

## DEPARTMENT OF AGRICULTURE, WATER AND THE ENVIRONMENT

MS20-000322

To: Minister for the Environment (For Decision)

**Approval Decision Brief (recommendation report) – Operation of Peel River Drought Protection Works, Tamworth, NSW (EPBC 2019/8590)**

Timing: 18 June 2020 - Statutory timeframe.

**Recommendations:**

1. Consider the information in this brief and the proposed approval decision package, including the recommendation report, at Attachment D.

**Considered / please discuss**

2. Consider the responses to the invitation for comment on the proposed decision at Attachment A.

**Considered / please discuss**

3. Approve, for each controlling provision, the action as summarised in the table below.

**Approved / Not approved**

4. Agree to attach the conditions of approval as set out in Attachment B.

**Agreed / Not agreed**

5. Sign the notice of your decision at Attachment B.

**Signed / Not signed**


6. If you approve 3 and agree to 4, accept the reasoning in the Departmental briefing package as the reasons for your decision.

**Accepted / Please discuss**

7. Sign the letters at Attachment C advising the person proposing to take the action, and other relevant parties, of your decision.

**Signed / Not signed****Summary of recommendations on each controlling provision:**

Controlling Provisions for the action	Recommendation	
	<b>Approve</b>	<b>Refuse to Approve</b>
Listed threatened species and communities (ss 18, 18A)	<b>Approve</b>	

<b>Minister for the Environment</b> <b>The Hon Sussan Ley MP</b>			
		Date: 12/6/20	
<b>Comments:</b>			
Clearing Officer: Sent: 4/06/20	s. 22(1)(a)(ii)	A/g Assistant Secretary, Environment Approvals and Wildlife Trade Branch	Ph: s. 22(1)(a)(ii) Mob: s. 22(1)(a)(ii)
Contact Officer:	s. 22(1)(a)(ii)	Assistant Director, Northern NSW Assessments Section	Ph: s. 22(1)(a)(ii) Mob: s. 22(1)(a)(ii)

### Key Points

1. The purpose of this submission is to seek your consideration of a final approval decision for the operation of Peel River drought protection works under Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).
2. WaterNSW (the designated proponent and the person proposing to take the action) proposes to operate a temporary drought mitigation pipeline to supply water to the Tamworth water supply network directly from Chaffey Dam (the proposed action). The objective of the proposed action is to extend critical water supplies to Tamworth.
3. In April 2020, WaterNSW completed construction of the new 18 km pipeline connecting Chaffey Dam to the existing pipeline that extends from Dungowan Dam to the Calala Water Treatment Plant. WaterNSW did not refer construction of the pipeline under the EPBC Act, as it had self-assessed that only the pipeline's operation was likely to have a significant impact on matters of national environmental significance. The new pipeline enables water to be pumped from Chaffey Dam and delivered directly to the Calala Water Treatment Plant, eliminating transmission losses that occur when delivering water via the Peel River.
4. The proposed action to temporarily operate the pipeline is likely to result in a reduction in availability and quality of aquatic habitat in the Peel River due to reduced flows, and is likely to significantly impact an important population of vulnerable Murray Cod (*Maccullochella peelii*) and the critically endangered Silver Perch (*Bidyanus bidyanus*).
5. The Department considers that, provided the action is undertaken in accordance with the recommended conditions of approval, which include mitigation and offset measures, the likely impacts to protected matters as a result of the proposed action will be acceptable.
6. The proposed action is identified as a declared water supply development under Schedule 2 of the *NSW Water Supply (Critical Needs) Act 2019* and will require authorisation, subject to conditions, by the NSW Minister for Water, Property and Housing under that legislation and concurrence from the NSW Minister for Energy and Environment. The Department understands that this authorisation is expected to be granted in coming days and does not affect your ability to approve the action under the EPBC Act or the 18 June 2020 statutory due date for your decision.

## Background

7. Although drought pressure in NSW has reduced in a number of areas, the majority of the State remains drought affected. The Peel River valley remains in serious drought, with inflows into Chaffey Dam over the last two years at record lows. The dam is currently 13.9 per cent full as at 17 May 2020.
8. Tamworth is currently reliant on surface water deliveries from Chaffey Dam via the Peel River. Delivering town water supply via the Peel River results in transmission losses. Modelling by WaterNSW concludes that without any further inflows into Chaffey Dam, Tamworth will have exhausted this supply in 2021.
9. The proposed action will reduce and temporarily cease dam releases into the Peel River as the dam level continues to fall, with water supply to Tamworth to be piped directly from Chaffey Dam to the Tamworth water supply network, extending Tamworth's water supply by approximately six months. A map showing the pipeline route is provided at *Figure 1*. The new pipeline (red) joins the existing town water supply pipeline (blue) near Dungowan.

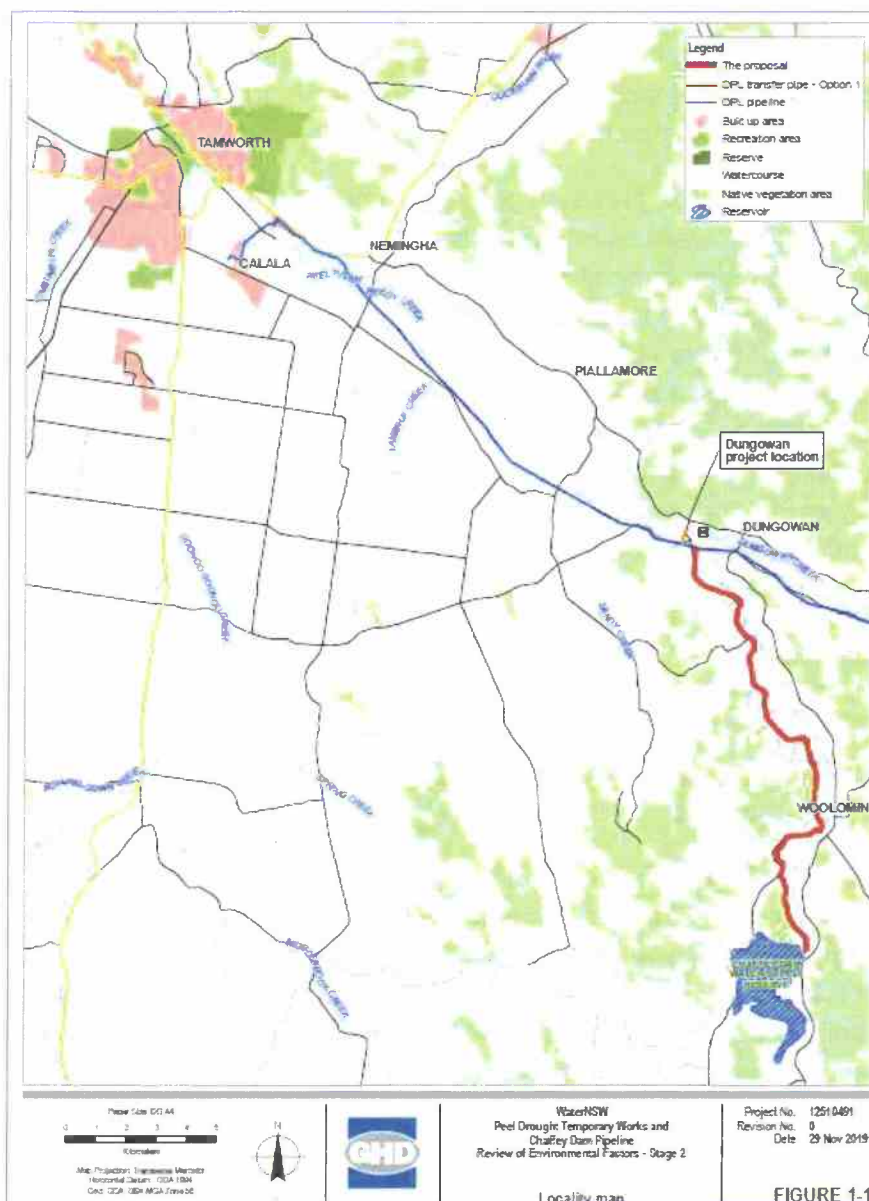


Figure 1: Chaffey Dam to Dungowan pipeline (source Peel River Drought Response Works Review of Environmental Factors for water delivery pipeline December 2019)

10. On 6 May 2020, following consideration of the Department's proposed approval decision brief ([Attachment D](#)), including the recommendation report, your delegate proposed to approve the taking of the proposed action under sections 130(1) and 133 of the EPBC Act.
11. On the same date, as recommended in the proposed approval decision brief ([Attachment D](#)), the delegate wrote to the proponent (the person proposing to take the action), and relevant Commonwealth Ministers seeking comments on the proposed decision.
12. This brief considers the outcome of that consultation and seeks your decision on whether or not to approve (and what conditions to attach) the taking of the proposed action.

### Sensitivities and Handling

13. The EPBC Act assessment method for this proposal was assessment on preliminary documentation. During the public consultation stage, one comment was made in response to the preliminary documentation. The submission from the Peel Valley Water Users Association objected to any changes to the *Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010* (water sharing plan) to implement the action. No changes were made to the preliminary documentation in response to the submission as the proposed action is temporary in nature and does not propose changes to the water sharing plan.
14. The daily environmental water release provision of the current water sharing plan is suspended until 30 June 2020 to enable strategic pulse releases of environmental water during the drought. The Department understands that the NSW Department of Planning, Industry and Environment is now proposing to amend the water sharing plan (rather than a further suspension) to allow for the temporary operation of the pipeline under its conditions of authorisation. Any ongoing future use of the pipeline as part of water resource management in the Peel Valley would require further amendments to the water sharing plan, consultation with stakeholders and consideration of impacts to water entitlements and the environment. A copy of the public comment and the response from WaterNSW is provided at Attachment C to the proposed decision brief ([Attachment D](#)).
15. The proposed action is identified as a declared water supply development under Schedule 2 of the *NSW Water Supply (Critical Needs) Act 2019*. That act exempts specified emergency drought infrastructure undertaken by a public authority from the *Environmental Planning and Assessment Act 1979* and certain other legislation, subject to the terms of an authorisation by the NSW Minister for Water, Property and Housing and concurrence from the NSW Minister for Energy and Environment.
16. The Department anticipates concurrence from the NSW Minister for Energy and Environment will be given in coming days and the NSW Minister for Water, Property and Housing, the Hon Melinda Pavey MP, will authorise the proposed action subject to conditions ([Attachment E](#) sets out draft NSW conditions of authorisation). The draft NSW conditions are an updated version provided to the Department on 4 June 2020 and are not expected to further change. The Department has considered the relevant draft NSW conditions of authorisation in recommending conditions of approval under the EPBC Act (as set out in the recommendation report at Attachment A of the proposed approval decision brief at [Attachment D](#)).
17. The *NSW Water Supply (Critical Needs) Act 2019* is temporary legislation to secure regional town water supplies against the current drought and it is unclear if the proposed NSW conditions of authorisation will continue to apply once the temporary act has expired (the Act

is due to expire 2 years after its November 2019 assent with a possibility for a twelve month postponement). The Department has recommended conditions of approval, consistent with NSW draft conditions of authorisation, but with a longer duration of approval beyond the scheduled expiry of the NSW legislation to ensure impacts to EPBC Act protected matters can be appropriately offset and there remains an enforcement mechanism.

18. Social, economic and environmental impacts from any future ongoing operation of the pipeline would need to be considered through a separate assessment and approval process.

### Statutory Consultation

19. In accordance with sections 131 and 131AA, the proponent and relevant Commonwealth Ministers were invited to comment on the proposed decision between 6 and 20 May 2020.
20. The comments received in response to the proposed decision are at [Attachment A](#). Summaries of these comments are outlined in the table below.
21. The proponent submitted written comments on the proposed conditions of approval on 11 May 2020 ([Attachment A1](#)). On 12 May 2020, the proponent discussed the proposed conditions of approval with the Department via teleconference. The proponent sought clarification regarding consistency with the NSW draft conditions of authorisation. As set out in the table below, the Department has recommended minor amendments to the proposed conditions to address these concerns. On 14 May 2020, the proponent advised they had no additional comments and intended to make no further comment on the proposed conditions of approval.

	Consultation Comment	Departmental Response
Designated Proponent	<p>Condition 1 – Clarify reference to Drought Operations – Delivery of Peel Environmental Water Plan as the draft NSW conditions of authorisation carve out relevant sections into individual conditions.</p> <p>There is potential for inconsistency between the plan referenced in the preliminary documentation and the conditions of consent under the <i>NSW Water Supply (Critical Needs) Act 2019</i>, specifically the provision of emergency releases in stage 2 and stage 3 operations and the requirement to develop terms of reference for the technical advisory group.</p>	<p>The Department supports consistency between Commonwealth and NSW conditions for the proposed action. The Department has considered these comments and recommends updating Condition 1 from:</p> <p>“The approval holder must implement the <b>Drought Operations – Delivery of Peel Environmental Water Plan</b> for the life of the approval.”</p> <p>to:</p> <p>“The approval holder must implement the <b>Drought Operations – Delivery of Peel Environmental Water Plan</b> for the life of the approval. In addition the approval holder must comply with <b>NSW conditions of authorisation</b> where those conditions relate to environmental water releases and operation of the technical advisory group.”</p>

		To support this change the Department has included a definition of the NSW conditions of authorisation.
	<p>Condition 2 – Please clarify that the technical advisory group is to be the Peel Environmental Water Technical Advisory Group (PEWTA Group) referred to in the NSW <i>Water Supply (Critical Needs) Act</i> 2019 authorisation. Consider amending to reference a member of the CEWH to be required to participate in the PEWTA Group as defined in the NSW authorisation to avoid confusion.</p>	<p>The Department recommends accepting this change and updating the proposed definition of the technical advisory group to address this concern from:</p> <p><b>“Technical advisory group</b> means the Technical Advisory Group established as specified in the <b>Drought Operations – Delivery of Peel Environmental Water Plan.</b>”</p> <p>to:</p> <p><b>“Technical advisory group</b> means the Technical Advisory Group established as specified in the <b>Drought Operations – Delivery of Peel Environmental Water Plan</b> and is the same as the Peel Environmental Water Technical Advisory Group established under the <b>NSW conditions of authorisation.</b>”</p> <p>To support this change the Department has included a definition of the NSW conditions of authorisation.</p>
	The NSW authorisation has referred to emergency releases, to avoid potential non-compliance with Commonwealth approval can we amend to clarify if additional releases are required as per state approval conditions.	The Department supports consistency between Commonwealth and NSW conditions and has addressed this issue as part of the recommended amendment to Condition 1, above.
	WaterNSW request alignment of notification of moving between phases (NSW requires 2 weeks and proposed conditions require five days). Suggest amending the approval to rely on notification process provided for under State approval (despite acknowledgement that the 2 weeks is difficult in relation to the operation of the dam and unknown of predicted rainfall in the timeframe required	On 12 May 2020, WaterNSW and the Department agreed that the proposed condition to notify the technical advisory group <u>at least</u> five business days prior to transition to the next phase was not inconsistent with the draft NSW condition of authorisation and resolved that no change to the proposed condition was required.

	potentially triggering decision making by the PEWTA Group and rainfall occurring after decisions have been made).	
Minister for Agriculture, Drought and Emergency Management	<p>The delegated EPBC Act contact for the Minister for Agriculture, Drought and Emergency Management, the Hon David Littleproud MP, replied on 20 May 2020 by email welcoming the proposed decision on the basis that the conditions for approval accommodate both the provision of critical human water needs to Tamworth, NSW, and the appropriate measure to retain ecological integrity of the Peel River (<u>Attachment A2</u>).</p> <p>The response also noted it is a priority for the government to support activities which prepare for drought, assist in the recovery from drought and help farmers and communities prepare for inevitable future periods of extended dry conditions.</p>	The Department noted the letter of support for the proposed decision.
Minister for Resources, Water and Northern Australia	A delegate for the Minister for Resources, Water and Northern Australia replied by email dated 21 May 2020 ( <u>Attachment A3</u> ) stating Minister Pitt has no comment on the proposed decision.	Noted.

22. No response was received from:

- a. the Minister for Indigenous Australians, the Hon Ken Wyatt AM MP,
- b. the Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development, the Hon Michael McCormack MP, and
- c. the Minister for Defence, Senator the Hon Linda Reynolds CSC.

**Recommended Decision:**

23. For the reasons set out in the proposed approval decision brief (Attachment D), the Department recommends that you approve the taking of the proposed action, for the purposes of the controlling provisions in sections 18 and 18A (listed threatened species and ecological communities), subject to the recommended conditions of approval.

24. This conclusion was reached by having regard to the likely impact of the proposed action for the purposes of the controlling provision and the relevant social and economic considerations under section 136.
25. You are required to have regard to any approved conservation advices in deciding whether or not to approve the proposed action. Any decision you make must not be inconsistent with relevant recovery plans or threat abatement plans. The relevant recovery plan and relevant approved conservation advice are at attachments F and G of the proposed approval decision brief at Attachment D and have been considered by the Department in recommending this decision.
26. For the reasons set out above, and in the proposed approval decision brief (Attachment D), the Department considers that the proposed conditions, as amended, are necessary and convenient to protect or to repair or mitigate damage to a matter protected by a provision of Part 3 of the EPBC Act. Accordingly, the Department considers that you can be satisfied that the conditions at Attachment B are within the scope of your power in subsections 134(1) and (2) of the EPBC Act.
27. Consistent with the requirements in subsection 134(4), in amending the conditions of approval at Attachment B, the Department has considered: relevant conditions that have been imposed under the State approval (Attachment E) and the information provided by the proponent at Attachment A. The Department considers that the amended conditions of approval achieve the correct balance between protection of matters protected by a provision of Part 3 of the EPBC Act and the likely costs to be borne by the person taking the action in implementing these conditions. The Department considers the conditions are as far as practicable a cost-effective means for the Commonwealth and the person taking the action to achieve the objects of the conditions.
28. In addition to the advice in this brief and the comments received at Attachment A, the matters for consideration and factors required to be taken into account when deciding whether to approve the taking of the proposed action, and what conditions to attach to the approval remain as set out in the Department's proposed approval decision brief at Attachment D.
29. Under section 133(3) you must give a copy of the approval to the person named in the approval notice. Letters are provided at Attachment C for your signature, notifying the proponent, and Commonwealth and State Ministers of your decision.
30. The Department sought advice from internal line areas to ensure the relevant and current statutory documents have been considered and attached to the final decision brief. On 14 May 2020, Species Information and Policy Section confirmed there are no changes to the statutory documents relevant to this approval expected within the next six weeks (Attachment F).

## ATTACHMENTS

- A: Responses to invitation for comment on proposed decision
  - A1: Comments from proponent
  - A2: Response on behalf of Minister Littleproud
  - A3: Response on behalf of Minister Pitt



- B: Decision Notice (**FOR SIGNATURE**)
- C: Letters to relevant parties (**FOR SIGNATURE**)
  - C1: Inform Person Taking the Action
  - C2: Inform Minister for Indigenous Australians
  - C3: Inform Minister for Agriculture, Drought and Emergency Management
  - C4: Inform Minister for Defence
  - C5: Inform Minister for Resources, Water and Northern Australia
  - C6: Inform Minister for Infrastructure, Transport and Regional Development
  - C7: Inform New South Wales Minister for Planning and Public Spaces
  - C8: Inform New South Wales Minister for Water, Property and Housing
  - C9: Inform New South Wales Minister for Energy and Environment
- D: Proposed Approval Decision Brief, including the Recommendation Report and all attachments cited in that brief
- E: NSW draft conditions of authorisation
- F: Departmental advice on relevant statutory documents



## Document 2

**From:** s. 47F(1)  
**To:** s. 22(1)(a)(ii)  
**Cc:** s. 22(1)(a)(ii) s. 22(1)(a)(ii); s. 47F(1); s. 47F(1)  
**Subject:** RE: Invitation to comment on proposed approval decision – EPBC 2019/8590 Operation of Peel River Drought Protection Works, Tamworth, NSW [SEC=OFFICIAL]  
**Date:** Thursday, 14 May 2020 11:26:02 AM  
**Attachments:** [image001.png](#)

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Hi s. 22(1)(a)(ii)

Confirming that we do not intend to provide and further comments on the proposed conditions of approval.

Kind regards,

s. 47F(1)

Environmental Services Manager



Level 14, 169 Macquarie Street  
 PARRAMATTA NSW 2150

**M:** s. 47F(1)

**B:** s. 47F(1)

s. 47F(1) [@waternsw.com.au](mailto:s.47F(1)@waternsw.com.au)

[www.waternsw.com.au](http://www.waternsw.com.au)

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**From:** s. 22(1)(a)(ii) <[s.22\(1\)\(a\)\(ii\)@awe.gov.au](mailto:s.22(1)(a)(ii)@awe.gov.au)>  
**Sent:** Wednesday, 13 May 2020 3:53 PM  
**To:** s. 47F(1) <[s.47F\(1\)@waternsw.com.au](mailto:s.47F(1)@waternsw.com.au)>; s. 22(1)(a)(ii) <[s.22\(1\)\(a\)\(ii\)@awe.gov.au](mailto:s.22(1)(a)(ii)@awe.gov.au)>  
**Cc:** s. 22(1)(a)(ii) <[s.22\(1\)\(a\)\(ii\)@environment.gov.au](mailto:s.22(1)(a)(ii)@environment.gov.au)>; s. 22(1)(a)(ii) <[s.22\(1\)\(a\)\(ii\)@environment.gov.au](mailto:s.22(1)(a)(ii)@environment.gov.au)>; s. 47F(1) <[s.47F\(1\)@waternsw.com.au](mailto:s.47F(1)@waternsw.com.au)>; s. 47F(1) <[s.47F\(1\)@waternsw.com.au](mailto:s.47F(1)@waternsw.com.au)>  
**Subject:** RE: Invitation to comment on proposed approval decision – EPBC 2019/8590 Operation of Peel River Drought Protection Works, Tamworth, NSW [SEC=OFFICIAL]

Hi s. 47F(1)

Thanks you for getting back to me. Just to clarify, does that mean that WaterNSW do not intend to provide any further comments on the proposed conditions of approval. I note the comment period is available for 10 business days.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Please note: I do not work Fridays

Northern NSW Assessments

**Environment Approvals Division**

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

GPO Box 787 | Canberra ACT 2601 | Australia

☎ s. 22(1)(a)(ii)  
✉ s. 22(1)(a)(ii)@awe.gov.au

*I acknowledge the Traditional Owners of country throughout Australia, their rich cultural connection to land, water and community, and pay my respects to them and their Elders past, present and emerging*

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**From:** s. 47F(1) <s. 47F(1) @waternsw.com.au>  
**Sent:** Wednesday, 13 May 2020 3:49 PM  
**To:** s. 22(1)(a)(ii) @awe.gov.au  
**Cc:** s. 22(1)(a)(ii) @environment.gov.au; s. 22(1)(a)(ii) @environment.gov.au; s. 47F(1) <s. 47F(1)@waternsw.com.au>; s. 47F(1) <s. 47F(1) @waternsw.com.au>  
**Subject:** RE: Invitation to comment on proposed approval decision – EPBC 2019/8590 Operation of Peel River Drought Protection Works, Tamworth, NSW [SEC=OFFICIAL]

Thank you <sup>s. 22(1)(a)(ii)</sup> for our meeting and addressing our concerns.

Confirming that WaterNSW has no further comments.

Kind regards,

s. 47F(1)

Environmental Services Manager



Level 14, 169 Macquarie Street  
PARRAMATTA NSW 2150

**M:** s. 47F(1)

**B:** s. 47F(1)

s. 47F(1) @waternsw.com.au

[www.waternsw.com.au](http://www.waternsw.com.au)

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**From:** s. 22(1)(a)(ii) @awe.gov.au  
**Sent:** Tuesday, 12 May 2020 5:00 PM  
**To:** s. 47F(1) <s. 47F(1) @waternsw.com.au>; s. 47F(1) <s. 47F(1) @waternsw.com.au>  
**Cc:** s. 22(1)(a)(ii) @environment.gov.au; s. 22(1)(a)(ii) >; s. 47F(1) <s. 47F(1)@waternsw.com.au>  
**Subject:** RE: Invitation to comment on proposed approval decision – EPBC 2019/8590 Operation of Peel River Drought Protection Works, Tamworth, NSW [SEC=OFFICIAL]

Hi <sup>s. 47F(1)</sup> and s. 47F(1)

Thank you for your time to discuss Water NSW comments on the proposed conditions of approval via teleconference with the Department this afternoon.

Below is a dot piont summary of those discussion:

- 10 business day comment period with Water NSW and with relevant Commonwealth Ministers commend on 6 May 2020.

- The Department gave reasoning for separate EPBC conditions of approval, as opposed to referencing draft NSW conditions of authorisation.
- The Department agrees on the need for consistency with draft NSW conditions of authorisation under the *Water Supply (Critical Needs) Act 2019*.
- The Department has drafted proposed conditions to be consistent with draft NSW conditions of authorisation.
- In response to Water NSW comments and to remove potential for inconsistency the Department will recommend minor changes to the proposed conditions of approval, specifically
  - Alter proposed Condition 1 to better align with NSW draft conditions of authorisation to reflect both the ability for emergency releases for environmental outcomes as identified in the NSW draft conditions of authorisation and the still to be developed terms of reference for the technical advisory group
  - Amend the definition of technical advisory group to clarify this is the PEWTA group referred to in draft NSW conditions of authorisation
  - We resolved that no change was necessary for timing of notifications of phase transitions to the technical advisory group as the proposed condition of “at least 5 business days” was not inconsistent with the longer notification requirement in the draft NSW conditions of authorisation.
- We also discussed that comment on the proposed approval and conditions of approval was open for the period of 10 business days and multiple submissions of comments are welcome. Notification that a commenting party had no intention to make further comment would close the comment period for that party.

Please let me know if I missed or misrepresented any relevant discussions.

I will send through contact details for the Commonwealth Environmental Water Holder separately.

Regards

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Please note: I do not work Fridays

Northern NSW Assessments

**Environment Approvals Division**

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

GPO Box 787 | Canberra ACT 2601 | Australia

☎ s. 22(1)(a)(ii)

✉ s. 22(1)(a)(ii)@awe.gov.au

*I acknowledge the Traditional Owners of country throughout Australia, their rich cultural connection to land, water and community, and pay my respects to them and their Elders past, present and emerging*

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**From:** s. 47F(1) <s. 47F(1) @waternsw.com.au>

**Sent:** Monday, 11 May 2020 4:20 PM

**To:** s. 22(1)(a)(ii) @awe.gov.au>

**Cc:** s. 22(1)(a)(ii) @environment.gov.au>; s. 22(1)(a)(ii)

<[s. 22\(1\)\(a\)\(ii\)@environment.gov.au](mailto:s.22(1)(a)(ii)@environment.gov.au)>; [s. 47F\(1\) @waternsw.com.au](mailto:s.47F(1)@waternsw.com.au)>; [s. 47F\(1\)@waternsw.com.au](mailto:s.47F(1)@waternsw.com.au)>

**Subject:** FW: Invitation to comment on proposed approval decision – EPBC 2019/8590 Operation of Peel River Drought Protection Works, Tamworth, NSW [SEC=OFFICIAL]

Hi [s. 22\(1\)\(a\)\(ii\)](mailto:s.22(1)(a)(ii)@environment.gov.au)

Thanks for providing the draft conditions for our comment. As per our discussion on Friday we would appreciate the opportunity to discuss the below points at your earliest convenience. Look forward to discussing at tomorrow's meeting.

The following potential points need to be clarified:

- Condition 1 – Clarify reference to *Drought Operations – Delivery of Peel Environmental Water Plan (state authorisation carves out relevant sections into conditions)*. If inconsistency occurs between that referenced plan in the preliminary documentation and the conditions of consent under the WSCN Act authorisation which will be further developed in the terms of reference required by the WSCN Authorisation (12c). There is the potential for there to be confusion and compliance issues.
- Condition 2 – Please clarify that the technical advisory group is to be the PEWTA group referred to in the WSCN Act authorisation? Consider amending to reference a member of the CEWH to be required to participate in the PEWTA group as defined in the WSCN authorisation to avoid confusion.

