

To: Greg Manning, Assistant Secretary, Assessments (WA, SA, NT) and Post Approvals Branch
(for decision)

**Assessment Approach Decision Brief – Shamrock Station Irrigation Project, West Kimberley, WA
(EPBC 2017/8004)**

Timing: ASAP – statutory deadline was 4 September 2017

s22 - out of scope - irrelevant material

Recommendations

s22 - out of scope - irrelevant material

2. Agree to the fee schedule with justifications (Attachment C) and that the fee schedule without justifications (Attachment B1a) be sent to the proponent, noting that the proponent has claimed exemption from cost recovery under section 520(4C)(e)(v) of the EPBC Act.

Agreed / Not agreed

s22 - out of scope - irrelevant material

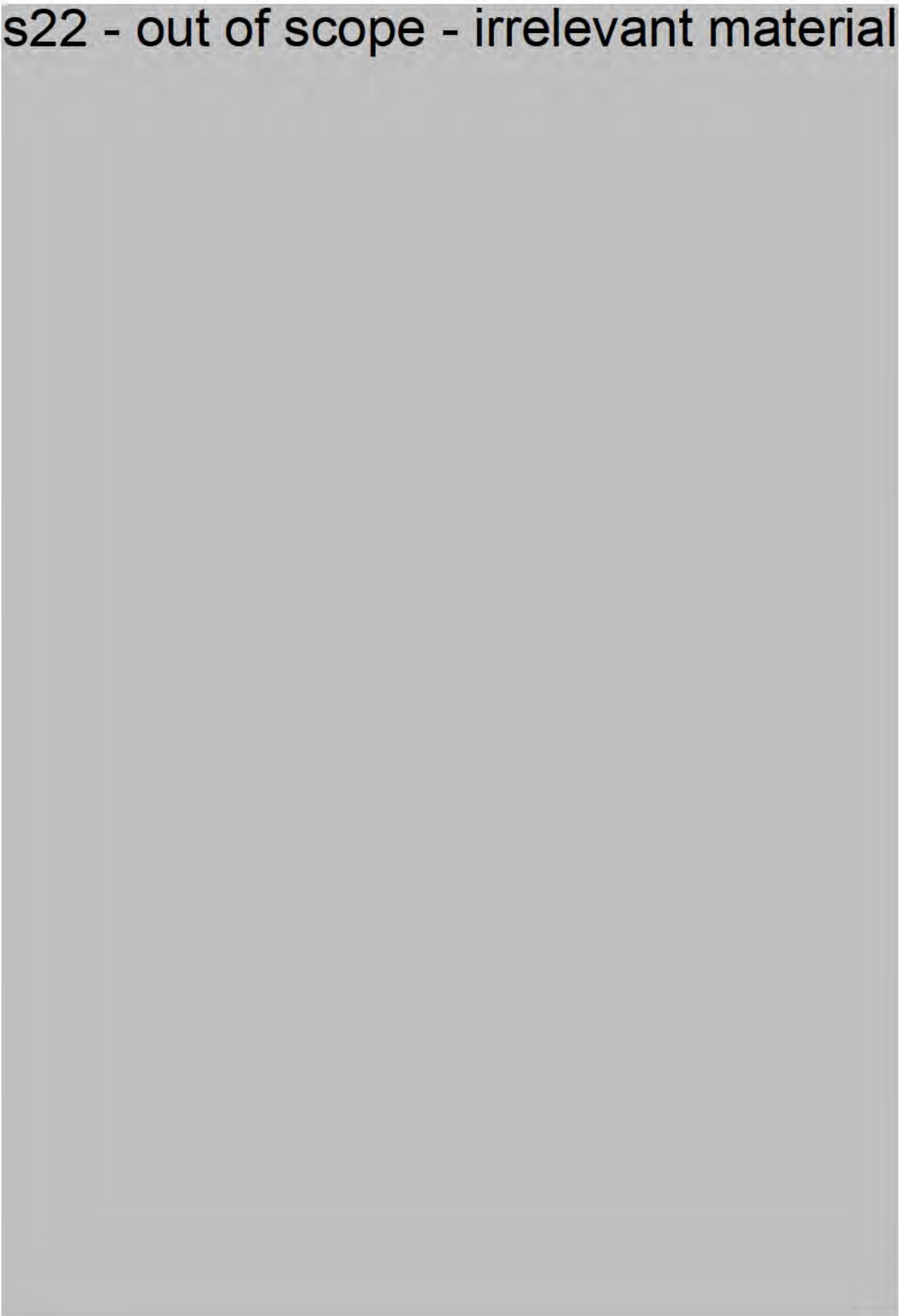
Date:

13/6/18

Greg Manning
Assistant Secretary
Assessments (WA, SA, NT) and Post Approvals Branch

Comments:

s22 - out of scope - irrelevant material



s22 - out of scope - irrelevant material

7. On 28 March 2018, the proponent wrote to the Minister, seeking reconsideration of the decision that the action is a controlled action ([Attachment F1](#)). A delegate responded on 26 April 2018, advising the proponent that the request for reconsideration was not valid, and inviting the proponent to resubmit with further information in line with the requirements of section 78A of the EPBC Act ([Attachment F2](#)).

s22 - out of scope - irrelevant material



s22 - out of scope - irrelevant material

s22 - out of scope - irrelevant material

14. As part of the Department's response to the proponent's request for reconsideration, you advised the proponent that the Department will continue with the assessment until a valid notice is received, so as not to unduly delay the process. If the proponent submits a valid request for reconsideration after the assessment approach is made, the assessment will be put on hold, in accordance with section 78A, until the reconsideration decision is made.

Cost Recovery

15. The proponent has claimed exemption from cost recovery on the basis of being a small business. The Department believes, on the basis of assertions made by the proponent in its request for reconsideration (Attachment F1), that this may have been an error. For example, the proponent refers to several other entities related to it, and significant outlays having been made in relation to the project, such as \$100 million spent to acquire stations in Western Australia, and investment of \$50 million in the project (Attachment F1).
16. Therefore, the Department intends to seek evidence of small business status in accordance with regulation 5.23A. This request has been incorporated into the letter to the proponent at Attachment B1.
17. The fee schedule with justifications is at Attachment C for your consideration. The fee schedule without justifications is at Attachment B1a and will be sent to the proponent.
18. The Stage 1 fee is payable at the time the assessment approach decision is made and triggers the Department's determination of information requirements. An invoice for the Stage 1 fee (\$16,083) will not be sent to the proponent, as it is currently treated as exempt. If the proponent is not, in fact, eligible for exemption from cost recovery, Stage 1 fees may not be retrospectively recoverable. However, the Department considers that it is better to progress the assessment, even if it means potentially compromising the Department's ability to recover the Stage 1 fee.

s22

Director (acting)
Project Assessments West Section
Assessments (WA, SA, NT) and Post Approvals Branch
Ph: 02 6274 s22

| June 2018

ATTACHMENTS

s22 - out of scope - irrelevant material

B: Letters (FOR SIGNATURE)

s22

Project Assessments West Section
Ph: 02 6274 s22

B1:	<u>Letter to Proponent</u>	v2.0
B1a:	<u>Fee Schedule (without justifications)</u>	v1.0
B1b:	<u>Factsheet</u>	v1.0

s22 - out of scope - irrelevant material

C:	<u>Fee Schedule with justifications</u>	v1.0
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s22 - out of scope - irrelevant material

F: Reconsideration

F1:	<u>Reconsideration request sent to Minister Frydenberg</u>	v1.0
F2:	<u>Departmental response</u>	v1.0

s22 - out of scope - irrelevant material




s47F

Argyle Cattle Company Pty Ltd
PO Box 216
BRIGHTON SA 5048

Dear **s47F**

s22 - out of scope - irrelevant material



Cost Recovery

I note that you consider you are a small business entity and therefore exempt from cost recovery under section 520(4C)(e)(v) of the EPBC Act.

Small business entity is defined in the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) with reference to the *Income Tax Assessment Act 1997* (ITAA).

Under section 328-110 of the ITAA, a small business entity is, in simple terms, a business that has an *aggregated turnover* of less than \$10 million. *Aggregated turnover* is defined in section 328-115 as the sum of the annual turnovers of the business, plus entities *connected with* the business, and entities that are *affiliates* of the business.

Some relevant provisions of the ITAA, including the meaning of *aggregated turnover*, *connected with* and *affiliate* are provided for your reference in Attachment A.

We note that your reconsideration request of 1 March 2018 refers to several other entities associated with Argyle Cattle Company, and significant outlays in relation to the project. For example, "Shamrock Station is one of an aggregation of stations... purchased by Consolidated Australian Pastoral Holdings in November 2016 at a cost of \$100 million" and "The full Shamrock Station development, when completed, would equate to a \$50 million investment..." The Department is aware of a number of entities that may be associated with Argyle Cattle Company, including Consolidated Australian Pastoral Holdings, Australian Standard Agriculture, and Archstone Investments.

Considering the apparently complex business structure and high levels of expenditure on the project, and in light of the provisions of the ITAA relating to small business entities, the Department seeks your assistance in confirming your eligibility for exemption from cost recovery under the EPBC Act.

Further information required

In order to assist you in complying with your obligations under the EPBC Act, and to provide certainty and equity to all proponents in relation to cost recovery arrangements, we request, in accordance with regulation 5.23A of the EPBC Regulations, evidence to support your claim of small business status. This may be in the form of a letter from a suitably qualified tax accountant or tax lawyer providing a statement of all entities *connected with* or *affiliates* of Argyle Cattle Company and certifying whether it meets the requirements of a small business.

Regardless of Argyle Cattle Company's eligibility for exemption from cost recovery, I am required to provide you with a fee schedule for your proposal (enclosed).

If you have any questions about the assessment process or this decision, please contact the project manager, s22 [redacted], by email to s22 [redacted] or telephone 02 6274 s22 [redacted] and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely



Greg Manning
Assistant Secretary
Assessments (WA, SA, NT) and Post Approvals Branch

13 June 2018

328-110 Meaning of *small business entity*

General rule: based on aggregated turnover worked out as at the beginning of the current income year

- (1) You are a ***small business entity*** for an income year (the ***current year***) if:
- (a) you carry on a *business in the current year; and
 - (b) one or both of the following applies:
 - (i) you carried on a business in the income year (the ***previous year***) before the current year and your *aggregated turnover for the previous year was less than \$10 million;
 - (ii) your aggregated turnover for the current year is likely to be less than \$10 million.

Note 1: If you are a small business entity for an income year, you may apply to the Commissioner under section 61C of the *Excise Act 1901* for permission to deliver goods for home consumption (without entering them for that purpose) in respect of a calendar month.

Note 2: If you are a small business entity for an income year, you may apply under section 69 of the *Customs Act 1901* for permission to deliver like customizable goods or excise-equivalent goods into home consumption (without entering them for that purpose) in respect of a calendar month.

- (2) You work out your *aggregated turnover for the current year for the purposes of subparagraph (1)(b)(ii):
- (a) as at the first day of the current year; or
 - (b) if you start to carry on a *business during the current year—as at the day you start to carry on the business.

Note: Subsection 328-120(5) provides for how to work out your annual turnover (which is relevant to working out your aggregated turnover) if you do not carry on a business for the whole of an income year.

Exception: aggregated turnover for 2 previous income years was \$10 million or more

- (3) However, you are not a ***small business entity*** for an income year (the ***current year***) because of subparagraph (1)(b)(ii) if:
- (a) you carried on a *business in each of the 2 income years before the current year; and
 - (b) your *aggregated turnover for each of those income years was \$10 million or more.

Note: Section 328-110 of the *Income Tax (Transitional Provisions) Act 1997* affects the operation of this subsection in relation to the 2007-08 and 2008-09 income years.

Additional rule: based on aggregated turnover worked out as at the end of the current income year

- (4) You are also a ***small business entity*** for an income year (the ***current year***) if:
- (a) you carry on a *business in the current year; and
 - (b) your *aggregated turnover for the current year, worked out as at the end of that year, is less than \$10 million.

