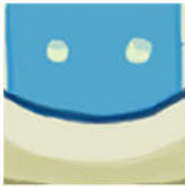
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[Download all of these files](#)

Discuss this message



John Neal

Hi Adam

Looks fine to me

Cheers John N

Posted on Nov 24, 2020



Maurice Roche

Hi Adam,

Information not relevant to scope

On Tuesday, 24 November 2020, 11:26:40 am ACDT, Adam Schutz (Basecamp)

<notifications@basecamp.com> wrote:

Posted on Nov 25, 2020

Information not relevant to scope

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S6(1)



Adam Schutz

Information not relevant to scope



Thanks

Adam

Posted on Nov 25, 2020

S6(1)



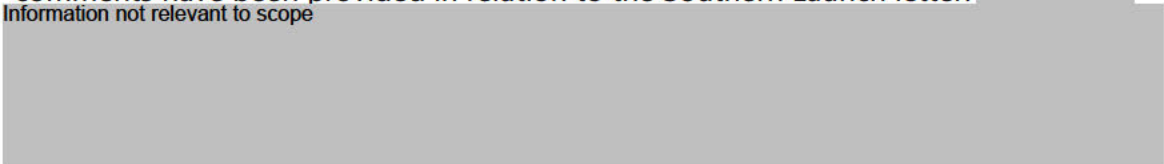
Adam Schutz

Hi all

I note that I accidentally made the end date for any comments for these two items the 26th of December. It was intended to be the 26th of November.

Please let me know if any members have any further comments. Currently no comments have been provided in relation to the Southern Launch letter.

Information not relevant to scope



Could any final comments be provided by COB Monday the 7th of December. If no comments are received, we will proceed with issuing the letters.

Thanks

Adam

Posted on Dec 4, 2020



Bob Hill

I don't have any problems with the Southern Launch letter, it reads well and makes sense to me.

Bob

Posted on Dec 4, 2020



Maurice Roche

Hi Adam,

The Council had indicated their leanings at the meeting but hadn't voted and were waiting on Natalie's response.

I am still very uncomfortable that one of the proposed launch sites is in the optimum habitat for both of the EPBC listed species. I am offended by their dismissal of the Barngarla protestations. I am concerned that the stage 1 sections of the 35 predicted launches per year fall into the sea and will not be recovered.

If the Council agree to this, the conditions regarding:

- the size of the new exclusions matching the existing exclusions
- their commitments to rehabilitation of the degraded sites
- ongoing monitoring (and Departmental oversight of the monitoring) and
- no further clearance for whatever reason, including for fire safety need to be set in stone.

RegardsMaurice

On Friday, 4 December 2020, 02:28:10 pm ACDT, Adam Schutz (Basecamp)

<notifications@basecamp.com> wrote:

|Posted on Dec 4, 2020



Catherine Hollingsworth

Hi Adam

Information not relevant to scope

Posted on Dec 7, 2020



Emily Jenke

Hi all,

Sorry for the delay with this Adam.

Re: Rocket Launch


Maurice re Natalie's response, she and I talked it through and she emailed the branch with her thoughts. I can't find the email - Adam can you flick through her response for Council to see.

I agree re Barngarla engagement - its not good enough, but its not within our remit.

I am happy with the Southern Launch letter.

Information not relevant to scope

Information not relevant to scope



Em

Posted on Dec 8, 2020

S6(1)



Adam Schutz


Hi all

Re Southern Launch

Please find attached a copy of the email correspondence between Emily and Nat regarding this matter.

In relation to the engagement with Barngarla, I agree that this is not within the NVC's remit. However, it might be worth noting that the land that is subject to the proposed development is not within an area of the Barngarla Native Title determination. However the land is within a Native Title application by Nauo People.