Additional concerns relating to WSCN Authorisation

- The WSCN authorisation has referred to emergency release, to avoid potential non-compliance with federal approval can we amend to clarify if additional releases are required as per state approval conditions.
- Require alignment of notification of moving between phases (State has 2 weeks and Feds have 5 days). Suggest amending the approval to rely on notification process provided for under State approval (despite acknowledgement that the 2 weeks is difficult in relation to the operation of the dam and unknown of predicted rainfall in the timeframe required potentially triggering decision making by the PEWTA and rainfall occurring after decisions have been made).

Look forward to further discussions and closing this out.

Kind regards,

[s. 47F\(1\)](mailto:s.47F(1)@waternsw.com.au)

Environmental Services Manager



Level 14, 169 Macquarie Street  
PARRAMATTA NSW 2150

**M:** [s. 47F\(1\)](mailto:s.47F(1)@waternsw.com.au)

**B:** [s. 47F\(1\)](mailto:s.47F(1)@waternsw.com.au)

[evan.webb@waternsw.com.au](mailto:evan.webb@waternsw.com.au)

[www.waternsw.com.au](http://www.waternsw.com.au)

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**From:** s. 22(1)(a)(ii) <[s.22\(1\)\(a\)\(ii\)@awe.gov.au](mailto:s.22(1)(a)(ii)@awe.gov.au)>  
**Sent:** Thursday, 7 May 2020 8:30 AM  
**To:** s. 47F(1) <[s.47F\(1\)@waternsw.com.au](mailto:s.47F(1)@waternsw.com.au)>  
**Cc:** s. 22(1)(a)(ii) <[s.22\(1\)\(a\)\(ii\)@environment.gov.au](mailto:s.22(1)(a)(ii)@environment.gov.au)>; s. 22(1)(a)(ii) <[s.22\(1\)\(a\)\(ii\)@environment.gov.au](mailto:s.22(1)(a)(ii)@environment.gov.au)>

**Subject:** Invitation to comment on proposed approval decision – EPBC 2019/8590 Operation of Peel River Drought Protection Works, Tamworth, NSW [SEC=OFFICIAL]

Good morning s. 47F(1)

**Re: proposed approval decision – EPBC 2019/8590 Operation of Peel River Drought Protection Works, Tamworth, NSW**

Please see attached a letter and proposed decision for the proposed action for operation of Peel River Drought Protection Works, Tamworth, NSW (EPBC 2019/8590).

This is your opportunity to comment on the proposed conditions, within 10 business days of the date of the letter.

I will give you a call this morning to discuss and if you have any questions, please let me know.

Regards

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Please note: I do not work Fridays

Northern NSW Assessments

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**Environment Approvals Division**

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

GPO Box 787 | Canberra ACT 2601 | Australia

☎ s. 22(1)(a)(ii)

✉ s. 22(1)(a)(ii)

*I acknowledge the Traditional Owners of country throughout Australia, their rich cultural connection to land, water and community, and pay my respects to them and their Elders past, present and emerging*

s. 22(1)(a)(ii)

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**From:** s. 22(1)(a)(ii) @awe.gov.au>  
**Sent:** Wednesday, 20 May 2020 3:20 PM  
**To:** s. 22(1)(a)(ii)  
**Cc:** s. 22(1)(a)(ii)  
**Subject:** 2019/8590 Operation of Peel River Drought Protection, NSW approved decision [SEC=UNOFFICIAL]  
**Attachments:** Response to decision 2019-8590.docx

Hi s. 22(1)(a)(ii)

Please find attached comments on behalf of Minister Littleproud in relation to the proposed decision for referral 2019/8590

Regards

s. 22(1)(a)(ii)

Agriculture Stewardship | Natural Capital and Markets Branch | Climate Adaptation & Resilience Division |

Phone s. 22(1)(a)(ii)

Department of Agriculture, Water and the Environment  
John Gorton Building, King Edward Terrace, Parkes ACT 2600  
GPO Box 786, Canberra ACT 2601

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**Australian Government**  
**Department of Agriculture**

Ms Louise Vickery  
Assistant Secretary  
Environment Approvals and Wildlife Trade Branch  
Department of the Environment and Energy  
GPO Box 787  
CANBERRA ACT 2601

Dear Ms Vickery

I refer to your letter of 6 May to the Hon. David Littleproud MP, Minister for Agriculture, Drought and Emergency Management, inviting comment on the proposed approval decision for referral EPBC 2019/8590 WaterNSW Operation of Peel River Drought Protection Works, New South Wales (NSW), under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The Minister has asked me to reply on his behalf.

I note on 20 December 2019, the Department of Agriculture and Water Resources provided comments on behalf of Ministers Littleproud and McKenzie on the proposed action at the referrals stage. I welcome your decision on the basis that the conditions for approval accommodate both the provision of critical human water needs to Tamworth, NSW, and the appropriate measure to retain ecological integrity of the Peel River.

A priority for the government is to support activities which prepare for drought, assist in the recovery from drought and help farmers and communities prepare for inevitable future periods of extended dry conditions.

Thank you for the opportunity to comment on the proposed decision for EPBC 2019/8590.

Yours sincerely

**s. 22(1)(a)(ii)**

A/g Assistant Secretary  
Climate Adaptation & Resilience Division

May 2020

**From:** s. 22(1)(a)(ii)  
**To:** s. 22(1)(a)(ii)  
**Subject:** FW: Follow up: Invitation to comment on proposed approval decision – EPBC 2019/8590 Operation of Peel River Drought Protection Works, Tamworth, NSW [SEC=OFFICIAL]  
**Date:** Thursday, 21 May 2020 10:30:56 AM

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**From:** s. 22(1)(a)(ii) @awe.gov.au>  
**Sent:** Thursday, 21 May 2020 9:35 AM  
**To:** s. 22(1)(a)(ii)@awe.gov.au  
**Cc:** s. 22(1)(a)(ii) @agriculture.gov.au>; s. 22(1)(a)(ii) @agriculture.gov.au>  
**Subject:** RE: Follow up: Invitation to comment on proposed approval decision – EPBC 2019/8590 Operation of Peel River Drought Protection Works, Tamworth, NSW [SEC=OFFICIAL]

Hi s. 22(1)(a)(ii)

I have reviewed the application and have nil response on the proposed EPBC decision

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Assistant Director, Urban Water and International Engagement Section  
National Water Policy Branch | Water Division  
Department of Agriculture, Water and the Environment  
Ph: s. 22(1)(a)(ii) | Email: s. 22(1)(a)(ii)@agriculture.gov.au

---

**From:** s. 22(1)(a)(ii)  
**Sent:** Wednesday, 20 May 2020 4:54 PM  
**To:** s. 22(1)(a)(ii) @agriculture.gov.au>  
**Cc:** s. 22(1)(a)(ii) @agriculture.gov.au>  
**Subject:** FW: Follow up: Invitation to comment on proposed approval decision – EPBC 2019/8590 Operation of Peel River Drought Protection Works, Tamworth, NSW [SEC=OFFICIAL]

Hey s. 22(1)(a)(ii)

Could you pls advise if you have any comment for this EPBC decision and respond to <sup>s. 22(1)(a)(ii)</sup> by 12 noon tomorrow. WE usually have a nil response to these requests.

thanks

s. 22(1)(a)(ii)

Assistant Director | Head Program and Water Coordination | Water Division  
p|s. 22(1)(a)(ii) | s. 22(1)(a)(ii)@agriculture.gov.au  
Department of Agriculture, Water and the Environment  
Postal address: GPO Box 858 Canberra ACT 2601  
M.4:122

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**From:** s. 22(1)(a)(ii) [[mailto:s. 22\(1\)\(a\)\(ii\)@awe.gov.au](mailto:s.22(1)(a)(ii)@awe.gov.au)]  
**Sent:** Wednesday, 20 May 2020 4:27 PM  
**To:** s. 22(1)(a)(ii) [@agriculture.gov.au](mailto:s.22(1)(a)(ii)@agriculture.gov.au)>  
**Cc:** s. 22(1)(a)(ii) [@environment.gov.au](mailto:s.22(1)(a)(ii)@environment.gov.au)>; s. 22(1)(a)(ii) [@environment.gov.au](mailto:s.22(1)(a)(ii)@environment.gov.au)>

**Subject:** Follow up: Invitation to comment on proposed approval decision – EPBC 2019/8590 Operation of Peel River Drought Protection Works, Tamworth, NSW [SEC=OFFICIAL]

Hi s. 22(1)(a)(ii)

Thanks for your time on the phone just now.

As mentioned, I'm trying to confirm whether should be expecting to receive comments or a nil response to a letter to Minister Pitt dated 6 May 2020 concerning the proposed approval decision under the EPBC Act for 2019/8590 Operation of Peel River Drought Protection Works, Tamworth NSW.

I've attached a copy of the letter and notice to this email, and the original email requesting comment is below.

The 10 business day consultation period finishes today and we intend finalising the final approval decision brief tomorrow and Friday to go to Minister Ley on Monday (this is a priority project and Minister Ley will be making the final approval decision). I wanted to avoid a situation where we might receive a late comment after we've already put the approval brief to Minister Ley.

Any advice you could give on this before lunchtime tomorrow would be much appreciated.

More generally, we have been a bit confused here since the MOG about who is the correct contact officer in our Department for when we consult Minister Pitt on EPBC Act referrals and proposed decisions. I assume the process is supposed to be that the DLO or Industry Department Parliamentary Services would forward letters to Water Division where Minister Pitt is being consulted about water matters, but I imagine this could be difficult so we are keen to have a departmental contact we can touch base with where needed. Grateful if you could advise who that contact might be, if it is you or someone else?

Thanks again  
s. 22(1)(a)(ii)

s. 22(1)(a)(ii)  
Director – Northern NSW Assessments  
s. 22(1)(a)(ii)  
s. 22(1)(a)(ii)

---

**From:** s. 22(1)(a)(ii)  
**Sent:** Thursday, 7 May 2020 8:50 AM

**To:** 'DLOresources@industry.gov.au' <[DLOresources@industry.gov.au](mailto:DLOresources@industry.gov.au)>

**Cc:** [s. 22\(1\)\(a\)\(ii\)@environment.gov.au](mailto:s.22(1)(a)(ii)@environment.gov.au)

**Subject:** Invitation to comment on proposed approval decision – EPBC 2019/8590 Operation of Peel River Drought Protection Works, Tamworth, NSW [SEC=OFFICIAL]

Dear Minister

**Re: proposed approval decision – EPBC 2019/8590 Operation of Peel River Drought Protection Works, Tamworth, NSW**

Please see attached letter and proposed decision for the proposed action for operation of Peel River Drought Protection Works, Tamworth, NSW (EPBC 2019/8590).

We are sending you the attached invitation to comment on the proposed decision under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), as it falls within your area of interest.

Any comment should be sent within 10 business days of the date of the letter to [s. 22\(1\)\(a\)\(ii\)@awe.gov.au](mailto:s.22(1)(a)(ii)@awe.gov.au).

Regards

[s. 22\(1\)\(a\)\(ii\)](mailto:s.22(1)(a)(ii)@awe.gov.au)

[s. 22\(1\)\(a\)\(ii\)](mailto:s.22(1)(a)(ii)@awe.gov.au)

Please note: I do not work Fridays

Northern NSW Assessments

**Environment Approvals Division**

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

GPO Box 787 | Canberra ACT 2601 | Australia

☎ [s. 22\(1\)\(a\)\(ii\)](mailto:s.22(1)(a)(ii)@awe.gov.au)

✉ [s. 22\(1\)\(a\)\(ii\)](mailto:s.22(1)(a)(ii)@awe.gov.au)

*I acknowledge the Traditional Owners of country throughout Australia, their rich cultural connection to land, water and community, and pay my respects to them and their Elders past, present and emerging*

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**THE HON SUSSAN LEY MP  
MINISTER FOR THE ENVIRONMENT  
MEMBER FOR FARRER**

MS20-000322

**s. 47F(1)**

Environmental Services Manager  
WaterNSW  
169 Macquarie Street  
PARRAMATTA NSW 2150

12 JUN 2020

Dear Mrs. 47F(1)

**Decision on Approval - Operation of Peel River Drought Protection Works, Tamworth, NSW (EPBC 2019/8590)**

I am writing to you in relation to a proposal to operate a temporary drought mitigation pipeline to supply water directly from Chaffey Dam to the Tamworth water supply network. I have considered the proposal in accordance with Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and have decided to grant an approval to WaterNSW. The details of my decision are attached. The proposal must be undertaken in accordance with the conditions specified in the approval.

I would appreciate your assistance by informing me, via the project manager specified below, when you start the action and who will be the contact person responsible for the administration of the approval decision. Please note, any plans required as conditions of approval will be regarded as public documents unless you provide sufficient justification to warrant commercial-in-confidence status.

You should also note that this EPBC Act approval does not affect obligations to comply with any other laws of the Commonwealth, state or territory that are applicable to the action. Neither does this approval confer any right, title or interest that may be required to access land or waters to take the action.

The Department of Agriculture, Water and the Environment has an active audit program for proposals that have been referred or approved under the EPBC Act. The audit program aims to ensure that proposals are implemented as planned and that there is a high degree of compliance with any associated conditions. Please note that your project may be selected for audit by the Department at any time and all related records and documents may be subject to scrutiny. Information about the Department's compliance monitoring and auditing program is enclosed.

I have also written to the following parties to advise them of this decision:

- The Minister for Indigenous Australians, the Hon Ken Wyatt AM MP.
- The Minister for Agriculture, Drought and Emergency Management, the Hon David Littleproud MP.
- The Minister for Defence, Senator the Hon Linda Reynolds CSC.
- The Minister for Resources, Water and Northern Australia, The Hon Keith Pitt MP.

- The Minister for Infrastructure, Transport and Regional Development, Deputy Prime Minister the Hon Michael McCormack MP.
- The New South Wales Minister for Planning and Public Spaces, the Hon Robert Stokes MP.
- The New South Wales Minister for Water, Property and Housing, the Hon Melinda Pavey MP.
- The New South Wales Minister for Energy and Environment, the Hon Matthew Kean MP.

If you have any questions about this decision, please contact the project manager, **s. 22(1)(a)(ii)**, by email to **s. 22(1)(a)(ii)**@awe.gov.au, or telephone **s. 22(1)(a)(ii)** and quote the EPBC reference number 2019/8590.

Yours sincerely



SUSSAN LEY

Enc



**THE HON SUSSAN LEY MP  
MINISTER FOR THE ENVIRONMENT  
MEMBER FOR FARRER**

MS20-000322

The Hon Ken Wyatt AM MP  
Minister for Indigenous Australians  
Parliament House  
CANBERRA ACT 2600

12 JUN 2020

Dear Minister *Ken*

**Decision on Approval - Operation of Peel River Drought Protection Works, Tamworth, NSW (EPBC 2019/8590)**

I am writing to you in relation to the proposal by WaterNSW to operate a temporary drought mitigation pipeline to supply water directly from Chaffey Dam to the Tamworth water supply network.

I have considered the proposal in accordance with Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and have decided to grant an approval to WaterNSW. A notice of my decision is attached for your information.

If you have any questions about this decision, please contact the project manager, **s. 22(1)(a)(ii)**, by email to **s. 22(1)(a)(ii)**@awe.gov.au, or telephone **s. 22(1)(a)(ii)** and quote the EPBC reference number 2019/8590.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sussan Ley'.

SUSSAN LEY

Enc



**THE HON SUSSAN LEY MP  
MINISTER FOR THE ENVIRONMENT  
MEMBER FOR FARRER**

MS20-000322

The Hon David Littleproud MP  
Minister for Agriculture, Drought and Emergency Management  
Parliament House  
CANBERRA ACT 2600

12 JUN 2020

Dear Minister *David*

**Decision on Approval - Operation of Peel River Drought Protection Works, Tamworth, NSW (EPBC 2019/8590)**

I am writing to you in relation to the proposal by WaterNSW to operate a temporary drought mitigation pipeline to supply water directly from Chaffey Dam to the Tamworth water supply network.

I have considered the proposal in accordance with Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and have decided to grant an approval to WaterNSW. A notice of my decision is attached for your information.

If you have any questions about this decision, please contact the project manager, **s. 22(1)(a)(ii)**, by email to **s. 22(1)(a)(ii)**@awe.gov.au, or telephone **s. 22(1)(a)(ii)** and quote the EPBC reference number 2019/8590.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sussan Ley'.

SUSSAN LEY

Enc





**THE HON SUSSAN LEY MP  
MINISTER FOR THE ENVIRONMENT  
MEMBER FOR FARRER**

MS20-000322

Mr Lloyd Woodford  
Director Environmental Protection and Assessments  
Environment and Engineering Branch  
Defence Support and Reform Group  
Department of Defence  
BP26-02-B001  
PO Box 7925  
CANBERRA BC ACT 2601

12 JUN 2020

Dear Mr Woodford

**Decision on Approval - Operation of Peel River Drought Protection Works, Tamworth, NSW (EPBC 2019/8590)**

I am writing to you, as the delegated contact for the Minister for Defence, Senator the Hon Linda Reynolds CSC, in relation to the proposal by WaterNSW to operate a temporary drought mitigation pipeline to supply water directly from Chaffey Dam to the Tamworth water supply network.

I have considered the proposal in accordance with Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and have decided to grant an approval to WaterNSW. A notice of my decision is attached for your information.

If you have any questions about this decision, please contact the project manager, **s. 22(1)(a)(ii)**, by email to **s. 22(1)(a)(ii)@awe.gov.au**, or telephone **s. 22(1)(a)(ii)** and quote the EPBC reference number 2019/8590.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sussan Ley', written over a light blue horizontal line.

SUSSAN LEY

Enc



**THE HON SUSSAN LEY MP  
MINISTER FOR THE ENVIRONMENT  
MEMBER FOR FARRER**

MS20-000322

The Hon Keith Pitt MP  
Minister for Resources, Water and Northern Australia  
Parliament House  
CANBERRA ACT 2600

12 JUN 2020

Dear Minister *Keith*

**Decision on Approval - Operation of Peel River Drought Protection Works, Tamworth, NSW (EPBC 2019/8590)**

I am writing to you in relation to the proposal by WaterNSW to operate a temporary drought mitigation pipeline to supply water directly from Chaffey Dam to the Tamworth water supply network.

I have considered the proposal in accordance with Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and have decided to grant an approval to WaterNSW. A notice of my decision is attached for your information.

If you have any questions about this decision, please contact the project manager, **s. 22(1)(a)(ii)**, by email to **s. 22(1)(a)(ii)**@awe.gov.au, or telephone **s. 22(1)(a)(ii)** and quote the EPBC reference number 2019/8590.

Yours sincerely

A handwritten signature in black ink that reads 'Sussan Ley'.

SUSSAN LEY

Enc



**THE HON SUSSAN LEY MP  
MINISTER FOR THE ENVIRONMENT  
MEMBER FOR FARRER**

MS20-000322

The Hon Michael McCormack MP  
Deputy Prime Minister  
Minister for Infrastructure, Transport and Regional Development  
Parliament House  
CANBERRA ACT 2600

12 JUN 2020

Dear Deputy Prime Minister

A handwritten signature in cursive script that reads 'Michael'.

**Decision on Approval - Operation of Peel River Drought Protection Works, Tamworth, NSW (EPBC 2019/8590)**

I am writing to you in relation to the proposal by WaterNSW to operate a temporary drought mitigation pipeline to supply water directly from Chaffey Dam to the Tamworth water supply network.

I have considered the proposal in accordance with Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and have decided to grant an approval to WaterNSW. A notice of my decision is attached for your information.

If you have any questions about this decision, please contact the project manager, [s. 22\(1\)\(a\)\(ii\)](#), by email to [s. 22\(1\)\(a\)\(ii\)@awe.gov.au](mailto:s.22(1)(a)(ii)@awe.gov.au), or telephone [s. 22\(1\)\(a\)\(ii\)](#) and quote the EPBC reference number 2019/8590.

Yours sincerely

A handwritten signature in cursive script that reads 'Sussan Ley'.

SUSSAN LEY

Enc



**THE HON SUSSAN LEY MP  
MINISTER FOR THE ENVIRONMENT  
MEMBER FOR FARRER**

MS20-000322

The Hon Robert Stokes MP  
Minister for Planning and Public Spaces  
Parliament House  
6 Macquarie Street  
SYDNEY NSW 2000

12 JUN 2020

Dear Minister

**Decision on Approval - Operation of Peel River Drought Protection Works, Tamworth, NSW (EPBC 2019/8590)**

I am writing to you in relation to the proposal by WaterNSW to operate a temporary drought mitigation pipeline to supply water directly from Chaffey Dam to the Tamworth water supply network.

I have considered the proposal in accordance with Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and have decided to grant an approval to WaterNSW. A notice of my decision is attached for your information.

If you have any questions about this decision, please contact the project manager, **s. 22(1)(a)(ii)**, by email to **s. 22(1)(a)(ii)**@awe.gov.au, or telephone **s. 22(1)(a)(ii)** and quote the EPBC reference number 2019/8590.

Yours sincerely

  
SUSSAN LEY

Enc



**THE HON SUSSAN LEY MP  
MINISTER FOR THE ENVIRONMENT  
MEMBER FOR FARRER**

MS20-000322

The Hon Melinda Pavey MP  
Minister for Water, Property and Housing  
Parliament House  
6 Macquarie Street  
SYDNEY NSW 2000

12 JUN 2020

Dear Minister

**Decision on Approval - Operation of Peel River Drought Protection Works, Tamworth, NSW (EPBC 2019/8590)**

I am writing to you in relation to the proposal by WaterNSW to operate a temporary drought mitigation pipeline to supply water directly from Chaffey Dam to the Tamworth water supply network.

I have considered the proposal in accordance with Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and have decided to grant an approval to WaterNSW. A notice of my decision is attached for your information.

If you have any questions about this decision, please contact the project manager, **s. 22(1)(a)(ii)**, by email to **s. 22(1)(a)(ii)**@awe.gov.au, or telephone **s. 22(1)(a)(ii)** and quote the EPBC reference number 2019/8590.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sussan Ley', written over the printed name 'SUSSAN LEY'.

SUSSAN LEY

Enc



**THE HON SUSSAN LEY MP  
MINISTER FOR THE ENVIRONMENT  
MEMBER FOR FARRER**

MS20-000322

The Hon Matthew Kean MP  
Minister for Energy and Environment  
Parliament House  
6 Macquarie Street  
SYDNEY NSW 2000

12 JUN 2020

Dear Minister

A handwritten signature in cursive that reads 'Mett'.

**Decision on Approval - Operation of Peel River Drought Protection Works, Tamworth, NSW (EPBC 2019/8590)**

I am writing to you in relation to the proposal by WaterNSW to operate a temporary drought mitigation pipeline to supply water directly from Chaffey Dam to the Tamworth water supply network.

I have considered the proposal in accordance with Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and have decided to grant an approval to WaterNSW. A notice of my decision is attached for your information.

If you have any questions about this decision, please contact the project manager, **s. 22(1)(a)(ii)**, by email to **s. 22(1)(a)(ii)**@awe.gov.au, or telephone **s. 22(1)(a)(ii)** and quote the EPBC reference number 2019/8590.

Yours sincerely

A handwritten signature in cursive that reads 'Sussan Ley'.

SUSSAN LEY

Enc

## DEPARTMENT OF AGRICULTURE, WATER AND THE ENVIRONMENT

**To:** Louise Vickery, Assistant Secretary, Environment Approvals and Wildlife Trade Branch (for decision)

**Proposed Approval Decision Brief (recommendation report) – Operation of Peel River Drought Protection Works, Tamworth, NSW (EPBC 2019/8590)**

**Timing:** 10 May 2020 to allow for final decision by 18 June 2020 - Statutory timeframe.

**Recommendations:**

1. Consider the recommendation report at Attachment A.

**Considered / please discuss**

2. Consider the finalised preliminary documentation at Attachment C.

**Considered / please discuss**

3. Agree that the recommended decision on page 1 of the recommendation report (Attachment A), and summarised in the table below, reflects your proposed decision.

**Agreed / Not agreed**

4. Sign the letters at Attachment D and E to consult the proponent and relevant Commonwealth Ministers on your proposed decision.

**Signed / Not signed**

5. Agree to not publish the proposed decision at Attachment B on the internet for public comment.

**Agreed / Not agreed**

**Summary of recommendations on each controlling provision:**

Controlling Provisions for the action	Recommendation	
	Approve	Refuse to Approve
Listed threatened species and communities (ss 18, 18A)	Approve	



**Louise Vickery**  
Assistant Secretary  
Environment Approvals and Wildlife Trade Branch

Date: 6/05/20

**Comments:**

**Key Points:**

1. Water NSW proposes to operate a temporary drought mitigation pipeline to supply water to the Tamworth water supply network directly from Chaffey Dam. The proposed action will extend critical water supply to Tamworth.
2. The proposed action will have the effect of temporarily ceasing dam releases into the Peel River and will significantly impact Silver Perch (*Bidyanus bidyanus*), listed as critically endangered, and Murray Cod (*Maccullochella peelii*), listed as vulnerable, under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).
3. The Department considers that, provided the action is undertaken in accordance with the recommended conditions of approval, the likely impacts to protected matters as a result of the proposed action will not be unacceptable.

**Background:**

4. This brief seeks your consideration of the proposed decision on whether or not to approve the proposed action under the EPBC Act.
5. On 17 January 2020, a delegate for the Minister determined the proposed action to be a controlled action for likely significant impacts on listed threatened species and communities (section 18 and section 18A) and determined the proposed action would be assessed by preliminary documentation.
6. Finalised preliminary documentation including the proponent's response to the single public comment (Attachment C) was received on 20 April 2020, and stage 3 cost recovery fees were paid on 20 April 2020. This commenced the approval decision timeframe with a decision due by 18 June 2020.
7. The proposed action is identified as a declared water supply development under Schedule 2 of the *NSW Water Supply (Critical Needs) Bill 2019*. This act exempts specified emergency drought infrastructure from the *Environmental Planning and Assessment Act 1979*. The action will require authorisation, subject to conditions, by the NSW Minister for Water, Property and Housing with concurrence from the NSW Minister for Energy and Environment. We understand this authorisation and concurrence are currently being finalised and will likely be granted before the Minister makes the EPBC Act final approval decision on the proposed action.

**Potential impacts on protected matters**

8. The Department's Environmental Reporting Tool (ERT) at the time of the controlled action decision identified a total of 35 listed species and seven listed ecological communities that are known to, likely to, or may occur within 2 km of the proposed action area. The same report generated on 29 April 2020 identified 33 listed species and seven ecological communities. Silver Perch were not identified in the recent ERT. However as set out in the recommendation report (paragraphs 43 – 45), the Department considers a population of Silver Perch is likely to occur in the proposed action area.
9. If approved, the proposed action is likely to result in a reduction in availability and quality of aquatic habitat in the Peel River and is therefore likely to significantly impact an important population of vulnerable Murray Cod and the critically endangered Silver Perch.
10. Impacts from the proposed action are discussed in more detail in the recommendation report at Attachment A.



11. The Department considers the potential impacts on the above protected matters can be addressed through the recommended conditions of approval ([Attachment B](#)). The impacts are not considered to be unacceptable, provided the action is undertaken in accordance with the recommended conditions.