Note: If you are a small business entity only because of subsection (4), you cannot choose any of the following concessions:

- (a) paying PAYG instalments based on GDP-adjusted notional tax: see section 45-130 in Schedule 1 to the *Taxation Administration Act 1953*;
- (b) accounting for GST on a cash basis: see section 29-40 of the GST Act;

- (c) making an annual apportionment of input tax credits for acquisitions and importations that are partly creditable: see section 131-5 of the GST Act;
- (d) paying GST by quarterly instalments: see section 162-5 of the GST Act;
- (e) applying for permission under the *Excise Act 1901* to deliver goods for home consumption (without entering them for that purpose) in respect of a calendar month: see section 61C of that Act;
- (f) applying for permission under the *Customs Act 1901* to deliver like customable goods or excise-equivalent goods for home consumption (without entering them for that purpose) in respect of a calendar month: see section 69 of that Act.

Winding up a business previously carried on

- (5) This Subdivision applies to you as if you carried on a *business in an income year if:
- (a) in that year you were winding up a business you previously carried on; and
 - (b) you were a *small business entity for the income year in which you stopped carrying on that business.

Note 1: Subsection 328-120(5) provides for how to work out your annual turnover (which is relevant to working out your aggregated turnover) if you do not carry on a business for the whole of an income year.

Note 2: A special rule applies if you were an STS taxpayer under this Division (as in force immediately before the commencement of this section) in the income year in which you stopped carrying on the business: see section 328-111 of the *Income Tax (Transitional Provisions) Act 1997*.

Partners in a partnership

- (6) A person who is a partner in a partnership in an income year is not, in his or her capacity as a partner, a **small business entity** for the income year.

328-115 Meaning of aggregated turnover

- (1) Your **aggregated turnover** for an income year is the sum of the relevant annual turnovers (see subsection (2)) excluding any amounts covered by subsection (3).

Note: For small business CGT relief purposes, additional entities may be treated as being connected with you or your affiliate under sections 152-48 and 152-78.

- (2) The **relevant annual turnovers** are:

- (a) your *annual turnover for the income year; and
- (b) the annual turnover for the income year of any entity (a **relevant entity**) that is *connected with you at any time during the income year; and
- (c) the annual turnover for the income year of any entity (a **relevant entity**) that is an *affiliate of yours at any time during the income year.

- (3) Your **aggregated turnover** for an income year does not include the following amounts:

- (a) amounts *derived in the income year by you or a relevant entity from dealings between you and the relevant entity while the relevant entity is *connected with you or is your *affiliate;
- (b) amounts derived in the income year by a relevant entity from dealings between the relevant entity and another relevant entity while each relevant entity is connected with you or is your affiliate;
- (c) amounts derived in the income year by a relevant entity while the relevant entity is not connected with you and is not your affiliate.

328-120 Meaning of *annual turnover*

General rule

- (1) An entity's **annual turnover** for an income year is the total *ordinary income that the entity *derives in the income year in the ordinary course of carrying on a *business.

Exclusion of amounts relating to GST

- (2) In working out an entity's *annual turnover for an income year, do not include any amount that is *non-assessable non-exempt income under section 17-5 (which is about GST).

Exclusion of amounts derived from sales of retail fuel

- (3) In working out an entity's *annual turnover for an income year, do not include any amounts of *ordinary income the entity *derives from sales of *retail fuel.

Amounts derived from dealings with associates

- (4) In working out an entity's *annual turnover for an income year, the amount of *ordinary income the entity *derives from any dealing with an *associate of the entity is the amount of ordinary income the entity would derive from the dealing if it were at *arm's length.

Note: Amounts derived in an income year from any dealings between an entity and an associate that is a relevant entity within the meaning of section 328-115 are not included in the entity's aggregated turnover for that year: see subsection 328-115(3).

Business carried on for part of income year only

- (5) If an entity does not carry on a *business for the whole of an income year, the entity's *annual turnover for the income year must be worked out using a reasonable estimate of what the entity's annual turnover for the income year would be if the entity carried on a business for the whole of the income year.

Regulations may provide for different calculation of annual turnover

- (6) The regulations may provide that an entity's *annual turnover for an income year is to be calculated in a different way, but only so that it would be less than the amount worked out under this section.

328-125 Meaning of *connected with an entity*

- (1) An entity is **connected with** another entity if:
- (a) either entity controls the other entity in a way described in this section; or
 - (b) both entities are controlled in a way described in this section by the same third entity.

Note 1: See Subdivision 106-B if a CGT asset of yours is vested in a trustee in bankruptcy or a liquidator.

Note 2: See Subdivision 106-C if you are absolutely entitled to a CGT asset as against the trustee of a trust.

Note 3: See Subdivision 106-D if you provided security over an asset to another entity.

Direct control of an entity other than a discretionary trust

- (2) An entity (the **first entity**) controls another entity if the first entity, its *affiliates, or the first entity together with its affiliates:
- (a) except if the other entity is a discretionary trust—own, or have the right to acquire the ownership of, interests in the other entity that carry between them the right to receive a percentage (the **control percentage**) that is at least 40% of:
 - (i) any distribution of income by the other entity; or
 - (ii) if the other entity is a partnership—the net income of the partnership; or

- (iii) any distribution of capital by the other entity; or
- (b) if the other entity is a company—own, or have the right to acquire the ownership of, * equity interests in the company that carry between them the right to exercise, or control the exercise of, a percentage (the **control percentage**) that is at least 40% of the voting power in the company.

Direct control of a discretionary trust

- (3) An entity (the **first entity**) controls a discretionary trust if a trustee of the trust acts, or could reasonably be expected to act, in accordance with the directions or wishes of the first entity, its * affiliates, or the first entity together with its affiliates.
- (4) An entity (the **first entity**) controls a discretionary trust for an income year if, for any of the 4 income years before that year:
 - (a) the trustee of the trust paid to, or applied for the benefit of:
 - (i) the first entity; or
 - (ii) any of the first entity's * affiliates; or
 - (iii) the first entity and any of its affiliates;
 any of the income or capital of the trust; and
 - (b) the percentage (the **control percentage**) of the income or capital paid or applied is at least 40% of the total amount of income or capital paid or applied by the trustee for that year.

Note: Section 328-112 of the *Income Tax (Transitional Provisions) Act 1997* affects the operation of this subsection in relation to the 2007-08, 2008-09, 2009-10 and 2010-11 income years.

- (5) An entity does not control a discretionary trust because of subsection (4) if the entity is:
 - (a) an * exempt entity; or
 - (b) a * deductible gift recipient.

Commissioner may determine that an entity does not control another entity

- (6) If the control percentage referred to in subsection (2) or (4) is at least 40%, but less than 50%, the Commissioner may determine that the first entity does not control the other entity if the Commissioner thinks that the other entity is controlled by an entity other than, or by entities that do not include, the first entity or any of its * affiliates.

Indirect control of an entity

- (7) This section applies to an entity (the **first entity**) that directly controls another entity (the **second entity**) as if the first entity also controlled any other entity that is directly, or indirectly by any other application or applications of this section, controlled by the second entity.
- (8) However, subsection (7) does not apply if the second entity is an entity of any of the following kinds:
 - (a) a company * shares in which (except shares that carry the right to a fixed rate of * dividend) are listed for quotation in the official list of an * approved stock exchange;
 - (b) a * publicly traded unit trust;
 - (c) a * mutual insurance company;
 - (d) a * mutual affiliate company;
 - (e) a company (other than one covered by paragraph (a)) all the shares in which are owned by one or more of the following:
 - (i) a company covered by paragraph (a);
 - (ii) a publicly traded unit trust;
 - (iii) a mutual insurance company;
 - (iv) a mutual affiliate company.

328-130 Meaning of *affiliate*

- (1) An individual or a company is an **affiliate** of yours if the individual or company acts, or could reasonably be expected to act, in accordance with your directions or wishes, or in concert with you, in relation to the affairs of the *business of the individual or company.
- (2) However, an individual or a company is not your **affiliate** merely because of the nature of the business relationship you and the individual or company share.

Note: For small business relief purposes, a spouse or a child under 18 years may also be an affiliate under section 152-47.

Example: A partner in a partnership would not be an affiliate of another partner merely because the first partner acts, or could reasonably be expected to act, in accordance with the directions or wishes of the second partner, or in concert with the second partner, in relation to the affairs of the partnership. Directors of the same company, or the company and a director of that company, would be in a similar position.

FOI 200501
Document 1b

Australian Government

Department of the Environment and Energy

EPBC Act Cost Recovery - Fee Schedule

EPBC No: 2017/8004

Date of Fee Schedule: May 11, 2018

Project title: Shamrock Station Irrigation Project

Assessment method: Preliminary Documentation

*Based on the Notification of Exemption Declaration you have provided, this project qualifies for an exemption from cost recovery on the basis that you are an individual or small business pursuant to subdivision 328-C of the Income Tax Assessment Act 1997 (Cth). Accordingly, **no cost recovery fees are currently payable in relation to this project**. If you become ineligible for an exemption from cost recovery in the future or the person proposing to take an action for the project changes to an entity which is ineligible for an exemption from cost recovery then you or the transferee (in the relevant case) will be required to pay cost recovery fees from the date of ineligibility or transfer.*

Fee Schedule

STAGE FEES	Base fee	PART A Complexity costs (A-L, P)	PART B Complexity costs (MNO)	Total if not exempt	Total payable
Stage 1	\$2,074	\$9,260	\$0	\$11,334	\$0
Stage 2	\$2,289	\$14,661	\$0	\$16,950	\$0
Stage 3	\$852	\$15,433	\$10,982 (Estimate)	\$27,267 (Estimate)	\$0
Stage 4	\$2,795	\$37,811	\$10,982 (Estimate)	\$51,588 (Estimate)	\$0
TOTAL PROJECT COST IF NOT EXEMPT	\$8,010	\$77,167	\$21,964 (Estimate)	\$107,141 (Estimate)	\$0
TOTAL PROJECT COST PAYABLE	\$0	\$0	\$0	\$0	\$0

Notes:

- For assessments by environmental impact statement - If standard guidelines are used under Section 101A(2)(a) of the EPBC Act, the Stage 1 fee will not be applicable.
- For assessments by public environmental report - If standard guidelines are used under Section 96B of the EPBC Act, the Stage 1 fee will not be applicable.
- If no further information is requested under section 95A of the EPBC Act, the Stage 1 and 2 fees will not be applicable.
- The Department advises applicants of the maximum liability for Part B complexity fees at the time of the assessment approach decision, based on the information provided in the referral documentation. Applicants have the opportunity to reduce the Part B complexity fees during the assessment process by improving the quality of information provided to the Department during Stage 2 of the assessment. These Part B complexity fees are confirmed when all the assessment documentation is provided in Stage 2, and are not payable until Stages 3 and 4 of the assessment.

Fee Breakdown

		COMPLEXITY FEE
CONTROLLING PROVISIONS		
A	Listed threatened species and ecological communities	Very High \$0
B	Listed migratory species	Moderate \$0
C	Wetlands of international importance	Moderate \$0
D	Environment of the Commonwealth marine area	None \$0
E	World heritage properties	None \$0
F	National heritage places	Moderate \$0
G	Nuclear actions	None \$0
Part A Fees	H Great Barrier Reef Marine Park	None \$0
	Reduced fee as Great Barrier Reef is also being assessed under World and/or National Heritage	
I	Water Resources	None \$0
J	Commonwealth Land/Commonwealth Agency/Commonwealth Heritage Places Overseas	None \$0
NUMBER OF PROJECT COMPONENTS		
K	Number of project components	Moderate \$0
COORDINATION WITH OTHER LEGISLATION		
L	Coordination with other legislation	Low \$0
Part B Fees: estimate (to be confirmed prior to Stage 3)	ADEQUACY OF INFORMATION AND CLARITY OF PROJECT SCOPE	
M	Site surveys/Knowledge of environment	Moderate \$0

		COMPLEXITY FEE	
	Management measures (including mitigation and offsets)	Moderate	
	O Project scope	Low	\$0
Exceptional circumstances	EXCEPTIONAL CIRCUMSTANCES		
	P Exceptional circumstances	False	\$0
TOTAL COMPLEXITY FEES (Estimate)			\$0
BASE FEE			\$0
TOTAL FEE (Estimate)			\$0

Potential fees for contingent and post-approval activities (if required)

The Department will notify you if a contingent activity fee is applicable due to an additional statutory step being required under the *Environment Protection and Biodiversity Conservation Act 1999*.