Information not relevant to scope



Thanks

Adam

Posted on Dec 8, 2020

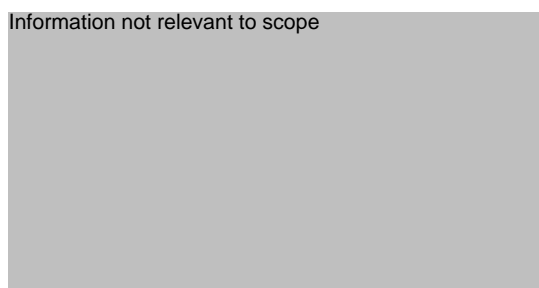
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Native Vegetation Council

Contact: Adam Schutz
Telephone: 8207 7713

81-95 Waymouth Street
Adelaide SA 5000

18 December 2020

GPO Box 1047
Adelaide SA 5001

Southern Launch
C/o Lloyd Damp
Level 8, 70 Pirie Street,
Adelaide, South Australia 5000

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Whalers Way Orbital Launch Complex

Dear Lloyd

The Native Vegetation Council (NVC) would like to thank you, as well as S4(1)(a) for attending the NVC meeting on 4 November 2020 to discuss Southern Launch's proposed Whalers Way Orbital Launch Complex. The NVC appreciated the opportunity to discuss the project and to consider the actions that Southern Launch are proposing to undertake to minimise and mitigate the impacts of this project on native vegetation and native fauna.

The Whalers Way Orbital Launch Complex is located on land at the southern tip of the Eyre Peninsula, at Whalers Way, Sleaford. It is understood that Whalers Way has been identified as the preferred location of the launch complex through a review of potential locations across Australia.

Southern Launch is seeking to establish infrastructure that will support the launch of domestic and international launch vehicles providing Polar and Sun Synchronous Orbit satellite insertion.

The project has been declared as a major Development under the Subsection (1) of Section 46 of the *Development Act 1993* and is intended to include the follow components;

- assembly facilities (both temporary and permanent)
- secure block houses, blast walls and firing bunkers
- lightning rods and anemometer towers
- propellant (liquid, hybrid and solid) storage
- diesel power generators and solar arrays
- bunding for blast wave deflection
- office, laboratory and research related facilities
- visitor viewing facilities
- road transport access.

The project is proposed to be constructed on private land that is predominantly covered with native vegetation and is subject to a Heritage Agreement under *the Native Vegetation Act 1991*. The Heritage Agreement was placed on the land in 1988.

Given this project has been declared a Major Development under the *Development Act 1993*, the subsequent clearance associated with the development will be considered under Native Vegetation Regulation 12, Schedule 1; Clause 27 – Major Developments. Under this regulation, clearance of native vegetation is permitted if the environmental impact statement, public environmental report or development report has been provided to the NVC for comment and the comments have been included



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of South Australia

(wholly or substantially) in the relevant Assessment Report. The NVC must also approve the achievement of the Significant Environmental Benefit (SEB) for the clearance. Therefore, in relation to Major Developments, the NVC is not responsible for approving the clearance of native vegetation, but does make the determination in relation to the SEB.

However the Major Development regulation does not apply to land that is subject to a Heritage Agreement. Therefore, should the development receive approval, the clearance would not be able to occur on land to which Heritage Agreement applies. In order to enable the clearance to proceed, the Heritage Agreement would need to be varied in order to remove the land that will be impacted by the development from the agreement. Under Section 23 of the Native Vegetation Act, the Minister for the Environment and Water can, with the agreement of the owner of the land, vary or terminate a Heritage Agreement. However, the Minister cannot vary or terminate a Heritage Agreement without first consulting and obtaining the approval of the NVC.

The NVC would like to acknowledge that the land that is subject to the development is of high ecological value, representing an extensive area of high quality native vegetation and critical habitat for native fauna including a number of both State and Nationally threatened species. The value of the site is further enhanced through the area being formally protected for more than 30 years, for the purpose of preserving these values. Such areas should be avoided from any form of development where ever possible.

