

16 December 2016

Mr Rasmus Moerch
Economic Regulation Authority
Level 4, Albert Facey House
469 Wellington Street
PERTH WA 6000

CONFIDENTIAL

Dear Sir,

Electricity Distribution Licence EDL2 & Electricity Retail Licence ERL2 – Application to Amend Licences

BHP Billiton Nickel West Pty Ltd (Nickel West) is the licensee under the following:

1. Electricity Distribution Licence (EDL2), the current version of which was issued on 5 September 2016; and
2. Electricity Retail Licence (ERL2), the current version of which was issued on 7 July 2016.

Enclosed, for your attention is a completed Licence Application Form seeking amendments to EDL2 and ERL2 in respect of the “licence area” under those licences. This letter provides additional background information to the amendments sought.

Background

The licence areas under EDL2 and ERL2 are comprised of two distinct areas. An area of land in the vicinity of Kambalda in the southern Goldfields as depicted on a plan with the identifier ERA-EL-071(B), and an area of land to the north of the Goldfields Highway in the vicinity of and including the Town of Leinster as depicted on a plan with the identifier ERA-EL-070(B). Plan ERA-EL-070(B) was recently revised for the purposes of Nickel West’s retail licence ERL2 to ensure it accurately reflects the point of supply for Agnew Gold Mining Company Pty Ltd. Plan ERA-EL-070(C) is now referenced in ERL2 in place of ERA-EL-070(B).

Following the recent Performance Audit and Asset Management Review undertaken by Cardno in August 2016 (PAAMR 2016), Nickel West has reviewed the licence areas under EDL2 and ERL2 and has concluded that the areas are larger than necessary to cover the activities required to be licensed under the *Electricity Industry Act 2004* (EIA).

The nature and extent of Nickel West’s distribution network and electricity supply activities in the Northern Goldfields are conveniently summarised in the 2006 Network Quality and Reliability Report (NQ&R Report 2006) prepared by SKM and available on the ERA’s website¹. The NQ&R Report 2006 states on page 2:

¹ <http://www.erawa.com.au/cproot/5037/2/BHP%20Billiton%202006%20Network%20Quality%20%20Reliability%20Report.pdf>

The Northern System is an isolated system owned and operated for the most part by Southern Cross Energy. Nickel West has retained ownership of a portion of this distribution network specifically servicing the Nickel West bore fields and the township of Leinster. Leinster is a closed town by invitation from Nickel West and provides residential accommodation and service facilities to their mine site at Leinster and to Agnew Gold employees. The township of Leinster consists of approximately 280 houses and commercial premises and electricity is supplied without charge to both the domestic dwellings and commercial premises.

This description remains current, with Cardno stating in the PAAMR 2016 report² at page ii that:

The northern distribution system is the Leinster town site with less than 300 connections to consumers but who are not considered customers as electricity is not retailed to the consumer.

In the report prepared following the Asset Management Review undertaken in 2013³, McGill Engineering made the following observation at page 5:

The Leinster site only self supplies or supplies to commercial/residential occupants under the control and management of the Licensee and could therefore be exempt from Licensing.

Nickel West has given further consideration to the requirement to maintain the township of Leinster within the licence areas for EDL2 and ERL2 in light of this statement and has concluded that its activities are either not required to be licensed or are covered by existing exemptions under the EIA. In particular, the *Electricity Industry Exemption Order 2005* (EI Exemption Order) contains exemptions from the requirement under section 7(3) of the EIA to hold a distribution licence as follows:

- Where the distribution system is solely used for the transportation of electricity for consumption on commercial premises under the control or management of the supplier (clause 4(3)); and
- Where the distribution system is solely used for the transportation of electricity for consumption on residential premises under the control or management of the supplier (clause 5(2)).