Post-approval fees

Evaluation of new Action Management Plan (per management plan) (\$2,690)

Contingent Fees

Request additional information for referral or assessment approach decision (\$1,701)

Variation to the proposed action (\$1,353)

Reconsideration of the controlled action or assessment approach decision at the applicant's request (\$6,577)

Request additional information for approval decision (assessment on referral information, preliminary documentation or bilateral/accredited assessment) (\$1,701)

Request additional information for approval decision (assessment by environmental impact statement or public environment report) (\$7,476)

Variation of conditions (\$2,690)

Variation of an action management plan under conditions of approval (\$2,690)

Administrative variation of an action management plan under conditions of approval (\$710)

Transfer of approval to new approval holder (\$1,967)

Extension to approval expiry date (\$2,690)

FOI 200501
Document 1c



Australian Government
Department of the Environment and Energy

EPBC Act Cost Recovery - Fee Schedule

EPBC No: 2017/8004

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Assessment method: Preliminary Documentation

*Based on the Notification of Exemption Declaration you have provided, this project qualifies for an exemption from cost recovery on the basis that you are an individual or small business pursuant to subdivision 328-C of the Income Tax Assessment Act 1997 (Cth). Accordingly, **no cost recovery fees are currently payable in relation to this project**. If you become ineligible for an exemption from cost recovery in the future or the person proposing to take an action for the project changes to an entity which is ineligible for an exemption from cost recovery then you or the transferee (in the relevant case) will be required to pay cost recovery fees from the date of ineligibility or transfer.*

Fee Schedule

STAGE FEES	Base fee	PART A Complexity costs (A-L, P)	PART B Complexity costs (MNO)	Total if not exempt	Total payable
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Stage 4	\$2,795	\$37,811	\$10,982 (Estimate)	\$51,588 (Estimate)	\$0
TOTAL PROJECT COST IF NOT EXEMPT	\$8,010	\$77,167	\$21,964 (Estimate)	\$107,141 (Estimate)	\$0
TOTAL PROJECT COST PAYABLE	\$0	\$0	\$0	\$0	\$0

Notes:

- For assessments by environmental impact statement - If standard guidelines are used under Section 101A(2)(a) of the EPBC Act, the Stage 1 fee will not be applicable.
- For assessments by public environmental report - If standard guidelines are used under Section 96B of the EPBC Act, the Stage 1 fee will not be applicable.
- If no further information is requested under section 95A of the EPBC Act, the Stage 1 and 2 fees will not be applicable.
- The Department advises applicants of the maximum liability for Part B complexity fees at the time of the assessment approach decision, based on the information provided in the referral documentation. Applicants have the opportunity to reduce the Part B complexity fees during the assessment process by improving the quality of information provided to the Department during Stage 2 of the assessment. These Part B complexity fees are confirmed when all the assessment documentation is provided in Stage 2, and are not payable until Stages 3 and 4 of the assessment.

Fee Breakdown

		COMPLEXITY	FEE
CONTROLLING PROVISIONS			
Part A Fees	Listed threatened species and ecological communities	Very High	
A	At least 20 threatened species may be affected by the proposed action, as a result of four impacts: 1. changes to the hydrological regime impacting seagrasses; 2. changes to the hydrological regime impacting intertidal mudflat communities; 3. movement of the saltwater intrusion interface impacting inland wetlands; 4. clearance of vegetation and production of fodder for cattle. Each of these impacts will affect a different subset of species in ways that are currently unknown. The nature and scale of potential impacts is poorly understood, and significant further information is required.		\$0
	Listed migratory species	Moderate	
B	At least 19 migratory species (in addition to at least 16 species that are both migratory and threatened, which have been included above) may be affected by the proposed action, as a result of two impacts: 1. changes to the hydrological regime impacting seagrasses; 2. changes to the hydrological regime impacting intertidal mudflat communities. Each of these impacts will affect a different subset of species in ways that are currently unknown. The nature and scale of potential impacts is poorly understood, and significant further information is required. However, the complexity and lack of information is largely covered under the threatened species consideration, and therefore the Department considers that a reduction from Very High to Moderate is appropriate.		\$0
	Wetlands of international importance	Moderate	
C	Impacts and management options are not well understood, but are generally not in addition to the level of complexity in relation to threatened and migratory species. The complexity rating for Ramsar wetlands is considered to be covered by the ratings for threatened and migratory species, as the impacts to the ecological character of the Ramsar wetland flow from the impacts to threatened and migratory species.		\$0

	COMPLEXITY	FEE
Environment of the Commonwealth marine area	None	
Not applicable.		
E World heritage properties	None	\$0
Not applicable.		
National heritage places	Moderate	
F Similarly to the considerations in relation to Ramsar wetlands, while the impacts and management options are not well understood, the impacts to the heritage values of a National Heritage place flow from the impacts to threatened and migratory species, and are therefore considered to be adequately covered by the complexity ratings in relation to threatened and migratory species.		\$0
G Nuclear actions	None	\$0
Not applicable.		
Great Barrier Reef Marine Park	None	
H Not applicable.		\$0
Reduced fee as Great Barrier Reef is also being assessed under World and/or National Heritage		
I Water Resources	None	\$0
Not applicable.		
J Commonwealth Land/Commonwealth Agency/Commonwealth Heritage Places Overseas	None	\$0
Not applicable.		
NUMBER OF PROJECT COMPONENTS		
Number of project components	Moderate	
K The proposed action involves two components: 1. clearance of vegetation and production of fodder for cattle, and 2. abstraction of water to irrigate crops. Each of these components has very different impacts, and therefore the Department considers the proposal has two components.		\$0
COORDINATION WITH OTHER LEGISLATION		
L Coordination with other legislation	Low	\$0
ADEQUACY OF INFORMATION AND CLARITY OF PROJECT SCOPE		
Site surveys/Knowledge of environment	Moderate	
M Additional surveys are required for one flora species on the proposed action area and three fauna species at inland wetlands near the proposed action area. A marine survey may also be required as a more affordable alternative to determining groundwater outflow at the coast.		\$0
Management measures (including mitigation and offsets)	Moderate	
N The proponent has worked with WA DWER to produce water management plans. The Department's Office of Water Science has been liaising with DWER on water monitoring requirements.		\$0
Project scope	Low	
O While the potential impacts arising from the project are poorly understood, the project itself is well understood, and no alternatives have been provided.		\$0
EXCEPTIONAL CIRCUMSTANCES		
P Exceptional circumstances	False	\$0
N/A		
TOTAL COMPLEXITY FEES (Estimate)		\$0
BASE FEE		\$0
TOTAL FEE (Estimate)		\$0

**Part B Fees:
estimate
(to be confirmed
prior to Stage 3)**

**Exceptional
circumstances**

Potential fees for contingent and post-approval activities (if required)

The Department will notify you if a contingent activity fee is applicable due to an additional statutory step being required under the *Environment Protection and Biodiversity Conservation Act 1999*.

Post-approval fees

Evaluation of new Action Management Plan (per management plan) (\$2,690)

Contingent Fees

Request additional information for referral or assessment approach decision (\$1,701)

Variation to the proposed action (\$1,353)

Reconsideration of the controlled action or assessment approach decision at the applicant's request (\$6,577)

Request additional information for approval decision (assessment on referral information, preliminary documentation or bilateral/accredited assessment) (\$1,701)

Request additional information for approval decision (assessment by environmental impact statement or public environment report) (\$7,476)

Variation of conditions (\$2,690)

Variation of an action management plan under conditions of approval (\$2,690)
Administrative variation of an action management plan under conditions of approval (\$710)
Transfer of approval to new approval holder (\$1,967)
Extension to approval expiry date (\$2,690)

s22

From: s47F
Sent: Friday, 2 March 2018 9:58 AM
To: yourenvminister
Subject: MC18-002862 - Shamrock Irrigation Development-EPBC-section 78A-ESD
Attachments: 20180301_shamrock_irrigation_development_letter.pdf
Categories: Dept Reply

Contact your Minister request notification

Contact your Minister for the Environment and Energy webform submitted on 02/03/2018, 9:57

PDR Id: null

Minister name: Josh Frydenberg

Title: s47F

First name: s47F

Last name: s47F

Email: s47F

Organisation: Australian Standard Agriculture

Address: Unit 3, 601-603 Anzac Highway , Glenelg North , SA, 5045, Australia

Phone: s47F

Subject: The Hon. Josh Frydenberg Re Shamrock Irrigation Development

Comments: Dear Minister, Please find attached an overview of the proposed Shamrock Station Irrigation Development. This is a significant development creating jobs and business opportunities for the region. We request that you reconsider the referral decision on the Shamrock Station Irrigation Project in accordance with section 78A of the EPBC Act and acknowledge and accept the State's assessment and licencing/approval processes that are in place to regulate this project. Yours Faithfully

s47F Australian Standard agriculture for Argyle Cattle Company

Attachments: 1 file(s) attached.



March 1, 2018

To

The Hon. Josh Frydenberg, MP
Minister for the Environment and Energy
PO Box 6022
House of Representatives
Parliament House
CANBERRA ACT 2600

Re – SHAMROCK STATION IRRIGATION PROJECT (EPBC Ref: 2017/8004) – REQUEST FOR RECONSIDERATION OF DECISION UNDER SECTION 78A OF THE EPBC ACT

Dear Minister,

The Shamrock Station Irrigation Project (the project) was referred to the Commonwealth Department of the Environment and Energy (DoEE) on 7th August 2017 (EPBC Ref: 2017/8004) under the *Environment Protection and Biodiversity Protection Act 1999* (EPBC Act). On 2nd February 2018, nearly 26 weeks (six months) after referral, the DoEE advised ACC that the proposed action is a controlled action and requires assessment under the EPBC Act.

I am writing to you to request a reconsideration of the controlled action decision in accordance with section 78A of the EPBC Act. An overview of the project and reasoning for the request are outlined below.

Shamrock Station is one of an aggregation of stations in the Kimberley region of Western Australia known as SAWA purchased by Consolidated Australian Pastoral Holdings in November 2016 at a cost of \$100 million. Australian Standard Agriculture (ASA) manages the asset trading as Argyle Cattle Company (ACC) for the investors. Shamrock Station is located in the La Grange area south of Broome and overlies the Broome Sandstone Aquifer and is within the La Grange groundwater area. The acquisition of stations was based on the promotion of the La Grange area as an agricultural development area, and the possibility of developing a value-added supply chain through the proposed irrigation project on Shamrock Station.

The project aligns closely with the Australian Government's White Paper "Our North, Our Future: White Paper on Developing Northern Australia" (the White Paper), which specifically mentions the West Kimberley (which La Grange area is a part of) as a focus area for development, and the Western Australian Government's Water for Food programme with La Grange identified as a Kimberley Water for Food Precinct. Both the Federal and WA Governments have committed considerable funding (over \$4 million) on research into the agricultural development potential of the La Grange area.

ACC commissioned a number of environmental and heritage studies to support the development application for Stage 1 of the project, including a detailed (H3) hydrogeological assessment (conceptual hydrogeological model and numerical groundwater/saltwater intrusion model), flora and vegetation survey, fauna survey and heritage survey. Early consultation was undertaken with relevant authorities to ensure all licencing and application processes were adhered to and minimise risk of development delays, with several meetings held from January to March 2017 between ACC, the project hydrogeology and environmental consultants, and several relevant agencies including Department of Water¹, Department of Lands², Department of Environment Regulation¹, Department of Parks and Wildlife³ and the local Karrajarrri People. The aim of the meetings was to formally introduce the development and project timelines, gain an understanding of licencing/approval processes and respective department requirements, and obtain input to, and sign off for, the proposed methodologies for the environmental and heritage studies.