In relation to this development, Southern Launch have provided information indicating that there are a unique and relatively inflexible set of requirements that need to be met when determining an appropriate location for a rocket launching facility. The NVC understands that it is these requirements that has led to the selection of the proposed site of the development, and that there are limited alternative viable options available. It is also acknowledged by the NVC, that whilst the subject land has been protected by a Heritage Agreement since 1988, there are some parts that have been degraded through past clearance and recreational related activities. Additionally, the Heritage Agreement itself contains a number of exclusion areas, being areas that are not subject to the agreement, that are scattered through the Heritage Agreement. Therefore, it is likely that a level of development was anticipated to occur within the Heritage Agreement when it was first established, and that such development could potentially still occur.

In the presentation provided by Southern Launch to the NVC on 4 November 2020, Southern Launch proposed that in order to accommodate the development on the site, that Southern Launch, on behalf of the owners of the land, will request to have the Heritage Agreement varied by moving and consolidating the existing exclusion areas into the locations of the proposed development. Southern Launch asserted that this approach would leave the overall size the Heritage Agreement largely unchanged. Southern Launch also committed to using the existing vehicle tracks on site for access and placing elements of the development in the more degraded areas of vegetation where possible. Southern Launch also indicated that degraded areas that remain within the Heritage Agreement will be managed and improved, through ecological restoration activities.

S7(1)(b)



S7(1)(b)



If you have any questions, please contact Adam Schutz on 8207 7713 or adam.schutz@sa.gov.au

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Emily Jenke', is positioned above the printed name.

Emily Jenke
Presiding Member
NATIVE VEGETATION COUNCIL



NATIVE VEGETATION COUNCIL

NVC Meeting 232, 6 May 2021

Department for Environment and Water, 81-95 Waymouth Street, Adelaide

Acknowledgment

The NVC acknowledges Aboriginal people as the First Peoples and Nations of the lands and waters we live and work upon and we pay our respects to their Elders past, present and emerging. We acknowledge and respect the deep spiritual connection and the relationship that Aboriginal and Torres Strait Islander people have to Country.

MINUTES

Present:

Presiding Member
Members

Vaughan Levitzke
Robert Hill
Melissa McCallum
John Neal
Ross Sawers

Apologies:

In Attendance:

Executive Director, Environment, Heritage & Sustainability
Director, Heritage and Native Vegetation
Manager, Native Vegetation
Coordinator, Assessments and Stakeholder Liaison
Coordinator, Governance and Policy


Cate Hart (for first hour)
Merridie Martin (absent items 10&11)
Sarah Reachill
Adam Schutz
Jennifer Jones

Visitor(s):


Senior Business Officer

Cerise Cumow (Item 18)


Information not relevant to scope




Information not relevant to scope



Information not relevant to scope




Information not relevant to scope



Information not relevant to scope

19.	NCV Correspondence Item for Approval	19.1 Letter of Concern from NCSSA re HA 148 Whalers Way Advice was requested from NVC re a response. Information not relevant to scope	Council approved NVB to draft response	Sarah Reachill A draft response on behalf of NVC will be prepared by Manager, Native Vegetation.
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Information not relevant to scope



MINUTES CONFIRMED

S6(1)



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Vaughan Levitzke
Presiding Member
Native Vegetation Council
23/07/2021

S6(1)



Jennifer Jones
Coordinator, Governance and Policy (Minutes)
Native Vegetation Branch
23/07/2021



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Hindmarsh SA 5000

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Website: www.ncssa.asn.au

Emily Jenke
Presiding Member
Native Vegetation Council
emily@democracyco.com.au

cc: David Speirs, MP
Minister for the Environment
minister.speirs@sa.gov.au

cc: Sarah Reachill
A/g Director, Heritage and Native Vegetation
Sarah.Reachill@sa.gov.au

13 April 2021

Re: Protection of Heritage Agreement 148 at Whalers Way on the Eyre Peninsula

Dear Ms Jenke,

The Nature Conservation Society of South Australia (NCSSA) is deeply concerned about the protection of Heritage Agreement number 148, on the southern tip of Eyre Peninsula, in an area known as Whalers Way.