For the purposes of these exemptions, premises are deemed to be under the control or management of the supplier if the supplier is the owner of the premises (Clauses 4(5) and 5(4) of the EI Exemption Order). Nickel West is the owner of all commercial and residential premises in Leinster supplied with electricity via the Northern Distribution System.

Nickel West notes that the exemption under Clause 5(2) is subject to the conditions in Clauses 6(4) to 6(9). For the most part those conditions do not apply given none of the electricity entities mentioned are involved in the Northern Distribution System. Clause 6(7) requiring certain information to be made available to each resident is potentially applicable. As each of the residential premises is separately metered for electricity, Nickel West is able to provide the information required under this clause if requested. As observed by Cardno in the PAAMR 2016 report (at page ii), Nickel West supplies the premises in Leinster without charge, so the requirement to provide details of the fees and charges payable will not apply.

In relation to ERL2, the requirement to hold a retail licence arises because under section 7(4) of the EIA, a person is prohibited from selling electricity to customers except under the authority of a licence. As

² <https://www.erawa.com.au/cproot/14457/2/FINAL%20-%202016%20Audit%20-%20Review%20Report%20-%20EDL002%20-%20ERL002%20-%20BHP%20Billiton%20Nickel%20West.PDF>

³ <https://www.erawa.com.au/cproot/11581/2/2013%20Review%20report%20BHP%20Billiton%20Nickel%20West.pdf>

noted, however, Nickel West supplies premises in Leinster without charge and so is not engaged in the sale of electricity. In fact, ERL2 explicitly excludes the sale of electricity to small use customers from the authorisation under the licence (Item 4.1 of Schedule 1).

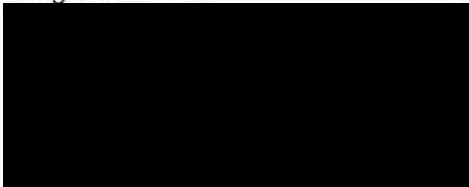
Amendments Sought

In accordance with clauses 10.1 of EDL2 and ERL2 and section 21 of the EIA, Nickel West is applying to amend those licences to remove the township of Leinster from the licence areas. In the case of EDL2, this will be achieved by deleting entirely the reference to Plan No. ERA-EL-070(B). In the case of ERL2, this will be achieved by revising the licence area so that it is as depicted on the plan attached as Attachment 1.

Nickel West submits that these amendments to EDL2 and ERL2 would reduce unnecessary administrative burden on both the licensee and the ERA given that the activities undertaken by Nickel West in relation to Leinster are either not required to be licensed or are exempt from the requirement to be licensed under the EIA.