Stage 1 of the project⁴ was referred to DoEE based on some old Bilby foraging diggings identified through the fauna survey. The Bilby is listed as a matter of national environmental significance (NES) under the *Environment Protection and Biodiversity Protection Act 1999* (EPBC Act). While no significant impact to Bilbies was identified from the Stage 1 development, with the project area re-designed to avoid higher value habitat, it was referred to provide certainty for the approvals pathway and manage project risks, with the expectation that the referral would not be deemed a controlled action.

Stage 1 of the project was also referred to the State Environmental Protection Authority (EPA) under Part IV of the *Environmental Protection Act 1986* (EP Act) on 21st September 2017. On 22nd November 2017, the EPA published its assessment level of the proposed Stage 1 development as "Assessment by referral documents – unappealable." This level was set on basis that the EPA Chairman was satisfied the referral documents provided comprehensive information on which to assess the proposed development, including an appropriate hydrological assessment and a draft detailed operating strategy with a comprehensive monitoring and a management framework for the water resource and groundwater dependent ecosystems

¹ Now Department of Water and Environmental Regulation (DWER).

² Now Department of Planning, Lands and Heritage (DPLH).

³ Now Department of Biodiversity, Conservation and Attractions (DBCA).

⁴ Justification for referring only stage 1 was provided through the referral process and accepted by the Minister's delegate.



(refer to Attachment A for EPA referral decision). ACC has committed to establishing and undertaking one of the most rigorous and expensive water monitoring programs for this type and scale of development in the Kimberley.

Over the unacceptably lengthy period that the DoEE has been considering the referral, it has continually altered its area of concern in its discussions with ACC. The latest correspondence regarding the controlled action decision identifies the following: Kimberley National Heritage Area⁵, Roebuck Bay Ramsar site⁵, hydrological changes and potential impact on threatened or migratory species (e.g. Princess Parrot) and direct impacts to Bilby. The DoEE has not provided ACC with adequate justification for the inclusion of these matters of NES in the controlled action decision.

DoEE has indicated its concern that the development may impact the above values (except direct impact to Bilby) as a result of the proposed abstraction of groundwater. To address these concerns, ACC have responded to the DoEE with the best available science in the form of a numerical groundwater model, which the State has peer reviewed and endorsed by its own technical experts. The modelling shows only minor (7.5%) change in groundwater discharge to the marine environment within the entire model domain due to cumulative abstraction impacts including Stage 1 development and other existing users. The magnitude of change in discharge flux further north of the model domain – at the southern end of Roebuck Bay, for example – would be negligible. Thus, Stage 1 development will not impact Roebuck Bay environmental values.

A sticking point in the referral process has been the request by DoEE for additional analyses to be run in the groundwater model based on hypothetical values. ACC's hydrogeological consultant has made it clear that the requested analyses are not consistent with the conceptual hydrogeological model, which is based on real data (supported by DWER), nor are they appropriate for the numerical groundwater/saltwater intrusion model. ACC is therefore concerned that unreasonable requests for additional information will be made by DoEE.

The EPA has made it clear to ACC that it does not share the same concerns as the Commonwealth, as has DWER Water, which regulates groundwater use and licencing in WA through the *Rights in Water and Irrigation Act 1915* (RIWI Act) and was consulted extensively in the design of the groundwater model and reviewed its output.

To complicate matters and delay the process further, the decision on assessment approach has still not been set as the DoEE is approaching the WA EPA to undertake an accredited assessment. This would require the EPA to change its level of assessment and assess matters/environmental factors that it does not consider relevant to the Stage 1 development, something the EPA will most likely be reluctant to do (refer to Attachment B for DoEE controlled action decision letter).

ACC believe the Commonwealth is, in effect, dismissing the State's assessment of environmental impacts and risk from the proposed groundwater abstraction undertaken through the State water licencing process and the Part IV assessment by the EPA. This is notwithstanding that, in the context of the RIWI Act, the State is best placed to undertake this assessment and condition environmental monitoring and management measures associated with the proposed groundwater abstraction.

While the development is unlikely to be assessed under the assessment bilateral agreement between the State and Commonwealth, the situation ACC finds itself in is counter to the intent and principles of the agreement that is: to strengthen intergovernmental cooperation on the environment and to minimise costs to business while maintaining high environmental standards.

Under the EPBC Act referral timeline, the Minister must make a decision on a referral within 20 business days after receipt of the referral. While DoEE made several requests for additional information (effectively stopping the clock), ACC responded to these requests promptly and therefore the time taken for a referral decision to be reached is, in ACC's opinion, unjustifiable.

ACC has now spent considerable funds over the past 15 months undertaking the appropriate environmental investigations and consultation in order to meet licencing requirements for a development in an aquifer that is publicly advertised and promoted as an agricultural development area. The full Shamrock Station development, when completed, would equate to a \$50 million investment, would increase beef volume and value exported from the region, and provide a minimum of 20-30 full time positions including opportunities for local businesses and communities. It will also provide a positive message to investors for other potential agricultural developments in the region.

Any substantial further time delays and/or financial commitment required to meet licencing and approval requirements for Stage 1 of the project will give reason for ACC to reconsider the entire development. Given the public profile of this development, any decision not to proceed is likely to influence further agricultural development investment in the region.

⁵ The southern boundaries of the environmental values associated with Roebuck Bay RAMSAR wetland and West Kimberley National Heritage Place are located approximately 20 km north of the northern end of the project area.



In summary,

- ACC has invested considerable resources into developing a proposed irrigated agriculture project in the La Grange region in northern Australia, a focus area for agricultural investment and development at both the Federal and State Government levels;
- ACC has undertaken an appropriate level of environmental due diligence and consultation to assess and minimise potential environmental impacts from the proposed project, including committing to a comprehensive groundwater monitoring and management program
- ACC engaged early and worked collaboratively with WA Government departments to ensure the scope and methodologies for the hydrogeological assessment and biological (flora and fauna) surveys were appropriate;
- the State has assessed the results of the studies and is satisfied with both the level of technical assessment and the level of ongoing monitoring that will be implemented to ensure the Stage 1 development will not have significant environmental impacts, including on any matters of NES;
- the DoEE has taken a contrary position to that of the State, been inconsistent in the concerns it has raised regarding the Stage 1 development, has taken an unacceptably long time to reach a referral decision and has not provided adequate justification for the matters of NES raised;
- the management of any potential environmental impacts to Matters of NES from proposed groundwater abstraction for the stage 1 development, will be appropriately managed through the State groundwater licencing process, including the detailed operating strategy and comprehensive monitoring and management framework required as part of the licence.

On the basis of the above, we request that you reconsider the referral decision on the Shamrock Station Irrigation Project in accordance with section 78A of the EPBC Act and acknowledge and accept the State's assessment and licencing/approval processes that are in place to regulate this project. We have also written to the Minister for Agriculture and Water Resources and the Member for Durack, the Hon. Melissa Price, MP regarding this matter. A copy of this letter has also been sent by post.

Yours faithfully

s47F

Australian Standard Agriculture/Argyle Cattle Company

s47F

s47F

ATTACHMENTS

ATTACHMENT A: EPA REFERRAL DECISION AND FURTHER EXPLANATION OF DECISION

ATTACHMENT B: DOEE NOTIFICATION OF REFERRAL DECISION AND LETTER TO PROPONENT

s22 - out of scope - irrelevant material

s22 - out of scope - irrelevant material

s22 - out of scope - irrelevant material

s22 - out of scope - irrelevant material

s22 - out of scope - irrelevant material

s22 - out of scope - irrelevant material

s22 - out of scope - irrelevant material

s22 - out of scope - irrelevant material



s47F

3/601-603 Anzac Highway
GLENELG NORTH SA 5045

Dear s47F

Thank you for your letters dated 1 March 2018 to the Minister for the Environment and Energy, the Hon Josh Frydenberg MP, and the Assistant Minister for the Environment, the Hon Melissa Price MP, concerning the Shamrock Station Irrigation Project (EPBC 2017/8004). The Minister has passed your letter to me for reply.

You have:

1. requested that the Minister reconsider, in accordance with section 78A of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), the decision that the proposed clearance of vegetation and abstraction of groundwater for irrigation purposes at Shamrock Station, near Broome, Western Australia (EPBC 2017/8004), is a controlled action; and
2. indicated that the Department has not provided adequate justification for the decision that the action is a controlled action in respect of certain provisions of Part 3 of the EPBC Act.

1. Reconsideration of the controlled action decision

As you are aware, a person may request that the Minister reconsider a decision made under section 75(1) of the EPBC Act that a proposed action is a controlled action. However, the Minister only has the power to revoke such a decision and to substitute a new decision if certain criteria are met. Relevantly, the Minister must be satisfied that revocation and substitution is warranted by one of the following:

- The availability of substantial new information about the impacts that the action has, will have, or is likely to have on a matter protected by a provision of Part 3 (section 78(1)(a)); or,
- A substantial change in circumstances that was not foreseen at the time of the controlled action decision and that relates to the impacts that the action has, will have, or is likely to have on a matter protected by a provision of Part 3 (section 78(1)(aa)).

Additional requirements for requests for reconsideration are set out in regulation 4AA.01(2) of the *Environment Protection and Biodiversity Conservation Regulations 2000* (EPBC Regulations):

- (2) A request must:
 - (a) identify the ground or grounds in paragraphs 78(1)(a) to (ca) of the Act that are being relied upon to make the request; and
 - (b) include the source of any information provided; and
 - (c) provide details of when the information became available.

- (3) For a matter protected under Part 3 of the Act, a request in relation to paragraph 78(1)(a) of the Act must also contain:
 - (a) any new information that was not considered when the original decision was made; and
 - (b) information that demonstrates that a change in the potential impacts of the action is likely to happen with a high degree of certainty.
- (4) For a matter protected under Part 3 of the Act, a request in relation to paragraph 78(1)(aa) of the Act must also contain information that:
 - (a) identifies the changed circumstances; and
 - (b) establishes why the circumstances were unforeseen at the time the original decision was made; and
 - (c) demonstrates that a change in the potential impacts of the action is likely to happen with a high degree of certainty.

The Department is unable to reconsider the controlled action decision at this time as your letter does not appear to:

- contain any new information about the impacts that the action has, will have, or is likely to have on a matter protected by a provision of Part 3 that was not taken into account in the controlled action decision, or
- assert that there has been a substantial change of circumstances that was not foreseen at the time of the controlled action decision and that relates to the impacts that the action has, will have, or is likely to have on a matter protected by a provision of Part 3.

If you would like to proceed with a formal request for reconsideration, please provide the Department with further information in accordance with the requirements of the EPBC Act and Regulations. An application for reconsideration of a controlled action decision is subject to a cost recovery fee of \$6,577. However, the Department notes that you have claimed exemption from cost recovery as a small business.

Following receipt of a valid request for reconsideration, the Department will invite comments from relevant Ministers and publish the request on the internet for a ten day public comment period in accordance with the EPBC Act. A decision on the reconsideration will be made as soon as practicable after the end of the ten day comment period (section 78C(1)).

2. Justification on matters included in the controlled action decision

Your letter also indicates that the Department has not adequately consulted with you in the course of determining the matters of national environmental significance in respect of which the controlled action decision was made.

In this case, I am advised that the Department expressed concern to you or your consultant by emails on 14 September 2017 and 24 October 2017, teleconferences on 8 November 2017 and 23 November 2017, and phone calls on other occasions, about the potential impacts of the proposed groundwater abstraction on threatened and migratory species, and requested additional information (in the form of revised modelling using different parameters).