### Recommendations

12. The recommendation report ([Attachment A](#)) has been prepared in accordance with section 95C of the EPBC Act. It concludes that the proposed action should be approved under sections 130(1) and 133 of the EPBC Act subject to the recommended conditions at [Attachment B](#).
13. This conclusion was reached by having regard to the likely impact of the proposed action for the purposes of the controlling provision and the relevant social and economic considerations under section 136.
14. You are required to have regard to any approved conservation advices in deciding whether or not to approve the proposed action. Any decision you make must not be inconsistent with relevant recovery plans or threat abatement plans. The relevant recovery plan and relevant approved conservation advice are at [Attachment F and G](#) respectively and have been considered by the Department in recommending this decision.
15. You are required to consider any relevant conditions that have been, or are likely to be, imposed by the NSW Government on the taking of the proposed action. The Department expects the NSW Minister for Water, Property and Housing to impose conditions of authorisation, under the NSW *Water Supply (Critical Needs) Act 2019*, to require the proponent to operate the pipeline in accordance with the environmental water management plan, and to develop and implement additional management plans, including a biodiversity management plan to compensate for impacts of the proposal (refer [Attachment H](#)).
16. In accordance with section 131AA, if you agree with the Department's recommendation, a letter to the proponent inviting comments on your proposed decision is at [Attachment D](#) for your signature.
17. Under section 131 of the EPBC Act, before making an approval decision you must invite comments from other relevant Commonwealth Ministers. Letters to relevant Commonwealth Ministers inviting comments on your proposed decision are at [Attachment E](#) for your signature.
18. Under section 131A of the EPBC Act, you may invite public comment on your proposed decision and any conditions that you are proposing to attach to the approval. The Department considers that adequate consultation has occurred for the proposed action, with opportunities for public comment at the referral and preliminary documentation stages (each stage invited public comment over a period of 10 business days). Therefore the Department recommends that you do not invite public comment on the proposed decision.

### Internal Consultation

19. The Department has consulted with the Environmental Audit Section and the Post Approvals Section on the proposed conditions of approval. Post Approvals Section recommended inclusion of condition 5 to help address the risk that the proponent is unable to develop an appropriate offset management plan for approval. Otherwise, only minor administrative comments were made, and the conditions were amended accordingly.

20. The Department also consulted with the Species Information and Policy Section on the relevant statutory documents. On 22 April 2020, they advised that they were not anticipating any changes to the relevant statutory documents in the next six weeks. ✓

# s. 47F(1)

s. 22(1)(a)(ii)

A/g Assistant Secretary  
Environment Approvals and Wildlife Trade Branch

Ph: s. 22(1)(a)(ii)

April 2020

s. 22(1)(a)(ii)

Northern NSW Assessment

Ph: s. 22(1)(a)(ii)

30

## ATTACHMENTS

- A: Recommendation report
- B: Proposed approval decision notice (DO NOT SIGN)
- C: Finalised preliminary documentation
- D: Letter to proponent (FOR SIGNATURE)
- E: Letters to relevant Commonwealth Ministers (FOR SIGNATURE)
- F: National Murray Cod Recovery Team (2010). *National Recovery Plan for the Murray Cod Maccullochella peelii peelii*. Department of Sustainability and Environment, Melbourne. Available at: <http://www.environment.gov.au/resource/national-recovery-plan-murray-cod-maccullochella-peelii-peelii>.
- G: Department of the Environment (2013). *Conservation Advice Bidyanus bidyanus (silver perch)*. Canberra: Department of the Environment. Available from: <http://www.environment.gov.au/biodiversity/threatened/species/pubs/76155-conservation-advice.pdf>.
- H: Draft proposed NSW conditions of authorisation
- I: ERT Report 12 December 2019
- J: ERT Report 29 April 2020

## DEPARTMENT OF AGRICULTURE, WATER AND THE ENVIRONMENT

## RECOMMENDATION REPORT

## Operation of Peel River Drought Protection Works, Tamworth, NSW (EPBC 2019/8590)

**Recommendation**

That the proposed action, to operate a temporary drought mitigation pipeline to supply water to the Tamworth water supply network directly from Chaffey Dam, be approved subject to the conditions specified below.

<b>Conditions</b>
<b>Part A – Conditions specific to the action</b>
1. The approval holder must implement the <b>Drought Operations – Delivery of Peel Environmental Water Plan</b> for the life of the approval.
2. The approval holder must notify the <b>technical advisory group</b> at least five <b>business days</b> prior to commencing the next <b>phase of operation</b> .
3. The approval holder must invite the <b>Commonwealth Environmental Water Holder</b> to nominate a representative to become a member of the <b>technical advisory group</b> .
4. To compensate for impacts to <b>Murray Cod</b> and <b>Silver Perch</b> , the approval holder must, within 20 <b>business days</b> of <b>commencement of the action</b> , submit a Biodiversity Offset Management Plan (BOMP) for approval by the <b>Minister</b> . If the <b>Minister</b> approves the BOMP, then the BOMP must be implemented.
5. The approval holder must make all reasonable efforts to ensure the BOMP (in full) meets the following requirements and promptly address any feedback from the <b>Department</b> on unapproved versions of the BOMP so that the BOMP is suitable for the <b>Minister</b> to approve within three months of the <b>commencement of the action</b> .
6. The BOMP must: <ul style="list-style-type: none"> <li>a. be prepared by a <b>suitably qualified ecologist</b>, and be consistent with the <b>Department’s Environmental Management Plan Guidelines</b> and the <b>EPBC Act Environmental Offset Policy</b>;</li> <li>b. propose an offset package, including direct habitat restoration works and conservation measures relevant to <b>Murray Cod</b> and <b>Silver Perch</b>;</li> <li>c. include, but not be limited to: <ul style="list-style-type: none"> <li>i. specific objectives to demonstrate improvements in habitat quality and conservation outcomes for <b>Murray Cod</b> and <b>Silver Perch</b> over the life of the approval;</li> <li>ii. specific management actions, and timeframes for implementation, to be carried out to meet the specific objectives to improve habitat quality and conservation outcomes for <b>Murray Cod</b> and <b>Silver Perch</b>;</li> <li>iii. key performance indicators to demonstrate the improvements in habitat quality and conservation outcomes for <b>Murray Cod</b> and <b>Silver Perch</b>;</li> </ul> </li> </ul>

- iv. the nature, timing and frequency of monitoring to determine the success of management actions against key performance indicators;
- v. indicative corrective actions that will be implemented in the event monitoring activities indicate key performance indicators are not or are unlikely to be achieved;
- vi. the roles and responsibilities for implementing the management actions;
- vii. evidence of consistency with relevant conservation advices, recovery plans and/or threat abatement plans;
- viii. commitments to maintain or improve the extent and quality of habitat and populations of other **EPBC Act** listed threatened species and ecological communities in the offset area; and
- ix. a timeline and legal mechanism for implementing the offset(s).

### Part B – Standard administrative conditions

#### Notification of date of commencement of the action

7. The approval holder must notify the **Department** in writing of the date of **commencement of the action** within 10 **business days** after the date of **commencement of the action**. The approval holder must notify the **Department** in writing of the **date of commencement** of each phase of operation within 10 **business days** after the date of **commencement** of each phase of operation.

#### Compliance records

8. The approval holder must maintain accurate and complete **compliance records**.
9. If the **Department** makes a request for **compliance records** in writing, the approval holder must provide electronic copies of **compliance records** to the **Department** within the timeframe specified in the request.

**Note: Compliance records** may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **Department's** website or through the general media.

#### Preparation and publication of plans

10. The approval holder must:
- a. submit **plans** electronically to the **Department**;
  - b. publish each **plan** on the **website** within 20 **business days** of the date of this approval, or the date that the **plan** is approved by the **Minister** or of the date a revised action management plan is submitted to the **Minister** or the **Department**, unless otherwise agreed to in writing by the **Minister**;
  - c. exclude or redact **sensitive ecological data** from **plans** published on the **website** or provided to a member of the public; and
  - d. keep **plans** published on the **website** until the end date of this approval.

11. The approval holder must ensure that any **monitoring data** (including **sensitive ecological data**), surveys, maps, and other spatial and metadata required under a **plan**, is

prepared in accordance with the **Department's** *Guidelines for biological survey and mapped data* (2018) and submitted electronically to the **Department** in accordance with the requirements of the **plan**.

### Annual compliance reporting

12. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or otherwise in accordance with an annual date that has been agreed to in writing by the **Minister**. The approval holder must:
- a. publish each **compliance report** on the **website** within 60 **business days** following the relevant 12 month period;
  - b. notify the **Department** by email that a **compliance report** has been published on the **website** and provide the weblink for the **compliance report** within five **business days** of the date of publication;
  - c. keep all **compliance reports** publicly available on the **website** until this approval expires;
  - d. exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**; and
  - e. where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **Department** within five **business days** of publication.

**Note:** The first compliance report may report a period less than 12 months so that it and subsequent compliance reports align with the similar requirement under state approval. **Compliance reports** may be published on the **Department's** website.

### Reporting non-compliance

13. The approval holder must notify the **Department** in writing of any: **incident**; non-compliance with the conditions; or non-compliance with the commitments made in **plans**. The notification must be given as soon as practicable, and no later than two **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:
- a. any condition which is or may be in breach;
  - b. a short description of the **incident** and/or non-compliance; and
  - c. the location (including co-ordinates), date, and time of the **incident** and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.

14. The approval holder must provide to the **Department** the details of any **incident** or non-compliance with the conditions or commitments made in **plans** as soon as practicable and no later than 10 **business days** after becoming aware of the **incident** or non-compliance, specifying:
- a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;
  - b. the potential impacts of the **incident** or non-compliance; and
  - c. the method and timing of any remedial action that will be undertaken by the approval holder.

<b>Independent audit</b>
15. The approval holder must ensure that <b>independent audits</b> of compliance with the conditions are conducted as requested in writing by the <b>Minister</b> .
16. For each <b>independent audit</b> , the approval holder must: <ul style="list-style-type: none"> <li>a. provide the name and qualifications of the independent auditor and the draft audit criteria to the <b>Department</b>;</li> <li>b. only commence the <b>independent audit</b> once the audit criteria have been approved in writing by the <b>Department</b>; and</li> <li>c. submit an audit report to the <b>Department</b> within the timeframe specified in the approved audit criteria.</li> </ul>
17. The approval holder must publish the audit report on the <b>website</b> within 10 <b>business days</b> of receiving the <b>Department's</b> approval of the audit report and keep the audit report published on the <b>website</b> until the end date of this approval.
<b>Revision of action management plans</b>
18. The approval holder may, at any time, apply to the <b>Minister</b> for a variation to an action management plan approved by the <b>Minister</b> under conditions 4, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the <b>EPBC Act</b> . If the <b>Minister</b> approves a revised action management plan (RAMP) then, from the date specified, the approval holder must implement the RAMP in place of the previous action management plan.
<b>Completion of the action</b>
19. Within 30 days after the <b>completion of the action</b> , the approval holder must notify the <b>Department</b> in writing and provide <b>completion data</b> .

### Definitions:

In these conditions, except where contrary intention is expressed, the following definitions are used:

**Business day** means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.

**Commencement / Commencement of the action** means the first instance of any specified activity associated with the action.

**Commonwealth Environmental Water Holder** means as established under the *Water Act 2007* (Cth.) to manage water acquired by the Australian Government as part of a suite of national water reforms, including the Murray-Darling Basin Plan.

**Completion data** means an environmental report and spatial data clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is **shapefile**.

**Completion of the action** means all specified activities associated with the action have permanently ceased.

**Compliance records** means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully.

**Compliance report(s)** means written reports:

- i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**;
- ii. consistent with the **Department's Annual Compliance Report Guidelines (2014)**;
- iii. include a **shapefile** of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period; and
- iv. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.

**Department** means the Australian Government agency responsible for administering the **EPBC Act**.

**Department's Environmental Management Plan Guidelines** means the Environmental Management Plan Guidelines, Commonwealth of Australia, 2014.

**Drought Operations – Delivery of Peel Environmental Water Plan** means the environmental management plan submitted to the Department on 20 April 2020 as Appendix C to the finalised preliminary documentation.

**EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

**EPBC Act Environmental Offset Policy** means EPBC Act Environmental Offsets Policy, Commonwealth of Australia, 2012.

**Incident** means any event which has the potential to, or does, impact on one or more **protected matter(s)**.

**Independent audit**: means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines (2019)*.

**Monitoring data** means the data required to be recorded under the conditions of this approval.

**Minister** means the Australian Government Minister administering the **EPBC Act** including any delegate thereof.

**Murray Cod** means the Murray Cod (*Maccullochella peelii*), listed as a vulnerable species under the **EPBC Act**.

**Phase of the operation** means each discrete phase of the action as specified in Table 1 in the **Drought Operations – Delivery of Peel Environmental Water Plan**.

**Plan(s)** means any of the documents required to be prepared, approved by the **Minister**, and/or implemented by the approval holder and published on the **website** in accordance with these conditions (includes action management plans and/or strategies).

**Protected matter** means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.

**Sensitive ecological data** means data as defined in the Australian Government Department of the Environment (2016) *Sensitive Ecological Data – Access and Management Policy V1.0*.

**Shapefile** means location and attribute information of the action provided in an Esri shapefile format. Shapefiles must contain '.shp', '.shx', '.dbf' files and a '.prj' file that specifies the projection/geographic coordinate system used. Shapefiles must also include an '.xml' metadata file that describes the shapefile for discovery and identification purposes.

**Silver Perch** means the Silver Perch (*Bidyanus bidyanus*), listed as a critically endangered species under the **EPBC Act**.

**Suitably qualified ecologist** means a person who has professional qualifications and at least three (3) years of work experience designing and implementing surveys and

management plans for **Murray Cod** and **Silver Perch**, and can give an authoritative assessment and advice on the presence and environmental requirements of **Murray Cod** and **Silver Perch** applying relevant protocols, standards, methods and literature.

**Suitably qualified person** means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.

**Technical advisory group** means the Technical Advisory Group established as specified in the **Drought Operations – Delivery of Peel Environmental Water Plan**.

**Website** means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

## **Background**

### **Description of the project and location**

1. Rainfall deficiencies have affected most of the New South Wales, Queensland and South Australian parts of the Murray–Darling Basin since early 2017.
2. February rainfall eased the severity of long-term deficiencies on the eastern coastal regions of Australia, but significant deficiencies remain at long-term timescales across many parts of the country. Averaged over the Murray–Darling Basin and New South Wales, the 36 months from April 2017 to March 2020 have been the driest such period on record (Bureau of Meteorology drought update 8 April 2020 <http://www.bom.gov.au/climate/drought/drought.shtml>, accessed 20 April 2020).
3. Tamworth is currently reliant on surface water supplies, via releases from Chaffey Dam into the Peel River, to meet critical town water requirements. There are no back up supplies available.
4. As at 29 April 2020, Chaffey Dam is at 13.8 per cent capacity and, if measures are not undertaken to conserve supplies, it could be unable to supply Tamworth’s water needs by January 2021, if current drought conditions persist. Average water demand for Tamworth is between 6000 and 8000 ML/year, which equates to around 22 ML/day.
5. Water NSW proposes to operate a temporary drought mitigation pipeline to supply water to the Tamworth water supply network directly from Chaffey Dam. The proposed action will have the effect of temporarily ceasing dam releases into the Peel River.
6. In April 2020, Water NSW completed construction of an 18 km pipeline connecting Chaffey Dam to the existing 54 km pipeline that extends from Dungowan Dam to the Calala Water Treatment Plant (refer Figure 1). Water NSW self-assessed the construction of the pipeline as not having a significant impact on any protected matter. The new pipeline enables water to be pumped from Chaffey Dam and delivered directly to the Calala Water Treatment Plant (the proposed action), eliminating transmission losses that occur when delivering water via the Peel River.



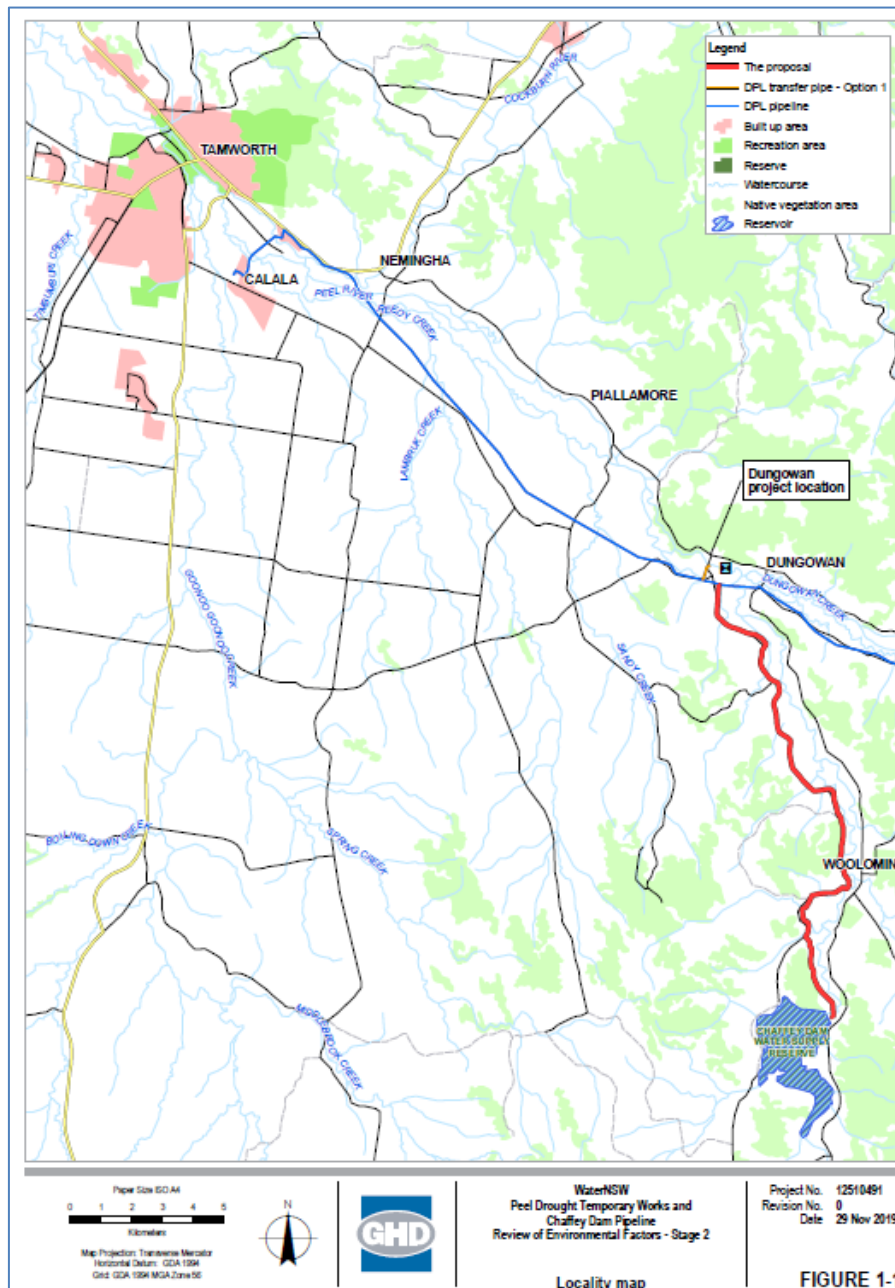


Figure 1: Chaffey Dam to Dungowan pipeline (source Peel River Drought Response Works Review of Environmental Factors for water delivery pipeline December 2019)

### Controlling provisions, assessment approach and public consultation

7. Water NSW submitted a valid referral on 17 December 2019, for the operation of a temporary drought mitigation pipeline to supply water to the Tamworth water supply network directly from Chaffey Dam. The proposed action will have the effect of temporarily ceasing dam releases into the Peel River.
8. Referral documentation was published on the Department's website on 17 December 2019, and public comments were invited until 3 January 2020. Two public submissions were received on the referral, including one submission submitted by a group of 34 individuals. All public comments on the referral documentation were addressed in the referral brief. The submissions raised the following issues:
  - the proposed action is likely to significantly impact listed threatened species, including Koala, and ecological communities

- the most appropriate assessment methods are a public environment report or full environmental assessment
  - restricting or buying back water entitlements could supplement town water demands, and
  - once storage levels recover, water releases from Chaffey Dam should be recommenced.
9. The proposed action was determined to be a controlled action on 17 January 2020 due to likely significant impacts on listed threatened species and ecological communities (sections 18 and 18A).
  10. On the same day, it was decided that the relevant impacts of the proposed action would be assessed on preliminary documentation. Further information was requested from the proponent under subsection 95A(2) of the EPBC Act on 23 January 2020 (further information request).
  11. On 10 March 2020, the proponent submitted documentation in response to the further information request. At that time, the Department reviewed the documentation and considered it was adequate to allow for the public to make informed comment.
  12. On 19 March 2020, a delegate of the Minister directed the proponent to publish the referral and the response to the further information request (together being the preliminary documentation) along with an invitation for anyone to give the proponent comments relating to the proposed action.
  13. On 27 March 2020, the Department confirmed that the proponent's proposed approach to make preliminary documentation available on request complied with the publishing requirements as set out in the EPBC Act and the *Environment Protection and Biodiversity Conservation Regulations 2000* and was appropriate given the restrictions associated with the current COVID-19 pandemic.
  14. On 31 March 2020, the proponent published the preliminary documentation, inviting comments until 15 April 2020.
  15. One public comment was received in response to the invitation. The public comment objected to any changes to the *Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010* (Water Sharing Plan) to implement the action. As the public comment did not relate to impacts to protected matters from the proposed action, the proponent did not consider it necessary to amend the preliminary documentation. The proposed action is temporary in nature in response to "worst recorded" drought conditions and is consistent with current requirements of the Water Sharing Plan. The Department understands any ongoing future use of the pipeline as part of water resource management in the Peel Valley would require amendments to the water sharing plan, consultation with stakeholders and consideration of impacts to water entitlements and the environment. Given the above, the Department considers it appropriate that no changes were proposed to the preliminary documentation.
  16. On 20 April 2020, the proponent provided finalised preliminary documentation, including a summary of public comments received, how those comments had been addressed and a copy of all comments received, in accordance with section 95B(1) of the EPBC Act.
  17. The proponent is required to publish the finalised preliminary documentation in accordance with section 95B(4) of the EPBC Act.

**State/Territory Assessment and Approval**

18. By letter dated 17 December 2019, the delegated contact for the New South Wales Minister for Planning and Public Spaces, the Hon Rob Stokes MP, was invited to comment on the referral.
19. On 18 December 2019, the NSW Department of Planning, Industry and Environment advised that the proposed action will not be assessed in a manner specified in Schedule 1 to the Bilateral Agreement made under section 45 of the EPBC Act.
20. The proposed action is identified as a declared water supply development under Schedule 2 of the *NSW Water Supply (Critical Needs) Act 2019*. This legislation exempts specified emergency drought infrastructure undertaken by a public authority from the *Environmental Planning and Assessment Act 1979* and certain other legislation, subject to the terms of an authorisation by the NSW Minister for Water, Property and Housing.
21. The proposed action will require authorisation from the NSW Minister for Water, Property and Housing under the *NSW Water Supply (Critical Needs) Act 2019* with concurrence from the NSW Minister for Energy and Environment.
22. The NSW Department of Planning, Industry, and Environment has recommended the proposed action be authorised with conditions. Proposed conditions require the proponent to operate the pipeline in accordance with the operating plan, governance requirements of the technical advisory group and development and implementation of management plans, including a biodiversity management plan to compensate for impacts of the proposed action. It is unlikely NSW conditions of authorisation would be enforceable once the *NSW Water Supply (Critical Needs) Act 2019* has sunsetted. The *NSW Water Supply (Critical Needs) Act 2019* is a temporary act due to expire in November 2021. The act can be extended once for a period of up to 12 months.

**Assessment****Mandatory Considerations – section 136(1)(a) Part 3 controlling provisions**

23. In deciding whether or not to approve the taking of an action, and what conditions to attach to an approval, the Minister must consider matters relevant to any matter protected by a provision of Part 3 that the Minister has decided is a controlling provision for the action, so far as they are not inconsistent with any other requirements of Subdivision B, Division 1 of Part 9 of the EPBC Act.
24. The proposal was determined a controlled action for likely significant impacts on listed threatened species and ecological communities (sections 18 and 18A).

**Listed threatened species and ecological communities (sections 18 and 18A)**

25. The Department's Environmental Reporting Tool (ERT) at the time of the controlled action decision identified a total of 35 listed species and seven listed ecological communities that are known to, likely to, or may occur within 2 km of the proposed action area. An ERT generated on 29 April 2020 identified 33 listed species and seven ecological communities. Silver Perch were identified in the earlier ERT but not in the recent report. This difference is expected to be a result of changes to the ERT generation process which was updated between the dates of the two reports. NSW Fisheries rescued adult Silver Perch from the proposed action area in December 2019, and the Department therefore considers a population of Silver Perch is likely to occur in the proposed action area.

26. Based on the nature and location of the action, and habitat likely to be impacted by the proposed action, the Department considers that significant impacts are only likely to arise in relation to the following listed species:

- Murray Cod (*Maccullochella peelii*) – vulnerable
- Silver Perch (*Bidyanus bidyanus*) – critically endangered.

Murray Cod (*Maccullochella peelii*) – vulnerable

*Species information*

27. The Murray Cod is an iconic species, endemic to the Murray-Darling Basin, and has significant economic, cultural, recreational and environmental values for many Australians. Murray Cod are considered to be a sedentary and territorial fish rather than free ranging, however both lake and river fish have been observed to move long-distance prior to spawning. The species prefers to inhabit areas sheltered from high water velocities by complex structural cover such as woody debris (snags), debris piles and bank side vegetation.

28. The species has suffered a substantial decline in abundance since European settlement, particularly in the last 70 years. Reasons for decline include habitat loss and degradation, barriers to fish passage, flow regulation, cold water pollution and fishing (legal and illegal).

*Proposed action area*

29. A population of Murray Cod is known to occur in the proposed action area. In response to ongoing drought conditions, NSW Fisheries undertook emergency native fish rescues from the Peel River downstream of Chaffey Dam. As a conservation measure, NSW Fisheries moved a number of native fish, including Murray Cod, from the Peel River to hatchery facilities in Narrandera.

30. The National Recovery Plan for the Murray Cod (2010) (recovery plan) identifies important populations to assist in identifying priority sites for protection, including the population in the Namoi River from the Peel River Junction to Wee Waa downstream.

31. Based on the criteria for identifying important populations set out in the recovery plan and the current severe drought conditions, the Department considers the Peel River Murray Cod population to be an important population. Specifically, the Peel River Murray Cod population is likely of a size which supports recruitment/breeding stocks and inhabits an area at a scale which supports the security of genetics and population size. The population also has regional importance as it inhabits an upland, as opposed to lowland watercourse, another criteria in the recovery plan used to identify important populations. Additionally, the Peel River population has the potential to support and be a source of genetic diversity for an identified important population downstream in the Namoi River, from the Peel River Junction to Wee Waa.

*Assessment of impacts*

32. The proposed action will reduce and temporarily cease dam releases to the Peel River and is therefore likely to impact the availability and quality of aquatic habitat in the Peel River. Without surface water inputs, the Peel River is likely to revert to a series of disconnected pools. The extent and quality of aquatic habitat is likely to progressively decline as water in refuge pools recedes through evaporation and infiltration to the alluvial groundwater.

33. The recovery plan states that altered flow through diversion and sustained dry periods can result in lowered water quality, involving excessively raised or lowered water temperatures, reduced dissolved oxygen levels, concentration of nutrients and environmental contaminants. These conditions can result in fish kills. The recovery plan also states that recruitment success appears to be linked to river flow. Reduced flows affect the ability of fish to undertake pre- or post- spawning migration.