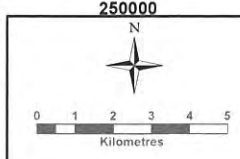
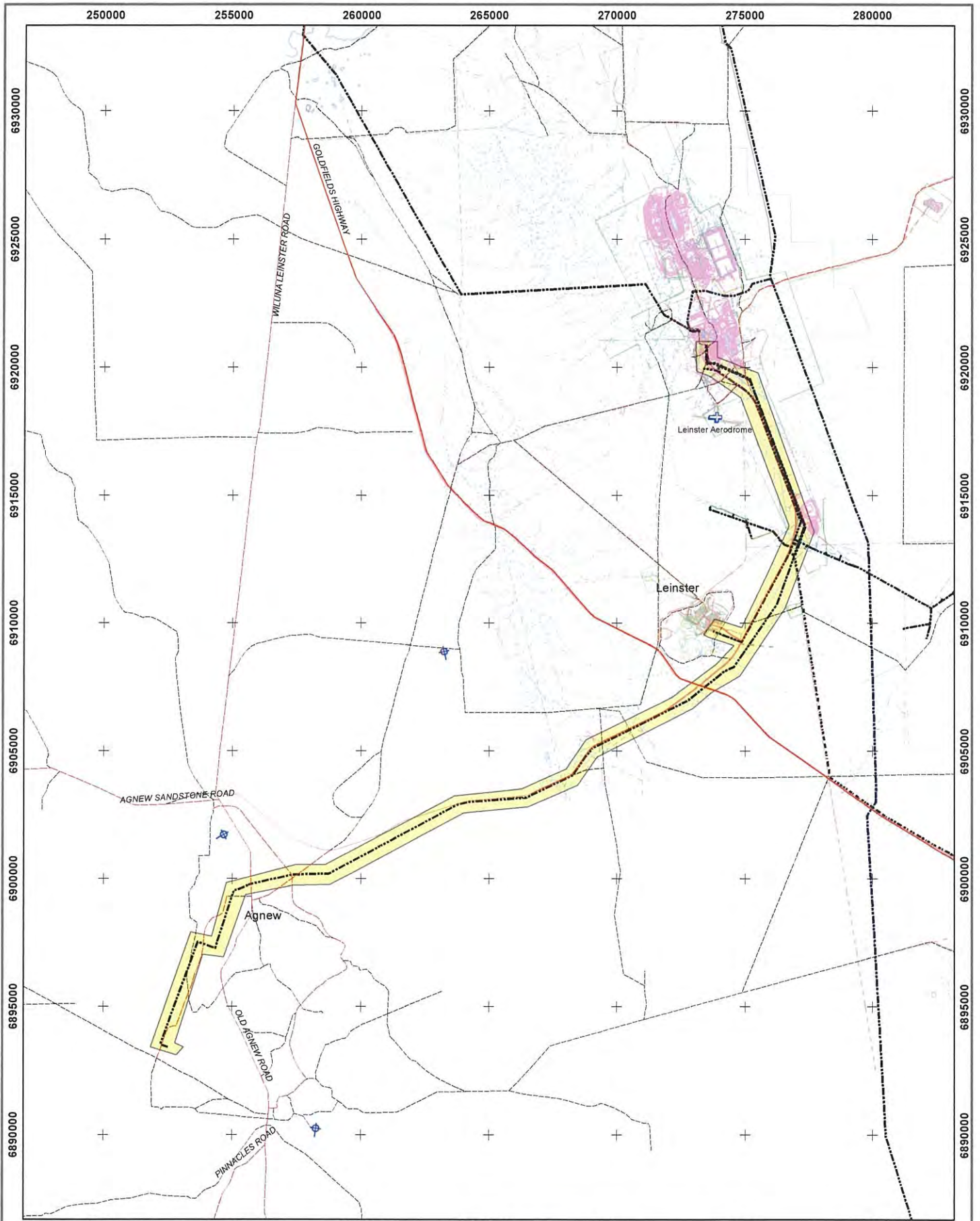
We would be pleased to provide any further information you require in order to consider this application. Please direct any enquiries to Esther Croukamp on 6321 3562.

Regards

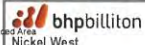


Karl Stokes
Manager Integrated Operations

Attachment 1
Proposed Revised Plan for ERL2 (to become Plan ERA-EL-070(D))



- | | | | |
|-------------------|--------------------|------------------|----------------|
| — Sealed road | — Drainage channel | — Communication | — Golf course |
| — Unsealed road | — Buildings | — Powerline | — Oval |
| — Track | — Bridge | — Fencing/yard | — Snail trails |
| — Mining activity | — Culvert | — Clearing | — Grid line |
| — Lake | — Dam/Bore/Well | — Embankment | — Breakaway |
| — Stream | — Tanks | — Fire break | — Relief |
| — Wash area | — Pipeline | — Landing ground | — Vegetation |
| | | — PowerLines | |


bhpbilliton
 Nickel West
 Author: F. Eshraghi
 Date: 4/11/2016
 Scale: 1:135,000

LEINSTER NICKEL OPERATION
 Map Showing Electrical Licence Area
 Ref: ERA-EL-070-D
 Map ID: NLN_area_powerlines.mxd

Projection Details: MGA Zone 51

