



# Chapter 5

Commonwealth requirements



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# Chapter 5 Commonwealth requirements

This chapter provides an overview of the Commonwealth legislation relevant to the Narrabri Gas Project. The chapter focuses on the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), and how the provisions of this law have been addressed through the referral of the proposed action and this EIS. The chapter looks at other relevant Commonwealth legislation including the *Native Title Act 1993* and the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

## 5.1 Environment Protection and Biodiversity Conservation Act 1999

### 5.1.1 Matters of national environmental significance

The EPBC Act is the principal environmental law administered by the Commonwealth Government through the Department of the Environment and Energy. The EPBC Act provides for the protection of the following matters of national environmental significance:

- world heritage properties
- national heritage places
- wetlands of international importance (listed under the Ramsar Convention)
- listed threatened species and ecological communities
- migratory species protected under international agreements
- Commonwealth marine areas
- the Great Barrier Reef Marine Park
- nuclear actions (including uranium mines)
- a water resource, in relation to coal seam gas development and large coal mining development.

The EPBC Act also protects the environment on Commonwealth land. The environment in this sense includes ecosystems, natural resources, social and cultural values.

The EPBC Act recognises Indigenous interests by setting consultation requirements with Indigenous stakeholders at particular stages of the assessment process. A ministerially appointed Indigenous Advisory Committee is established under the EPBC Act to represent Indigenous interests.

### 5.1.2 Referral and assessment process

The EPBC Act requires that actions that are likely to have a significant impact on a matter of national environmental significance are referred to the Department of the Environment and Energy.

The Department of Environment and Energy administers a series of guidelines to assist proponents to determine whether their proposed action is likely to have a significant impact on a matter of national environmental significance. These significant impact guidelines are discussed in Section 5.1.3.

A proposed action that the Minister for the Environment and Energy decides is likely to have a significant impact on a matter of national environmental significance is deemed a 'controlled action' and requires further assessment under the EPBC Act by one of the following methods:

- assessment by public enquiry
- assessment on referral information
- assessment on preliminary documentation
- accredited assessment process such as a bilateral agreement
- assessment by environmental impact statement or public environment report.

If the nominated assessment is by environmental impact statement, the Minister for the Environment and Energy must provide assessment guidelines to the proponent of the proposed action. The proponent then prepares assessment documentation in accordance with the nominated method and guidelines.

After receiving assessment documentation, the Minister for the Environment and Energy may approve the action and attach conditions or refuse approval. In deciding whether to approve a proposed action that is likely to have a significant impact with regard to the water trigger, the Minister for the Environment and Energy must obtain advice from the Independent Expert Scientific Committee in accordance with Section 131AB of the EPBC Act. The Independent Expert Scientific Committee is discussed in Section 5.1.4.

### 5.1.3 Significant impact guidelines

The significant impact guidelines administered by the Commonwealth Government include:

- *Significant Impact Guidelines 1.1 – Matters of National Environmental Significance*
- *Significant Impact Guidelines 1.2 – Actions On, or Impacting Upon, Commonwealth Land*
- *Significant Impact Guidelines 1.3 – Coal seam gas and Large Coal Mining Developments*

Under the guidelines, an impact is considered likely if it has a 'real or not remote chance or possibility' of occurring. Whether or not a potential impact is significant depends broadly on the scale of the proposed action and the sensitivity of the matter of national environmental significance being considered.

### Significant Impact Guidelines 1.1 – Matters of National Environmental Significance

The *Significant Impact Guidelines 1.1 – Matters of National Environmental Significance* (Commonwealth Government 2013) apply to all matters of national environmental significance (see Section 5.1.1).

For world heritage properties and national heritage places, the significant impact criteria relate to the obscuration, modification, degradation, damage or loss of the world heritage values for which the property is listed. The values potentially impacted would be specific to each world heritage property and may include cultural value and/or features of the natural environment.

For wetlands of international importance, the significant impact criteria include destruction or modification of a wetland, substantial and measurable change in hydrological regime, impacts on the habitat or lifecycle of resident native species, a substantial and measurable change in water quality, and introduction of invasive species or disease that may result in changes outside of acceptable limits.

For listed threatened species and ecological communities, the significant impact criteria vary and can include declines in population, area of occupancy, disruption of breeding cycles, introduction of invasive species and so on. The Commonwealth Government has developed a range of supplementary guidelines that are specific to particular species and ecological communities.

