

Appendix N

Commonwealth correspondence



Mr John Boyd
Operations Manager
Orange City Council
PO Box 35
ORANGE NSW 2800

Date: 22 December 2011
EPBC Ref: 2011/6202
EPBC contact: Mark Jenkins
02 6274 1558
mark.jenkins@environment.gov.au

Dear Mr Boyd

Decision on referral

Construction of a Pipeline from Macquarie River to the City of Orange, NSW

This proposed action, to construct a 36 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, has now been considered under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

As a delegate of the Minister for Sustainability, Environment, Water, Population and Communities, I have decided that the proposed action is a controlled action and, as such, requires assessment and a decision on approval under the EPBC Act before it can proceed.

It appears that the proposed action is likely to have a significant impact on the following matters protected by the EPBC Act:

- Listed threatened species and communities (sections 18 & 18A)
- Wetlands (Ramsar) (sections 16 & 17B)
- Listed migratory species (sections 20 & 20A)

For example, based on the information available in the referral, the proposed action is likely to have a significant impact because:

- It involves abstraction of water, during periods of low river flow, from habitat of EPBC listed fish species such as the Trout Cod (*Maccullochella macquariensis*) listed as endangered under the EPBC Act; and
- It involves abstraction of water, during periods of low river flow, from the Macquarie River upstream of the Macquarie Marshes Ramsar site which is an important site for migratory bird species listed under the Japan-Australia and China-Australia Migratory Bird Agreements.

Please note that this decision only relates to the potential for significant impact on the specific matters protected by the Australian Government under Chapter 2 of the EPBC Act.

We have also decided that the project will need to be assessed through accredited assessment, under the New South Wales *Environmental Planning and Assessment Act 1979*.

Each assessment approach requires different levels of information and involves different steps. All levels of assessment will include a public consultation phase, *in which any third parties can comment on the proposed action*.

Details on the assessment process for the project and the responsibilities of the proponent are set out in the enclosed fact sheet. Further information is available from the Department's website at <http://www.environment.gov.au/epbc>.

A copy of the document recording these decisions is enclosed.

The assessment officer will contact you shortly to discuss the assessment process.

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

Referring party	Mr Jeremy Pepper, Principal Ecologist, GHD Pty Ltd
State/Territory Minister/s	Mr John Ross, NSW Department of Planning and Infrastructure

If you have any questions about the referral process or this decision, please contact the EPBC project manager and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely



Charmayne Murray
Acting Assistant Secretary
Environment Assessment Branch



**Notification of
REFERRAL DECISION AND DESIGNATED PROPONENT – controlled
action
DECISION ON ASSESSMENT APPROACH**

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

This decision is made under section 75 and section 87 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

proposed action	The proposed action, to be undertaken by Orange City Council, is the construction of a 36 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 received by the department on 25 November 2011.
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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	• Listed threatened species and communities (sections 18 & 18A) • Wetlands (Ramsar) (sections 16 & 17B) • Listed migratory species (sections 20 & 20A)
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designated proponent	Orange City Council ABN: 859 854 023 86
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assessment approach	The project will be assessed by accredited assessment under the New South Wales <i>Environmental Planning and Assessment Act 1979</i> .
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Decision-maker

Name and position	Charmayne Murray Acting Assistant Secretary Environment Assessment Branch
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Signature

date of decision

22/12/2011