#### *Avoidance and mitigation measures*

34. In finalised preliminary documentation the proponent has proposed the following management actions to minimise the impacts from the proposed action:

- implementation of the Drought Operations – Delivery of Peel Environmental Water Plan defining adaptive environmental water releases and associated monitoring to reduce the impacts on downstream threatened species
- criteria for the duration of the proposed action, which would cease when the Tamworth region reverts to a Stage 1 drought classification or is no longer declared to be in drought according to the NSW Department of Primary Industries Combined Drought Indicator
- thresholds for the four phases of operation of the Drought Operations – Delivery of Peel Environmental Water Plan, as set out in the table below

<b>Storage Percentage</b>	<b>Description</b>	<b>Storage Percentage</b>	<b>Description</b>
20% and above	Phase 1 Operations Apply	25% and above	Phase 1 Operations Apply
Below 20%	Phase 2 Operations Apply	25% and above	Phase 1 Operations Apply
Below 15%	Phase 3 Operations Apply	20% and above	Phase 2 Operations Apply
Below 10%	Phase 4 Operations Apply	15% and above	Phase 3 Operations Apply

Note: The storage Percentage refers to active storage levels

- operating rules for each phase of operation:
  - Phase 1 – Chaffey Dam operation in accordance with normal operating rules under the *Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010* (Watering Sharing Plan), which includes water delivery via the Peel River
  - Phase 2 – The 3 ML/d minimum daily release required under the Water Sharing Plan is accrued daily up to an annual volume of 1,095 ML/y and the technical advisory group makes decisions on the release of this water to target downstream environmental outcomes. The water accounting point for environmental water releases is the base of Chaffey Dam.
  - Phase 3 – As for Phase 2 except the volume of water available for release is accrued at a reduced rate of 1.5 ML/day, up to 550 ML/y
  - Phase 4 – No water is accrued for environmental releases, with water prioritised for critical human water needs. Under this phase there may be a requirement for an emergency release of water, up to 1 ML per month, to maintain the refuge pool immediately below the Chaffey Dam outlet valve.

*Compensatory measures*

35. The proponent proposes to offset residual impacts by developing and implementing a package of biodiversity offset measures to assist the recovery of Murray Cod and Silver Perch in the Peel River catchment and provide conservation outcomes for these species.
36. The two offset measures proposed by the proponent involve direct habitat restoration in consultation with NSW Fisheries to improve instream habitat (e.g. habitat mapping and installation of snags) and installing screens on a number of existing water extraction pumps to reduce the direct loss of native fish eggs and larvae through the extraction of consumptive water from the Peel River.

*Conclusion*

37. Based on preliminary documentation provided by the proponent, NSW Fisheries emergency fish rescues, information available in SPRAT, the national recovery plan for the species and the Department's Significant Impact Guidelines, the Department considers the proposed action is likely to have a significant impact on an important population of Murray Cod.
38. The proposed mitigation and compensatory measures are in accordance with priority actions identified in the recovery plan. The Department considers that a requirement to develop and implement a biodiversity offset plan will ensure the proposed measures will compensate for impacts, not have unintended adverse impacts and be enforceable. The Department also considers this necessary for protecting Murray Cod as the NSW conditions of authorisation may not extend beyond the operation of the temporary *Water Supply (Critical Needs) Act 2019*.
39. Given the above, the Department considers the following conditions would compensate for the impacts to the species, and prevent additional impacts beyond those considered in the assessment:
- a. Condition 1: implement the Drought Operations – Delivery of Peel Environmental Water Plan to mitigate impacts from the reduction in flow as a result of the proposed action
  - b. Conditions 2 and 3: support the most effective and efficient operation of the technical advisory group to be established as part of the Drought Operations – Delivery of Peel Environmental Water Plan
  - c. Condition 4 - 6: develop and implement a Biodiversity Offset Management Plan to compensate for residual impacts to protected matters
  - d. Conditions 7 – 19 are standard administrative conditions related to the provision of compliance records, preparation and publication of plans, compliance and non-compliance reporting, audit requirements and notification of activities.

40. The Department considers that if the conditions recommended at paragraph 39 are implemented, the action will not have an unacceptable impact on the vulnerable Murray Cod.

Silver Perch (*Bidyanus bidyanus*) – critically endangered*Species information*

41. Silver Perch are a medium bodied native freshwater fish endemic to the Murray-Darling system. They inhabit a wide range of habitats. Silver Perch are now absent from most of their former range in NSW, with the only large self-sustaining population remaining in the central Murray River in southern NSW. In NSW, other than the central Murray region, it is

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estimated Silver Perch have undergone a decline of over 92 per cent since 1950 (Conservation Advice *Bidyanus bidyanus* (silver perch) 2013).

42. Silver Perch are a highly migratory species, undertaking a wide range of migrations as juveniles and adults. They have been recorded moving over 200 km. Large scale upstream migration activity is associated with spawning, which generally occurs with high flows in spring and early summer. Threats to this species include barriers to fish passage, habitat destruction or modification, flow regulation, alien species, overfishing and climate change.

*Proposed action area*

43. A population of Silver Perch is known to occur in the proposed action area. NSW undertake conservation stocking in the Namoi River downstream of the confluence with the Peel River to enhance and increase wild stocks of the species in the region.
44. In response to ongoing drought conditions, NSW Fisheries undertook emergency native fish rescues from the Peel River downstream of Chaffey Dam. As a conservation measure, NSW Fisheries moved a number of native fish, including adult Silver Perch, from the Peel River to hatchery facilities in Narrandera.
45. Given the above, the Department considers a population of critically endangered Silver Perch is likely to occur in the proposed action area.

*Assessment of impacts*

46. The proposed action will reduce and temporarily cease dam releases to the Peel River and is therefore likely to impact the availability and quality of aquatic habitat in the Peel River. Without surface water inputs, the Peel River is likely to revert to a series of disconnected pools. The extent and quality of aquatic habitat is likely to progressively decline as water in refuge pools declines through evaporation and infiltration to the alluvial groundwater.
47. The approved conservation advice lists river regulation as a key threat to Silver Perch. Altered flow and low flow volumes can reduce overall habitat quality and food availability and impede movement of juvenile and adult fish.

*Avoidance and mitigation measures*

48. In finalised preliminary documentation the proponent has proposed the same management actions to minimise the impacts from the proposed action on Silver Perch as for Murray Cod (set out in paragraph 34 above).

*Compensatory measures*

49. The proponent proposes to offset residual impacts by developing and implementing a package of biodiversity offset measures to assist the recovery of the Murray Cod and Silver Perch in the Peel River catchment and provide conservation outcomes for these species.

*Conclusion*

50. Based on preliminary documentation provided by the proponent, NSW Fisheries emergency fish rescues, information available in SPRAT, the approved conservation advice for the species and the Department's Significant Impact Guidelines, the Department considers the proposed action is likely to have a significant impact on the critically endangered Silver Perch.
51. The Department considers the conditions recommended in relation to the Murray Cod, discussed at paragraph 3939, would compensate for impacts to Silver Perch.

52. The Department considers that if the conditions recommended at paragraph 39 are implemented, the action will not have an unacceptable impact on the critically endangered Silver Perch.

Booroolong Frog (*Litoria booroolongensis*) – endangered

53. At the time of the controlled action decision, without survey information the Department took a precautionary view that, if present in the Peel River, the Booroolong Frog was likely to be significantly impacted by the proposed action as there was a real chance or possibility that it would reduce the area of occupancy of the species.

54. In February 2020, the proponent undertook targeted Booroolong Frog surveys consistent with the Department's *Guidelines for detecting frogs listed as threatened under the EPBC Act*. Those surveys found no evidence of Booroolong Frog or appropriate habitat for the species in the proposed action area.

55. Based on finalised preliminary documentation, the Department considers that the proposed action is unlikely to have significant impacts to this species.

**Considerations for Approval and Conditions**

**Mandatory considerations – section 136(1)(b) Economic and social matters**

56. Under subsection 136(1)(b) of the EPBC Act, in deciding whether or not to approve an action, and what conditions to attach to the approval, the Minister must consider economic and social matters.

57. The Department has considered economic and social matters in recommending the approval of the proposed action. Finalised preliminary documentation states that the proposed action will have several social benefits, specifically extending critical human water supply for Tamworth, with a population of nearly 60,000 people. Without further inflows the proposed action is expected to extend critical water supply for Tamworth from January 2021 to mid-2021.

58. The proposed action will reduce flows in the Peel River, however under a no inflow scenario the Peel River will cease to flow in January 2021 impacting the quality and availability of aquatic habitat.

59. Tamworth is on level 5 water restrictions with no watering of public spaces and all residential outdoor use of town water is prohibited. Negative impacts to local businesses, residents and surrounding towns would accumulate rapidly and have the potential to result in long term impacts on the region's economic success should water resources be exhausted.

**Factors to be taken into account – section 136(2)(a) Principles of ecologically sustainable development**

60. In deciding whether or not to approve the taking of an action and the conditions to attach to an approval, under section 136(2)(a) of the EPBC Act the Minister must take into account the principles of ecologically sustainable development. The principles of ecologically sustainable development, as defined in Part 1, section 3A of the EPBC Act, are:

- a. decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;



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- b. if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
  - c. the principle of inter-generational equity – that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
  - d. the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
  - e. improved valuation, pricing and incentive mechanisms should be promoted.
61. In recommending approval of the proposed action, the Department has taken into account the principles of ecologically sustainable development in accordance with paragraph 136(2)(a) of the EPBC Act. In particular, the Department considers:
- a. that the likely impacts on the environment as a result of the proposed action are satisfactory in terms of their long-term and short-term economic, environmental and social impacts;
  - b. that there is sufficient scientific information to conclude that the proposed action will be unlikely to result in unacceptable impacts to any listed threatened species and communities. The Department has recommended conditions to offset residual significant impacts on matters of national environment significance;
  - c. the recommended conditions of approval allow for the proposed action to be delivered and operated in a sustainable way to protect listed threatened species and communities and the environment more broadly for future generations;
  - d. the importance of conserving biological diversity and ecological integrity in relation to the controlling provision for this proposed action is reflected in the recommended conditions of approval which include measures to offset impacts on protected matters; and,
  - e. the referral and preliminary documentation and the Department's advice in this recommendation report include reference to and consideration of a range of information on the economic costs, benefits and impacts of the proposed action.

**Factors to be taken into account – section 136(2)(bc) – preliminary documentation**

62. In accordance with section 136(2)(bc)(i), the documents given to the Minister under section 95B(1) are attached to the proposed approval decision brief.
63. In accordance with section 136(2)(bc)(ii), this document forms the recommendation report relating to the action given to the Minister in accordance with section 95C.

**Factors to be taken into account – section 136(2)(e) – other information**

64. In considering the matters under section 136(1), the Minister must take into account any other information the Minister has on the impacts of the action (including information in a report on the impacts of actions taken under a policy, plan or program under which the action is to be taken that was given to the Minister under an agreement under Part 10 (about strategic assessments)).
65. There are no strategic assessments relevant to the proposed action and the Department has considered all relevant information on the impacts of the proposed action in this report.

**Factors to be taken into account – section 136(2)(f) – relevant comments given to the Minister in accordance with an invitation under section 131 or 131A**

66. Under section 131, relevant Commonwealth Ministers must be invited to give the Minister comments on the proposed decision within 10 business days.
67. The proposed decision brief recommends inviting comments from the following relevant Commonwealth ministers:
- The Hon Ken Wyatt AM MP, Minister for Indigenous Australians
  - Deputy Prime Minister, the Hon Michael McCormack MP, Minister for Infrastructure, Transport and Regional Development
  - The Hon David Littleproud MP, Minister for Agriculture, Drought and Emergency Management
  - The Hon Keith Pitt MP, Minister for Resources, Water and Northern Australia
  - Senator the Hon Linda Reynolds CSC, Minister for Defence.
68. Public comments were invited on the referral and the draft preliminary documentation. The Department considers adequate public consultation for the proposed action has occurred. Therefore, the Department does not recommend inviting public comment under section 131A on the proposed decision and recommended conditions of approval as this is unlikely to elicit views or information that have not already been considered in relation to the proposed action.
69. Under section 131AA(1), Water NSW will be invited to give the Minister comments on the proposed decision and recommended conditions of approval within 10 business days of the proposed decision date.

**Factors to be taken into account – section 136(2)(g) – notice**

70. If a notice relating to the action was given to the Minister under subsection 132A(3), in considering the matters under section 136(1), the Minister must take into account the information in the notice. Section 132A does not apply to the action.

**Person's environmental history – section 136(4)**

71. In deciding whether or not to approve the taking of an action by a person, and what conditions to attach to an approval, the Minister may consider whether the person is a suitable person to be granted an approval, having regard to:
- a. the person's history in relation to environmental matters; and
  - b. if the person is a body corporate—the history of its executive officers in relation to environmental matters; and
  - c. if the person is a body corporate that is a subsidiary of another body or company (the parent body)— the history in relation to environmental matters of the parent body and its executive officers.
72. The preliminary documentation states that Water NSW holds a satisfactory record of environmental management and Water NSW has not been the subject of proceedings under Commonwealth, State or Territory Law.
73. The Department's Office of Compliance has been consulted on the proponent's environmental history. On 30 April 2020, the Office of Compliance stated that it has identified no adverse history relating to Water NSW. The Department has no evidence that

would suggest that the person proposing to take the action is either unable or unwilling to implement the proposed conditions.

### **Considerations in deciding on condition – section 134**

74. In accordance with section 134(1), the Minister may attach a condition to the approval of the action if he or she is satisfied that the condition is necessary or convenient for:

- a. protecting a matter protected by a provision of Part 3 for which the approval has effect (whether or not the protection is protection from the action); or
- b. repairing or mitigating damage to a matter protected by a provision of Part 3 for which the approval has effect (whether or not the damage has been, will be or is likely to be caused by the action).

75. The Department has recommended conditions necessary or convenient to protect, repair and/or mitigate impacts on a matter protected by Part 3 of the EPBC Act for which the approval has effect.

76. In accordance with section 134(4), in deciding whether to attach a condition to an approval the Minister must consider:

- a. any relevant conditions that have been imposed, or the Minister considers are likely to be imposed, under a law of a State or self-governing Territory or another law of the Commonwealth on the taking of the action; and
- aa. information provided by the person proposing to take the action or by the designated proponent of the action; and
- b. the desirability of ensuring as far as practicable that the condition is a cost effective means for the Commonwealth and a person taking the action to achieve the object of the condition.

77. The NSW Department of Planning, Industry, and Environment has recommended the proposed action be authorised with conditions. Proposed conditions require the proponent to operate the pipeline in accordance with the operating plan, governance requirements of the technical advisory group and development and implementation of management plans, including a biodiversity management plan to compensate for impacts of the proposed action. It is unlikely NSW conditions of authorisation would be enforceable once the NSW *Water Supply (Critical Needs) Act 2019* has sunsetted. The NSW *Water Supply (Critical Needs) Act 2019* is a temporary act due to expire in November 2021. The act can be extended once for a period of up to 12 months.

78. The Department considers that the recommended conditions are reasonable and appropriate having regard to the nature and scale of potential impacts from the proposed action and will ensure that matters of national environmental significance are protected over time. The Department considers that the proposed action will not result in unacceptable impacts to threatened species and ecological communities if it is undertaken in accordance with the recommended proposed conditions.

79. The proponent will be given up to 10 business days to comment on the recommended decision and conditions of approval.

### **Consideration of Condition-setting Policy**

80. The Department has considered the likely scope and severity of the impacts to protected matters, and the proposed avoidance and mitigation measures, and determined that it is

likely the proposed action will result in a significant residual adverse impact on Murray Cod and Silver Perch.

81. In preparing this recommendation report, the Department has had regard to the likely conditions of authorisation under the NSW *Water Supply (Critical Needs) Act 2019* as described in paragraph 77 above. The Department notes the proposed action will not undergo assessment and approval under the *Environmental Planning and Assessment Act 1979*. The Department considers that the authorising conditions described are not suitable to manage the residual impacts to protected matters resulting from the proposed action. Specifically, the NSW *Water Supply (Critical Needs) Act 2019* is a temporary legislation to secure regional town water supplies against the drought and it is unclear if the proposed NSW conditions of authorisation will continue to apply once the temporary act has expired. The Department has recommended conditions of approval, consistent with NSW conditions of authorisation, with an appropriate duration of approval to ensure impacts to protected matters can be offset and there is an enforcement mechanism.

82. Accordingly, the Department considers that it is necessary and convenient to apply conditions of approval to this project, including proposed Conditions 4-6 relating to a biodiversity offset management plan which addresses significant residual adverse impacts. In applying this analysis, the Department has had regard to the EPBC Act Condition-setting Policy (2015).

### **Requirements for decisions about listed threatened species and communities – section 139**

83. In accordance with section 139(1), in deciding whether or not to approve for the purposes of a subsection of section 18 or section 18A the taking of an action, and what conditions to attach to such an approval, the Minister must not act inconsistently with:

- a. Australia's obligations under:
  - i. the Biodiversity Convention; or
  - ii. the Apia Convention; or
  - iii. CITES; or
- b. a recovery plan or threat abatement plan.

84. In accordance with section 139(2), if:

- a. the Minister is considering whether to approve, for the purposes of a subsection of section 18 or section 18A, the taking of an action; and
- b. the action has or will have, or is likely to have, a significant impact on a particular listed threatened species or a particular listed threatened ecological community;

the Minister must, in deciding whether to approve the taking of the action, have regard to any approved conservation advice for the species or community.

### **The Biodiversity Convention**

85. The Biodiversity Convention is available at:

<http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1993/32.html>

86. The objectives of the Biodiversity Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources, including by appropriate access to genetic resources and by appropriate

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transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.

*Consideration*

87. The Biodiversity Convention promotes environmental impact assessment to avoid and minimise adverse impacts on biological diversity. The Department has undertaken an environmental impact assessment which identified the likely impacts of the proposed action on listed threatened species and communities and has recommended measures to manage these impacts.
88. The Department also considered the Biodiversity Convention's ultimate aim of conservation of listed threatened species and communities in the wild when recommending conditions requiring offsets for matters of national environmental significance, and the recommended approval decision is therefore not considered to be inconsistent with the Biodiversity Convention.

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

89. CITES is available at: <http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1976/29.html>
90. CITES is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival.

*Consideration*

91. The recommendations are not inconsistent with CITES as the proposed action does not involve international trade.

Convention on the Conservation of Nature in the South Pacific (APIA Convention)

92. The APIA Convention is available at:  
<http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1990/41.html>
93. The APIA Convention encourages the creation of protected areas which together with existing protected areas will safeguard representative samples of the natural ecosystems occurring therein (particular attention being given to endangered species), as well as superlative scenery, striking geological formations, and regions and objects of aesthetic interest or historic, cultural or scientific value.

*Consideration*

94. The Apia Convention was suspended with effect from 13 September 2006. While this Convention has been suspended, Australia's obligations under the Convention have been taken into consideration. The recommendations are not inconsistent with the Convention which has the general aims of conservation of biodiversity.

Recovery Plans and Threat Abatement Plans

95. The recovery plan relevant to the proposed action and assessment is:
- a. National Murray Cod Recovery Team (2010). *National Recovery Plan for the Murray Cod Maccullochella peelii peelii*. Department of Sustainability and Environment, Melbourne. Available from: <http://www.environment.gov.au/resource/national-recovery-plan-murray-cod-maccullochella-peelii-peelii>.

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96. The recovery plan is at Attachment F of the proposed decision brief. The Department has considered the information contained in the recovery plan in formulating the conclusions and recommendations of this report.

97. There are no threat abatement plans relevant to the proposed action.

*Consideration*

98. The Department has considered all relevant recovery plans and threat abatement plans and is of the view that approval of this action would not be inconsistent with the above obligations.

Conservation Advice

99. The approved conservation advice relevant to this proposed action is:

100. Department of the Environment (2013). *Conservation Advice Bidyanus bidyanus (Silver Perch)*. Canberra: Department of the Environment. Available from: <http://www.environment.gov.au/biodiversity/threatened/species/pubs/76155-conservation-advice.pdf>.

101. The approved *Conservation Advice Bidyanus bidyanus (Silver Perch)* (2013) lists conservation and management priorities for Silver Perch including those related to habitat loss, disturbance and modification, and flow management.

102. The approved conservation advice is at Attachment G of the proposed decision brief. The Department has considered the information contained in the approved conservation advice in formulating the conclusions and recommendations of this report.

*Consideration*

103. The Department has had regard to the approved conservation advice relevant to the proposed action and has given consideration to the likely impacts of the proposed action. The Department is of the view that approval of this action would not be inconsistent with the conservation advice (see discussion above in paragraphs 41 - 52).

**Bioregional Plans section 176(5)**

104. In accordance with section 176(5), the Minister is required to have regard to a bioregional plan in making any decision under the EPBC Act to which the plan is relevant. The Department does not consider there to be any relevant bioregional plan for the purposes of the Minister's decision-making.

**Precautionary Principle – section 391**

105. In making the decision under section 133 on whether or not to approve the taking of an action, the Minister must take account of the precautionary principle to the extent that he or she can do so consistently with the Act. The precautionary principle is that a lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible damage.

106. The predicted nature and scope of impacts to protected matters are documented in the preliminary documentation and this report.

107. The Department considers the recommended conditions of approval provide a comprehensive and precautionary approach to ensure the proposed action can comply with

performance measures, and that the predicted residual impacts would be effectively avoided, minimised, mitigated and/or compensated.

### **Minister not to consider other matters – section 136(5)**

108. In deciding whether or not to approve the taking of an action, and what conditions to attach to an approval, the Minister must not consider any matters that the Minister is not required or permitted, by Subdivision B, Division 1, Part 9 of the EPBC Act, to consider.

109. The Department has based its recommendation on whether to approve the action, and what conditions to attach to the approval, on information relevant to the impacts of the proposed action on protected matters and other considerations as set out in the EPBC Act.

### **Conclusion**

110. The Department considers that the likely impacts of the proposed action on listed threatened species and communities will be acceptable, provided the action is undertaken in accordance with the recommended conditions of approval.

111. Having considered all matters required to be considered under the EPBC Act, the Department recommends the proposed action be approved, subject to the recommended conditions of approval.

### **Duration of approval**

112. While the proposed action is temporary in nature and for the duration of the drought, the Department recommends that the approval remain valid for a period of 10 years to ensure impacts to protected matters can be appropriately offset and monitored.

### **Material used to prepare Recommendation Report**

- Finalised Preliminary Documentation.
- Public submissions on assessment documentation.
- National Murray Cod Recovery Team (2010). *National Recovery Plan for the Murray Cod Maccullochella peelii peelii*. Department of Sustainability and Environment, Melbourne
- Department of the Environment (2013). *Conservation Advice Bidyanus bidyanus (Silver Perch)*. Canberra: Department of the Environment.
- Relevant profiles on the Species Profile and Threats database.



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

## PROPOSED APPROVAL

### Operation of Peel River Drought Protection Works, Tamworth, NSW (EPBC 2019/8590)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. Note that section 134(1A) of the **EPBC Act** applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

#### Details

<b>Person to whom the approval is granted (approval holder)</b>	WATER NSW
<b>ACN or ABN of approval holder</b>	ABN: 21 147 934 787
<b>Action</b>	To operate a temporary drought mitigation pipeline to supply water directly from Chaffey Dam to the Tamworth water supply network.

#### Proposed Approval decision

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.

#### Controlling Provisions

Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

#### *Period for which the approval has effect*

This approval has effect until 01 May 2030

#### Decision-maker

<b>Name and position</b>	Louise Vickery First Assistant Secretary Environment Approvals Division Department of Agriculture, Water and the Environment
<b>Signature</b>	<b>PROPOSED DECISION DO NOT SIGN</b>
<b>Date of decision</b>	<b>PROPOSED DECISION - DO NOT DATE</b>

#### Conditions of approval

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.



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## ANNEXURE A – CONDITIONS OF APPROVAL

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### Part A – Conditions specific to the action

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1. The approval holder must implement the **Drought Operations – Delivery of Peel Environmental Water Plan** for the life of the approval.
2. The approval holder must notify the **technical advisory group** at least five **business days** prior to commencing the next **phase of operation**.
3. The approval holder must invite the **Commonwealth Environmental Water Holder** to nominate a representative to become a member of the **technical advisory group**.
4. To compensate for impacts to **Murray Cod** and **Silver Perch**, the approval holder must, within 20 **business days of commencement of the action**, submit a Biodiversity Offset Management Plan (BOMP) for approval by the **Minister**. If the **Minister** approves the BOMP, then the BOMP must be implemented.
5. The approval holder must make all reasonable efforts to ensure the BOMP (in full) meets the following requirements and promptly address any feedback from the **Department** on unapproved versions of the BOMP so that the BOMP is suitable for the **Minister** to approve within three months of the **commencement of the action**.
6. The BOMP must:
  - a. be prepared by a **suitably qualified ecologist**, and be consistent with the **Department’s Environmental Management Plan Guidelines** and the **EPBC Act Environmental Offset Policy**;
  - b. propose an offset package, including direct habitat restoration works and conservation measures relevant to **Murray Cod** and **Silver Perch**;
  - c. include, but not be limited to:
    - i. specific objectives to demonstrate improvements in habitat quality and conservation outcomes for **Murray Cod** and **Silver Perch** over the life of the approval;
    - ii. specific management actions, and timeframes for implementation, to be carried out to meet the specific objectives to improve habitat quality and conservation outcomes for **Murray Cod** and **Silver Perch**;
    - iii. key performance indicators to demonstrate the improvements in habitat quality and conservation outcomes for **Murray Cod** and **Silver Perch**;
    - iv. the nature, timing and frequency of monitoring to determine the success of management actions against key performance indicators;
    - v. indicative corrective actions that will be implemented in the event monitoring activities indicate key performance indicators are not or are unlikely to be achieved;
    - vi. the roles and responsibilities for implementing the management actions;
    - vii. evidence of consistency with relevant conservation advices, recovery plans and/or threat abatement plans;
    - viii. commitments to maintain or improve the extent and quality of habitat and populations of other **EPBC Act** listed threatened species and ecological communities in the offset area; and
    - ix. a timeline and legal mechanism for implementing the offset(s).

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## Part B – Standard administrative conditions

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### Notification of date of commencement of the action

7. The approval holder must notify the **Department** in writing of the date of **commencement of the action** within 10 **business days** after the date of **commencement of the action**. The approval holder must notify the **Department** in writing of the **date of commencement** of each phase of operation within 10 **business days** after the date of **commencement** of each phase of operation.

### Compliance records

8. The approval holder must maintain accurate and complete **compliance records**.
9. If the **Department** makes a request for **compliance records** in writing, the approval holder must provide electronic copies of **compliance records** to the **Department** within the timeframe specified in the request.

**Note:** **Compliance records** may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **Department's** website or through the general media.

### Preparation and publication of plans

10. The approval holder must:
  - a. submit **plans** electronically to the **Department**;
  - b. publish each **plan** on the **website** within 20 **business days** of the date of this approval, or the date that the **plan** is approved by the **Minister** or of the date a revised action management plan is submitted to the **Minister** or the **Department**, unless otherwise agreed to in writing by the **Minister**;
  - c. exclude or redact **sensitive ecological data** from **plans** published on the **website** or provided to a member of the public; and
  - d. keep **plans** published on the **website** until the end date of this approval.
11. The approval holder must ensure that any **monitoring data** (including **sensitive ecological data**), surveys, maps, and other spatial and metadata required under a **plan**, is prepared in accordance with the **Department's Guidelines for biological survey and mapped data (2018)** and submitted electronically to the **Department** in accordance with the requirements of the **plan**.

### Annual compliance reporting

12. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or otherwise in accordance with an annual date that has been agreed to in writing by the **Minister**. The approval holder must:
  - a. publish each **compliance report** on the **website** within 60 **business days** following the relevant 12 month period;
  - b. notify the **Department** by email that a **compliance report** has been published on the **website** and provide the weblink for the **compliance report** within five **business days** of the date of publication;
  - c. keep all **compliance reports** publicly available on the **website** until this approval expires;
  - d. exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**; and
  - e. where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **Department** within five **business days** of publication.

**Note:** The first compliance report may report a period less than 12 months so that it and subsequent compliance reports align with the similar requirement under state approval. **Compliance reports** may be published on the **Department's** website.