The purpose of those requests was to seek verification that significant impacts to matters of national environmental significance were not likely.

In the absence of this additional information, and based on the information that was available to the Department (including the documents provided in your referral), the delegate, applying a precautionary approach as required by the EPBC Act, determined that the proposed action was a controlled action for the purposes of sections 18, 18A, 20 and 20A of the EPBC Act, on the

basis that the action was likely to have a significant impact on certain listed threatened species and migratory species. These species are, in turn, a feature of the ecological character of the Roebuck Bay Ramsar site, and of the national heritage values of the West Kimberley National Heritage area. The delegate, again applying a precautionary approach in accordance with the EPBC Act, therefore determined that the proposed action was a controlled action for the purposes of sections 16, 17B, 15B and 15C of the EPBC Act.

The possibility of this decision was discussed during a teleconference on 23 November 2017, when the Department noted that a significant impact on seagrass and intertidal mudflat communities could significantly impact the ecological character of the Roebuck Bay Ramsar site and the heritage values of the West Kimberley National Heritage area. This was well in advance of the controlled action decision being made and allowed you an opportunity to provide the additional information the Department had earlier requested.

I note that as the Department did not require additional information from you about the ecological character of the Roebuck Bay Ramsar site and values of the West Kimberley National Heritage area, these aspects were not discussed with you or your consultant in any depth in advance of the decision. This is consistent with the Department's standard practice.

If you would like to submit a reconsideration request that satisfies the requirements of the EPBC Act, you will have the opportunity to provide further information in respect of whether the proposed action has, will have, or is likely to have a significant impact on matters protected by a provision of Part 3.

Next steps

As you know, at the time of making the referral decision, the Department deferred making a decision on the assessment method, pending advice from the Western Australian Government as to whether an accredited assessment will be possible. We took that step on the understanding that your preference was for the jurisdictions to cooperate on the assessment.

The Western Australian Environmental Protection Authority advised the Department on 19 March 2018 that an accredited assessment would not be possible. The Department is, therefore, now in a position to make a decision on the assessment approach. This decision has been delayed by our need to evaluate your request for reconsideration, but will now be progressed. If you choose to make a valid request for reconsideration, the assessment process will be put on hold until the reconsideration process has been completed.

Please contact the project officer, s22 [REDACTED], by email to s22 [REDACTED], to submit a revised reconsideration request that satisfies the requirements of section 78A of the EPBC Act, or to advise that you do not intend to submit a revised request and wish for the assessment to proceed.

Please also contact s22 [redacted] by email or phone (02 6274 s22) if you require further information on the requirements of the reconsideration request or if you wish to discuss the assessment process.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'GM', with a long horizontal stroke extending to the right.

Gregory Manning
Assistant Secretary
Assessments (WA, NT, SA) and Post Approvals Branch

26 April 2018

s22

s22

From: s22
Sent: Wednesday, 27 June 2018 10:13 AM
To: s47F
Cc: s22; s47F
Subject: RE: 2017-8004 Shamrock Station Irrigation Project [SEC=UNCLASSIFIED]

Hello s47F

To keep progressing the assessment, I am providing you with the Delegate's letter on assessment approach and decision notice on the Shamrock Station proposal (EPBC 2017/8004). As discussed during our teleconference, the letter is also seeking a statement from you on the status of the company as a small business that is exempt from cost recovery fees. As you are currently fee exempt, the attached fee schedule is indicative only.

As outlined in the letter, a separate request for the further information required to be able to assess relevant impacts of the action will be sent soon. This will be informed by the discussions I am having with the Department's Office of Water Science and WA regulators as a result of our recent teleconference.

I will be posting the attached documents to you as well.

You can contact me if there are any questions about the enclosed.

Regards

s22

s22
Project Assessments West Section
Environment Standards Division
Phone +61 2 6274 s22
s22

Department of the Environment and Energy
51 Allara Street | Canberra | ACT 2601
www.environment.gov.au



Be Green...Read from the Screen

s22 - out of scope - irrelevant material

s22 - out of scope - irrelevant material

To: s22 [redacted], A/g Assistant Secretary, Assessments (WA, SA, NT) and Post Approvals Branch (for decision)

Referral Decision Brief – Shamrock Station Irrigation Project, West Kimberley, WA (2017/8004)

Timing: As soon as possible – Statutory timeframe was 4 September 2017.

s22 - out of scope - irrelevant material

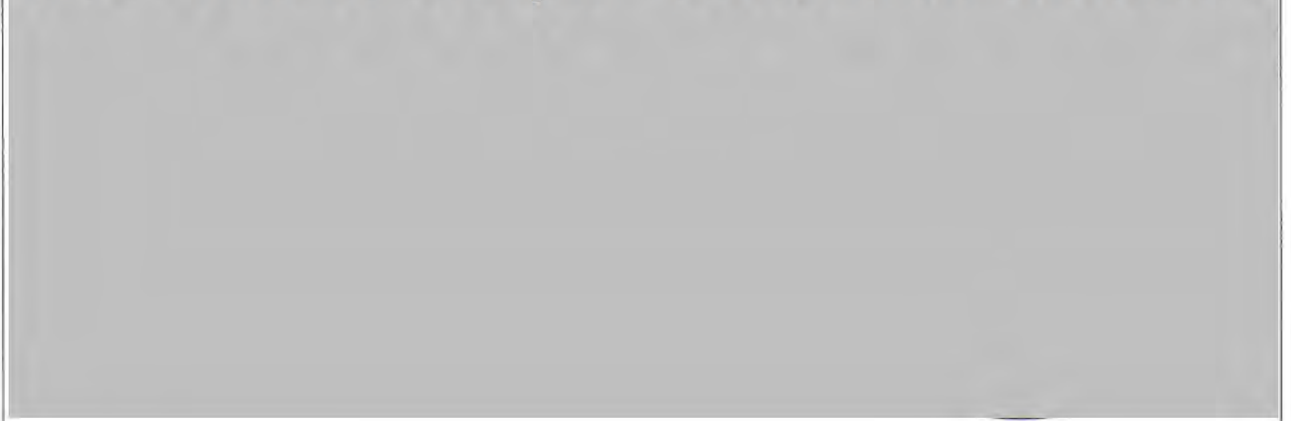
Recommendation/s:

1. Consider the information in this brief, the referral (Attachment D) and other attachments.

Considered / Please discuss

s22 - out of scope - irrelevant material

s22 - out of scope - irrelevant material



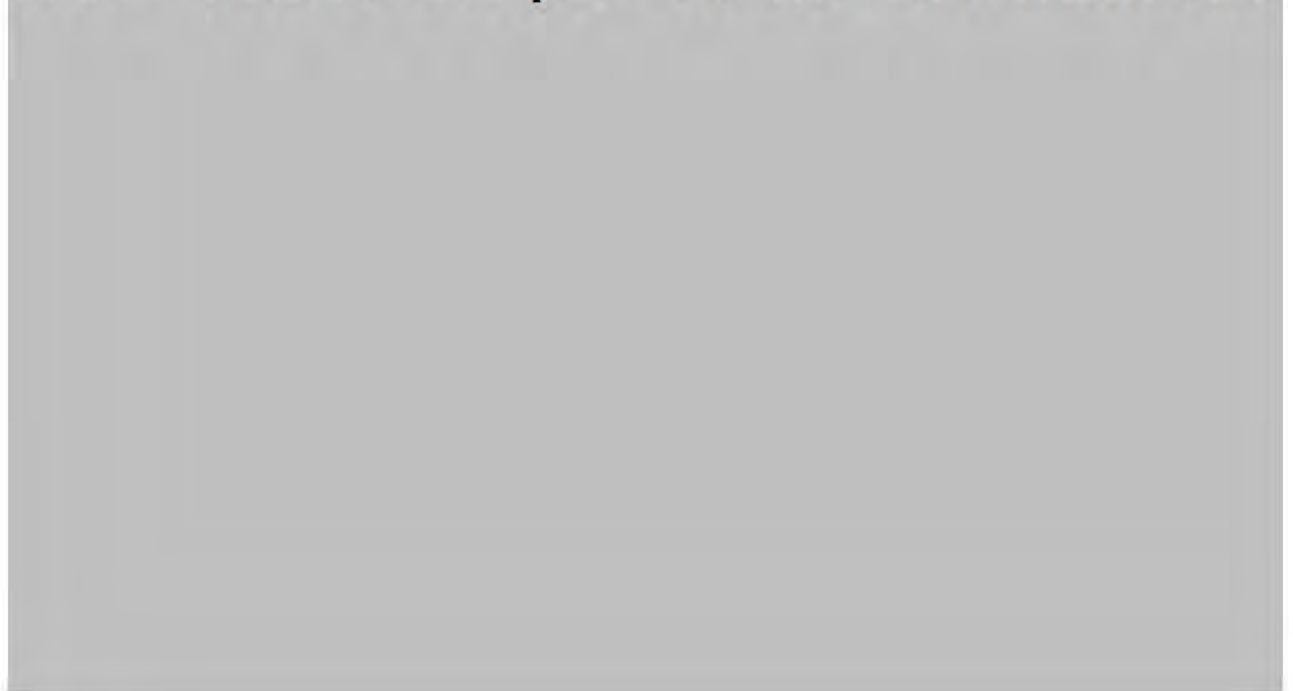
s22

A/g Assistant Secretary
Assessments (WA, SA, NT) and Post
Approvals Branch

2 February 2018

Comments:

s22 - out of scope - irrelevant material



s22 - out of scope - irrelevant material

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OTHER MATTERS FOR DECISION-MAKING

s22 - out of scope - irrelevant material

Cost Recovery

The fee schedule and justifications will be provided to you for your consideration when the assessment approach is determined. However, the proponent is exempt from cost recovery as the proponent is a small business.

s22 - out of scope - irrelevant material

s22

A/g Director
Projects Assessments West Section
Assessments (WA, NT, SA) and Post
Approvals Branch
Ph: 02 6274 s22

| February 2018

s22

Project Assessments West Section
Ph: 02 6274 s22

s22 - out of scope - irrelevant material

s22 - out of scope - irrelevant material

Referrals Gateway Process Checklist

EPBC No.	2017 / 8004	Date Received	7 / 8 / 2017
Project Name	Shamrock Station Irrigation Project, west Kimberley, WA		
Assessment Section & Officer/s	s22	Valid Referral Entered	s22 - out of scope - irrelevant material
		Day 1 Date	
		Public Comments Due	
		State Minister comments	
		Comm Minister comments	
		Decision Due Date	

s22 - out of scope - irrelevant material

Establish administrative records
s22 - out of scope - irrelevant material

Customer ID:	Invoice no:	Receipt no:
Exempt - Small business.		

s22 - out of scope - irrelevant material

Signature of RG Officer s22 Date 7/8/2017
Please ensure that all requirements are completed prior to sending through to the next stage in the process

To: Declan O'Connor-Cox, Acting Assistant Secretary, Environment Approvals Division
(for decision)

Direction to publish preliminary documentation under Section 95A(3) and Schedule of Fees and justification for the actual amount payable under Part B of the fee schedule: Shamrock Station Irrigation Project, West Kimberley Region, Western Australia (EPBC 2017/8004)

Timing: As soon as possible: the statutory timeframe was 2 April 2020

Recommendations:

s22 - out of scope - irrelevant material

3. Consider the information in this brief and the fee schedule previously provided to the person proposing to take the action (Attachment C).

Considered / Please discuss

4. Agree to the actual amount payable under Part B of the fee schedule prepared for the proposed action and that the version without justifications be provided to the proponent for information only, noting that the proponent is cost recovery exempt (Attachment B).

Agreed / Not agreed

5. Sign the letter at Attachment A to the proponent directing them to publish the preliminary documentation and advising them of the actual amount payable under Part B of the fee schedule.

