Approval

Construction of a Pipeline from Macquarie River to the City of Orange, NSW (EPBC 2011/6202)

This decision is made under sections 130(1) and 133 of the Environment Protection and Biodiversity Conservation Act 1999.

Approved action

<table>
<thead>
<tr>
<th>person to whom the approval is granted</th>
<th>Orange City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>proponent’s ABN</td>
<td>ABN: 859 854 023 86</td>
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<tr>
<td>Approved action</td>
<td>To construct a 39 kilometre pipeline and ancillary infrastructure (including a powerline) from the Macquarie River to the Suma Park Dam near Orange and the abstraction and pumping of water from the Macquarie River to Suma Park Dam, in New South Wales, as described in the referral documentation received on 25 November 2011 [See EPBC Act referral 2011/6202].</td>
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Approval decision

<table>
<thead>
<tr>
<th>Controlling Provision</th>
<th>Decision</th>
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<tbody>
<tr>
<td>Listed threatened species and communities (sections 18 &amp; 18A)</td>
<td>Approved</td>
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<tr>
<td>Ramsar Wetlands (sections 16 &amp; 17B)</td>
<td>Approved</td>
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<tr>
<td>Listed migratory species (sections 20 &amp; 20A)</td>
<td>Approved</td>
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Conditions of approval

This approval is subject to the conditions specified below.

expiry date of approval

31 December 2063
Conditions attached to the approval

1. The person taking the action must not clear more than 4.43 hectares of the critically endangered ecological community White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland (WBGW).

2. The person taking the action must not clear any trees containing potential Superb Parrot nesting hollows other than those trees marked for clearing in the pre-clearance surveys. All tree clearing must be in accordance with protocols in the Flora and Fauna Management Plan.

3. The person taking the action must prepare and implement a Biodiversity Offset Plan to protect and manage at least 47 ha of WBGW, 91 ha of Superb Parrot foraging and roosting habitat and all potential superb parrot nesting hollows at 10 Ophir Road, Ophir in perpetuity. The Plan must:

   (a) Outline the purpose of the Plan;
   (b) Provide a map, including GPS coordinates, that clearly depicts:
       (i) the offset area,
       (ii) existing WBGW at the site, and
       (iii) any areas proposed for rehabilitation;
   (c) Provide for the protection and management of existing WBGW and Superb Parrot habitat;
   (d) To address condition 3c include:
       (i) measures to manage edge effects,
       (ii) measures to control weeds and feral pests,
       (iii) details of the fire management program,
       (iv) measures to control unauthorised public access,
       (v) key milestones, performance indicators, thresholds and corrective actions,
       (vi) measures to monitor performance,
       (vii) measures to fund implementation of the Plan, and
       (viii) details about the timing and responsibility for implementing, monitoring, reviewing and funding the Plan.

The person taking the action must submit the Biodiversity Offset Plan for the Minister's approval within 3 months of commencement of the action. The approved plan must be implemented.
4. The person taking the action must protect the offset area by a legal instrument on the title, within 12 months of the date of this approval.

5. In order to protect the EPBC Act listed Trout Cod (Maccullochella macquariensis), Murray Cod (Maccullochella peeli peeli) and Macquarie Perch (Macquaria australasica) the person taking the action must prepare an Aquatic Environment Monitoring Program to identify changes in hydrology and aquatic ecology through monitoring. The program must be prepared one month prior to commencement of construction.

The Program shall be developed:

(a) in consultation with NSW Office of Water and Fisheries NSW;

(b) include a monitoring design to:

(i) confirm predictions and identify changes in hydrology and aquatic ecology (including fish and aquatic and riparian vegetation);

(ii) determine the efficiency of the offtake design and screens to limit impingement, entrainment and minimise impacts to eggs, larvae or changes to recruitment of threatened aquatic species;

(iii) identify thresholds which when exceeded trigger corrective actions/adaptive management responses.

(c) include an appropriate number and location of monitoring points to determine impacts and changes to hydrology and aquatic ecology:

(i) from operation of the pipeline at Cobbs Hut hole including the offlake and riffle or rockbar sections;

(ii) from increased flow volumes and spills from Suma Park Dam into Summer Hill Creek; and

(iii) at other locations as necessary.

Results from the implementation of the Aquatic Environment Monitoring Program are to be provided to the Department by 31 December each year, after commencement of the action.

The Aquatic Environment Monitoring Program must be implemented.

6. Within 10 days after the commencement of the action, the person taking the action must advise the Department in writing of the actual date of commencement.

7. The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement the Plan and Programs required by this approval, and make them available upon request to the Department. Such records may be subject to audit by the Department or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the Department’s website. The results of audits may also be publicised through the general media.

8. By 31 December of each year after the commencement of the action, the person taking the action must publish a report on their website addressing compliance with the conditions of this approval over the previous 12 months, including implementation of any Plans and Programs specified in the conditions. Non-compliance with any of the conditions of this approval must be reported to the Department within 2 business days of becoming aware of the non compliance.
9. Upon the direction of the Minister, the person taking the action must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the Minister. The independent auditor must be approved by the Minister prior to the commencement of the audit. Audit criteria must be agreed to by the Minister and the audit report must address the criteria to the satisfaction of the Minister.

10. If the person taking the action wishes to carry out any activity otherwise than in accordance with the Plan as specified in the conditions, the person taking the action must submit to the Department for the Minister’s written approval a revised version of that Plan. The varied activity shall not commence until the Minister has approved the varied Plan in writing. The Minister will not approve a varied Plan unless the revised Plan would result in an equivalent or improved environmental outcome over time. If the Minister approves the revised Plan, that Plan must be implemented in place of the Plan originally approved.

11. If the Minister believes that it is necessary or convenient for the better protection of listed threatened species and ecological communities to do so, the Minister may request that the person taking the action make specified revisions to the Plan specified in the conditions and submit the revised Plan for the Minister’s written approval. The person taking the action must comply with any such request. The revised approved Plan must be implemented. Unless the Minister has approved the revised Plan then the person taking the action must continue to implement the Plan originally approved.

12. If, at any time after five years from the date of this approval, the person taking the action has not substantially commenced the action, then the person taking the action must not substantially commence the action without the written agreement of the Minister.

13. Unless otherwise agreed to in writing by the Minister, the person taking the action must publish the Plan and Program referred to in these conditions of approval on their website. The Plan and Program must be published on the website within 1 month of being approved.
Definitions

Construction: The construction of any infrastructure, excluding fences and signage, associated with the proposed action.


Minister: The Minister administering the Environment Protection and Biodiversity Conservation Act 1999 and includes a delegate of the Minister.

Commencement: Includes any preparatory works required to be undertaken including clearing vegetation, the erection of any onsite temporary structures and the use of heavy duty equipment for the purpose of breaking the ground for buildings or infrastructure.