### Reporting non-compliance

13. The approval holder must notify the **Department** in writing of any: **incident**; non-compliance with the conditions; or non-compliance with the commitments made in **plans**. The notification must be given as soon as practicable, and no later than two **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:
  - a. any condition which is or may be in breach;
  - b. a short description of the **incident** and/or non-compliance; and
  - c. the location (including co-ordinates), date, and time of the **incident** and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.
14. The approval holder must provide to the **Department** the details of any **incident** or non-compliance with the conditions or commitments made in **plans** as soon as practicable and no later than 10 **business days** after becoming aware of the **incident** or non-compliance, specifying:
  - a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;
  - b. the potential impacts of the **incident** or non-compliance; and
  - c. the method and timing of any remedial action that will be undertaken by the approval holder.

### Independent audit

15. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
16. For each **independent audit**, the approval holder must:
  - a. provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**;
  - b. only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**; and
  - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
17. The approval holder must publish the audit report on the **website** within 10 **business days** of receiving the **Department's** approval of the audit report and keep the audit report published on the **website** until the end date of this approval.

### Revision of action management plans

18. The approval holder may, at any time, apply to the **Minister** for a variation to an action management plan approved by the **Minister** under condition 4, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves a revised action management plan (RAMP) then, from the date specified, the approval holder must implement the RAMP in place of the previous action management plan.

### Completion of the action

19. Within 30 days after the **completion of the action**, the approval holder must notify the **Department** in writing and provide **completion data**.

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## Part C - Definitions

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In these conditions, except where contrary intention is expressed, the following definitions are used:

**Business day** means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.

**Commencement / Commencement of the action** means the first instance of any specified activity associated with the action.

**Commonwealth Environmental Water Holder** means as established under the *Water Act 2007* (Cth.) to manage water acquired by the Australian Government as part of a suite of national water reforms, including the Murray-Darling Basin Plan.

**Completion data** means an environmental report and spatial data clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is **shapefile**.

**Completion of the action** means all specified activities associated with the action have permanently ceased.

**Compliance records** means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully.

**Compliance report(s)** means written reports:

- i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**;
- ii. consistent with the **Department's Annual Compliance Report Guidelines (2014)**;
- iii. include a **shapefile** of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period; and
- iv. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.

**Department** means the Australian Government agency responsible for administering the **EPBC Act**.

**Department's Environmental Management Plan Guidelines** means the Environmental Management Plan Guidelines, Commonwealth of Australia, 2014.

**Drought Operations – Delivery of Peel Environmental Water Plan** means the environmental management plan submitted to the Department on 20 April 2020 as Appendix C to the finalised preliminary documentation.

**EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

**EPBC Act Environmental Offset Policy** means EPBC Act Environmental Offsets Policy, Commonwealth of Australia, 2012.

**Incident** means any event which has the potential to, or does, impact on one or more **protected matter(s)**.

**Independent audit:** means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines (2019)*.

**Monitoring data** means the data required to be recorded under the conditions of this approval.

**Minister** means the Australian Government Minister administering the **EPBC Act** including any delegate thereof.

**Murray Cod** means the Murray Cod (*Maccullochella peelii*), listed as a vulnerable species under the EPBC Act.

**Phase of the operation** means each discrete phase of the action as specified in Table 1 in the **Drought Operations – Delivery of Peel Environmental Water Plan**.

**Plan(s)** means any of the documents required to be prepared, approved by the **Minister**, and/or implemented by the approval holder and published on the **website** in accordance with these conditions (includes action management plans and/or strategies).

**Protected matter** means a matter protected under a controlling provision in Part 3 of the EPBC Act for which this approval has effect.

**Sensitive ecological data** means data as defined in the Australian Government Department of the Environment (2016) *Sensitive Ecological Data – Access and Management Policy V1.0*.

**Shapefile** means location and attribute information of the action provided in an Esri shapefile format. Shapefiles must contain '.shp', '.shx', '.dbf' files and a '.prj' file that specifies the projection/geographic coordinate system used. Shapefiles must also include an '.xml' metadata file that describes the shapefile for discovery and identification purposes.

**Silver Perch** means the Silver Perch (*Bidyanus bidyanus*), listed as a critically endangered species under the EPBC Act.

**Suitably qualified ecologist** means a person who has professional qualifications and at least three (3) years of work experience designing and implementing surveys and management plans for **Murray Cod** and **Silver Perch**, and can give an authoritative assessment and advice on the presence and environmental requirements of **Murray Cod** and **Silver Perch** applying relevant protocols, standards, methods and literature.

**Suitably qualified person** means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.

**Technical advisory group** means the Technical Advisory Group established as specified in the **Drought Operations – Delivery of Peel Environmental Water Plan**.

**Website** means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

# *Peel Valley Water Users Association Inc*

*The only organisation that represents the Irrigation Industry in the Peel Valley*

PO Box 952, Tamworth NSW 2340

[peelvalleywaterusers@bigpond.com](mailto:peelvalleywaterusers@bigpond.com)

WaterNSW  
PO Box 398  
Parramatta NSW 2124

10<sup>th</sup> April 2020

By electronic mail to: [WaterNSW.DroughtResponse@waternsw.com.au](mailto:WaterNSW.DroughtResponse@waternsw.com.au)

Re: EPBC Ref:2019/8590 – Public Comment

The publication of ‘preliminary documentation’ and the ‘invitation for public comment’ on the details of proposals occurred on 31<sup>st</sup> March 2020, with a closing date for submissions on 13<sup>th</sup> April 2020 (Easter Monday). The details of the proposals could realistically only be accessed from the internet, due to the short lead time for responses, postal delivery times, Easter, and Covid-19.

This Association represents the interests of irrigators in the Peel Valley, and we reject any proposals contained in the documentation which would require changes to the Peel Water Sharing Plan.

Regardless of our objections, any implementation of the proposals contained in the documentation which affect the Peel Water Sharing Plan cannot be implemented without amendments being made to the Peel Water Sharing Plan.

WaterNSW, their consultants GHD, and Tamworth Regional Council (who were apparently involved with discussions with WaterNSW and GHD) should have all been aware that the

Apart from rejecting any proposals which affect the Peel Water Sharing Plan because there has been no consultation with stakeholders, we can see no point in engaging in discussions with either WaterNSW or Tamworth Regional Council on this matter, because due to the time constraints the matter can now only be dealt with as a part of the review of the Peel Water Sharing Plan. Any changes that may be required to the Peel Water Sharing Plan must be considered by the Natural Resources Commission as part of their review of the existing Plan, and the appropriate consultation with stakeholders ought to take place as part of that review.

Yours faithfully

**s. 47F(1)**

(on behalf of the Peel Valley Water Users Association)



Australian Government  
Department of Agriculture,  
Water and the Environment

EPBC Ref: 2019/8590

Mr **s. 47F(1)**  
Environmental Services Manager  
WaterNSW  
169 Macquarie Street  
PARRAMATTA NSW 2150

Dear Mr **s. 47F(1)**

**Invitation to comment on proposed approval decision  
Operation of Peel River Drought Protection Works, Tamworth, NSW**

I am writing to you in relation to your proposal to operate a temporary drought mitigation pipeline to supply water directly from Chaffey Dam to the Tamworth water supply network. The proposed action was referred and assessed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for its impacts on listed threatened species and communities (s18 and s18A).

I am proposing to approve the proposed action subject to conditions. My proposed decision of approval is attached. In accordance with the EPBC Act, I invite you to provide comments on my proposed decision of approval, including the conditions which I propose to attach, within 10 business days of the date of this letter.

Please quote the title of the action and EPBC reference, as shown at the beginning of this letter, in any correspondence. You can email information to the contact officer **s. 22(1)(a)(ii)** at **s. 22(1)(a)(ii)** [@awe.gov.au](mailto:@awe.gov.au), and can call him on **s. 22(1)(a)(ii)** if you have any questions about this decision.

Yours sincerely

A handwritten signature in black ink that reads "Louise Vickery".

Louise Vickery  
Assistant Secretary  
Environment Approvals and Wildlife Trade Branch  
6<sup>th</sup> May 2020



Australian Government  
Department of Agriculture,  
Water and the Environment

EPBC Ref: 2019/8590

The Hon Keith Pitt MP  
Minister for Resources, Water and Northern Australia  
Parliament House  
CANBERRA ACT 2600

Dear Minister

**Invitation to comment on proposed approval decision  
Operation of Peel River Drought Protection Works, Tamworth, NSW**

I am writing to you in relation to a proposal to operate a temporary drought mitigation pipeline to supply water directly from Chaffey Dam to the Tamworth water supply network. The above proposal was referred and assessed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for its impacts on listed threatened species and communities (s18 and s18A). I am proposing to approve this proposal. My proposed decision is attached.

I understand that you have administrative responsibilities relating to the action. I invite you to provide comments on my proposed decision within 10 business days of the date of this letter, including on any matters of economic or social concern that should be considered consistent with the principles of ecologically sustainable development.

Please quote the title of the action and EPBC reference, as shown at the beginning of this letter, in any correspondence. You can email information to the contact officer [s. 22\(1\)\(a\)\(ii\)](#) at [s. 22\(1\)\(a\)\(ii\) @awe.gov.au](#).

Yours sincerely

A handwritten signature in black ink that reads "Louise Vickery".

Louise Vickery  
Assistant Secretary  
Environment Approvals and Wildlife Trade Branch  
6<sup>th</sup> May 2020





Australian Government  
Department of Agriculture,  
Water and the Environment

EPBC Ref: 2019/8590

The Hon Michael McCormack MP  
Minister for Infrastructure, Transport and Regional Development  
Parliament House  
CANBERRA ACT 2600

Dear Deputy Prime Minister

**Invitation to comment on proposed approval decision  
Operation of Peel River Drought Protection Works, Tamworth, NSW**

I am writing to you in relation to a proposal to operate a temporary drought mitigation pipeline to supply water directly from Chaffey Dam to the Tamworth water supply network. The above proposal was referred and assessed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for its impacts on listed threatened species and communities (s18 and s18A). I am proposing to approve this proposal. My proposed decision is attached.

I understand that you have administrative responsibilities relating to the action. I invite you to provide comments on my proposed decision within 10 business days of the date of this letter, including on any matters of economic or social concern that should be considered consistent with the principles of ecologically sustainable development.

Please quote the title of the action and EPBC reference, as shown at the beginning of this letter, in any correspondence. You can email information to the contact officer [s. 22\(1\)\(a\)\(ii\)](#) at [s. 22\(1\)\(a\)\(ii\) @awe.gov.au](#).

Yours sincerely

A handwritten signature in black ink that reads "Louise Vickery".

Louise Vickery  
Assistant Secretary  
Environment Approvals and Wildlife Trade Branch  
6<sup>th</sup> May 2020



Australian Government  
Department of Agriculture,  
Water and the Environment

EPBC Ref: 2019/8590

The Hon Ken Wyatt AM MP  
Minister for Indigenous Australians  
Parliament House  
CANBERRA ACT 2600

Dear Minister

**Invitation to comment on proposed approval decision  
Operation of Peel River Drought Protection Works, Tamworth, NSW**

I am writing to you in relation to a proposal to operate a temporary drought mitigation pipeline to supply water directly from Chaffey Dam to the Tamworth water supply network. The above proposal was referred and assessed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for its impacts on listed threatened species and communities (s18 and s18A). I am proposing to approve this proposal. My proposed decision is attached.

I understand that you may have administrative responsibilities relating to the action. I invite you to provide comments on my proposed decision within 10 business days of the date of this letter, including on any matters of economic or social concern that should be considered consistent with the principles of ecologically sustainable development.

Please quote the title of the action and EPBC reference, as shown at the beginning of this letter, in any correspondence. You can email information to the contact officer [s. 22\(1\)\(a\)\(ii\)](#) at [s. 22\(1\)\(a\)\(ii\) @awe.gov.au](#).

Yours sincerely

A handwritten signature in black ink that reads "Louise Vickery".

Louise Vickery  
Assistant Secretary  
Environment Approvals and Wildlife Trade Branch  
6 May 2020



Australian Government  
Department of Agriculture,  
Water and the Environment

EPBC Ref: 2019/8590

Mr Lloyd Woodford  
Director Environmental Protection and Assessments  
Environment and Engineering Branch  
Defence Support and Reform Group  
Department of Defence  
BP26-02-B001  
PO Box 7925  
CANBERRA BC ACT 2601

Dear Mr Woodford

**Invitation to comment on proposed approval decision  
Operation of Peel River Drought Protection Works, Tamworth, NSW**

I am writing to you, as the delegated contact for the Minister for Defence, Senator the Hon Linda Reynolds CSC, in relation to a proposal to operate a temporary drought mitigation pipeline to supply water directly from Chaffey Dam to the Tamworth water supply network. The above proposal was referred and assessed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for its impacts on listed threatened species and communities (s18 and s18A). I am proposing to approve this proposal. My proposed decision is attached.

I understand that the Minister may have administrative responsibilities relating to the action. I invite you to provide comments on my proposed decision within 10 business days of the date of this letter, including on any matters of economic or social concern that should be considered consistent with the principles of ecologically sustainable development.

Please quote the title of the action and EPBC reference, as shown at the beginning of this letter, in any correspondence. You can email information to the contact officer [s. 22\(1\)\(a\)\(ii\)](#) at [s. 22\(1\)\(a\)\(ii\) @awe.gov.au](mailto:s.22(1)(a)(ii)@awe.gov.au).

Yours sincerely

A handwritten signature in black ink that reads "Louise Vickery".

Louise Vickery  
Assistant Secretary  
Environment Approvals and Wildlife Trade Branch  
6<sup>th</sup> May 2020



Australian Government  
Department of Agriculture,  
Water and the Environment

EPBC Ref: 2019/8590

The Hon David Littleproud MP  
Minister for Agriculture, Drought and Emergency Management  
Parliament House  
CANBERRA ACT 2600

Dear Minister

**Invitation to comment on proposed approval decision  
Operation of Peel River Drought Protection Works, Tamworth, NSW**

I am writing to you in relation to a proposal to operate a temporary drought mitigation pipeline to supply water directly from Chaffey Dam to the Tamworth water supply network. The above proposal was referred and assessed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for its impacts on listed threatened species and communities (s18 and s18A). I am proposing to approve this proposal. My proposed decision is attached.

I understand that you have administrative responsibilities relating to the action. I invite you to provide comments on my proposed decision within 10 business days of the date of this letter, including on any matters of economic or social concern that should be considered consistent with the principles of ecologically sustainable development.

Please quote the title of the action and EPBC reference, as shown at the beginning of this letter, in any correspondence. You can email information to the contact officer [s. 22\(1\)\(a\)\(ii\)](#) at [s. 22\(1\)\(a\)\(ii\) @awe.gov.au](#).

Yours sincerely

A handwritten signature in black ink that reads "Louise Vickery".

Louise Vickery  
Assistant Secretary  
Environment Approvals and Wildlife Trade Branch  
6<sup>th</sup> May 2020

**Recommended Conditions – Chaffey Dam to Dungowan Village pipeline  
Authorisation under section 8 of the *Water Supply (Critical Needs) Act 2019***

I, Melinda Pavey, the Minister for Water, Property and Housing, authorise Water NSW (**Authorised Person**) under section 8(5) of the *Water Supply (Critical Needs) Act 2019 (the Act)* to carry out the development specified in Schedule A, subject to any conditions specified in Schedule B, and note the concurrence has been obtained from the Honourable Matthew Kean, Minister for Energy and Environment as required under section 8(6) of the Act.

Dated:

.....  
Minister for Water, Property and Housing

**Schedule A – Authorised development**

Authorised development	The operation of the Chaffey Dam to Dungowan Village pipeline ( <b>Pipeline</b> ) to deliver water via the Pipeline from Chaffey Dam to the Calala Water Treatment Plant at Tamworth under the conditions specified in Schedule B.
------------------------	--

**Schedule B – Conditions**

**Terms of authorisation**

1. This authorisation commences on the date it is signed by the Minister.
2. Except as otherwise specified below, the development must be carried out in accordance with the *Peel River Drought Response Works - Review of Environmental Factors for Water Delivery Pipeline* dated December 2019 (**Stage 2 REF**), prepared under Division 5.1 of Part 5 to the *Environmental Planning and Assessment Act 1979*. To the extent of any inconsistency between the authorised development and the Stage 2 REF, the conditions of this authorisation below prevail.
3. This authorisation does not affect the operation of the State significant infrastructure approval SSI-5039 for the Chaffey Dam Safety Upgrade Augmentation.
4. The requirement in the Stage 2 REF to comply with clause 31(3) of the *Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010* (or any replacement provision in an amendment to or a replacement of that plan that has the same effect) (**WSP**) for minimum daily releases of 3 ML per day from Chaffey Dam via the Peel River does not apply to the development. Instead, the operating rules for the development are as follows:
  - a. **Phase 1 of operation**
    - The Authorised Person cannot operate the Pipeline (except for maintenance or testing purposes); and
    - The Authorised Person must make a minimum daily flow release of 3 ML for environmental water from Chaffey Dam via the Peel River.
  - b. **Phase 2 of operation**
    - The Authorised Person may operate the Pipeline;

- The Authorised Person is not required to release 3 ML of environmental water daily from Chaffey Dam via the Peel River. Instead the Authorised Person is to accumulate environmental water in an environmental water account established for the purpose of this authorisation (**environmental water account**) at a rate of 3 ML per day to a maximum accrued volume of 1095 ML per annum;
- The Authorised Person must if directed by the Director North West Biodiversity Conservation Division (after consulting with the Peel Environmental Water Technical Advisory Group (**PEWTA Group**)) release environmental water from Chaffey Dam via the Peel River at the volume, timing and rate directed. The environmental water must come from the environmental water account; and
- The Authorised Person must if directed by the Director Water Planning Implementation make an emergency release of water (in addition to water held in the environmental water account).

**c. Phase 3 of operation**

- The Authorised Person may operate the Pipeline;
- There is no requirement to release 3 ML per day of environmental water, however the Authorised Person must accrue environmental water in the environmental water account at a rate of 1.5 ML per day to a maximum accrued volume of 550 ML per annum;
- The Authorised Person must if directed by the Director North West Biodiversity Conservation Division (after consulting with the PEWTA Group) release environmental water from Chaffey Dam via the Peel River at the volume, timing and rate directed. The environmental water must come from the environmental water account; and
- The Authorised Person must if directed by the Director Water Planning Implementation make an emergency release of water (in addition to water held in the environmental water account).

**d. Phase 4 of operation**

- The Authorised Person may operate the Pipeline;
- The Authorised Person is not required to accrue or release any volume of environmental water; and
- The Authorised Person must if directed by the Director Water Planning Implementation make an emergency release of water (in addition to water held in the environmental water account).

**Note:**–This authorisation establishes different requirements to the minimum flow rule under clause 31(3) of the WSP. Any other obligation under the *Water Management Act 2000 (WM Act)* is not affected by this authorisation, for example, any requirements for the delivery of town and non-town water supplies via the Peel River continue unaffected by this authorisation.

5. The trigger levels for each phase of operation in Condition 4 are as set out below in Table 1. The storage level % in Table 1 refers to effective storage level of Chaffey Dam.

**Table 1 Trigger levels in Chaffey Dam for pipeline operation**

Description	Falling storage level trigger	Rising storage level trigger
Phase 1	20.0% and above	25.0% and above
Phase 2	15.0%-19.9%	20.0%-24.9%
Phase 3	10.0%-14.9%	15.0%-19.9%
Phase 4	Below 10.0%	Below 15.0%

6. The Authorised Person must implement the following rules for the transition between each of the four phases set out in Condition 4 of this authorisation:
  - a. Environmental water that has not been used within a phase of operation will not be carried into the next phase regardless of whether the phase is an upward or downward movement. This means that the environmental water account will commence at 0 ML at the start of each phase.
  - b. If a phase of operation spans across water years, the water accrued in the environmental water account within that phase is not forfeited at the end of the water year.
  - c. Borrowing of water within a phase of operation can occur up to 1 week in advance. The maximum amount of borrow forward is therefore 7 times the daily accrual rate for the relevant phase of operation.
7. The authorised person must notify the PEWTA Group in writing when transitioning to a new phase at least two weeks before the date of transition.
8. Where unplanned operational events result in an unexpected shift to a new phase, the authorised person must give the PEWTA Group at least two business days notice before the environmental water account is adjusted to enable the release of any accrued environmental water as a pulse flow, if prudent.
9. This authorisation expires the earlier of:
  - a. 12 months after the date it is granted unless otherwise agreed by the Minister in Condition 10; or
  - b. on the date of expiry of the Act.
10. Subject to Condition 9, before agreeing to a later expiry date, the Minister must consider a report from the Authorised Person which reviews whether or not the authorisation continues to be necessary. The Minister may agree to defer the expiry of the authorisation for an initial period of up to 6 months and thereafter for a period as determined by the Minister.

#### **Peel Environmental Water Technical Advisory Group (PEWTA Group)**

11. The Authorised Person must establish and convene a PEWTA Group prior to the commencement date of the operation of the pipeline, comprising of representatives from:
  - the Division in the Department responsible for administering the *Water Management Act 2000*;
  - the Division in the Department responsible for administering the *Fisheries Management Act 1994*; and
  - the Division in the Department responsible for administering the *Biodiversity Conservation Act 2016 Act*.
12. The Authorised Person must:
  - a. develop a Terms of Reference for the PEWTA Group containing at minimum the requirements included in this Authorisation prior to the commencement date of the operation of the pipeline;
  - b. convene a meeting of the PEWTA Group at least monthly;
  - c. appoint Director North West Biodiversity Conservation Division (or their delegate) as chairperson of these meetings;
  - d. provide the PEWTA Group with monitoring results in accordance with condition 16;
  - e. seek advice and recommendations from the PEWTA Group on:
    - i. the volume, timing and rate of environmental water releases from the environmental water account under Phase 2 and Phase 3 (see Conditions 4b and 4c of this Authorisation);
    - ii. the release of emergency water including processes for identifying triggers for release; and

- iii. appropriate discharge rates in Peel River when in-channel flows recommence in Phase 1 of operation set out in Condition 4a of this authorisation.

#### **Public notification requirements**

- 13.** The Authorised Person must monitor and report the Chaffey Dam effective water storage levels on real-time water data on the Authorised Person's website.
- 14.** The Authorised Person must publish the authorisation on the Authorised Person's website within two weeks of being notified of the authorisation being granted.
- 15.** The Authorised Person must also publish on the Authorised Person's website:
  - a) the terms of reference for, and membership of, the PEWTA Group;
  - b) commencement of the development permitted by this authorisation;
  - c) any variation to the conditions by the Minister under s.8(7) of the Act; and
  - d) the commencement date of each new phase of pipeline operation as specified in Table 1 of Condition 5.

#### **Water Management Plan**

- 16.** The Authorised Person must cause a Water Management Plan to be prepared for approval by Director Water Planning Implementation within one month of the date of granting of this authorisation. This plan must:
  - a) be prepared in consultation with the Department and the PEWTA Group;
  - b) describe measures to be implemented by the Authorised Person to achieve the water management performance criteria identified;
  - c) include a:
    - i. **Surface Water Management Plan** that includes:
      - baseline data on surface water flows and quality of watercourses and/or water bodies potentially impacted by the pipeline, including:
        - stream and riparian vegetation health;
        - channel stability (geomorphology);
        - water supply and quality.
      - performance criteria, including trigger levels for identifying and investigating any potentially adverse impacts associated with the operation of the pipeline on:
        - water quality;
        - native species including threatened species;
        - bed and bank stability;
        - stream and riparian vegetation health; and
        - water supply for other water users.
      - performance criteria for short, medium and long-term measures for the rehabilitation/restoration of native riparian and aquatic habitat, and flora and fauna, including:
        - bank stability;
        - natural pool and riffle sequences; and
        - native fish stocks.
      - a monitoring program to assess performance against the identified performance criteria, including:
        - monitoring of priority locations; and
        - continuous monitoring during all phases of operation.
      - procedures for reporting the results of the monitoring program, including:
        - agreed reporting timeframes;
        - real time reporting of water level and water quality monitoring; and



- provision of collected monitoring data to the PEWTA Group and the Department, including that all data will be provided in both report form and electronic form (excel, text, real time).
- a plan to respond to any exceedances of the performance measures or performance criteria and repair, mitigate and/or offset any adverse surface water impacts of the development.
- ii. **Groundwater Management Plan** that includes:
  - baseline data of hydrogeology and groundwater levels, formation parameters (such as electrical conductivity, storage, yield) and groundwater quality for the Peel River groundwater resources potentially impacted by the pipeline operation including:
    - aquifer health;
    - groundwater supply and quality for other water users; and
    - groundwater dependent ecosystems.
  - a description of the groundwater management monitoring system, including:
    - at least one representative site in each of the monitoring bore transects along the regulated part of the Peel Alluvium upgraded with a data logger and telemetry, to provide data in real-time;
    - conducting water quality testing and monitoring standard field parameters from select representative bores along the affected Peel River on a quarterly basis; and
    - a monitoring network capable of providing an early warning of any impacts to potentially affected groundwater sources.
  - performance criteria, including trigger levels for identifying and investigating any potentially adverse impacts associated with the pipeline operation, on:
    - Peel River groundwater resources;
    - groundwater supply and quality for other water users, including all potentially affected privately-owned licensed groundwater bores;
    - groundwater dependent ecosystems; and
    - aquatic habitat.
  - reporting procedures for the results of the monitoring program, including that all data will be provided in both report form and electronic form (excel, text, real time).
  - a plan to respond to any exceedances of the groundwater performance criteria, and repair, mitigate and/or offset any adverse groundwater impacts of the development.

**17.** The Authorised Person must implement the Water Management Plan as approved by the Director Water Planning Implementation.

#### **Biodiversity Management Plan**

**18.** The Authorised Person must cause a Biodiversity Management Plan to be prepared for approval by Director North West Biodiversity Conservation Division within one month of the date of granting of this authorisation. This plan must:

- a. be prepared in consultation with the Department;
- b. include a statement of commitments to mitigate and manage biodiversity impacts and should provide detail of:
  - identified relevant biodiversity impacts;
  - mitigation measures to be undertaken in the short, medium and long term;
  - the timing or frequency of the mitigation measures to be implemented; and
  - the position responsible for implementing the mitigation measures.
- c. describe the measures to be implemented to:

- relocate affected species to refuges;
  - rescue affected species to alternate off-stream holding facilities;
  - provide compensatory habitat, such as retention of refuge pools;
  - assist in species and ecosystem recovery, such as seed collection and propagation for future rehabilitation; and
  - rehabilitate and restore native riparian and aquatic habitat and fauna and flora.
- d. describe how biodiversity management would be integrated with similar measures in the Water Management Plan (see condition 16 of this Authorisation).
- e. include an Aquatic Biodiversity Offset Strategy that:
- is prepared in consultation with the Department
  - Assesses and quantifies impacts on aquatic biodiversity and habitat to:
    - identify the species composition of the Peel River site, including threatened species
    - determine the offset requirements for key fish habitat, which should ensure ‘no net loss’ of key fish habitat
    - consider direct and indirect impacts of the proposed development, including those on connectivity and habitat availability in the project area.
  - outlines supplementary measures to achieve offsetting of biodiversity impacts and to accommodate for ongoing disturbances and recovery outcomes.
  - effects the offsetting of biodiversity impacts within 24 months of commencement of pipeline operations or an alternative timeframe agreed to in writing with the Department.
19. The Authorised Person must implement the Biodiversity Management Plan as approved by the Director North West Biodiversity Conservation Division.

### Definitions in this Authorisation

20. In this authorisation the following terms are defined as follows:

**Department** – means the Department of Planning, Industry and Environment

**Director Water Planning Implementation** – means the Director Water Planning Implementation within the Department (or equivalent senior executive band 1 with responsibility for supporting the administration of the Department)

**Director North West Biodiversity Conservation Division** - means the Director North West Biodiversity Conservation Division within the Department (or equivalent senior executive band 1 with responsibility for supporting the administration of the Department)

**Environmental Water Account** – means environmental water account established for the purpose of this authorisation

**Senior Executive Band** – has the same meaning as clause 3 of the *Government Sector Employment (Senior Executive Bands) Determination 2014*

**PEWTA Group** – means the Peel Environmental Water Technical Advisory Group and is established and implemented in accordance with Conditions 11 and 12 of this authorisation.