Signed / Not signed

Declan O'Connor-Cox
Acting Assistant Secretary
Environment Approvals Division

21 April 2020

Comments:

s22 - out of scope - irrelevant material



s22 - out of scope - irrelevant material

Schedule of fees for the actual amount payable under Part B of the fee

8. On 13 June 2018, as required by Regulation 5.12J (1) of the *Environment Protection and Biodiversity Conservation Regulations 2000*, a delegate of the Minister provided a fee schedule to the proponent for their information only (Attachment C).
9. The assessment will be progressing to Stage 3. As required by Regulation 5.12J(3), you must provide the proponent with another fee schedule that sets out the actual amount payable for the Part B component before this stage of assessment occurs. The proponent is exempt from cost recovery under section 520(4C)(e)(v) of the EPBC Act, however you are still required to provide the fee schedule. The amount must not be more than the estimated amount payable for the component that was provided to the proponent on 13 June 2018 (Attachment C).

s22 - out of scope - irrelevant material

11. The proponent will be provided with a copy of the latest fee schedule for their information only.

Conclusion

12. The Department recommends that you sign the letter at Attachment A, directing the proponent to publish the preliminary documentation and advising them of the actual amount payable under Part B of the fee schedule.

s22

Assistant Director
Project Assessments West Section 2
Backlog Assessments Branch
Ph: (02) 6275 s22
09 April 2020

s22
Project Assessments West Section
Ph: (02) 6274 s22

Attachments	Version
A: Letter of notification to the proponent	1.0
B: Fee schedule for the actual amount payable under Part B of the fee schedule	
B1: With justifications	1.0
B2: Without justifications	1.0
C: Original fee schedules	
C1: With justifications	1.0
C2: Without justifications (version provided to the proponent)	1.0

s22 - out of scope - irrelevant material



s47F

Argyle Cattle Company
PO Box 3635
Broome WA 6725

Dear s47F

**Direction to publish (and amended fee schedule) – preliminary documentation.
Shamrock Station Irrigation Project, West Kimberley Region, Western Australia**

I am writing to you in relation to your proposal to clear native vegetation and abstract up to 9.5 GL of groundwater per annum on Shamrock Station, approximately 64 km south of Broome, Western Australia.

On 2 February 2018, a delegate of the Minister decided that the proposed action is a controlled action and that it requires assessment and a decision about whether approval should be given under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

You are now required to publish the information you have provided on the proposed action (as outlined above) **within 20 business days of the date of this letter**. This allows for public consultation on the potential impacts of your project. The information must be available for comment for 20 business days and during this time any third parties can comment on the proposed action. The extended comment period is due to the current community restrictions in place due to COVID-19 and is not a reflection on the information you have provided. Detailed directions on what information you need to publish and where to publish are attached to this letter.

Public comments will come directly to you so that you have an opportunity to address any issues raised. You are then required to provide us with:

- a copy of all public comments received (if any);
- a summary of each of the comments (if any) and how you have addressed each of them; and
- a revised version of your documentation with any changes or additions needed to take account of the public comments (if any); or
- if no public comments are received, a written statement to that effect.

Once you have provided us with this information, you will then need to publish the summary of comments and your responses, together with the original documentation including any changes or additions made in response to the published comments (or a notice which meets the requirements of the relevant provisions of Part 16.03 (5-7) of the *Environment Protection and Biodiversity Conservation Regulations 2000* (EPBC Regulations)) **within 10 business days**.

Cost recovery fees

I note that you consider you are exempt from cost recovery under section 520(4C)(e)(v) of the EPBC Act. However, I am required to provide you with a fee schedule for your proposal regardless of your cost recovery status.

Please find attached a revised fee schedule for your proposal and note that these fees have been reduced. This fee schedule is for information only and may be used if your circumstances change. At present time no amount is owed.

The assessment process will commence once we have received any public comments and your responses to them or once you have advised that no public comments were received. A decision on whether the proposed action can be approved or not would generally be expected within 40 business days of that time, unless further information or additional clarification is required.

If you have any questions about the assessment process or this decision, please contact the project manager, s22 [REDACTED], by email to s22 [REDACTED] and quote the EPBC reference number at the top of this letter.

Yours sincerely



Declan O'Connor-Cox
Acting Assistant Secretary
Environment Approvals Division

21 April 2020

**Publication of Information for Assessment on Preliminary Documentation under
section 95A of the *Environment Protection and Biodiversity Conservation Act*
1999**

Information to be published:

- (a) The preliminary documentation dated 16 March 2020 and provided to the Department on 19 March 2020, including all appendices and attachments.
- (b) The original referral documentation provided to the Department, including all appendices and attachments.
- (c) An invitation for anyone to give Argyle Cattle Company, within the period specified in the direction, comments in writing relating to the information or the action.

As the material is more than 200 words, a notice may be published instead.

The published notice must **invite public comments** and state:

- (a) the provision of the Act that requires the material to be published: Section 95A(3);
- (b) the identification number for the action, allocated by the department: EPBC 2017/8004;
- (c) a descriptive title for the action: Shamrock Station Irrigation Project;
- (d) the location of the action: West Kimberley Region, Western Australia;
- (e) the name of the person intending to take the action: Argyle Cattle Company;
- (f) each matter protected by a provision of Part 3 of the Act:
 - National Heritage places (sections 14B and 15C),
 - Ramsar wetlands (sections 16 and 17B),
 - Listed threatened species and communities (sections 18 and 18A), and
 - Listed migratory species (sections 20 and 20A);
- (g) where a copy of the material may be viewed or obtained:
 - (i) in electronic and hard copy form; and
 - (ii) at a reasonable cost or without charge.
- (h) the final date for providing comment;
- (i) that persons with special needs (i.e. for whom English is a second language or who has a vision impairment) may contact a designated person for assistance in accessing the material.

The notice must be approved by the Department before it is published.

Where to be published:

- (a) at an appropriate location on the internet;
- (b) in a national or state daily newspaper that circulates in the state or territory in which the action occurs; and
- (c) if practical, in regional newspapers that circulate in any regions of Australia where the action is likely to have a significant impact on a matter protected by a provision of Part 3 of the Act.

The designated proponent must:

- (a) give 2 copies of the material to:
 - (i) at least 1 local authority, or at least 1 local or regional library, for the area where the action is likely to have a significant impact on a matter protected by a provision of Part 3 of the Act;
 - (ii) a state government authority responsible for environmental protection, or a state library, in the state where the action is likely to have a significant impact on a matter protected by a provision of Part 3 of the Act;
 - (iii) the department.
- (b) ask the authority or library to display the material publicly.¹

¹ Subregulation 16.04(3) of the EPBC Regulations states that if the material cannot be displayed in an area in accordance with subregulation 16.04(2) (providing material to an authority or library and asking them to display it publically), then the proponent must take reasonable steps to ensure the material is publicly displayed at an appropriate location. If you believe that the material will be unable to be displayed in accordance with subregulation (2) please contact the Department as soon as possible to discuss other arrangements. You may be required to make provisions to post hard copies to individuals upon request.

FOI 200501
Document 4b

Australian Government
**Department of Agriculture,
Water and the Environment**

EPBC Act Cost Recovery - Fee Schedule

EPBC No: 2017/8004

Date of Fee Schedule: March 31, 2020

Project title: Shamrock Station Irrigation Project

Assessment method: Preliminary Documentation

*Based on the Notification of Exemption Declaration you have provided, this project qualifies for an exemption from cost recovery on the basis that you are an individual or small business pursuant to subdivision 328-C of the Income Tax Assessment Act 1997 (Cth). Accordingly, **no cost recovery fees are currently payable in relation to this project**. If you become ineligible for an exemption from cost recovery in the future or the person proposing to take an action for the project changes to an entity which is ineligible for an exemption from cost recovery then you or the transferee (in the relevant case) will be required to pay cost recovery fees from the date of ineligibility or transfer.*

Fee Schedule

STAGE FEES	Base fee	PART A Complexity costs (A-L, P)	PART B Complexity costs (MNO)	Total if not exempt	Total payable
Stage 1	\$2,074	\$9,260	\$0	\$11,334	\$0
Stage 2	\$2,289	\$14,661	\$0	\$16,950	\$0
Stage 3	\$852	\$15,433	\$0	\$16,285	\$0
Stage 4	\$2,795	\$37,811	\$0	\$40,606	\$0
TOTAL PROJECT COST IF NOT EXEMPT	\$8,010	\$77,167	\$0	\$85,177	\$0
TOTAL PROJECT COST PAYABLE	\$0	\$0	\$0	\$0	\$0

Notes:

- For assessments by environmental impact statement - If standard guidelines are used under Section 101A(2)(a) of the EPBC Act, the Stage 1 fee will not be applicable.
- For assessments by public environmental report - If standard guidelines are used under Section 96B of the EPBC Act, the Stage 1 fee will not be applicable.
- If no further information is requested under section 95A of the EPBC Act, the Stage 1 and 2 fees will not be applicable.
- The Department advises applicants of the maximum liability for Part B complexity fees at the time of the assessment approach decision, based on the information provided in the referral documentation. Applicants have the opportunity to reduce the Part B complexity fees during the assessment process by improving the quality of information provided to the Department during Stage 2 of the assessment. These Part B complexity fees are confirmed when all the assessment documentation is provided in Stage 2, and are not payable until Stages 3 and 4 of the assessment.

Fee Breakdown

	COMPLEXITY	FEE
CONTROLLING PROVISIONS		
Part A Fees		
Listed threatened species and ecological communities	Very High	
A At the time of the CA decision it was considered that at least 20 threatened species may have been affected by the proposed action, as a result of four impacts: 1. changes to the hydrological regime impacting seagrasses; 2. changes to the hydrological regime impacting intertidal mudflat communities; 3. movement of the saltwater intrusion interface impacting inland wetlands; 4. clearance of vegetation and production of fodder for cattle.		\$0
Listed migratory species	Moderate	
B At the time of the CA decision it was considered that at least 19 migratory species (in addition to at least 16 species that are both migratory and threatened, which have been included above) may have been affected by the proposed action, as a result of two impacts: 1. changes to the hydrological regime impacting seagrasses; 2. changes to the hydrological regime impacting intertidal mudflat communities.		\$0
Wetlands of international importance	Moderate	
C At the time of the CA decision it was considered that impacts and management options were not well understood, but are generally not in addition to the level of complexity in relation to threatened and migratory species. The complexity rating for Ramsar wetlands was considered to be covered by the ratings for threatened and migratory species, as the impacts to the ecological character of the Ramsar wetland flow from the impacts to threatened and migratory species.		\$0
Environment of the Commonwealth marine area	None	
D Not applicable.		\$0

	COMPLEXITY	FEE
E World heritage properties	None	\$0
Not applicable.		
National heritage places	Moderate	
F At the time of the CA decision it was considered that similarly to the considerations in relation to Ramsar wetlands, while the impacts and management options were not well understood, the impacts to the heritage values of a National Heritage place flow from the impacts to threatened and migratory species, and are therefore considered to be adequately covered by the complexity ratings in relation to threatened and migratory species.		\$0
G Nuclear actions	None	\$0
Not applicable.		
Great Barrier Reef Marine Park	None	
H Not applicable.		\$0
Reduced fee as Great Barrier Reef is also being assessed under World and/or National Heritage		
I Water Resources	None	\$0
Not applicable.		
J Commonwealth Land/Commonwealth Agency/Commonwealth Heritage Places Overseas	None	\$0
Not applicable.		
NUMBER OF PROJECT COMPONENTS		
Number of project components	Moderate	
K The proposed action involves two components: 1. clearance of vegetation and production of fodder for cattle, and 2. abstraction of water to irrigate crops. Each of these components has very different impacts, and therefore the Department considers the proposal has two components.		\$0
COORDINATION WITH OTHER LEGISLATION		
L Coordination with other legislation	Low	\$0
The project was not assessed under a bilateral agreement or through an accredited assessment.		
ADEQUACY OF INFORMATION AND CLARITY OF PROJECT SCOPE		
Site surveys/Knowledge of environment	Low	
M Surveys have either been completed or shown to be unnecessary as the relevant matter will no longer be impacted due to proposed management or mitigation measures.		\$0
Part B Fees: Management measures (including mitigation and offsets)	Low	
N The proponent has worked with the Department, the Office of Water Science and the WA Department of Water and Environmental Regulation over the past 18 months to establish water monitoring protocols and has proposed, in the preliminary documentation, management and offsets measures relevant to impacts to the MNES.		\$0
O Project scope	Low	\$0
The project remains well understood.		
EXCEPTIONAL CIRCUMSTANCES		
Exceptional circumstances	False	
P N/A		\$0
TOTAL COMPLEXITY FEES		\$0
BASE FEE		\$0
TOTAL FEE		\$0

Potential fees for contingent and post-approval activities (if required)

The Department will notify you if a contingent activity fee is applicable due to an additional statutory step being required under the *Environment Protection and Biodiversity Conservation Act 1999*.