According to the minutes of the Native Vegetation Council (NVC) meeting number 230, held on 4 November 2020, the NVC received a presentation from Southern Launch, the company proposing to develop a rocket launching facility at this site (see **Attachment A** for relevant extract).

The NCSSA undertook a site visit to Whalers Way on 9 April 2021, hosted by Southern Launch, and is deeply concerned that:

1. *The information presented to the NVC was inaccurate and incomplete.*

The minutes include the statement that 'Areas of good quality vegetation avoided', whereas the area earmarked as Site A for the larger of the two proposed rocket launch pads in the map at **Attachment B** is untouched coastal heath and certainly 'good quality vegetation'. There is some visitation impact at Site B and it is adjacent to a disturbed area, however, the majority of that site which is earmarked for the launchpad itself is also 'good quality' vegetation and/or naturally occurring bare ground. Photos of Site A and Site B are included at **Attachment C**.

The NCSSA therefore asserts that the statement 'A lot of effort has gone into higher impact on highly degraded areas only' from the minutes is inaccurate. The NCSSA acknowledges that there are some areas of degraded vegetation within the Heritage Agreement, particularly in the vicinity of the "workshop area" as marked on the map at **Attachment B** and reflected in the photo in **Attachment C**. However, the NCSSA understands that the majority of the proposed clearance for

both the launch pads and most of the associated infrastructure will be in areas of good quality native vegetation.

A glaring omission from the list of species of conservation concern at the site, as recorded in the minutes, is the Southern Emu-Wren (Eyre Peninsula, *Stipiturus malachurus parimeda*), listed as vulnerable under the *Environment Protection and Biodiversity Conservation Act 1999*¹. The NCSSA understands that the next edition of the Action Plan for Australian Birds (in press) will recommend the status of this species be up-listed to 'endangered'. The same is true for the Western Whipbird, also currently listed as vulnerable, which is referenced in the minutes.

The following statement from the minutes does not accord with the NCSSA's understanding of the site: "Niche species and habitat with main risk of threatened species is in highly specialised niches such as cliff edges or hollows that maintain moisture".

The NCSSA therefore strongly recommends the NVC seek independent advice on the condition of the entire Heritage Agreement area, as well as the specific areas which will be cleared if this proposed development is approved. The NCSSA strongly suggests an accredited NVC consultant should provide such advice, including accurately mapping the true extent of disturbance and degradation at the site, particularly around the "workshop area".

In the interim, the NCSSA would be willing to present to the NVC on its understanding of the site and its condition, if that would be helpful to the NVC.

2. *A Heritage Agreement is between the Minister for Environment and the landowner.*

As far as the NCSSA understands, a Heritage Agreement is between the Minister for the Environment and the landowner. The NCSSA strongly suggests the NVC undertake due diligence to ensure that the landowner wishes to vary the Heritage Agreement in the manner that has been suggested by the company and/or that the company is entitled to seek a variation to the Heritage Agreement on the landowner's behalf.

3. *Expansion of the proposal in future, and true extent of clearance/impact of development*

The NCSSA notes from the minutes that the NVC was advised of two launch pads over an area of approximately 35 hectares, which presumably indicates the size of the area likely to be impacted.

The NCSSA is concerned that the State Planning Commission's 'Guidelines for the preparation of an Environmental Impact Statement: Whalers Way Orbital Launch Complex' (July 2020) state that up to six launchpads could be developed at the site. The NCSSA therefore seeks clarity as to how the development, if approved, will be prevented from expanding in future, resulting in further damage and degradation to the area.

The NCSSA is also concerned about fire risk at the site, and suggests the NVC should seek clarity as to what further impact to the site will result from the need to address this risk. This is particularly in terms of the likely need to establish additional new tracks and/or widen existing tracks to improve access, as well as the establishment of asset protection and bushfire buffer zones around the new infrastructure, if the development is approved.