For migratory species, the significant impact criteria are similar to those for threatened species, albeit with special emphasis on important habitat (including hydrological cycles) and an ecologically significant proportion of the population of a migratory species

Significant impact criteria are also provided for values that are not relevant to this assessment including Commonwealth marine areas, the Great Barrier Reef Marine Park and nuclear actions.

## Significant Impact Guidelines 1.2 – Actions On, or Impacting Upon, Commonwealth Land

The Commonwealth Government also administers the *Significant Impact Guidelines 1.2 - Actions On, or Impacting Upon, Commonwealth Land and Actions by Commonwealth Agencies* (Commonwealth Government 2013a) to help proponents determine if they are likely to have a significant impact on Commonwealth land. Significant impact criteria cover a range of environmental values, including water resources, flora and fauna and heritage.

Significant impact criteria for these environmental values are similar to those defined in *Significant Impact Guidelines 1.1* (Commonwealth Government 2013). The guidelines also include significant impact criteria for potential impacts on people and communities, including the potential to ‘substantially change or diminish cultural identity, social organisation or community resources’ (Commonwealth Government 2013a).

## Significant Impact Guidelines 1.3 – Coal seam gas and Large Coal Mining Developments

The Commonwealth Government also administers the *Significant Impact Guidelines 1.3 - Coal seam gas and Large Coal Mining Developments – Impacts on Water Resources* (Commonwealth Government 2013b) to help proponents determine if they are likely to have a significant impact on a water resource, in relation to coal seam gas development and large coal mining development. Under the *Significant Impact Guidelines 1.3*, an action is likely to have a significant impact on a water resource if there is a real or not remote chance or possibility that it will directly or indirectly result in a change to the hydrology or water quality of a water resource.

Changes to hydrology to be considered include changes to flow regimes, including volume, the integrity of surface water and groundwater connections, recharge rates of groundwater and inter-aquifer connectivity and pressure relationships. Changes to water quality to be considered include relevant local and regional water quality objectives, risks to human use, persistence of pollutants, impacts on native species or facilitation of invasive species. The guidelines also note risks associated with the release of higher quality water into an ecosystem adapted to lower quality water.

### 5.1.4 Independent Expert Scientific Committee

The Commonwealth Government established the Independent Expert Scientific Committee to provide scientific advice to regulators on the impact of coal seam gas and large coal mining development on water resources. In deciding whether to approve a proposed action that is likely to have a significant impact with regard to the water trigger, the Minister for the Environment and Energy must obtain advice from the Independent Expert Scientific Committee in accordance with Section 131AB of the EPBC Act.

The Independent Expert Scientific Committee have developed the *Information Guidelines for the Independent Expert Scientific Committee advice on coal seam gas and large coal mining development proposals* (IESC 2015). The guidelines set out the information required by the committee to provide robust scientific advice to regulators regarding the impact of coal seam gas and large coal mining proposals. The guidelines include information requirements pertaining to:

- description of the project
- impacts to groundwater
- impacts to surface water
- impacts to water dependant assets
- water and salt balance
- water management strategy
- cumulative impacts.

As such, the guidelines are an important determinant of the information presented in environmental assessments under the EPBC Act.

## 5.2 Referral of proposed action

### 5.2.1 Summary of referral

The project was referred to the Minister in October 2014 due to potential for significant impacts on matters of national environmental significance.

The referral is provided as Appendix B and summarised in Table 5-1.

Table 5-1 Summary of referral of proposed action

Matter of national environmental significance	Referral content
World heritage properties	A search using the protected matters search tool did not return world heritage properties near the project area. As such, no potential impacts on world heritage properties were identified.
National heritage places	A search using the protected matters search tool returned the Narrabri Post Office and former Telegraph Office, approximately 9 km from the project area. No other national heritage places were identified near the project area. As such, no potential impacts on national heritage places were identified.
Wetlands of international importance (listed under the Ramsar convention)	A search using the protected matters search tool did not return wetlands of international importance in the vicinity of the project area. As such, no potential impacts on wetlands of international importance were identified.