Post-approval fees

Evaluation of new Action Management Plan (per management plan) (\$2,690)

Contingent Fees

Request additional information for referral or assessment approach decision (\$1,701)

Variation to the proposed action (\$1,353)

Reconsideration of the controlled action or assessment approach decision at the applicant's request (\$6,577)

Request additional information for approval decision (assessment on referral information, preliminary documentation or bilateral/accredited assessment) (\$1,701)

Request additional information for approval decision (assessment by environmental impact statement or public environment report) (\$7,476)

Variation of conditions (\$2,690)

Variation of an action management plan under conditions of approval (\$2,690)

Administrative variation of an action management plan under conditions of approval (\$710)

Transfer of approval to new approval holder (\$1,967)

Extension to approval expiry date (\$2,690)

FOI 200501
Document 4c

Australian Government
**Department of Agriculture,
Water and the Environment**

EPBC Act Cost Recovery - Fee Schedule

EPBC No: 2017/8004

Date of Fee Schedule: March 31, 2020

Project title: Shamrock Station Irrigation Project

Assessment method: Preliminary Documentation

*Based on the Notification of Exemption Declaration you have provided, this project qualifies for an exemption from cost recovery on the basis that you are an individual or small business pursuant to subdivision 328-C of the Income Tax Assessment Act 1997 (Cth). Accordingly, **no cost recovery fees are currently payable in relation to this project**. If you become ineligible for an exemption from cost recovery in the future or the person proposing to take an action for the project changes to an entity which is ineligible for an exemption from cost recovery then you or the transferee (in the relevant case) will be required to pay cost recovery fees from the date of ineligibility or transfer.*

Fee Schedule

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Notes:

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- If no further information is requested under section 95A of the EPBC Act, the Stage 1 and 2 fees will not be applicable.
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Fee Breakdown

	COMPLEXITY FEE
CONTROLLING PROVISIONS	
A Listed threatened species and ecological communities	Very High \$0
B Listed migratory species	Moderate \$0
C Wetlands of international importance	Moderate \$0
D Environment of the Commonwealth marine area	None \$0
E World heritage properties	None \$0
F National heritage places	Moderate \$0
G Nuclear actions	None \$0
Part A Fees	
H Great Barrier Reef Marine Park	None \$0
H Reduced fee as Great Barrier Reef is also being assessed under World and/or National Heritage	
I Water Resources	None \$0
J Commonwealth Land/Commonwealth Agency/Commonwealth Heritage Places Overseas	None \$0
NUMBER OF PROJECT COMPONENTS	
K Number of project components	Moderate \$0
COORDINATION WITH OTHER LEGISLATION	
L Coordination with other legislation	Low \$0

		COMPLEXITY	FEE
		ADEQUACY OF INFORMATION AND CLARITY OF PROJECT SCOPE	
Part B Fees:	M Site surveys/Knowledge of environment	Low	\$0
	N Management measures (including mitigation and offsets)	Low	\$0
	O Project scope	Low	\$0
		EXCEPTIONAL CIRCUMSTANCES	
Exceptional circumstances	P Exceptional circumstances	False	\$0
TOTAL COMPLEXITY FEES			\$0
BASE FEE			\$0
TOTAL FEE			\$0

Potential fees for contingent and post-approval activities (if required)

The Department will notify you if a contingent activity fee is applicable due to an additional statutory step being required under the *Environment Protection and Biodiversity Conservation Act 1999*.

Post-approval fees

Evaluation of new Action Management Plan (per management plan) (\$2,690)

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Transfer of approval to new approval holder (\$1,967)

Extension to approval expiry date (\$2,690)

s22

From: O'Neil, De-Arne (M. Price, MP) <De-Arne.O'Neil@aph.gov.au> on behalf of Price, Melissa (MP) <Melissa.Price.MP@aph.gov.au>
Sent: Thursday, 15 March 2018 5:38 PM
To: MinisterialCorrespondence
Subject: Additional Information-MC18-002862
Attachments: 20180301_Shamrock Irrigation Development Letter_Member for Durack.pdf
Categories: Assist Min-For Info

De-Arne O'Neil

Chief of Staff

**Office of the Hon Melissa Price MP | Federal Member for Durack
Assistant Minister for the Environment**

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From: s47F
Sent: Wednesday, 14 March 2018 2:19 PM
To: Price, Melissa (MP)
Subject: FW: Shamrock Station Irrigation Development

Dear Member for Durack,

I am following up on below email sent on March 1 with hard copy mailed to your office on March 2. Could you please provide an indication as to when a response may be received. As the development falls within your electorate we would hope to receive support required.

Yours faithfully

s47F

M: s47F
E: s47F
W: <http://www.aus-standard.com/>

**P.O. Box 216
BRIGHTON SA 5048**



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From: s47F
Sent: Thursday, 1 March 2018 5:58 PM
To: 'Melissa.Price.MP@aph.gov.au' <Melissa.Price.MP@aph.gov.au>
Subject: Shamrock Station Irrigation Development

Dear Member for Durack,

In reference to below, please find attached the revised document which includes the referenced attachments which were missing in the previous attachment.

Regards

s47F

M: s47F

E: s47F

W: <http://www.aus-standard.com/>

P.O. Box 216

BRIGHTON SA 5048



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From: s47F

Sent: Thursday, 1 March 2018 3:25 PM

To: 'Melissa.Price.MP@aph.gov.au' <Melissa.Price.MP@aph.gov.au>

Subject: Shamrock Station Irrigation Development

Dear Member for Durack,

Please find attached an overview of the proposed Shamrock Station Irrigation Development. This is a significant development creating jobs and business opportunities for the region. Argyle Cattle Company seeks your support for the development by engaging with the appropriate Federal ministers on this matter and request that you ask the Minister for the Environment and Energy (or his delegate) to reconsider the referral decision in accordance with section 78A of the EPBC Act to allow the Stage 1 development to proceed without any further delay.

Regards

s47F

M: s47F

E: s47F

W: <http://www.aus-standard.com/>

P.O. Box 216

BRIGHTON SA 5048



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notify us immediately by return email and delete the email and any attachments. Any personal views or opinions expressed by the writer may not necessarily reflect the views or opinions of Australian Standard Agriculture.”

March 1, 2018

To

The Hon. Melissa Price, MP
Member for Durack
PO Box 1856
BROOME WA 6725

Melissa.Price.MP@aph.gov.au

Re – SHAMROCK STATION IRRIGATION PROJECT

To the Hon. Melissa Price,

As you may be aware Consolidated Australian Pastoral Holdings purchased an aggregation of Kimberley stations known as SAWA in November 2016 at a cost of \$100 million. Australian Standard Agriculture (ASA) manages the asset trading as Argyle Cattle Company (ACC) for the investors. This acquisition was based on the promotion of the La Grange area and the possibilities of developing a value-added supply chain through one of the stations, being “Shamrock Station”, which overlies the Broome Sandstone aquifer. This aquifer represents a groundwater resource that is being actively promoted as an agricultural development area in the La Grange area.

A 22 gigalitre (GL) water licence application was submitted for Shamrock Station in November 2016 to support a proposed pivot irrigation project. The project is based on a staged approach with the first stage modelled for an abstraction of 9.5 GL based on development of approximately 12 x 40 ha pivots. The pivots will be utilised to irrigate perennial pastures, such as Rhodes grass, to value add station weaners for export and/or domestic sale. The abstraction licence application, if allocated, is within the allocation limit for the La Grange North subarea set out in the La Grange groundwater allocation plan. Environmental approval is currently being sought for Stage 1 of the development.

The project aligns closely with the Australian Government’s White Paper “Our North, Our Future: White Paper on Developing Northern Australia” (the White Paper), which specifically mentions the West Kimberley (which La Grange area is a part of) as a focus area for development, and the Western Australian Government’s Water for Food programme with La Grange identified as a Kimberley Water for Food Precinct. This is recognised in the Kimberley Development Commission’s Regional Investment Blueprint for the Kimberley (2036 and Beyond). Both the Federal and WA Governments have committed considerable funding (over \$4 million) on research into the agricultural development potential of the La Grange area.

ACC commissioned a number of environmental and heritage studies to support the development application for Stage 1 of the project, including a detailed (H3) hydrogeological assessment (conceptual hydrogeological model and numerical groundwater/saltwater intrusion model), flora and vegetation survey, fauna survey and heritage survey. Early consultation was undertaken with relevant authorities to ensure all licencing and application processes were adhered to and minimise risk of development delays, with several meetings held from January to March 2017 between ACC, the project hydrogeology and environmental consultants, and several relevant agencies including Department of Water¹, Department of Lands², Department of Environment Regulation¹, Department of Parks and Wildlife³ and the local Karajarri People. The aim of the meetings was to formally introduce the development and project timelines, gain an understanding of licencing/approval processes and respective department requirements, and obtain input to, and sign off for, the proposed methodologies for the environmental and heritage studies.

Given the increased focus on irrigated development in northern Australia and subsequent increased resistance to development in the Kimberley by some stakeholders, Stage 1 was referred to the State Environmental Protection Authority (EPA) under Part IV of the *Environmental Protection Act 1986* (EP Act) on 21st September 2017 to provide transparency and certainty in the environmental approvals processes. On 22nd November 2017, the EPA published its assessment level of the proposed Stage 1 development as “Assessment by referral documents – unappealable.” This level was set on basis that the EPA Chairman was satisfied the referral documents provided comprehensive information on which to assess the proposed development, including an appropriate hydrological assessment and a draft detailed operating strategy with a comprehensive monitoring and a management framework for the water resource and groundwater dependent ecosystems (refer to Attachment A for EPA referral decision). ACC has committed to establishing and undertaking one of the most rigorous and expensive water monitoring programs for this type and scale of development in the Kimberley.

Stage 1 was also referred to the Commonwealth Department of the Environment and Energy (DoEE) on 7th August 2017 (EPBC Ref: 2017/8004) based on some old Bilby foraging diggings identified through the fauna survey. The Bilby is listed as a matter of

¹ Now Department of Water and Environmental Regulation (DWER).

² Now Department of Planning, Lands and Heritage (DPLH).

³ Now Department of Biodiversity, Conservation and Attractions (DBCA).



national environmental significance (NES) under the *Environment Protection and Biodiversity Protection Act 1999* (EPBC Act). While no significant impact to Bilbies was identified from the Stage 1 development, with the project area re-designed to avoid higher value habitat, it was referred to provide certainty for the approvals pathway and manage project risks, with the expectation that the referral would not be deemed a controlled action.

On 2nd February 2018, nearly 26 weeks (six months) after referral, the DoEE advised ACC that the proposed action is a controlled action and requires assessment under the EPBC Act; however, decision on assessment approach has still not been set as the DoEE is approaching the WA EPA to undertake an accredited assessment; this would require the EPA to change its level of assessment and assess matters/environmental factors that it does not consider relevant to the Stage 1 development (refer to Attachment B for DoEE controlled action decision letter).