¹ https://www.environment.gov.au/cgi-bin/sprat/public/publicspecies.pl?taxon_id=26006

As the NVC would be well aware, the making of a Heritage Agreement with a landowner represents a binding, long-term commitment to biodiversity conservation. The NCSSA is deeply concerned that allowing an industrial development within a Heritage Agreement sets a very poor precedent regarding the perceived value of these areas both for biodiversity conservation as well as more generally to the community.

The NCSSA is unclear as to the status of this particular agreement in light of the 'approved recommendation' as minuted, and respectfully asks for clarity as to whether or not the Heritage Agreement has been amended on the property title 'to enable the development to proceed'.

Yours sincerely,

S6(1)



Patrick O'Connor

President

Attachment A

Extract from the minutes of Native Vegetation Council meeting number 230, held on 2 November 2020**Present:**

Presiding Member Emily Jenke
 Members Maurice Roche
 Natalie Sommerville (via VC)
 John Neal
 Bob Hill

Apologies: Catherine Hollingsworth, Ross Sawers.

In Attendance:

A/Director, Heritage and Native Vegetation Sarah Reachill
 A/Manager, Native Vegetation Branch Adam Schutz
 Native Vegetation Officer Peter Farmer (Items 12 & 13)
 Governance Officer Tina Falcone
 A/Coordinator, Governance and Policy (Minutes) Sue Agars

**14. Southern Launch Facility – variation to Heritage Agreement area
Item for Decision**

Guest speakers: S4(1)(a)

Observers: Brianna Fyffe, Andrew Burnell (DPTI).

Roundtable introductions provided. Applicant advised seeking to reconfigure existing areas not covered by Heritage Agreement (HA) within the Whalers Way site. Development is based on growing demand for small satellites. Currently no suitable multi-user small lift launch sites exist – existing developments are designed to launch large rockets. Proposal is to launch the rockets due south so they travel over the south pole as this avoids disruption on shipping and air travel. Direct ascent to orbit with no lateral turns required. Orbit trajectory reviewed.

Site selection for Whalers Way reviewed. Availability of suitable sites in Australia extremely constrained. Extensive research to determine site undertaken, with two factors influencing – those which affect the ability to launch, and those which impact the accessibility and viability. Weighting reviewed with latitude and launch trajectories, along with coastal access, weather, land size, critical National infrastructure. Other site candidates reviewed. Weighted criteria reduced list to Port Lincoln SA, and Albany WA. Whalers Way freehold with other sites National Parks.

Current licence agreement with land owners entitles time to lease the site for the purpose of the Orbital Launch Complex. Site is 2.640ha. Site currently has large areas of intact vegetation, however some degradation from visitor use. Project proposed for 2 launch sites over approx. 35ha. Anticipated 36 launches per annum, small rockets only. Launch hazard radius based on international Ammunition Technical Guidelines, assessment of blast waves etc. Proposed

clearance envelopes reviewed with buffer of 10 metres minimum. Areas of good quality vegetation avoided.

Ecological review, desktop assessment, baseline ecological survey, targeted fauna bird survey, and targeted flora survey conducted. Impact assessment and considerations reviewed. Niche species and habitat with main risk of threatened species is in highly specialised niches such as cliff edges or hollows that maintain moisture. No flora species of conservation significance recorded in the baseline ecology survey or the targeted flora spring survey. West Coast Mint Bush listed as Vulnerable are likely to occur in the Project Area. Fauna results include rare and vulnerable species: White Bellied Sea Eagle, Diamond Firetail, Western Whipbird, and Rock Parrot.

SEB resulting from ecological review impact assessment includes 35.34ha of clearance. Discussion around mitigation - design is around minimising site impact ie. No storm water, animal proof fence, noise reduction methods, anything from the site is removed by road. Constructing water deluge system which sprays out water droplets for noise reduction. Native Title Determination with Nauo indicates support. Existing HA agreement is from early 1980's. Discussion around HA and whether development could fit into exclusion areas. Not possible due to blast zones. A lot of effort has gone into higher impact on highly degraded areas only. Size of HA not to be altered, boundaries moved only. Remaining HA areas to be retained. Hard copies of Biodiversity Management Strategy and Bedrock Study to be provided to NVC (in confidence). Independent monitoring and oversight assured.

