

Jemena Northern Gas Pipeline Pty Ltd

Northern Gas Pipeline

Draft Environmental Impact Statement

APPENDIX B – EPBC ACT NOTIFICATIONS FROM THE DEPARTMENT OF ENVIRONMENT

Public

August 2016



Jemena Northern Gas Pipeline Pty Ltd

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Notification of

REFERRAL DECISION AND DESIGNATED PROPONENT – controlled action

Construction of the North East Gas Interconnector Pipeline, Tennant Creek, Northern Territory to Mt Isa, Queensland (EPBC 2015/7569)

This decision is made under section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

proposed action	To construct and operate a buried 622 km high-pressure gas pipeline from Tennant Creek (Northern Territory) to Mt Isa (Queensland) (see EPBC Act referral 2015/7569).
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decision on proposed action	The proposed action is a controlled action. The project will require assessment and approval under the EPBC Act before it can proceed.
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relevant controlling provisions	<ul style="list-style-type: none">Listed threatened species and communities (sections 18 & 18A)
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designated proponent	Jemena Northern Gas Pipeline Pty Ltd ACN: 607 928 790
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assessment approach	To be advised.
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Decision-maker

Name and position	Deb Callister Assistant Secretary Assessments and Policy Implementation Branch
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Signature

date of decision

23 October 2015



Notification of
DECISION ON ASSESSMENT APPROACH

Construction of the North East Gas Interconnector Pipeline, Tennant Creek, Northern Territory to Mt Isa, Queensland (EPBC 2015/7569)

This decision is made under Section 87 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Proposed action

proposed action	To construct and operate a buried 622 km high-pressure gas pipeline from Tennant Creek (Northern Territory) to Mt Isa (Queensland) (see EPBC Act referral 2015/7569).
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Decision on assessment approach

assessment approach	The project will be assessed by public environment report.
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Person authorised to make decision

name and position	Deb Callister Assistant Secretary Assessments and Policy Implementation Branch
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signature

date of decision

11 December 2015



**Statement of reasons for a decision under section 87 of the
Environment Protection and Biodiversity Conservation Act 1999
on an approach for assessment**

I, DEB CALLISTER, Assistant Secretary of the Assessments and Policy Implementation Branch in the Environment Standards Division of the Department of the Environment, delegate for the Minister for the Environment, provide the following statement of reasons for my decision of 11 December 2015, under section 87 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)¹, that the relevant impacts of the action proposed by Jemena Northern Gas Pipeline Pty Ltd, to construct and operate a buried 622 km high-pressure gas pipeline from Tennant Creek, Northern Territory, to Mt Isa, Queensland (EPBC 2015/7569), be assessed by public environment report under Part 8, Division 5 of the EPBC Act.

Legislation

1. EPBC Act extracts relevant to my decision, which were before me when I made my decision and which I took into account, are provided at Attachment A.

Background

2. On 28 September 2015, under section 68 of the EPBC Act, Jemena Northern Gas Pipeline Pty Ltd (the **proponent**) referred the construction of the North East Gas Interconnector Pipeline (EPBC 2015/7569) (the **proposed action**) for consideration under the EPBC Act. The proponent stated their belief that the proposal is not a controlled action for the purposes of the EPBC Act.
3. On 23 October 2015, under section 75 of the EPBC Act, I determined that the proposed action is a controlled action due to the likely significant impacts on listed threatened species and communities. Sections 18 & 18A are controlling provisions for the proposed action.
4. On 23 October 2015, under section 89 of the EPBC Act, I sought additional information from the proponent for the purposes of deciding on the approach to be used for the assessment of the relevant impacts of the proposed action.
5. On 11 December 2015, under section 87 of the EPBC Act, I decided that the relevant impacts of the proposed action must be assessed by public environment report under Part 8, Division 5 of the EPBC Act.

¹ All legislative references in this statement are references to the *Environment Protection and Biodiversity Conservation Act 1999* unless otherwise specified.