# EPBC Act Protected Matters Report

This report provides general guidance on matters of national environmental significance and other matters protected by the EPBC Act in the area you have selected. Please see the caveat for interpretation of information provided here.

Peel Drought Works - 2 km buffer

Report created: 12/12/19 16:20:17

[Summary](#)

[Details](#)

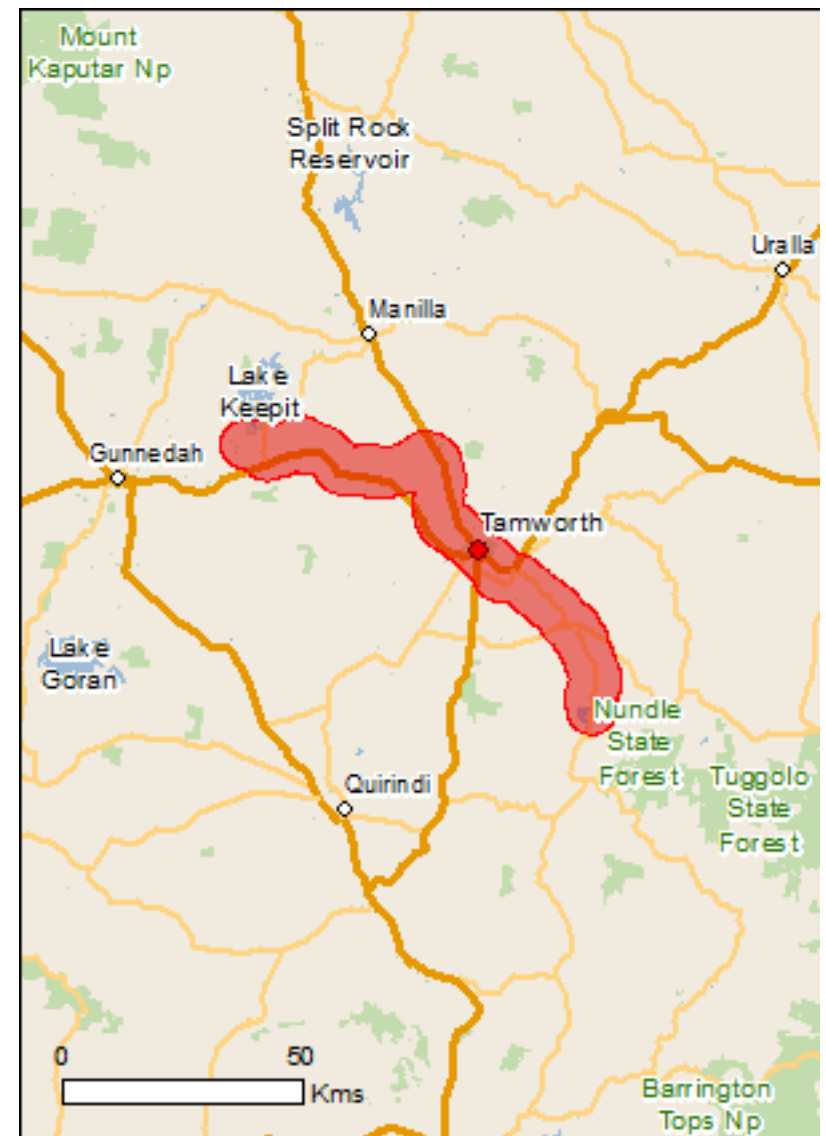
[Matters of NES](#)

[Other Matters Protected by the EPBC Act](#)

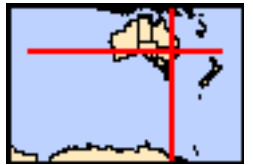
[Extra Information](#)

[Caveat](#)

[Acknowledgements](#)



This map may contain data which are  
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Limited



# Summary

## Matters of National Environment Significance

<a href="#">World Heritage Properties:</a>	None
<a href="#">National Heritage Places:</a>	None
<a href="#">Ramsar Wetlands:</a>	3
<a href="#">Great Barrier Reef Marine Park:</a>	None
<a href="#">Commonwealth Marine Area:</a>	None
<a href="#">Threatened Ecological Communities:</a>	7
<a href="#">Threatened Species:</a>	35
<a href="#">Migratory Species:</a>	12

## Other Matters Protected by the EPBC Act

<a href="#">Commonwealth Lands:</a>	11
<a href="#">Commonwealth Heritage Places:</a>	1
<a href="#">Listed Marine Species:</a>	19
<a href="#">Whales and Other Cetaceans:</a>	None
<a href="#">Critical Habitats:</a>	None
<a href="#">Commonwealth Reserves Terrestrial:</a>	None
<a href="#">Australian Marine Parks</a>	None

## Extra Information

This part of the report provides information that may also be relevant to the area you have

<a href="#">State and Territory Reserves:</a>	None
<a href="#">Regional Forest Agreements:</a>	1
<a href="#">Invasive Species:</a>	38
<a href="#">Nationally Important Wetlands:</a>	None
<a href="#">EPBC Act Referrals:</a>	12
<a href="#">Key Ecological Features (Marine)</a>	None

# Details

## Matters of National Environmental Significance

### Wetlands of International Importance (Ramsar Wetlands) [\[ Resource Information \]](#)

Name	Proximity
<a href="#">Banrock station wetland complex</a>	1000 - 1100km
<a href="#">Riverland</a>	900 - 1000km upstream
<a href="#">The coorong, and lakes alexandrina and albert wetland</a>	1100 - 1200km

### Threatened Ecological Communities [\[ Resource Information \]](#)

For threatened ecological communities where the distribution is well known, maps are derived from recovery plans, State vegetation maps, remote sensing imagery and other sources. Where threatened ecological community distributions are less well known, existing vegetation maps and point location data are used to produce indicative distribution maps.

Name	Status	Type of Presence
<a href="#">Coolibah - Black Box Woodlands of the Darling Riverine Plains and the Brigalow Belt South Bioregions</a>	Endangered	Community may occur within area
<a href="#">Grey Box (Eucalyptus microcarpa) Grassy Woodlands and Derived Native Grasslands of South-eastern Australia</a>	Endangered	Community may occur within area
<a href="#">Natural grasslands on basalt and fine-textured alluvial plains of northern New South Wales and southern Queensland</a>	Critically Endangered	Community likely to occur within area
<a href="#">New England Peppermint (Eucalyptus nova-anglica) Grassy Woodlands</a>	Critically Endangered	Community may occur within area
<a href="#">Poplar Box Grassy Woodland on Alluvial Plains</a>	Endangered	Community likely to occur within area
<a href="#">Weeping Myall Woodlands</a>	Endangered	Community likely to occur within area
<a href="#">White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland</a>	Critically Endangered	Community likely to occur within area

### Threatened Species [\[ Resource Information \]](#)

Name	Status	Type of Presence
<b>BIRDS</b>		
<a href="#">Anthochaera phrygia</a> Regent Honeyeater [82338]	Critically Endangered	Species or species habitat known to occur within area
<a href="#">Botaurus poiciloptilus</a> Australasian Bittern [1001]	Endangered	Species or species habitat known to occur within area
<a href="#">Calidris ferruginea</a> Curlew Sandpiper [856]	Critically Endangered	Species or species habitat may occur within area
<a href="#">Erythrotriorchis radiatus</a> Red Goshawk [942]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Grantiella picta</a> Painted Honeyeater [470]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Hirundapus caudacutus</a> White-throated Needletail [682]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Lathamus discolor</a> Swift Parrot [744]	Critically Endangered	Species or species habitat known to occur within area
<a href="#">Rostratula australis</a> Australian Painted Snipe [77037]	Endangered	Species or species habitat likely to occur within area
<b>FISH</b>		
<a href="#">Bidyanus bidyanus</a> Silver Perch, Bidyan [76155]	Critically Endangered	Species or species habitat known to occur

Name	Status	Type of Presence within area
<a href="#">Maccullochella peelii</a> Murray Cod [66633]	Vulnerable	Species or species habitat known to occur within area
<b>FROGS</b>		
<a href="#">Litoria booroolongensis</a> Booroolong Frog [1844]	Endangered	Species or species habitat known to occur within area
<b>MAMMALS</b>		
<a href="#">Chalinolobus dwyeri</a> Large-eared Pied Bat, Large Pied Bat [183]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Dasyurus maculatus maculatus (SE mainland population)</a> Spot-tailed Quoll, Spotted-tail Quoll, Tiger Quoll (southeastern mainland population) [75184]	Endangered	Species or species habitat known to occur within area
<a href="#">Nyctophilus corbeni</a> Corben's Long-eared Bat, South-eastern Long-eared Bat [83395]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Petauroides volans</a> Greater Glider [254]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Petrogale penicillata</a> Brush-tailed Rock-wallaby [225]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Phascolarctos cinereus (combined populations of Qld, NSW and the ACT)</a> Koala (combined populations of Queensland, New South Wales and the Australian Capital Territory) [85104]	Vulnerable	Species or species habitat known to occur within area
<a href="#">Pteropus poliocephalus</a> Grey-headed Flying-fox [186]	Vulnerable	Roosting known to occur within area
<b>PLANTS</b>		
<a href="#">Androcalva procumbens</a> [87153]	Vulnerable	Species or species habitat may occur within area
<a href="#">Cadellia pentastylis</a> Ooline [9828]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Callistemon pungens</a> [55581]	Vulnerable	Species or species habitat may occur within area
<a href="#">Dichanthium setosum</a> bluegrass [14159]	Vulnerable	Species or species habitat known to occur within area
<a href="#">Eucalyptus nicholii</a> Narrow-leaved Peppermint, Narrow-leaved Black Peppermint [20992]	Vulnerable	Species or species habitat may occur within area
<a href="#">Euphrasia arguta</a> [4325]	Critically Endangered	Species or species habitat likely to occur within area
<a href="#">Hakea pulvinifera</a> Lake Keepit Hakea [14228]	Endangered	Species or species habitat known to occur within area
<a href="#">Haloragis exalata subsp. velutina</a> Tall Velvet Sea-berry [16839]	Vulnerable	Species or species habitat may occur within area
<a href="#">Marsdenia longiloba</a> Clear Milkvine [2794]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Picris evae</a> Hawkweed [10839]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Prasophyllum sp. Wybong (C.Phelps ORG 5269)</a> a leek-orchid [81964]	Critically Endangered	Species or species habitat may occur within area

Name	Status	Type of Presence
<a href="#">Swainsona murrayana</a> Slender Darling-pea, Slender Swainson, Murray Swainson-pea [6765]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Thesium australe</a> Austral Toadflax, Toadflax [15202]	Vulnerable	Species or species habitat known to occur within area
<a href="#">Tylophora linearis</a> [55231]	Endangered	Species or species habitat may occur within area

## REPTILES

<a href="#">Aprasia parapulchella</a> Pink-tailed Worm-lizard, Pink-tailed Legless Lizard [1665]	Vulnerable	Species or species habitat may occur within area
<a href="#">Uvidicolus sphyrurus</a> Border Thick-tailed Gecko, Granite Belt Thick-tailed Gecko [84578]	Vulnerable	Species or species habitat known to occur within area
<a href="#">Wollumbinia belli</a> Bell's Turtle, Western Sawshelled Turtle, Namoi River Turtle, Bell's Saw-shelled Turtle [86071]	Vulnerable	Species or species habitat may occur within area

## Migratory Species [ [Resource Information](#) ]

\* Species is listed under a different scientific name on the EPBC Act - Threatened Species list.

Name	Threatened	Type of Presence
<b>Migratory Marine Birds</b>		
<a href="#">Apus pacificus</a> Fork-tailed Swift [678]		Species or species habitat likely to occur within area

## Migratory Terrestrial Species

<a href="#">Hirundapus caudacutus</a> White-throated Needletail [682]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Monarcha melanopsis</a> Black-faced Monarch [609]		Species or species habitat likely to occur within area
<a href="#">Motacilla flava</a> Yellow Wagtail [644]		Species or species habitat may occur within area
<a href="#">Myiagra cyanoleuca</a> Satin Flycatcher [612]		Species or species habitat known to occur within area
<a href="#">Rhipidura rufifrons</a> Rufous Fantail [592]		Species or species habitat known to occur within area

## Migratory Wetlands Species

<a href="#">Actitis hypoleucos</a> Common Sandpiper [59309]		Species or species habitat may occur within area
<a href="#">Calidris acuminata</a> Sharp-tailed Sandpiper [874]		Species or species habitat may occur within area
<a href="#">Calidris ferruginea</a> Curlew Sandpiper [856]	Critically Endangered	Species or species habitat may occur within area
<a href="#">Calidris melanotos</a> Pectoral Sandpiper [858]		Species or species habitat may occur within area
<a href="#">Gallinago hardwickii</a> Latham's Snipe, Japanese Snipe [863]		Species or species habitat may occur within area
<a href="#">Pandion haliaetus</a> Osprey [952]		Species or species habitat may occur within area

## Other Matters Protected by the EPBC Act

## Commonwealth Lands

[\[ Resource Information \]](#)

The Commonwealth area listed below may indicate the presence of Commonwealth land in this vicinity. Due to the unreliability of the data source, all proposals should be checked as to whether it impacts on a Commonwealth area, before making a definitive decision. Contact the State or Territory government land department for further information.

## Name

Commonwealth Land - Australian & Overseas Telecommunications Corporation  
 Commonwealth Land - Australian Postal Commission  
 Commonwealth Land - Australian Telecommunications Commission  
 Commonwealth Land - Commonwealth Bank of Australia  
 Commonwealth Land - Commonwealth Trading Bank of Australia  
 Commonwealth Land - Defence Housing Authority  
 Commonwealth Land - Defence Service Homes Corporation  
 Commonwealth Land - Director of Defence Service Homes  
 Commonwealth Land - Director of War Service Homes  
 Commonwealth Land - Telstra Corporation Limited  
 Defence - TAMWORTH GRES DEPOT ; BEERSHEBA BARRACKS-TAMWORTH

## Commonwealth Heritage Places

[\[ Resource Information \]](#)

## Name

State

Status

## Historic

[Tamworth Post Office](#)

NSW

Listed place

## Listed Marine Species

[\[ Resource Information \]](#)

\* Species is listed under a different scientific name on the EPBC Act - Threatened Species list.

## Name

Threatened

Type of Presence

## Birds

[Actitis hypoleucos](#)

Common Sandpiper [59309]

Species or species habitat may occur within area

[Apus pacificus](#)

Fork-tailed Swift [678]

Species or species habitat likely to occur within area

[Ardea alba](#)

Great Egret, White Egret [59541]

Species or species habitat known to occur within area

[Ardea ibis](#)

Cattle Egret [59542]

Species or species habitat may occur within area

[Calidris acuminata](#)

Sharp-tailed Sandpiper [874]

Species or species habitat may occur within area

[Calidris ferruginea](#)

Curlew Sandpiper [856]

Critically Endangered

Species or species habitat may occur within area

[Calidris melanotos](#)

Pectoral Sandpiper [858]

Species or species habitat may occur within area

[Chrysococcyx osculans](#)

Black-eared Cuckoo [705]

Species or species habitat likely to occur within area

[Gallinago hardwickii](#)

Latham's Snipe, Japanese Snipe [863]

Species or species habitat may occur within area

[Haliaeetus leucogaster](#)

White-bellied Sea-Eagle [943]

Species or species habitat likely to occur within area

[Hirundapus caudacutus](#)

White-throated Needletail [682]

Vulnerable

Species or species habitat likely to occur within area

[Lathamus discolor](#)

Swift Parrot [744]

Critically Endangered

Species or species habitat known to occur within area

[Merops ornatus](#)

Rainbow Bee-eater [670]

Species or species habitat may occur within area



Name	Threatened	Type of Presence
<a href="#">Monarcha melanopsis</a> Black-faced Monarch [609]		Species or species habitat likely to occur within area
<a href="#">Motacilla flava</a> Yellow Wagtail [644]		Species or species habitat may occur within area
<a href="#">Myiagra cyanoleuca</a> Satin Flycatcher [612]		Species or species habitat known to occur within area
<a href="#">Pandion haliaetus</a> Osprey [952]		Species or species habitat may occur within area
<a href="#">Rhipidura rufifrons</a> Rufous Fantail [592]		Species or species habitat known to occur within area
<a href="#">Rostratula benghalensis (sensu lato)</a> Painted Snipe [889]	Endangered*	Species or species habitat likely to occur within area

## Extra Information

### Regional Forest Agreements [\[ Resource Information \]](#)

Note that all areas with completed RFAs have been included.

Name	State
<a href="#">North East NSW RFA</a>	New South Wales

### Invasive Species [\[ Resource Information \]](#)

Weeds reported here are the 20 species of national significance (WoNS), along with other introduced plants that are considered by the States and Territories to pose a particularly significant threat to biodiversity. The following feral animals are reported: Goat, Red Fox, Cat, Rabbit, Pig, Water Buffalo and Cane Toad. Maps from Landscape Health Project, National Land and Water Resources Audit,

Name	Status	Type of Presence
<b>Birds</b>		
<a href="#">Acridotheres tristis</a> Common Myna, Indian Myna [387]		Species or species habitat likely to occur within area
<a href="#">Anas platyrhynchos</a> Mallard [974]		Species or species habitat likely to occur within area
<a href="#">Carduelis carduelis</a> European Goldfinch [403]		Species or species habitat likely to occur within area
<a href="#">Columba livia</a> Rock Pigeon, Rock Dove, Domestic Pigeon [803]		Species or species habitat likely to occur within area
<a href="#">Passer domesticus</a> House Sparrow [405]		Species or species habitat likely to occur within area
<a href="#">Streptopelia chinensis</a> Spotted Turtle-Dove [780]		Species or species habitat likely to occur within area
<a href="#">Sturnus vulgaris</a> Common Starling [389]		Species or species habitat likely to occur within area
<a href="#">Turdus merula</a> Common Blackbird, Eurasian Blackbird [596]		Species or species habitat likely to occur within area
<b>Frogs</b>		
<a href="#">Rhinella marina</a> Cane Toad [83218]		Species or species habitat may occur within area
<b>Mammals</b>		
<a href="#">Bos taurus</a> Domestic Cattle [16]		Species or species

Name	Status	Type of Presence
<a href="#">Canis lupus familiaris</a>		habitat likely to occur within area
Domestic Dog [82654]		Species or species habitat likely to occur within area
<a href="#">Capra hircus</a>		
Goat [2]		Species or species habitat likely to occur within area
<a href="#">Felis catus</a>		
Cat, House Cat, Domestic Cat [19]		Species or species habitat likely to occur within area
<a href="#">Feral deer</a>		
Feral deer species in Australia [85733]		Species or species habitat likely to occur within area
<a href="#">Lepus capensis</a>		
Brown Hare [127]		Species or species habitat likely to occur within area
<a href="#">Mus musculus</a>		
House Mouse [120]		Species or species habitat likely to occur within area
<a href="#">Oryctolagus cuniculus</a>		
Rabbit, European Rabbit [128]		Species or species habitat likely to occur within area
<a href="#">Rattus rattus</a>		
Black Rat, Ship Rat [84]		Species or species habitat likely to occur within area
<a href="#">Sus scrofa</a>		
Pig [6]		Species or species habitat likely to occur within area
<a href="#">Vulpes vulpes</a>		
Red Fox, Fox [18]		Species or species habitat likely to occur within area
<b>Plants</b>		
<a href="#">Anredera cordifolia</a>		
Madeira Vine, Jalap, Lamb's-tail, Mignonette Vine, Anredera, Gulf Madeiravine, Heartleaf Madeiravine, Potato Vine [2643]		Species or species habitat likely to occur within area
<a href="#">Asparagus aethiopicus</a>		
Asparagus Fern, Ground Asparagus, Basket Fern, Sprengi's Fern, Bushy Asparagus, Emerald Asparagus [62425]		Species or species habitat likely to occur within area
<a href="#">Asparagus asparagoides</a>		
Bridal Creeper, Bridal Veil Creeper, Smilax, Florist's Smilax, Smilax Asparagus [22473]		Species or species habitat likely to occur within area
<a href="#">Asparagus plumosus</a>		
Climbing Asparagus-fern [48993]		Species or species habitat likely to occur within area
<a href="#">Cylindropuntia spp.</a>		
Prickly Pears [85131]		Species or species habitat likely to occur within area
<a href="#">Cytisus scoparius</a>		
Broom, English Broom, Scotch Broom, Common Broom, Scottish Broom, Spanish Broom [5934]		Species or species habitat likely to occur within area
<a href="#">Dolichandra unguis-cati</a>		
Cat's Claw Vine, Yellow Trumpet Vine, Cat's Claw Creeper, Funnel Creeper [85119]		Species or species habitat likely to occur within area
<a href="#">Genista monspessulana</a>		
Montpellier Broom, Cape Broom, Canary Broom, Common Broom, French Broom, Soft Broom [20126]		Species or species habitat likely to occur within area
<a href="#">Lycium ferocissimum</a>		
African Boxthorn, Boxthorn [19235]		Species or species habitat likely to occur within area
<a href="#">Nassella neesiana</a>		
Chilean Needle grass [67699]		Species or species habitat likely to occur within area

Name	Status	Type of Presence
<a href="#">Nassella trichotoma</a> Serrated Tussock, Yass River Tussock, Yass Tussock, Nassella Tussock (NZ) [18884]		Species or species habitat likely to occur within area
<a href="#">Opuntia spp.</a> Prickly Pears [82753]		Species or species habitat likely to occur within area
<a href="#">Pinus radiata</a> Radiata Pine Monterey Pine, Insignis Pine, Wilding Pine [20780]		Species or species habitat may occur within area
<a href="#">Rubus fruticosus aggregate</a> Blackberry, European Blackberry [68406]		Species or species habitat likely to occur within area
<a href="#">Salix spp. except S.babylonica, S.x calodendron &amp; S.x reichardtii</a> Willows except Weeping Willow, Pussy Willow and Sterile Pussy Willow [68497]		Species or species habitat likely to occur within area
<a href="#">Senecio madagascariensis</a> Fireweed, Madagascar Ragwort, Madagascar Groundsel [2624]		Species or species habitat likely to occur within area
<a href="#">Solanum elaeagnifolium</a> Silver Nightshade, Silver-leaved Nightshade, White Horse Nettle, Silver-leaf Nightshade, Tomato Weed, White Nightshade, Bull-nettle, Prairie-berry, Satansbos, Silver-leaf Bitter-apple, Silverleaf-nettle, Trompillo [12323]		Species or species habitat likely to occur within area
<a href="#">Tamarix aphylla</a> Athel Pine, Athel Tree, Tamarisk, Athel Tamarisk, Athel Tamarix, Desert Tamarisk, Flowering Cypress, Salt Cedar [16018]		Species or species habitat likely to occur within area

## EPBC Act Referrals [\[ Resource Information \]](#)

Further details about the referral or advice - including its current status if still active - are available in its PINK report; click on the title.

Referral	Reference	Referral Outcome	Assessment Status
<a href="#">Dubbo - Tamworth Natural Gas Pipeline</a>	2000/32	NCA	Referral Decision Made
<a href="#">One Tree Hill Estate - Stage 13</a>	2003/1142	CA	Approval Decision Made
<a href="#">Residential Development &amp; Assoc Infrastructure 31 &amp; 41 Panorama Road</a>	2005/2115	NCA	Referral Decision Made
<a href="#">Residential Subdivision, Warramunga Avenue</a>	2005/2201	NCA	Referral Decision Made
<a href="#">Hills Plain subdivision</a>	2005/2432		Withdrawn
<a href="#">Aerial baiting for wild dog control</a>	2006/2713	NCA-PM	Referral Decision Made
<a href="#">Upgrade of Keepit Dam on the Namoi River</a>	2006/3186	CA	Approval Decision Made
<a href="#">Chaffey Dam Augmentation and Safety Upgrade, NSW</a>	2012/6523	CA	Approval Decision Made
<a href="#">Vegetation clearing for a residential subdivision</a>	2013/6812	CA	Approval Decision Made
<a href="#">Improving rabbit biocontrol: releasing another strain of RHDV, sthrn two thirds of Australia</a>	2015/7522	NCA	Referral Decision Made
<a href="#">Rural residential subdivision, Lots 172 and 180 DP753851 Barakula Drive, Moore Creek, NSW</a>	2016/7736	NCA-PM	Referral Decision Made
<a href="#">WaterNSW Peel River Drought Protection Works operation</a>	2019/8590		Draft Received

# Caveat

The information presented in this report has been provided by a range of data sources as acknowledged at the end of the report.

This report is designed to assist in identifying the locations of places which may be relevant in determining obligations under the Environment Protection and Biodiversity Conservation Act 1999. It holds mapped locations of World and National Heritage properties, Wetlands of International and National Importance, Commonwealth and State/Territory reserves, listed threatened, migratory and marine species and listed threatened ecological communities. Mapping of Commonwealth land is not complete at this stage. Maps have been collated from a range of sources at various resolutions.

Not all species listed under the EPBC Act have been mapped (see below) and therefore a report is a general guide only. Where available data supports mapping, the type of presence that can be determined from the data is indicated in general terms. People using this information in making a referral may need to consider the qualifications below and may need to seek and consider other information sources.

For threatened ecological communities where the distribution is well known, maps are derived from recovery plans, State vegetation maps, remote sensing imagery and other sources. Where threatened ecological community distributions are less well known, existing vegetation maps and point location data are used to produce indicative distribution maps.

For species where the distributions are well known, maps are digitised from sources such as recovery plans and detailed habitat studies. Where appropriate, core breeding, foraging and roosting areas are indicated under 'type of presence'. For species whose distributions are less well known, point locations are collated from government wildlife authorities, museums, and non-government organisations; bioclimatic distribution models are generated and these validated by experts. In some cases, the distribution maps are based solely on expert knowledge.

Threatened, migratory and marine species distributions have been derived through a variety of methods. Where distributions are well known and if time permits, maps are derived using either thematic spatial data (i.e. vegetation, soils, geology, elevation, aspect, terrain, etc) together with point locations and described habitat; or environmental modelling (MAXENT or BIOCLIM habitat modelling) using point locations and environmental data layers.

Where very little information is available for species or large number of maps are required in a short time-frame, maps are derived either from 0.04 or 0.02 decimal degree cells; by an automated process using polygon capture techniques (static two kilometre grid cells, alpha-hull and convex hull); or captured manually or by using topographic features (national park boundaries, islands, etc). In the early stages of the distribution mapping process (1999-early 2000s) distributions were defined by degree blocks, 100K or 250K map sheets to rapidly create distribution maps. More reliable distribution mapping methods are used to update these distributions as time permits.

Only selected species covered by the following provisions of the EPBC Act have been mapped:

- migratory and
- marine

The following species and ecological communities have not been mapped and do not appear in reports produced from this database:

- threatened species listed as extinct or considered as vagrants
- some species and ecological communities that have only recently been listed
- some terrestrial species that overfly the Commonwealth marine area
- migratory species that are very widespread, vagrant, or only occur in small numbers

The following groups have been mapped, but may not cover the complete distribution of the species:

- non-threatened seabirds which have only been mapped for recorded breeding sites
- seals which have only been mapped for breeding sites near the Australian continent

Such breeding sites may be important for the protection of the Commonwealth Marine environment.