Over the unacceptably lengthy period that the DoEE has been considering the referral, it has continually altered its area of concern in its discussions with ACC. The latest correspondence regarding the controlled action decision identifies the following: Kimberley National Heritage Area⁴, Roebuck Bay Ramsar site⁴, hydrological changes and potential impact on threatened or migratory species (e.g. Princess Parrot) and direct impacts to Bilby. The DoEE has not provided ACC with adequate justification for the inclusion of these matters of NES in the controlled action decision.

DoEE has indicated its concern that the development may impact the above values (except direct impact to Bilby) as a result of the proposed abstraction of groundwater. To address these concerns, ACC have responded to the DoEE with the best available science in the form of a numerical groundwater model, which the State has peer reviewed and endorsed by its own technical experts. The modelling shows only minor (7.5%) change in groundwater discharge to the marine environment within the entire model domain due to cumulative abstraction impacts including Stage 1 development and other existing users. The magnitude of change in discharge flux further north of the model domain – at the southern end of Roebuck Bay, for example – would be negligible. Thus, Stage 1 development will not impact Roebuck Bay environmental values.

A sticking point in the referral process has been the request by DoEE for additional analyses to be run in the groundwater model based on hypothetical values. ACC's hydrogeological consultant has made it clear that the requested analyses are not consistent with the conceptual hydrogeological model, which is based on real data (supported by DWER), nor are they appropriate for the numerical groundwater/saltwater intrusion model. ACC is therefore concerned that unreasonable requests for additional information will be made by DoEE.

The EPA has made it clear to ACC that it does not share the same concerns as the Commonwealth, as has DWER Water, which regulates groundwater use and licencing in WA through the *Rights in Water and Irrigation Act 1915* (RIWI Act) and was consulted extensively in the design of the groundwater model and reviewed its output.

ACC believe the DoEE is, in effect, dismissing the State's assessment of environmental impacts and risk from the proposed groundwater abstraction undertaken through the State water licencing process and the Part IV assessment by the EPA. This is notwithstanding that, in the context of the RIWI Act, the State is best placed to undertake this assessment and condition environmental monitoring and management measures associated with the proposed groundwater abstraction.

While the development is unlikely to be assessed under the assessment bilateral agreement between the State and Commonwealth, the situation ACC finds itself in is counter to the intent and principles of the agreement that is: to strengthen intergovernmental cooperation on the environment and to minimise costs to business while maintaining high environmental standards.

Under the EPBC Act referral timeline, the Minister must make a decision on a referral within 20 business days after receipt of the referral. While DoEE made several requests for additional information (effectively stopping the clock), ACC responded to these requests promptly and therefore the time taken for a referral decision to be reached is, in ACC's opinion, unjustifiable.

ACC has now spent considerable funds over the past 15 months undertaking the appropriate environmental investigations and consultation in order to meet licencing requirements for a development in an aquifer that is publicly advertised and promoted as an agricultural development area. The full Shamrock Station development, when completed, would equate to a \$50 million investment, would increase beef volume and value exported from the region, and provide a minimum of 20-30 full time positions including opportunities for local businesses and communities. It will also provide a positive message to investors for other potential agricultural developments in the region, that development is possible if regulatory processes are followed.

Any substantial further time delays and/or financial commitment required to meet licencing and approval requirements for Stage 1 of the project will give reason for ACC to reconsider the entire development. Given the public profile of this development, any decision not to proceed is likely to influence further agricultural development investment in the region.

⁴ The southern boundaries of the environmental values associated with Roebuck Bay RAMSAR wetland and West Kimberley National Heritage Place are located approximately 20 km north of the northern end of the project area.



In summary,

- ACC has invested considerable resources into developing a proposed irrigated agriculture project in the La Grange region in northern Australia, a focus area for agricultural investment and development at both the Federal and State Government levels;
- ACC engaged early and worked collaboratively with WA Government departments to ensure the scope and methodologies for the hydrogeological assessment and biological (flora and fauna) surveys were appropriate;
- the management of any potential environmental impacts to Matters of NES from proposed groundwater abstraction for the stage 1 development, will be appropriately managed through the State groundwater licencing process, including the detailed operating strategy and comprehensive monitoring and management framework required as part of the licence;
- the State has assessed the results of the studies and is satisfied with both the level of technical assessment and the level of ongoing monitoring that will be implemented to ensure Stage 1 development will not have significant environmental impacts, including on any matters of NES;
- the DoEE has taken a contrary position to that of the State, been inconsistent in the concerns it has raised regarding the Stage 1 development, has taken an unacceptably long time to reach a referral decision and has not provided adequate justification for the matters of NES raised;
- the unreasonable position of DoEE threatens not only the viability of this project, but also future agricultural investment in the La Grange area, and possibly the broader Kimberley region.

ACC therefore seeks your support for the Shamrock Station Irrigation Project by engaging with the appropriate Federal ministers on this matter – the Hon. Josh Frydenberg MP, Minister for the Environment and Energy, the Hon. David Littleproud, Minister for Agriculture and Water Resources, and The Hon Steven Ciobo MP, the Minister for Trade, Tourism and Investment. We request that you ask the Minister for the Environment and Energy (or his delegate) to reconsider the referral decision in accordance with section 78A of the EPBC Act and allow the Stage 1 development to proceed without any further delay. We have also written to the Minister for the Environment and Energy and the Minister for Agriculture and Water Resources regarding this matter. A copy of this letter has also been sent by post.

We would greatly appreciate a meeting with you to discuss ACC's position on this matter further.

Yours faithfully

s47F

Australian Standard Agriculture/Argyle Cattle Company

s47F

s47F

ATTACHMENTS

ATTACHMENT A: EPA REFERRAL DECISION AND FURTHER EXPLANATION OF DECISION

ATTACHMENT B: DOEE NOTIFICATION OF REFERRAL DECISION AND LETTER TO PROPONENT

s22 - out of scope - irrelevant material

s22 - out of scope - irrelevant material

s22 - out of scope - irrelevant material

s22 - out of scope - irrelevant material

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s22 - out of scope - irrelevant material

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s22 - out of scope - irrelevant material

s22

From: O'Neil, De-Arne (M. Price, MP) <De-Arne.O'Neil@aph.gov.au> on behalf of Price, Melissa (MP) <Melissa.Price.MP@aph.gov.au>
Sent: Tuesday, 27 March 2018 5:11 PM
To: MinisterialCorrespondence
Subject: MC18-004115 - Shamrock Station Irrigation Development-ESD (Link-MC18-002862)
Categories: AA

Hello

Please see below

Regards

De-Arne O'Neil

Chief of Staff
Office of the Hon Melissa Price MP | Federal Member for Durack
Assistant Minister for the Environment

Follow Melissa:



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From: s47F
Sent: Tuesday, 27 March 2018 7:03 AM
To: Price, Melissa (MP)
Cc: O'Neil, De-Arne (M. Price, MP)
Subject: RE: Shamrock Station Irrigation Development

Dear Melissa,

Thank you for the email acknowledgment. On our part it is difficult to ascertain how the EPA and DoEE could be so far apart in their assessment of this project and that the state is unable to manage its own environmental assets.

Below is latest correspondence from EPA stating they will continue on with their respective assessment process as they simply don't share the same concern regarding the potential impacts. Part of our licensing requirements is to undertake an extensive and expensive monitoring program giving reason for EPA to further believe the project can be effectively monitored and managed.

It would seem the opinion of one government engaged hydrogeologist overrides the DWER Regulatory Services (Water) and our own well regarded and experienced Hydrogeologist whom both believe DoEE further modelling requests are unfounded.

La Grange is a promoted agricultural development area sold to investors due to its irrigation potential. There is currently 50GL allocated to the aquifer for irrigation, we have now spent \$500,000 in an attempt to gain relevant permits to abstract 9.5GL. It would seem therefor there is little opportunity for the 50GL to ever be fully realised with this level of resistance to any development.

The investors are not prepared to spend anymore on this process putting the project at risk, which would be a real blow to the community and future possible agricultural development in the area.

We seek your support for this project and are happy to meet to discuss further.

From: s22
Sent: Thursday, 22 March 2018 1:46 PM
To: s47F
Subject: RE: Shamrock Station Irrigation Project
This is our position as conveyed to the Cth

The DWER Regulatory Services (Water) have reviewed all of the information from the proponent, as well as an external submission, and believe that the hydrological impacts of the abstraction of 9.5 GL/a from the La Grange aquifer can be managed as can potential impacts on adjacent intertidal mudflat communities. The EPA is therefore of the view that Marine Fauna and Marine Environmental Quality are not key environmental factors.

Based on the above, the EPA does not share the same level of concern regarding the potential hydrological impacts on the saltwater interface and intertidal mudflat communities which threatened migratory species use, that are detailed as reasons for the decision that this proposal is a Controlled Action.

We understand that should the Commonwealth's concerns be satisfied, the proposal may not need to remain a Controlled Action. The EPA intends to continue with its current level of assessment (Referral Information) under the *Environmental Protection Act 1986*.

Kind Regards

s22

s22

A/Manager
Mining and Industrial Assessments Branch (North)

Department of Water and Environmental Regulation
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Locked Bag 33, Cloisters Square, PERTH WA 6850
Direct: s22 / Reception: 08 6364 6483
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Twitter: @DWER_WA / @EPA

Regards

s47F

M: s47F
E: s47F
W: <http://www.aus-standard.com/>

**P.O. Box 216
BRIGHTON SA 5048**



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From: Price, Melissa (MP) <Melissa.Price.MP@aph.gov.au>
Sent: Friday, 23 March 2018 3:00 PM
To: s47F
Cc: O'Neil, De-Arne (M. Price, MP)
Subject: Re: Shamrock Station Irrigation Development

Hi s47F, thanks for your emails. Just wanted to let you know that we are following up with the Department. I will get back to you ASAP.

Regards Melissa Price

On 1 Mar 2018, at 3:30 pm, s47F wrote:

Dear Member for Durack,

In reference to below, please find attached the revised document which includes the referenced attachments which were missing in the previous attachment.

Regards

s47F

M: s47F
E: s47F
W: <http://www.aus-standard.com/>

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From: s47F
Sent: Thursday, 1 March 2018 3:25 PM

To: 'Melissa.Price.MP@aph.gov.au' <Melissa.Price.MP@aph.gov.au>

Subject: Shamrock Station Irrigation Development

Dear Member for Durack,

Please find attached an overview of the proposed Shamrock Station Irrigation Development. This is a significant development creating jobs and business opportunities for the region. Argyle Cattle Company seeks your support for the development by engaging with the appropriate Federal ministers on this matter and request that you ask the Minister for the Environment and Energy (or his delegate) to reconsider the referral decision in accordance with section 78A of the EPBC Act to allow the Stage 1 development to proceed without any further delay.

Regards

s47F

M: s47F

E: s47F

W: <http://www.aus-standard.com/>

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FOI 200501
Document 6a

THE HON MELISSA PRICE MP
ASSISTANT MINISTER FOR THE ENVIRONMENT

MC18-004115

s47F

Australian Standard Agriculture
PO Box 216
BRIGHTON SA 5048

10 MAY 2018

Dear s47F

Thank you for your email concerning apparent differences in the Australian and Western Australian governments' approaches to environmental assessment of the Shamrock Station Irrigation Development. I note that, as this project is located in my electorate, I will not be making any decisions in relation to the project.

Both the Australian and Western Australian governments have determined that assessment of this project is required, suggesting that both jurisdictions agree on the potential for significant impacts to arise from the proposed action.

In many situations both the Australian and Western Australian governments' concerns and interests in relation to a proposed action will align. In these instances, it is possible to use a single streamlined process to assess the impacts of a project under the bilateral agreement between jurisdictions. However, the Department of the Environment and Energy (Department) is required to comply with national environment law and this can, in some cases, lead to differences in the assessment requirements of each jurisdiction.

I am advised the Department has not yet formed a view as to whether the proposed action is unacceptable or will have a significant impact on protected matters. Your assistance in the provision of information necessary to determine the impacts of the action will help ensure a timely assessment and approval decision.

Thank you for raising this matter with me.

Yours sincerely

MELISSA PRICE