Description of the action

6. The proposed action is to construct and operate a buried 622 km high-pressure gas pipeline to connect the Amadeus gas pipeline near Tennant Creek, Northern Territory, to the Carpentaria gas pipeline near Mt Isa, Queensland. The proposed action comprises the following components:
 - a. A 30 to 40 metre Pipeline Construction Right-of-way (ROW) where construction activities will occur. The Construction ROW will support:
 - clearing and grading of the Construction ROW;
 - digging of the pipeline trench;
 - spoil placement;
 - stringing and welding of the pipeline;
 - lowering of the pipeline into the trench; and
 - top soil and vegetation stockpiles.
 - b. Rehabilitation of the Construction ROW, which will involve:
 - replacing excavated soil;
 - contouring the soil surface to the surrounding land surface; and
 - replacing the stockpiled original top soil and vegetation.
 - c. Construction of:
 - two compressor stations;
 - three mainline valves;
 - one scraper station;
 - access tracks/roads (where existing tracks/roads are not suitable or do not exist);
 - five temporary worker accommodation camps (to be removed and relocated as construction progresses) including septic or transportable sewage treatment units, fuel and explosives storage, temporary dams and potable water storage; and
 - three future compressor stations at the mainline valve sites (if required).
7. Construction will take up to two years for operation by mid-2018. The proposed disturbance footprint of the proposed action is 2,025 hectares.

Evidence or other material on which my findings were based

8. My decision under section 87 was informed by a recommendation brief prepared by officers of the Department of the Environment (the **Department**), dated 9 December 2015, which had the following attachments:
 - A: Referral decision notice;
 - B: Referral and referral decision briefing package;
 - C: Proponent response [advising of Queensland and Northern Territory assessment approaches] and attachment (dated 9 November 2015);
 - D: Schedule of fees and justification table;
 - E: Legal considerations [under the EPBC Act];
 - F: Decision notice on assessment approach (for signature);

- G: Letters of notification [advising relevant parties of my decision] (x4) (for signature).
9. The officers of the Department who prepared the recommendation brief did so under my supervision and with regular consultation with me about its content.

Public comments

10. On 30 September 2015, in accordance with section 74(3) of the EPBC Act, comments on the referral were invited from members of the public within ten (10) business days (on or before 15 October 2015).
11. No public comments were received.

Ministerial comments

12. On 30 September 2015, in accordance with section 74(1) of the EPBC Act, comments on the referral were invited within ten (10) business days (on or before 15 October 2015) from the following Commonwealth Ministers having administrative responsibilities relating to the proposed action:
- Minister for Indigenous Affairs, Senator the Hon Nigel Scullion;
 - Minister for Industry, Innovation and Science, the Hon Christopher Pyne MP;
 - Minister for Agriculture and Water Resources, the Hon Barnaby Joyce MP;
 - Minister for Defence, Senator the Hon Marise Payne (through her nominated representative, Mr Lloyd Woodford).
13. On 22 October 2015, the Department of Agriculture and Water Resources responded on behalf of Minister Joyce, noting:
- a. The proponent should be encouraged to maintain open communication and consultation lines with stakeholders to mitigate known and potential sensitivities with the project.
 - b. Land access and compensation agreements must adequately take into account short and long term project impacts. This should be addressed through stakeholder engagement with peak industry bodies which can provide practical advice in negotiating such agreements.
 - c. If the proposed action is deemed a controlled action, the Department of the Environment should stipulate, in the conditions of approval, the requirements which allow the proponent to adequately carry out site rehabilitation after project completion. The Department should periodically complete audits to ensure the conditions stipulated in the approval are adequately complied with.

No specific comments were made on matters of assessment.