# Acknowledgements

This database has been compiled from a range of data sources. The department acknowledges the following custodians who have contributed valuable data and advice:

- [-Office of Environment and Heritage, New South Wales](#)
- [-Department of Environment and Primary Industries, Victoria](#)
- [-Department of Primary Industries, Parks, Water and Environment, Tasmania](#)
- [-Department of Environment, Water and Natural Resources, South Australia](#)
- [-Department of Land and Resource Management, Northern Territory](#)
- [-Department of Environment and Heritage Protection, Queensland](#)
- [-Department of Parks and Wildlife, Western Australia](#)
- [-Environment and Planning Directorate, ACT](#)
- [-Birdlife Australia](#)
- [-Australian Bird and Bat Banding Scheme](#)
- [-Australian National Wildlife Collection](#)
- Natural history museums of Australia
- [-Museum Victoria](#)
- [-Australian Museum](#)
- [-South Australian Museum](#)
- [-Queensland Museum](#)
- [-Online Zoological Collections of Australian Museums](#)
- [-Queensland Herbarium](#)
- [-National Herbarium of NSW](#)
- [-Royal Botanic Gardens and National Herbarium of Victoria](#)
- [-Tasmanian Herbarium](#)
- [-State Herbarium of South Australia](#)
- [-Northern Territory Herbarium](#)
- [-Western Australian Herbarium](#)
- [-Australian National Herbarium, Canberra](#)
- [-University of New England](#)
- [-Ocean Biogeographic Information System](#)
- [-Australian Government, Department of Defence](#)
- [-Forestry Corporation of NSW](#)
- [-Australian Tropical Herbarium, Cairns](#)
- [-eBird Australia](#)
- [-Australian Government – Australian Antarctic Data Centre](#)
- [-Museum and Art Gallery of the Northern Territory](#)
- [-Australian Government National Environmental Science Program](#)
- [-Australian Institute of Marine Science](#)
- [-Reef Life Survey Australia](#)
- [-American Museum of Natural History](#)
- [-Queen Victoria Museum and Art Gallery, Inveresk, Tasmania](#)
- [-Tasmanian Museum and Art Gallery, Hobart, Tasmania](#)
- Other groups and individuals

The Department is extremely grateful to the many organisations and individuals who provided expert advice and information on numerous draft distributions.

# EPBC Act Protected Matters Report

This report provides general guidance on matters of national environmental significance and other matters protected by the EPBC Act in the area you have selected. Please see the caveat for interpretation of information provided here.

Proposed decision check

Report created: 29/04/2020 01:31:48

[Summary](#)

[Details](#)

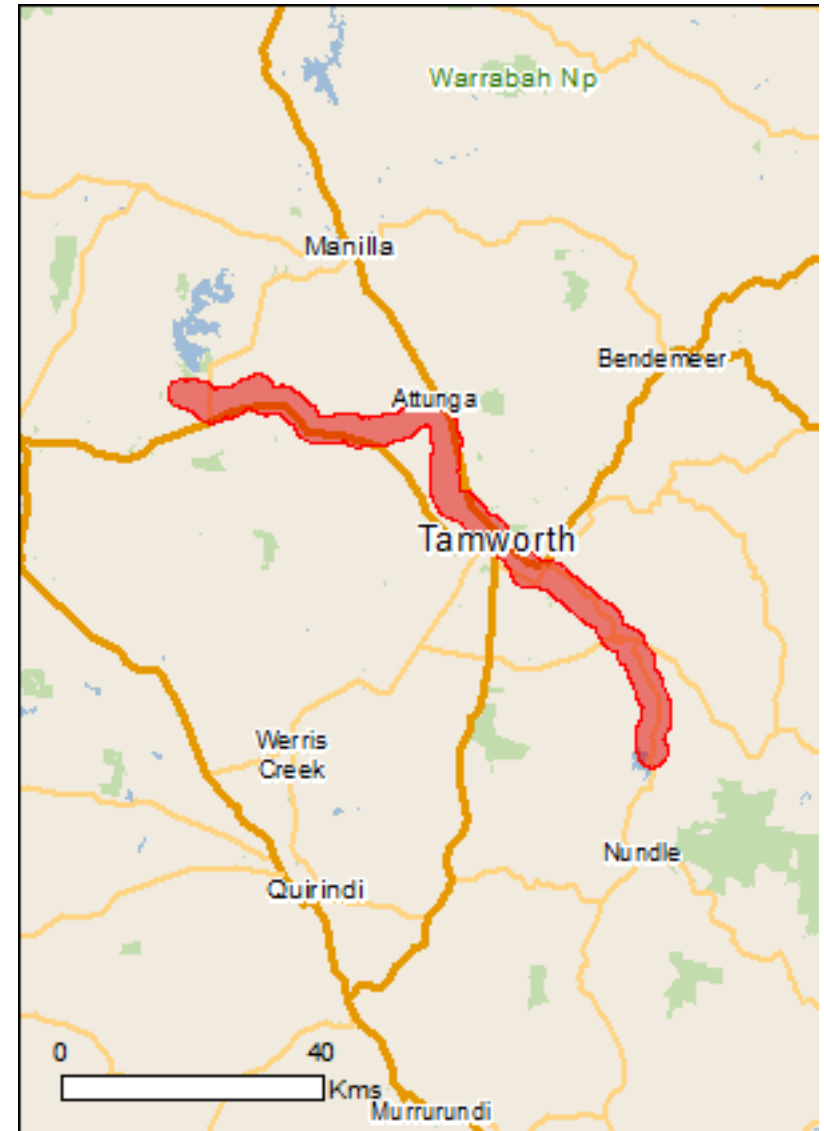
[Matters of NES](#)

[Other Matters Protected by the EPBC Act](#)

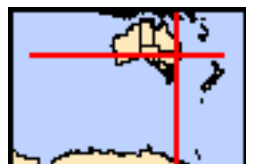
[Extra Information](#)

[Caveat](#)

[Acknowledgements](#)



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# Summary

## Matters of National Environment Significance

<a href="#">World Heritage Properties:</a>	None
<a href="#">National Heritage Places:</a>	None
<a href="#">Ramsar Wetlands:</a>	3
<a href="#">Great Barrier Reef Marine Park:</a>	None
<a href="#">Commonwealth Marine Area:</a>	None
<a href="#">Threatened Ecological Communities:</a>	7
<a href="#">Threatened Species:</a>	33
<a href="#">Migratory Species:</a>	12

## Other Matters Protected by the EPBC Act

<a href="#">Commonwealth Lands:</a>	23
<a href="#">Commonwealth Heritage Places:</a>	1
<a href="#">Listed Marine Species:</a>	19
<a href="#">Whales and Other Cetaceans:</a>	None
<a href="#">Critical Habitats:</a>	None
<a href="#">Commonwealth Reserves Terrestrial:</a>	None
<a href="#">Australian Marine Parks:</a>	None

## Extra Information

This part of the report provides information that may also be relevant to the area you have

<a href="#">State and Territory Reserves:</a>	None
<a href="#">Regional Forest Agreements:</a>	1
<a href="#">Invasive Species:</a>	38
<a href="#">Nationally Important Wetlands:</a>	None
<a href="#">EPBC Act Referrals:</a>	12
<a href="#">Key Ecological Features (Marine):</a>	None

# Details

## Matters of National Environmental Significance

### Wetlands of International Importance (Ramsar Wetlands)

[ [Resource Information](#) ]

Name	Proximity
<a href="#">Banrock station wetland complex</a>	1000 - 1100km upstream from Ramsar site
<a href="#">Riverland</a>	900 - 1000km upstream from Ramsar site
<a href="#">The coorong, and lakes alexandrina and albert wetland</a>	1100 - 1200km upstream from Ramsar site

### Threatened Ecological Communities

[ [Resource Information](#) ]

For threatened ecological communities where the distribution is well known, maps are derived from recovery plans, State vegetation maps, remote sensing imagery and other sources. Where threatened ecological community distributions are less well known, existing vegetation maps and point location data are used to produce indicative distribution maps.

Status of Vulnerable, Disallowed and Ineligible are not MNES under the EPBC Act.

Name	Status	Type of Presence
<a href="#">Coolibah - Black Box Woodlands of the Darling Riverine Plains and the Brigalow Belt South Bioregions</a>	Endangered	Community may occur within area
<a href="#">Grey Box (<i>Eucalyptus microcarpa</i>) Grassy Woodlands and Derived Native Grasslands of South-eastern Australia</a>	Endangered	Community may occur within area
<a href="#">Natural grasslands on basalt and fine-textured alluvial plains of northern New South Wales and southern Queensland</a>	Critically Endangered	Community likely to occur within area
<a href="#">New England Peppermint (<i>Eucalyptus nova-anglica</i>) Grassy Woodlands</a>	Critically Endangered	Community may occur within area
<a href="#">Poplar Box Grassy Woodland on Alluvial Plains</a>	Endangered	Community likely to occur within area
<a href="#">Weeping Myall Woodlands</a>	Endangered	Community likely to occur within area
<a href="#">White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland</a>	Critically Endangered	Community likely to occur within area



Name	Status	Type of Presence
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## Threatened Species [\[ Resource Information \]](#)

Status of Conservation Dependent and Extinct are not MNES under the EPBC Act.

Number is the current name ID.

Current Scientific Name	Status	Type of Presence
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### BIRD

#### [Anthochaera phrygia](#)

Regent Honeyeater [82338]

Critically Endangered

Species or species habitat known to occur within area

#### [Botaurus poiciloptilus](#)

Australasian Bittern [1001]

Endangered

Species or species habitat known to occur within area

#### [Calidris ferruginea](#)

Curlew Sandpiper [856]

Critically Endangered

Species or species habitat may occur within area

#### [Erythrorchis radiatus](#)

Red Goshawk [942]

Vulnerable

Species or species habitat likely to occur within area

#### [Grantiella picta](#)

Painted Honeyeater [470]

Vulnerable

Species or species habitat likely to occur within area

#### [Hirundapus caudacutus](#)

White-throated Needletail [682]

Vulnerable

Species or species habitat likely to occur within area

#### [Lathamus discolor](#)

Swift Parrot [744]

Critically Endangered

Species or species habitat known to occur within area

#### [Rostratula australis](#)

Australian Painted Snipe [77037]

Endangered

Species or species habitat likely to occur within area

### FISH

#### [Maccullochella peelii](#)

Murray Cod [66633]

Vulnerable

Species or species habitat known to occur within area

### FROG

Current Scientific Name	Status	Type of Presence
<a href="#">Litoria booroolongensis</a> Booroolong Frog [1844]	Endangered	Species or species habitat known to occur within area
<b>MAMMAL</b>		
<a href="#">Chalinolobus dwyeri</a> Large-eared Pied Bat, Large Pied Bat [183]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Dasyurus maculatus maculatus (SE mainland population)</a> Spot-tailed Quoll, Spotted-tail Quoll, Tiger Quoll (southeastern mainland population) [75184]	Endangered	Species or species habitat known to occur within area
<a href="#">Nyctophilus corbeni</a> Corben's Long-eared Bat, South-eastern Long-eared Bat [83395]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Petauroides volans</a> Greater Glider [254]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Petrogale penicillata</a> Brush-tailed Rock-wallaby [225]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Phascolarctos cinereus (combined populations of Qld, NSW and the ACT)</a> Koala (combined populations of Queensland, New South Wales and the Australian Capital Territory) [85104]	Vulnerable	Species or species habitat known to occur within area
<a href="#">Pteropus poliocephalus</a> Grey-headed Flying-fox [186]	Vulnerable	Roosting known to occur within area
<b>PLANT</b>		
<a href="#">Androcalva procumbens</a> [87153]	Vulnerable	Species or species habitat may occur within area
<a href="#">Cadellia pentastylis</a> Ooline [9828]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Callistemon pungens</a> [55581]	Vulnerable	Species or species habitat may occur within area

Current Scientific Name	Status	Type of Presence
<a href="#">Dichanthium setosum</a> bluegrass [14159]	Vulnerable	Species or species habitat known to occur within area
<a href="#">Eucalyptus nicholii</a> Narrow-leaved Peppermint, Narrow-leaved Black Peppermint [20992]	Vulnerable	Species or species habitat may occur within area
<a href="#">Euphrasia arguta</a> [4325]	Critically Endangered	Species or species habitat likely to occur within area
<a href="#">Hakea pulvinifera</a> Lake Keepit Hakea [14228]	Endangered	Species or species habitat likely to occur within area
<a href="#">Haloragis exalata subsp. velutina</a> Tall Velvet Sea-berry [16839]	Vulnerable	Species or species habitat may occur within area
<a href="#">Picris evae</a> Hawkweed [10839]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Prasophyllum sp. Wybong (C.Phelps ORG 5269)</a> a leek-orchid [81964]	Critically Endangered	Species or species habitat may occur within area
<a href="#">Swainsona murrayana</a> Slender Darling-pea, Slender Swainson, Murray Swainson-pea [6765]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Thesium australe</a> Austral Toadflax, Toadflax [15202]	Vulnerable	Species or species habitat known to occur within area
<a href="#">Tylophora linearis</a> [55231]	Endangered	Species or species habitat may occur within area
<b>REPTILE</b>		
<a href="#">Aprasia parapulchella</a> Pink-tailed Worm-lizard, Pink-tailed Legless Lizard [1665]	Vulnerable	Species or species habitat may occur within area

Current Scientific Name	Status	Type of Presence
<a href="#">Uvidicolus sphyrurus</a> Border Thick-tailed Gecko, Granite Belt Thick-tailed Gecko [84578]	Vulnerable	Species or species habitat known to occur within area
<a href="#">Wollumbinia belli</a> Bell's Turtle, Western Sawshelled Turtle, Namoi River Turtle, Bell's Saw-shelled Turtle [86071]	Vulnerable	Species or species habitat may occur within area
<b>Migratory Species</b> [ Resource Information ]		
Current Scientific Name	Threatened	Type of Presence
<b>Migratory Marine Birds</b>		
<a href="#">Apus pacificus</a> Fork-tailed Swift [678]		Species or species habitat likely to occur within area
<b>Migratory Terrestrial Species</b>		
<a href="#">Hirundapus caudacutus</a> White-throated Needletail [682]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Monarcha melanopsis</a> Black-faced Monarch [609]		Species or species habitat likely to occur within area
<a href="#">Motacilla flava</a> Yellow Wagtail [644]		Species or species habitat may occur within area
<a href="#">Myiagra cyanoleuca</a> Satin Flycatcher [612]		Species or species habitat known to occur within area
<a href="#">Rhipidura rufifrons</a> Rufous Fantail [592]		Species or species habitat known to occur within area
<b>Migratory Wetlands Species</b>		
<a href="#">Actitis hypoleucos</a> Common Sandpiper [59309]		Species or species habitat may occur within area
<a href="#">Calidris acuminata</a> Sharp-tailed Sandpiper [874]		Species or species habitat may occur within area

Current Scientific Name	Threatened	Type of Presence
<a href="#">Calidris ferruginea</a> Curlew Sandpiper [856]	Critically Endangered	Species or species habitat may occur within area
<a href="#">Calidris melanotos</a> Pectoral Sandpiper [858]		Species or species habitat may occur within area
<a href="#">Gallinago hardwickii</a> Latham's Snipe, Japanese Snipe [863]		Species or species habitat may occur within area
<a href="#">Pandion cristatus as Pandion haliaetus</a> Eastern Osprey [82411]		Species or species habitat may occur within area

## Other Matters Protected by the EPBC Act

### Commonwealth Lands [\[ Resource Information \]](#)

The Commonwealth area listed below may indicate the presence of Commonwealth land in this vicinity. Due to the unreliability of the data source, all proposals should be checked as to whether it impacts on a Commonwealth area, before making a definitive decision. Contact the State or Territory government land department for further information.

#### Name

Commonwealth Land - Australian & Overseas Telecommunications Corporation

Commonwealth Land - Australian Postal Commission

Commonwealth Land - Australian Postal Commission

Commonwealth Land - Australian Telecommunications Commission

Commonwealth Land - Australian Telecommunications Commission

Commonwealth Land - Australian Telecommunications Commission

Commonwealth Land - Australian Telecommunications Commission

Commonwealth Land - Australian Telecommunications Commission

Commonwealth Land - Commonwealth Trading Bank of Australia

Commonwealth Land - Commonwealth Trading Bank of Australia

Commonwealth Land - Defence Housing Authority

Commonwealth Land - Defence Housing Authority

Commonwealth Land - Defence Service Homes Corporation

## Name

Commonwealth Land - Defence Service Homes Corporation

Commonwealth Land - Defence Service Homes Corporation

Commonwealth Land - Defence Service Homes Corporation

Commonwealth Land - Defence Service Homes Corporation

Commonwealth Land - Defence Service Homes Corporation

Commonwealth Land - Defence Service Homes Corporation

Commonwealth Land - Defence Service Homes Corporation

Commonwealth Land - Director of War Service Homes

Commonwealth Land - Telstra Corporation Limited

Defence - TAMWORTH GRES DEPOT ; BEERSHEBA BARRACKS-TAMWORTH

## Commonwealth Heritage Places

[\[ Resource Information \]](#)

Name	State	Status
Historic		
<a href="#">Tamworth Post Office</a>	NSW	Listed place

## Listed Marine Species

[\[ Resource Information \]](#)

Current Scientific Name	Threatened	Type of Presence
Bird		
<a href="#">Actitis hypoleucos</a>		
Common Sandpiper [59309]		Species or species habitat may occur within area
<a href="#">Apus pacificus</a>		
Fork-tailed Swift [678]		Species or species habitat likely to occur within area overfly marine area
<a href="#">Ardea ibis</a>		
Cattle Egret [59542]		Species or species habitat may occur within area overfly marine area
<a href="#">Ardea modesta as Ardea alba</a>		
Eastern Great Egret [82410]		Species or species habitat known to occur within area overfly marine area

Current Scientific Name	Threatened	Type of Presence
<a href="#">Calidris acuminata</a> Sharp-tailed Sandpiper [874]		Species or species habitat may occur within area
<a href="#">Calidris ferruginea</a> Curlew Sandpiper [856]	Critically Endangered	Species or species habitat may occur within area overfly marine area
<a href="#">Calidris melanotos</a> Pectoral Sandpiper [858]		Species or species habitat may occur within area overfly marine area
<a href="#">Chalcites osculans as Chrysococcyx osculans</a> Black-eared Cuckoo [83425]		Species or species habitat likely to occur within area overfly marine area
<a href="#">Gallinago hardwickii</a> Latham's Snipe, Japanese Snipe [863]		Species or species habitat may occur within area overfly marine area
<a href="#">Haliaeetus leucogaster</a> White-bellied Sea-Eagle [943]		Species or species habitat likely to occur within area
<a href="#">Hirundapus caudacutus</a> White-throated Needletail [682]	Vulnerable	Species or species habitat likely to occur within area overfly marine area
<a href="#">Lathamus discolor</a> Swift Parrot [744]	Critically Endangered	Species or species habitat known to occur within area overfly marine area
<a href="#">Merops ornatus</a> Rainbow Bee-eater [670]		Species or species habitat may occur within area overfly marine area
<a href="#">Monarcha melanopsis</a> Black-faced Monarch [609]		Species or species habitat likely to occur within area overfly marine area

Current Scientific Name	Threatened	Type of Presence
<a href="#">Motacilla flava</a> Yellow Wagtail [644]		Species or species habitat may occur within area overfly marine area
<a href="#">Myiagra cyanoleuca</a> Satin Flycatcher [612]		Species or species habitat known to occur within area overfly marine area
<a href="#">Pandion cristatus as Pandion haliaetus</a> Eastern Osprey [82411]		Species or species habitat may occur within area
<a href="#">Rhipidura rufifrons</a> Rufous Fantail [592]		Species or species habitat known to occur within area overfly marine area
<a href="#">Rostratula australis as Rostratula benghalensis (sensu lato)</a> Australian Painted Snipe [77037]	Endangered	Species or species habitat likely to occur within area overfly marine area

## Extra Information

### Regional Forest Agreements [\[ Resource Information \]](#)

Note that all areas with completed RFAs have been included.

Name	State
<a href="#">North East NSW RFA</a>	New South Wales

### Invasive Species [\[ Resource Information \]](#)

Weeds reported here are the 20 species of national significance (WoNS), along with other introduced plants that are considered by the States and Territories to pose a particularly significant threat to biodiversity. The following feral animals are reported: Goat, Red Fox, Cat, Rabbit, Pig, Water Buffalo and Cane Toad. Maps from Landscape Health Project, National Land and Water Resources Audit,

Name	Status	Type of Presence
<b>Bird</b>		
<a href="#">Acridotheres tristis</a> Common Myna, Indian Myna [387]	Feral	Species or species habitat likely to occur within area
<a href="#">Anas platyrhynchos</a> Mallard [974]	Feral	Species or species habitat likely to occur within area



Name	Status	Type of Presence
<a href="#">Carduelis carduelis</a> European Goldfinch [403]	Feral	Species or species habitat likely to occur within area
<a href="#">Columba livia</a> Rock Pigeon, Rock Dove, Domestic Pigeon [803]	Feral	Species or species habitat likely to occur within area
<a href="#">Passer domesticus</a> House Sparrow [405]	Feral	Species or species habitat likely to occur within area
<a href="#">Streptopelia chinensis</a> Spotted Turtle-Dove [780]	Feral	Species or species habitat likely to occur within area
<a href="#">Sturnus vulgaris</a> Common Starling [389]	Feral	Species or species habitat likely to occur within area
<a href="#">Turdus merula</a> Common Blackbird, Eurasian Blackbird [596]	Feral	Species or species habitat likely to occur within area
<b>Frog</b>		
<a href="#">Rhinella marina</a> Cane Toad [83218]	Feral	Species or species habitat may occur within area
<b>Mammal</b>		
<a href="#">Bos taurus</a> Domestic Cattle [16]	Feral	Species or species habitat likely to occur within area
<a href="#">Canis familiaris listed as Canis lupus familiaris</a> Domestic Dog, Dingo [17]	Feral	Species or species habitat likely to occur within area
<a href="#">Capra hircus</a> Goat [2]	Feral	Species or species habitat likely to occur within area
<a href="#">Felis catus</a> Cat, House Cat, Domestic Cat [19]	Feral	Species or species habitat likely to occur within area

Name	Status	Type of Presence
<a href="#">Feral deer</a> Feral deer species in Australia [85733]	Feral	Species or species habitat likely to occur within area
<a href="#">Lepus capensis</a> Brown Hare [127]	Feral	Species or species habitat likely to occur within area
<a href="#">Mus musculus</a> House Mouse [120]	Feral	Species or species habitat likely to occur within area
<a href="#">Oryctolagus cuniculus</a> Rabbit, European Rabbit [128]	Feral	Species or species habitat likely to occur within area
<a href="#">Rattus rattus</a> Black Rat, Ship Rat [84]	Feral	Species or species habitat likely to occur within area
<a href="#">Sus scrofa</a> Pig [6]	Feral	Species or species habitat likely to occur within area
<a href="#">Vulpes vulpes</a> Red Fox, Fox [18]	Feral	Species or species habitat likely to occur within area
<b>Plant</b>		
<a href="#">Anredera cordifolia</a> Madeira Vine, Jalap, Lamb's-tail, Mignonette Vine, Anredera, Gulf Madeiravine, Heartleaf Madeiravine, Potato Vine [2643]	WoNS	Species or species habitat likely to occur within area
<a href="#">Asparagus aethiopicus</a> Asparagus Fern, Ground Asparagus, Basket Fern, Sprengi's Fern, Bushy Asparagus, Emerald Asparagus [62425]	WoNS	Species or species habitat likely to occur within area
<a href="#">Asparagus asparagoides</a> Bridal Creeper, Bridal Veil Creeper, Smilax, Florist's Smilax, Smilax Asparagus [22473]	WoNS	Species or species habitat likely to occur within area
<a href="#">Asparagus plumosus</a> Climbing Asparagus-fern [48993]	WoNS	Species or species habitat likely to occur within area

Name	Status	Type of Presence
<a href="#">Cylindropuntia spp.</a> Prickly Pears [85131]	WoNS	Species or species habitat likely to occur within area
<a href="#">Cytisus scoparius</a> Broom, English Broom, Scotch Broom, Common Broom, Scottish Broom, Spanish Broom [5934]	WoNS	Species or species habitat likely to occur within area
<a href="#">Dolichandra unguis-cati</a> Cat's Claw Vine, Yellow Trumpet Vine, Cat's Claw Creeper, Funnel Creeper [85119]	WoNS	Species or species habitat likely to occur within area
<a href="#">Genista monspessulana</a> Montpellier Broom, Cape Broom, Canary Broom, Common Broom, French Broom, Soft Broom [20126]	WoNS	Species or species habitat likely to occur within area
<a href="#">Lycium ferocissimum</a> African Boxthorn, Boxthorn [19235]	WoNS	Species or species habitat likely to occur within area
<a href="#">Nassella neesiana</a> Chilean Needle grass [67699]	WoNS	Species or species habitat likely to occur within area
<a href="#">Nassella trichotoma</a> Serrated Tussock, Yass River Tussock, Yass Tussock, Nassella Tussock (NZ) [18884]	WoNS	Species or species habitat likely to occur within area
<a href="#">Opuntia spp.</a> Prickly Pears [82753]	WoNS	Species or species habitat likely to occur within area
<a href="#">Pinus radiata</a> Radiata Pine Monterey Pine, Insignis Pine, Wilding Pine [20780]	Invasive	Species or species habitat may occur within area
<a href="#">Rubus fruticosus aggregate</a> Blackberry, European Blackberry [68406]	WoNS	Species or species habitat likely to occur within area
<a href="#">Salix spp. except S.babylonica, S.x calodendron &amp; S.x reichardtii</a> Willows except Weeping Willow, Pussy Willow and Sterile Pussy Willow [68497]	WoNS	Species or species habitat likely to occur within area

Name	Status	Type of Presence
<a href="#">Senecio madagascariensis</a> Fireweed, Madagascar Ragwort, Madagascar Groundsel [2624]	WoNS	Species or species habitat likely to occur within area
<a href="#">Solanum elaeagnifolium</a> Silver Nightshade, Silver-leaved Nightshade, White Horse Nettle, Silver-leaf Nightshade, Tomato Weed, White Nightshade, Bull-nettle, Prairie-berry, Satansbos, Silver-leaf Bitter-apple, Silverleaf-nettle, Trompillo [12323]	WoNS	Species or species habitat likely to occur within area
<a href="#">Tamarix aphylla</a> Athel Pine, Athel Tree, Tamarisk, Athel Tamarisk, Athel Tamarix, Desert Tamarisk, Flowering Cypress, Salt Cedar [16018]	WoNS	Species or species habitat likely to occur within area

## EPBC Act Referrals [ [Resource Information](#) ]

Further details about the referral is available in the Environmental Impact Assessment System (EIAS); click on the title to access.

Referral			
Title	Reference	Referral Outcome	Assessment Status
<a href="#">Aerial baiting for wild dog control</a>	2006/2713	Not Controlled Action (Particular Manner)	Post-Approval
<a href="#">Chaffey Dam Augmentation and Safety Upgrade, NSW</a>	2012/6523	Controlled Action	Post-Approval
<a href="#">Dungowan Dam Project</a>	2020/8655		Referral Creation
<a href="#">Hills Plain subdivision</a>	2005/2432	Controlled Action	Completed
<a href="#">Improving rabbit biocontrol: releasing another strain of RHDV, sthrn two thirds of Australia</a>	2015/7522	Not Controlled Action	Completed
<a href="#">One Tree Hill Estate - Stage 13</a>	2003/1142	Controlled Action	Post-Approval
<a href="#">Operation of Peel River Drought Protection Works</a>	2019/8590	Controlled Action	Proposed Decision
<a href="#">Residential Development &amp; Assoc Infrastructure 31 &amp; 41 Panorama Road</a>	2005/2115	Not Controlled Action	Completed
<a href="#">Residential Subdivision, Warramunga Avenue</a>	2005/2201	Not Controlled Action	Completed
<a href="#">Tamworth Solar Farm</a>	2020/8639		Referral Creation
<a href="#">Upgrade of Keepit Dam on the Namoi River</a>	2006/3186	Controlled Action	Post-Approval

## Referral

Title	Reference	Referral Outcome	Assessment Status
<a href="#">Vegetation clearing for a residential subdivision</a>	2013/6812	Controlled Action	Post-Approval

# Caveat

The information presented in this report has been provided by a range of data sources as acknowledged at the end of the report.