Further discussion around impacts to flora and fauna, number of sites, and frequency of launches. Advised launches anticipated to occur early 2021 with proponent seeking in-principle support for variance to HA and enter into a new HA (with added conditions ie. Management Plans, Monitoring etc.), CEMP etc.

S9



Recommendation endorsed by majority vote of members. **APPROVED**

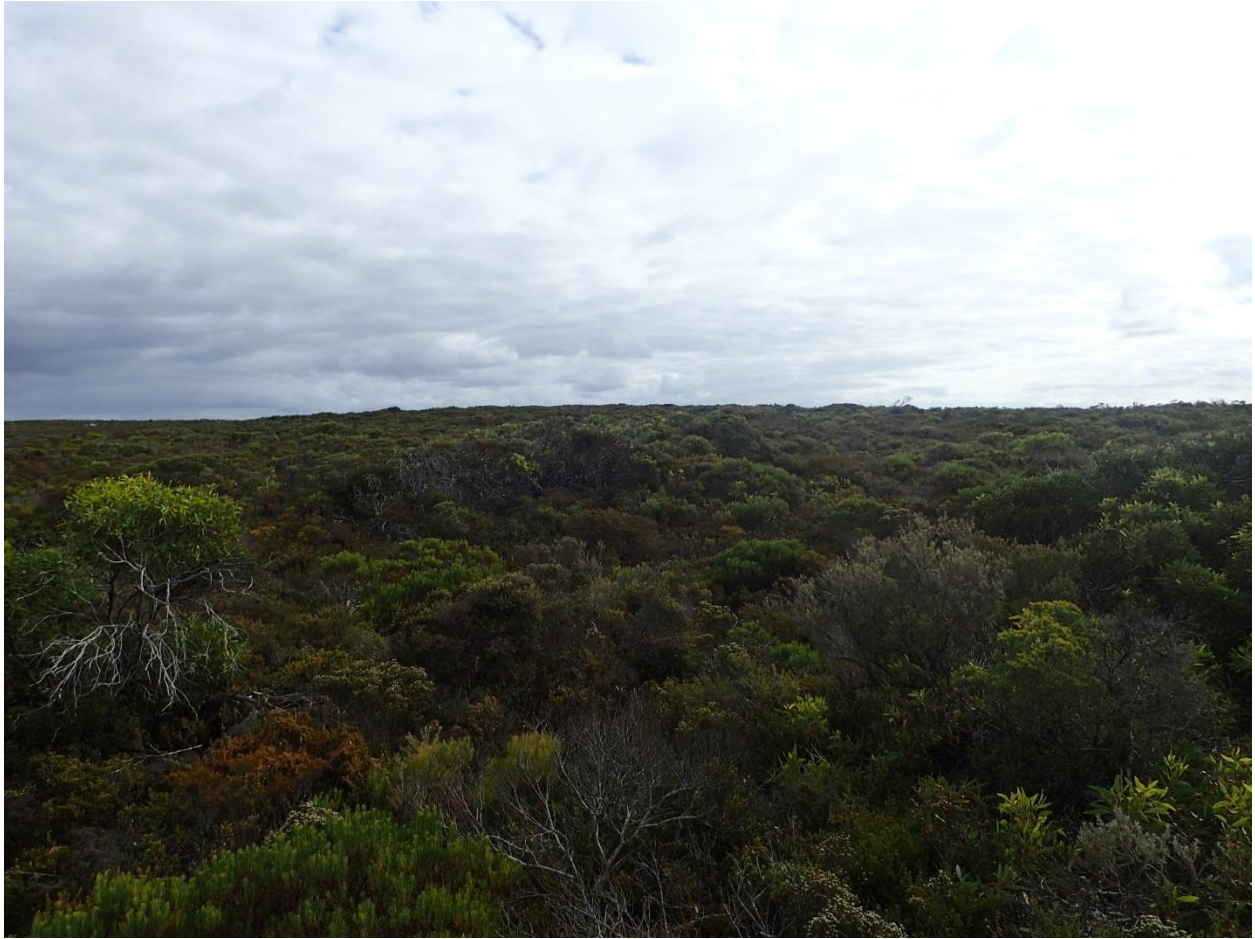
Attachment B



Concept layout for future Whaler's Way Orbital Launch Complex showing the planned two launchpads (credit: Southern Launch)

Provided by Southern Launch to *The Advertiser* as part of a media release dated 10 March 2021

Attachment C



The proposed 'Site A' for the larger of the two launch pads – good quality, intact coastal heath vegetation



The proposed 'Site B', which is adjacent to a road and some disturbed areas, but is either good quality native vegetation or naturally occurring bare ground



The proposed 'workshop area', showing damage from visitation (tyre marks) and historical grazing



Native Vegetation Council

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9 June 2021

Mr Patrick O'Connor
President
Nature Conservation Society of South Australia
5 Milner Street
HINDMARSH SA 5000

Dear Patrick

Re: Heritage Agreement 148 at Whalers Way

Thank you for your letter dated 13 April 2021 to Ms Emily Jenke, regarding your concerns about the protection of Heritage Agreement 148 at Whalers Way on the Eyre Peninsula. Although not present on 2 November 2020, as the Presiding Member of the Native Vegetation Council (NVC), I am pleased to respond to your letter.

I note your concerns with the information presented to the NVC, specifically regarding the description of the vegetation quality onsite and threatened species habitat. Thank you for providing your understanding of the site, informed by your recent site visit, and your offer to present to the NVC.