14. No response was received from or on behalf of Minister Scullion, Minister Pyne and Minister Payne.
15. On 30 September 2015, in accordance with section 74(2) of the EPBC Act, comments on the referral were invited within ten (10) business days (on or before 15 October 2015) from:

- Queensland Minister for Environment and Heritage Protection, the Hon Steven Miles MP (through his nominated representative, Mr Lindsay Delzoppo);
 - Northern Territory Minister for Lands, Planning and the Environment, the Hon Peter Chandler MLA (through his nominated representative, Dr Bill Freeland).
16. On 15 October 2015, the Queensland Department of Environment and Heritage Protection responded, noting:
- a. The Department of Environment and Heritage Protection had not yet received an application in regards to the proposal.
 - b. The Department of State Development has reviewed the referral documentation and advised that the Coordinator-General has not received a request for declaration of this proposal as a coordinated project under Part 4 of the *State Development and Public Works Organisation Act 1971* (Qld).
 - c. The Department of Infrastructure, Local Government and Planning has not advised that the proposed development will be assessed under Chapter 9, Part 2 of the *Sustainable Planning Act 2009* (Qld).
17. On 22 October 2015, the Northern Territory Environment Protection Authority (NT EPA) responded, noting:
- a. The Masked Owl (Northern), Grey Falcon and Plains Death Adder were identified as likely to occur along the proposed pipeline route and could be impacted.
 - b. The Greater Bilby is considered to be a low to medium likelihood of occurrence in the western portion of the pipeline route and it would be appropriate for a detailed risk assessment to be conducted.
 - c. The Environment Protection Authority is considering a recommendation to assess the proposed action at the Environmental Impact Statement (EIS) level under the *Environmental Assessment Act* (NT).
 - d. The proposed action cannot be assessed under the bilateral agreement between the Northern Territory and Australian governments as the action would not wholly occur in the Northern Territory.
 - e. The potential for the proposed action to be assessed cooperatively, where possible, if the Environment Protection Authority decides the action requires assessment at the level of an EIS.

Further comments on assessment approach

18. Under section 89(2) of the EPBC Act, I sought additional information from the proponent for the purposes of deciding on the approach to be used for assessment of the relevant impacts of the action. This information was sought on 23 October 2015.

19. On 9 November 2015, EcOz Environmental Consultants responded, on behalf of the proponent, advising that the NT EPA had confirmed the proposed action requires assessment under the *Environmental Assessment Act* (NT) at the level of an environmental impact statement.
20. The correspondence also noted that the proposed action does not meet the requirements for an assessment by EIS under the *Environmental Protection Act 1994* (Qld) and that an application for an environmental authority had been submitted to the Queensland Department of Environment and Heritage Protection.

Findings on material questions of fact

21. The matters for consideration in making a decision on assessment approach are outlined in section 87(3) of the EPBC Act. Those matters are as follows:
 - information relating to the action given to the Minister in the referral of the proposal to take the action;
 - any other information available to the Minister about the relevant impacts of the action that the Minister considers relevant (including information in a report on the impacts of actions 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));
 - any relevant information received in response to an invitation under section 74(2)(b)(ii) (information from State/Territory Minister relevant to determining assessment approach);
 - the matters (if any) prescribed by the regulations; and
 - the guidelines (if any) published under section 87(6).
22. I note at this point, that no guidelines or regulations relevant to section 87(3)(d) or (e) of the EPBC Act have been made.

Information in the referral and information about the relevant impacts of the proposed action

23. I considered the information in the referral documentation when I made my decision about the assessment approach under section 87(3) of the EPBC Act. I also considered the information relating to the impacts of the action and the description of the proposed action provided in the referral decision briefing package (see paragraph 8 above).
24. In terms of the location and scope of the proposed action, the referral indicates that the proposed action will be constructed on behalf of the Northern Territory government. It will take up to two years to construct and will be operational by mid-2018. The referral outlines a pipeline construction design with a Construction ROW to support the key construction activities (see paragraphs 6 and 7 above).
25. The proponent is currently assessing a preferred one kilometre wide pipeline route within a 20km Planning Corridor. The referral notes this route will be confirmed based on the outcomes of the stakeholder consultation and cultural heritage and ecological surveys. To accommodate for any changes between the preferred and final route, the assessment in the referral was conducted on the basis of the 20km Planning Corridor, rather than the preferred route of the pipeline.
26. The material indicates that the main impact of the proposed action is the clearance of suitable habitat for listed threatened species. The referral notes, from desktop research,

that there is suitable foraging, breeding and nesting habitat for a number of listed threatened species which will be impacted by the proposed action. In addition, the referral notes that any trees removed during construction would not be returned as part of site rehabilitation.