This report is designed to assist in identifying the locations of places which may be relevant in determining obligations under the Environment Protection and Biodiversity Conservation Act 1999. It holds mapped locations of World and National Heritage properties, Wetlands of International and National Importance, Commonwealth and State/Territory reserves, listed threatened, migratory and marine species and listed threatened ecological communities. Mapping of Commonwealth land is not complete at this stage. Maps have been collated from a range of sources at various resolutions.

Not all species listed under the EPBC Act have been mapped (see below) and therefore a report is a general guide only. Where available data supports mapping, the type of presence that can be determined from the data is indicated in general terms. People using this information in making a referral may need to consider the qualifications below and may need to seek and consider other information sources.

For threatened ecological communities where the distribution is well known, maps are derived from recovery plans, State vegetation maps, remote sensing imagery and other sources. Where threatened ecological community distributions are less well known, existing vegetation maps and point location data are used to produce indicative distribution maps.

For species where the distributions are well known, maps are digitised from sources such as recovery plans and detailed habitat studies. Where appropriate, core breeding, foraging and roosting areas are indicated under 'type of presence'. For species whose distributions are less well known, point locations are collated from government wildlife authorities, museums, and non-government organisations; bioclimatic distribution models are generated and these validated by experts. In some cases, the distribution maps are based solely on expert knowledge.

Threatened, migratory and marine species distributions have been derived through a variety of methods. Where distributions are well known and if time permits, maps are derived using either thematic spatial data (i.e. vegetation, soils, geology, elevation, aspect, terrain, etc) together with point locations and described habitat; or environmental modelling (MAXENT or BIOCLIM habitat modelling) using point locations and environmental data layers.

Where very little information is available for species or large number of maps are required in a short time-frame, maps are derived either from 0.04 or 0.02 decimal degree cells; by an automated process using polygon capture techniques (static two kilometre grid cells, alpha-hull and convex hull); or captured manually or by using topographic features (national park boundaries, islands, etc). In the early stages of the distribution mapping process (1999-early 2000s) distributions were defined by degree blocks, 100K or 250K map sheets to rapidly create distribution maps. More reliable distribution mapping methods are used to update these distributions as time permits.

Only selected species covered by the following provisions of the EPBC Act have been mapped:

- migratory and
- marine

The following species and ecological communities have not been mapped and do not appear in reports produced from this database:

- threatened species listed as extinct or considered as vagrants
- some species and ecological communities that have only recently been listed
- some terrestrial species that overfly the Commonwealth marine area
- migratory species that are very widespread, vagrant, or only occur in small numbers

The following groups have been mapped, but may not cover the complete distribution of the species:

- non-threatened seabirds which have only been mapped for recorded breeding sites
- seals which have only been mapped for breeding sites near the Australian continent

Such breeding sites may be important for the protection of the Commonwealth Marine environment.

# Acknowledgements

This database has been compiled from a range of data sources. The department acknowledges the following custodians who have contributed valuable data and advice:

- [-Office of Environment, Energy and Science, New South Wales](#)
- [-Department of Environment, Land, Water and Planning, Victoria](#)
- [-Department of Primary Industries, Parks, Water and Environment, Tasmania](#)
- [-Government of South Australia, Department for Environment and Water, South Australia](#)
- [-Department of Environment and Natural Resources, Northern Territory](#)
- [-Department of Environment and Science, Queensland](#)
- [-Department of Biodiversity, Conservation and Attractions, Western Australia](#)
- [-Environment, Planning and Sustainable Development Directorate, ACT](#)
- [-Birdlife Australia](#)
- [-Department of Environment and Energy, Australian Bird and Bat Banding Scheme](#)
- [-CSIRO, Australian National Wildlife Collection](#)
- Natural history museums of Australia
- [-Australian Museum](#)
- [-Museums Victoria](#)
- [-South Australian Museum](#)
- [-Queensland Museum](#)
- [-Online Zoological Collections of Australian Museums](#)
- [-Queensland Herbarium](#)
- [-National Herbarium of NSW](#)
- [-National Herbarium of Victoria](#)
- [-Tasmanian Herbarium](#)
- [-State Herbarium of South Australia](#)
- [-Northern Territory Herbarium](#)
- [-Western Australian Herbarium](#)
- [-Australian National Herbarium, Canberra](#)
- [-University of New England](#)
- [-Ocean Biogeographic Information System](#)
- [-Australian Government, Department of Defence](#)
- [-Forestry Corporation of NSW](#)
- [-Geoscience Australia](#)
- [-CSIRO](#)
- [-Australian Tropical Herbarium, Cairns](#)
- [-eBird Australia](#)
- [-Australian Government – Australian Antarctic Data Centre](#)
- [-Museum and Art Gallery of the Northern Territory](#)
- [-Australian Government National Environmental Science Program](#)
- [-Australian Institute of Marine Science](#)
- [-Reef Life Survey Australia](#)
- [-American Museum of Natural History](#)
- [-Queen Victoria Museum and Art Gallery, Inveresk, Tasmania](#)
- [-Tasmanian Museum and Art Gallery, Hobart, Tasmania](#)
- Other groups and individuals

The Department is extremely grateful to the many organisations and individuals who provided expert advice and information on numerous draft distributions.

**Recommended Conditions – Chaffey Dam to Dungowan Village pipeline  
Authorisation under section 8 of the *Water Supply (Critical Needs) Act 2019***

I, Melinda Pavey, the Minister for Water, Property and Housing, authorise Water NSW (**Authorised Person**) under section 8(5) of the *Water Supply (Critical Needs) Act 2019 (the Act)* to carry out the development specified in Schedule A, subject to any conditions specified in Schedule B, and note the concurrence has been obtained from the Honourable Matthew Kean, Minister for Energy and Environment as required under section 8(6) of the Act.

Dated:

.....  
Minister for Water, Property and Housing

**Schedule A – Authorised development**

Authorised development	The operation of the Chaffey Dam to Dungowan Village pipeline ( <b>Pipeline</b> ) to deliver water via the Pipeline from Chaffey Dam to the Calala Water Treatment Plant at Tamworth under the conditions specified in Schedule B.
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**Schedule B – Conditions**

**Terms of authorisation**

1. This authorisation commences on the date it is signed by the Minister.
2. Except as otherwise specified below, the development must be carried out in accordance with the *Peel River Drought Response Works - Review of Environmental Factors for Water Delivery Pipeline* dated December 2019 (**Stage 2 REF**), prepared under Division 5.1 of Part 5 to the *Environmental Planning and Assessment Act 1979*. To the extent of any inconsistency between the authorised development and the Stage 2 REF, the conditions of this authorisation below prevail.
3. This authorisation does not affect the operation of the State significant infrastructure approval SSI-5039 for the Chaffey Dam Safety Upgrade Augmentation.
4. The requirement in the Stage 2 REF to comply with clause 31(3) of the *Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010* (or any replacement provision in an amendment to or a replacement of that plan that has the same effect) (**WSP**) for minimum daily releases of 3 ML per day from Chaffey Dam via the Peel River does not apply to the development. Instead, the operating rules for the development are as follows:
  - a. **Phase 1 of operation**
    - The Authorised Person cannot operate the Pipeline (except for maintenance or testing purposes); and
    - The Authorised Person must make a minimum daily flow release of 3 ML for environmental water from Chaffey Dam via the Peel River.
  - b. **Phase 2 of operation**
    - The Authorised Person may operate the Pipeline;



- The Authorised Person is not required to release 3 ML of environmental water daily from Chaffey Dam via the Peel River. Instead the Authorised Person is to accumulate environmental water in an environmental water account established for the purpose of this authorisation (**environmental water account**) at a rate of 3 ML per day to a maximum accrued volume of 1095 ML per annum;
- The Authorised Person must if directed by the Director North West Biodiversity Conservation Division (after consulting with the Peel Environmental Water Technical Advisory Group (**PEWTA Group**)) release environmental water from Chaffey Dam via the Peel River at the volume, timing and rate directed. The environmental water must come from the environmental water account; and
- The Authorised Person must if directed by the Director Water Planning Implementation make an emergency release of water (in addition to water held in the environmental water account).

**c. Phase 3 of operation**

- The Authorised Person may operate the Pipeline;
- There is no requirement to release 3 ML per day of environmental water, however the Authorised Person must accrue environmental water in the environmental water account at a rate of 1.5 ML per day to a maximum accrued volume of 550 ML per annum;
- The Authorised Person must if directed by the Director North West Biodiversity Conservation Division (after consulting with the PEWTA Group) release environmental water from Chaffey Dam via the Peel River at the volume, timing and rate directed. The environmental water must come from the environmental water account; and
- The Authorised Person must if directed by the Director Water Planning Implementation make an emergency release of water (in addition to water held in the environmental water account).

**d. Phase 4 of operation**

- The Authorised Person may operate the Pipeline;
- The Authorised Person is not required to accrue or release any volume of environmental water; and
- The Authorised Person must if directed by the Director Water Planning Implementation make an emergency release of water (in addition to water held in the environmental water account).

**Note:** This authorisation establishes different requirements to the minimum flow rule under clause 31(3) of the WSP. Any other obligation under the *Water Management Act 2000 (WM Act)* is not affected by this authorisation, for example, any requirements for the delivery of town and non-town water supplies via the Peel River continue unaffected by this authorisation.

5. The trigger levels for each phase of operation in Condition 4 are as set out below in Table 1. The storage level % in Table 1 refers to effective storage level of Chaffey Dam.

**Table 1 Trigger levels in Chaffey Dam for pipeline operation**

Description	Falling storage level trigger	Rising storage level trigger
Phase 1	20.0% and above	20.0% and above
Phase 2	15.0%-19.9%	phase 2 does not apply
Phase 3	10.0%-14.9%	15.0%-19.9%
Phase 4	Below 10.0%	Below 15.0%

6. The Authorised Person must implement the following rules for the transition between each of the four phases set out in Condition 4 of this authorisation:
  - a. Environmental water that has not been used within a phase of operation will not be carried into the next phase regardless of whether the phase is an upward or downward movement. This means that the environmental water account will commence at 0 ML at the start of each phase.
  - b. If a phase of operation spans across water years, the water accrued in the environmental water account within that phase is not forfeited at the end of the water year.
  - c. Borrowing of water within a phase of operation can occur up to 1 week in advance. The maximum amount of borrow forward is therefore 7 times the daily accrual rate for the relevant phase of operation.
7. The authorised person must notify the PEWTA Group in writing when transitioning to a new phase at least two weeks before the date of transition.
8. Where unplanned operational events result in an unexpected shift to a new phase, the authorised person must give the PEWTA Group at least two business days' notice before the environmental water account is adjusted to enable the release of any accrued environmental water as a pulse flow, if prudent.
9. This authorisation expires on 1 October 2020 unless otherwise agreed by the Minister in accordance with Condition 10.
10. Subject to Condition 9, , the Minister may extend the date of expiry of the authorisation provided that before the Minister's decision to extend the date of expiry, the Minister considers a report from the Authorised Person referred to in Condition 20 and obtains concurrence of the Minister administering the *Biodiversity Conservation Act 2016* . The Minister may only agree to an extension under this Condition 10 provided Parts 2–5 of, and Schedules 1–3 to, the Act will not expire during that period. The date of expiry may be extended on more than one occasion under condition 10.

#### **Peel Environmental Water Technical Advisory Group (PEWTA Group)**

11. The Authorised Person must establish and convene a PEWTA Group prior to the commencement date of the operation of the pipeline, comprising of representatives from:
  - the Division in the Department responsible for administering the *Water Management Act 2000*;
  - the Division in the Department responsible for administering the *Fisheries Management Act 1994*; and
  - the Division in the Department responsible for administering the *Biodiversity Conservation Act 2016 Act*.
12. The Authorised Person must:
  - a. develop a Terms of Reference for the PEWTA Group containing at minimum the requirements included in this Authorisation prior to the commencement date of the operation of the pipeline;
  - b. convene a meeting of the PEWTA Group at least monthly;
  - c. appoint Director North West Biodiversity Conservation Division (or their delegate) as chairperson of these meetings;
  - d. provide the PEWTA Group with monitoring results in accordance with condition 16;
  - e. seek advice and recommendations from the PEWTA Group on:
    - i. the volume, timing and rate of environmental water releases from the environmental water account under Phase 2 and Phase 3 (see Conditions 4b and 4c of this Authorisation);

- ii. the release of emergency water including processes for identifying triggers for release;
- iii. appropriate discharge rates in Peel River when in-channel flows recommence in Phase 1 of operation set out in Condition 4a of this authorisation;
- iv. the scope of the review referred to Condition 20.

### Public notification requirements

- 13. The Authorised Person must monitor and report the Chaffey Dam effective water storage levels on real-time water data on the Authorised Person's website.
- 14. The Authorised Person must publish the authorisation on the Authorised Person's website within two weeks of being notified of the authorisation being granted.
- 15. The Authorised Person must also publish on the Authorised Person's website:
  - a) the terms of reference for, and membership of, the PEWTA Group;
  - b) commencement of the development permitted by this authorisation;
  - c) any variation to the conditions by the Minister under s.8(7) of the Act; and
  - d) the commencement date of each new phase of pipeline operation as specified in Table 1 of Condition 5.

### Water Management Plan

- 16. The Authorised Person must cause a Water Management Plan to be prepared for approval by Director Water Planning Implementation within one month of commencing operation of the pipeline. This plan must:
  - a) be prepared in consultation with the Department and the PEWTA Group;
  - b) describe measures to be implemented by the Authorised Person to achieve the water management performance criteria identified;
  - c) include a:
    - i. **Surface Water Management Plan** that includes:
      - baseline data on surface water flows and quality of watercourses and/or water bodies potentially impacted by the pipeline, including:
        - stream and riparian vegetation health;
        - channel stability (geomorphology);
        - water supply and quality.
      - performance criteria, including trigger levels for identifying and investigating any potentially adverse impacts associated with the operation of the pipeline on:
        - water quality;
        - native species including threatened species;
        - bed and bank stability;
        - stream and riparian vegetation health; and
        - water supply for other water users.
      - performance criteria for short, medium and long-term measures for the rehabilitation/restoration of native riparian and aquatic habitat, and flora and fauna, including:
        - bank stability;
        - natural pool and riffle sequences; and
        - native fish stocks.
      - a monitoring program to assess performance against the identified performance criteria, including:
        - monitoring of priority locations; and
        - continuous monitoring during all phases of operation.
      - procedures for reporting the results of the monitoring program, including:
        - agreed reporting timeframes;

- real time reporting of water level and water quality monitoring; and
  - provision of collected monitoring data to the PEWTA Group and the Department, including that all data will be provided in both report form and electronic form (excel, text, real time).
  - a plan to respond to any exceedances of the performance measures or performance criteria and repair, mitigate and/or offset any adverse surface water impacts of the development.
- ii. **Groundwater Management Plan** that includes:
- baseline data of hydrogeology and groundwater levels, formation parameters (such as electrical conductivity, storage, yield) and groundwater quality for the Peel River groundwater resources potentially impacted by the pipeline operation including:
    - aquifer health;
    - groundwater supply and quality for other water users; and
    - groundwater dependent ecosystems.
  - a description of the groundwater management monitoring system, including:
    - at least one representative site in each of the monitoring bore transects along the regulated part of the Peel Alluvium upgraded with a data logger and telemetry, to provide data in real-time;
    - conducting water quality testing and monitoring standard field parameters from select representative bores along the affected Peel River on a quarterly basis; and
    - a monitoring network capable of providing an early warning of any impacts to potentially affected groundwater sources.
  - performance criteria, including trigger levels for identifying and investigating any potentially adverse impacts associated with the pipeline operation, on:
    - Peel River groundwater resources;
    - groundwater supply and quality for other water users, including all potentially affected privately-owned licensed groundwater bores;
    - groundwater dependent ecosystems; and
    - aquatic habitat.
  - reporting procedures for the results of the monitoring program, including that all data will be provided in both report form and electronic form (excel, text, real time).
  - a plan to respond to any exceedances of the groundwater performance criteria, and repair, mitigate and/or offset any adverse groundwater impacts of the development.

**17.** The Authorised Person must implement the Water Management Plan as approved by the Director Water Planning Implementation.

#### **Biodiversity Management Plan**

**18.** The Authorised Person must cause a Biodiversity Management Plan to be prepared for approval by Director North West Biodiversity Conservation Division within one month of commencing operation of the pipeline. This plan must:

- a. be prepared in consultation with the Department;
- b. include a statement of commitments to mitigate and manage biodiversity impacts and should provide detail of:
  - identified relevant biodiversity impacts;
  - mitigation measures to be undertaken in the short, medium and long term;
  - the timing or frequency of the mitigation measures to be implemented; and
  - the position responsible for implementing the mitigation measures.

- c. describe the measures to be implemented to:
  - relocate affected species to refuges;
  - rescue affected species to alternate off-stream holding facilities;
  - provide compensatory habitat, such as retention of refuge pools;
  - assist in species and ecosystem recovery, such as seed collection and propagation for future rehabilitation; and
  - rehabilitate and restore native riparian and aquatic habitat and fauna and flora.
- d. describe how biodiversity management would be integrated with similar measures in the Water Management Plan (see condition 16 of this Authorisation).
- e. include an Aquatic Biodiversity Offset Strategy that:
  - is prepared in consultation with the Department
  - Assesses and quantifies impacts on aquatic biodiversity and habitat to:
    - identify the species composition of the Peel River site, including threatened species
    - determine the offset requirements for key fish habitat, which should ensure ‘no net loss’ of key fish habitat
    - consider direct and indirect impacts of the proposed development, including those on connectivity and habitat availability in the project area.
  - outlines supplementary measures to achieve offsetting of biodiversity impacts and to accommodate for ongoing disturbances and recovery outcomes.
  - effects the offsetting of biodiversity impacts within 24 months of commencement of pipeline operations or an alternative timeframe agreed to in writing with the Department.

19. The Authorised Person must implement the Biodiversity Management Plan as approved by the Director North West Biodiversity Conservation Division.

#### **Review of the Authorisation**

20. The Authorised Person must cause a review of the operation of the Authorisation to be undertaken and provide a copy of the review report to the Minister administering the *Biodiversity Conservation Act 2016* and Minister administering the *Water Supply (Critical Needs) Act 2019* by 1 September 2020.

21. The Authorised Person must seek advice from the PEWTA Group on the scope of the review report.

Note – the findings of the review will inform any decisions referred to in condition 10 regarding extending the period of authorisation, including whether extending the authorisation remains necessary and/or whether the conditions of authorisation require amendment or revoking in accordance with s 8(7) of the Act.

#### **Definitions in this Authorisation**

22. In this authorisation the following terms are defined as follows:

**Department** – means the Department of Planning, Industry and Environment

**Director Water Planning Implementation** – means the Director Water Planning Implementation within the Department (or equivalent senior executive band 1 with responsibility for supporting the administration of the Department)

**Director North West Biodiversity Conservation Division** - means the Director North West Biodiversity Conservation Division within the Department (or equivalent senior executive band 1 with responsibility for supporting the administration of the Department)

**Environmental Water Account** – means environmental water account established for the purpose of this authorisation

**Senior Executive Band** – has the same meaning as clause 3 of the *Government Sector Employment (Senior Executive Bands) Determination 2014*

**PEWTA Group** – means the Peel Environmental Water Technical Advisory Group and is established and implemented in accordance with Conditions 11 and 12 of this authorisation.

# EPBC ACT LISTED THREATENED SPECIES AND ECOLOGICAL COMMUNITIES STATUTORY DOCUMENTS REPORT

## EPBC 2019/8590 Operation of Peel River Drought Protection Works

Report generated: 19 May 2020, 11:28 AM

Assigned Officer: [s. 22\(1\)\(a\)\(ii\)](#)

This report has been generated in accordance with section 139 of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). This report provides statutory documents for threatened species and ecological communities recorded in the Environmental Impact Assessment System (EIAS).

The Department considers that the proposed action will have, or is likely to have, a significant impact on the following listed threatened species and ecological communities:

### Listed Threatened Species

*Bidyanus bidyanus* — Silver Perch, Bidyan [SPRAT [76155](#)]

*Maccullochella peelii* — Murray Cod [SPRAT [66633](#)]

### Listed Threatened Ecological Communities

Nil.

## STATUTORY DOCUMENTS RELATED TO THE IDENTIFIED THREATENED SPECIES AND ECOLOGICAL COMMUNITIES

Note: Listing status is current at the date of this report. The date of effect of listing status has been included so changes in status since the controlled action decision can be identified for the purpose of section 158A.

The following statutory documents relate to the above listed threatened species and/or ecological communities and are considered relevant to the Department's recommendation:

**Listed Threatened Species*****Bidyanus bidyanus* — Silver Perch, Bidyan** [SPRAT [76155](#)]**Current EPBC Act Status:** Critically Endangered [effective from 21 December 2013]**Controlled Action Decision Date:** 17 January 2020**Conservation Advice**Department of the Environment (2013). *Conservation Advice Bidyanus bidyanus (silver perch)*. Canberra:

Department of the Environment. Available from:

<http://www.environment.gov.au/biodiversity/threatened/species/pubs/76155-conservation-advice.pdf>. In effect under the EPBC Act from 21 December 2013.**Recovery Plan(s):**

Nil.

**Threat Abatement Plan(s):**

Nil.

***Maccullochella peelii* — Murray Cod** [SPRAT [66633](#)]**Current EPBC Act Status:** Vulnerable [effective from 03 July 2003]**Controlled Action Decision Date:** 17 January 2020**Conservation Advice**

Nil.

**Recovery Plan(s):**National Murray Cod Recovery Team (2010). *National Recovery Plan for the Murray Cod Maccullochella peelii peelii*. Department of Sustainability and Environment, Melbourne. Available from:<http://www.environment.gov.au/resource/national-recovery-plan-murray-cod-maccullochella-peelii-peelii>. In effect under the EPBC Act from 16 December 2010.**Threat Abatement Plan(s):**

Nil.



**From:** s. 22(1)(a)(ii)  
**To:** s. 22(1)(a)(ii)  
**Cc:** [Species Policy](#)  
**Subject:** RE: Operation of Peel River Drought Protection Works Project (EPBC 2019/8590) Request for check on new listings, advices and plans [SEC=OFFICIAL]  
**Date:** Thursday, 14 May 2020 4:39:26 PM

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Hi s. 22(1)(a)(ii)

On behalf of the Protected Species and Communities Branch, I confirm that our attached advice of 22 April 2020 remains current. We are not anticipating any changes to the documents relating to the threatened species and ecological communities identified by EAD in the email below in the coming six weeks.

Please note that PSCB has not re-checked whether the correct documents are present or that the citation information is correct.

Regards, s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Species Information and Policy Section

Protected Species and Communities Branch, Biodiversity Conservation Division, Department of Agriculture, Water and the Environment

Ph: s. 22(1)(a)(ii) M: s. 22(1)(a)(ii)

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**From:** s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@environment.gov.au>

**Sent:** Thursday, 14 May 2020 4:29 PM

**To:** Species Policy <SpeciesPolicy@environment.gov.au>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@environment.gov.au>

**Subject:** FW: Operation of Peel River Drought Protection Works Project (EPBC 2019/8590) Request for check on new listings, advices and plans [SEC=OFFICIAL]

Hi s. 22(1)(a)(ii) and s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

requested your advice on likely changes to statutory documents for this project four weeks ago. s. 22(1)(a) is on leave at the moment. A final decision on this project is now expected to be made by the Minister in late May or early June. Given it has been a month and this is a designated major project within the Department I thought it best to re-seek your advice.

s. 22(1)(a)(ii)

as QA officer, reviewed the information provided below and the assessment officer had cited all statutory documents correctly (attached original email from s. 22(1)(a)). It appears that the documents identified and reference provided is consistent with the documents listed in SPRAT.

Would you be able to please advise if there are any likely changes to these documents or any new, revised or imminent conservation advices, recovery plans or threat abatement plans that may be relevant to this project?

The Assessment Officer has requested confirmation by 20/05/2020.

Thank you and let me know if there are any issues or concerns.

Regards

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Please note: I do not work Fridays

Northern NSW Assessments

**Environment Approvals Division**

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

GPO Box 787 | Canberra ACT 2601 | Australia

☎ s. 22(1)(a)(ii)

✉ s. 22(1)(a)(ii)@awe.gov.au

*I acknowledge the Traditional Owners of country throughout Australia, their rich cultural connection to land, water and community, and pay my respects to them and their Elders past, present and emerging*

**From:** s. 22(1)(a)(ii)<s. 22(1)(a)(ii)@environment.gov.au>

**Sent:** Wednesday, 15 April 2020 10:28 AM

**To:** s. 22(1)(a)(ii)<s. 22(1)(a)(ii)@environment.gov.au>

**Cc:** Environment Protection <Environment.Protection@environment.gov.au>

**Subject:** Operation of Peel River Drought Protection Works Project (EPBC 2019/8590) Request for check on new listings, advices and plans [SEC=OFFICIAL]

Hi s. 22(1)(a)(ii)

The final decision for the Operation of Peel River Drought Protection Works Project (EPBC 2019/8590) is likely to be signed by the delegate (Louise Vickery) in early May.

The project is located at Tamworth, NSW. Could you please provide advice as to whether there are any new, revised or imminent conservation advices, recovery plans or threat abatement plans that may be relevant to this project?

I have included below a list of the species and ecological communities which are likely to be significantly impacted by the project and the CAs, RPs and TAPs that have been considered in the decision.

The last check of SPRAT for new or revised conservation advices, recovery plans or threat abatement plans was done on 14/04/2020.

Please let me know if you require any further information.

Are you able to provide this advice by the 24<sup>th</sup> of April?

Thank you,

s. 22(1)(a)(ii)

Listed threatened species and communities (s18 & s18A)

The Department considers that the action will have, or is likely to have, a significant impact on

the following listed threatened species and endangered communities:

- Murray Cod (*Maccullochella peelii*) - Vulnerable
- Silver Perch (*Bidyanus bidyanus*) - Critically Endangered
- Booroolong Frog (*Litoria booroolongensis*) - Endangered

#### Recovery Plans

The Recovery Plans identified as relevant to this action are:

- National Murray Cod Recovery Team (2010). *National Recovery Plan for the Murray Cod Maccullochella peelii peelii*. Department of Sustainability and Environment, Melbourne. Available at: <http://www.environment.gov.au/resource/national-recovery-plan-murray-cod-maccullochella-peelii-peelii>.
- NSW Office of Environment and Heritage (2012). *National Recovery Plan for Booroolong Frog (Litoria booroolongensis)*. Hurstville: Office of Environment and Heritage (NSW), Hurstville. Available from: <http://www.environment.gov.au/biodiversity/threatened/recovery-plans/booroolong-frog-litoria-booroolongensis-national-recovery-plan>.

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#### Threat Abatement Plans

The Threat Abatement Plans identified as relevant to this action are:

- Department of the Environment and Energy (2016). *Threat abatement plan for infection of amphibians with chytrid fungus resulting in chytridiomycosis (2016)*. Canberra, ACT: Commonwealth of Australia. Available from: <http://www.environment.gov.au/biodiversity/threatened/publications/tap/infection-amphibians-chytrid-fungus-resulting-chytridiomycosis-2016>.

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#### Conservation Advices

The approved conservation advices identified as relevant to this action are:

- Department of the Environment (2013). *Conservation Advice Bidyanus bidyanus (silver perch)*. Canberra: Department of the Environment. Available from: <http://www.environment.gov.au/biodiversity/threatened/species/pubs/76155-conservation-advice.pdf>.
- Department of the Environment, Water, Heritage and the Arts (2007). *Conservation Advice [Booroolong Frog]*. Canberra: Department of the Environment, Water, Heritage and the Arts. Available from: <http://www.environment.gov.au/biodiversity/threatened/species/pubs/1844-conservation-advice.pdf>.