As you may be aware, the NVC is supported by members of the Native Vegetation Branch (the Branch). In the course of the statutory assessment process, the Branch has been provided with additional technical documentation for consideration. Key members of the Branch and departmental ecology experts have also undertaken a site visit and have an understanding of the vegetation at each of the proposed development sites. In addition to the presentation made by Southern Launch, I am informed that the Council were briefed by the Branch regarding the environmental values of the site and the Heritage Agreement (HA). Please be assured that, although reference to the Southern Emu-Wren (Eyre Peninsula) (*Stipiturus malachurus parimeda*) was omitted from the presentation, the NVC are aware that the site provides habitat for threatened species, including the Southern Emu-Wren.

Regarding your suggestion to obtain independent advice on the condition of the vegetation within the HA, the State Planning Commission's Guidelines (SPC Guidelines) require a Data Report to be prepared by an NVC Accredited Consultant. Furthermore, a Fauna and Flora Assessment and Management Plan is required to be submitted as part of the Environmental Impact Statement (EIS). The combination of reports is intended to ground truth the existing conditions and identify the potential impacts on State and Nationally threatened species and their habitats.

The current documentation proposes two launch pads and associated infrastructure, with an extent of approximately 35 hectares. Assuming the forthcoming EIS includes two launch pads, the Branch will contribute to the technical assessment of this extent. The process to develop any additional launch pads will require further information, an additional assessment and an amendment to the EIS. Regarding your concerns about the impact of managing the fire risk onsite, the SPC Guidelines require the EIS to address this matter and quantify the impact on native vegetation.

Under the *Native Vegetation Act 1991*, variations to Heritage Agreements require the written consent of three parties; being the current landowner, the NVC and the Minister for Environment and Water. Although the current landowner, Theakstone Property Pty Ltd, has entered into a lease with Southern Launch over a portion of Allotment 101, the landowner retains the obligations of the HA, including the responsibility of executing any variation.

S7(1)



Yours sincerely

S6(1)



Vaughn Levitzke
Presiding Member
Native Vegetation Council