27. Another impact is habitat disturbance from the noise and vibration generated from construction activities. The referral notes that this could cause habitat avoidance and restrict the range of suitable habitat during construction. The introduction of invasive weeds along the pipeline footprint is also an impact of the proposed action. The referral notes this is a known threat to a number of listed threatened species which can change fire regimes and reduce foraging habitat of small mammal (prey) populations. The referral notes a Weed Management Plan will be developed for the proposed action.
28. With no field surveys undertaken to confirm the presence of listed threatened species, and further detailed assessment of potential impacts, the Department considered the proposed action will have a significant impact on the:
 - endangered Gouldian Finch;
 - vulnerable Masked Owl (northern);
 - vulnerable Plains Death Adder;
 - vulnerable Carpentarian Antechinus; and
 - vulnerable Greater Bilby.

Apart from this, the Department concluded that the proposed action is unlikely to have a significant impact on any other matter protected by Part 3 of the EPBC Act.

29. I agreed with the Department's conclusion when I decided on 23 October 2015 that the proposed action was a controlled action and that sections 18 and 18A (and only those sections) were controlling provisions for the action.

Information provided under section 74(2)(b)(ii)

30. I considered the letters provided by the Queensland Department of Environment and Heritage Protection and Dr Freeland (for the NT EPA) (see paragraphs 16 and 17 above). Dr Freeland's letter indicated that the proposed action was not eligible for assessment under the assessment bilateral agreement between the Commonwealth and the Northern Territory.
31. The letter from the Department of Environment and Heritage Protection indicated that the proposed action was not presently eligible for assessment under the assessment bilateral agreement between the Commonwealth and Queensland.

Other relevant material

32. I considered the information provided to the Department on 9 November 2015, on behalf of the proponent, in response to my request under section 89(2) of the EPBC Act (see paragraphs 18 to 20 above).
33. I noted that the proposed action will be assessed at the level of environmental impact statement under the *Environmental Assessment Act* (NT); but that it was not eligible for assessment by environmental impact statement under the *Environmental Protection Act 1994* (Qld).
34. I note that the relevant impacts of the proposed action have not been the subject of any strategic assessment under Part 10 of the EPBC Act.

Conclusions

35. I concluded, based on the above information, that:

- the proposed action is not eligible for assessment under a bilateral agreement;
- the proposed action is only likely to have a significant impact on matters protected by sections 18 and 18A of the EPBC Act, i.e. listed threatened species and ecological communities (as per my controlled action decision of 23 October 2015);
- the proponent has not conducted ecological field surveys within the project site to identify the presence of listed threatened species and communities;
- the scope of the project is generally well defined in regards to its location and proposed construction process; and
- the nature of the impacts are predictable and will include habitat clearance and noise disturbance during construction.

36. In light of my findings above, I concluded that assessment by public environment report will ensure that the relevant impacts of the proposed action in both the Northern Territory and Queensland are adequately assessed, thus enabling an informed decision to be made about whether or not to approve the taking of the proposed action.

Reasons for my decision

37. I considered that the quality and quantity of information before me was sufficient for me to make a decision under section 87 of the EPBC Act.

38. In making my decision, I took account of submissions from relevant Commonwealth and State and Territory Ministers, as well as the matters required to be taken into account under section 87(3) of the EPBC Act. In making my decision, I also took account of the additional information provided to me on behalf of the proponent dated 9 November 2015.

39. In view of my findings, I was satisfied that assessment using a public environment report will yield sufficient information on the likely impacts of the proposed action to support decision-making under Part 9 of the EPBC Act. I therefore decided on 11 December 2015, under section 87 of the EPBC Act, that the relevant impacts of the proposed action will be assessed by public environment report under Part 8, Division 5 of the EPBC Act.

Signed



Deb Callister
Assistant Secretary
Assessments and Policy Implementation Branch

22 January 2016