Matter of national environmental significance	Referral content
Listed threatened species and ecological communities	<p>A search using the protected matters search tool identified 31 listed threatened species and eight listed threatened ecological communities with potential to occur in the project area.</p> <p>Potential significant impacts were identified in relation to four threatened fauna species, five threatened flora species and two threatened ecological communities.</p>
Migratory species protected under international agreements	<p>A search using the protected matters search tool and review of previous survey effort identified 14 listed migratory species with potential to occur in the project area. Significant impacts were not considered likely in relation to the identified migratory species.</p>
Commonwealth marine areas	<p>The project is not near a Commonwealth marine area. As such, no potential impacts were identified.</p>
The Great Barrier Reef Marine Park	<p>The project is not near the Great Barrier Reef Marine Park. As such, no potential impacts were identified.</p>
Nuclear actions (including uranium mines)	<p>The project is not a nuclear action.</p>
A water resource, in relation to coal seam gas development and large coal mining development	<p>The 'water trigger' applies to the project as it is a coal seam gas development. Ten surface water features and eight groundwater features or values were identified in the project area. As such, potential impacts on water resources were identified.</p>
The environment, where actions proposed are on, or will affect Commonwealth land and the environment	<p>The referral identified five Commonwealth lands within around 10 kilometres of the project, but none within the project area. No potential impacts were identified.</p> <p>The Commonwealth lands were associated with:</p> <ul style="list-style-type: none"> <li>• Telstra Corporation Limited</li> <li>• the Australian Postal Corporation</li> <li>• the Australian Telecommunications Commission</li> <li>• the Commonwealth Trading Bank of Australia</li> <li>• the Commonwealth Scientific and Industrial Research Organisation.</li> </ul>

## 5.2.2 Controlled action decision

The project was decided to be a controlled action in December 2014 with the controlling provisions:

- listed threatened species and ecological communities
- a water resource, in relation to coal seam gas development and large coal mining development
- Commonwealth land.

The controlled action decision determined that the project would be assessed under the assessment bilateral agreement between the Commonwealth and NSW Government. The object of the bilateral agreement is to streamline environmental approvals where assessment is required at Commonwealth and State levels. The agreement enables the Commonwealth to rely on NSW Government assessment

processes to facilitate approval under the EPBC Act. It is noted that the assessment bilateral agreement does not diminish the decision or condition-making powers of the Minister administering the EPBC Act.

The controlled action decision included with the referral in Appendix B.

### 5.2.3 Assessment guidelines

Following the controlled action decision, the Department provided environmental assessment requirements relating to potential impacts on matters of national environmental significance under the EPBC Act. These requirements supplement the Secretary's environmental assessment requirements.

The supplementary requirements notably identify Siding Spring Observatory as the Commonwealth land referred to in the controlled action decision (see Section 5.2.2).

The supplementary requirements, along with the Secretary's requirements, are provided as Appendix A including cross-references to the relevant parts of the EIS where the requirements are addressed.

The *Information Guidelines for the Independent Expert Scientific Committee advice on coal seam gas and large coal mining development proposals* (IESC 2015) discussed in Section 5.1.4 have also been given due consideration in this EIS. These requirements are also provided in Appendix A along with cross-references to the relevant parts of the EIS where the requirements are addressed.

The provisions of the EPBC Act and associated assessment guidelines have also been referenced and discussed where relevant throughout this EIS. A summary of the relevant parts of the EIS with regard to the controlling provisions for the project is provided in Section 5.3.

## 5.3 Assessment of controlling provisions

This EIS includes specialised assessments that address potential impacts with regard to the controlling provisions listed in the controlled action decision (see Section 5.2.2). A summary of the key findings of the EIS with regard to controlling provisions is provided below.

### 5.3.1 Listed species and ecological communities

Potential impacts to listed threatened species and ecological communities were primarily addressed through the ecological impact assessment in Appendix J1 and relevant attachments, notably the biodiversity offset strategy in Appendix O of Appendix J1.

The ecological impact assessment draws on extensive field work in the project area, including more than 13,000 hours of flora and fauna survey effort carried out since 2002.

The assessment concluded that the project would be unlikely to have a significant impact on listed species and ecological communities as the magnitude of direct, indirect and cumulative impacts would be unlikely to affect their long-term survival. This is primarily due to:

- the small proportion of habitat being removed relative to that retained in the project area
- the removal of habitat at a scale unlikely to result in the isolation or fragmentation of populations
- the project being unlikely to result in invasive species or diseases becoming established

- the progressive rehabilitation of disturbed areas as part of the project
- implementation of the Field Development Protocol and proposed avoidance, minimisation and mitigation measures.

Residual impacts on threatened species and endangered ecological communities would be offset as part of a biodiversity offset strategy (refer to Appendix L to Appendix J1).

The ecological impact assessment, including measures to mitigate and manage potential impacts, is summarised in more detail in Chapter 15 and Chapter 16.

### 5.3.2 Water resources

Potential impacts to water resources, including the management of produced water and salt, were addressed through a range of technical assessments including the:

- groundwater impact assessment (refer to Appendix F)
- managed release of treated water to Bohena Creek (refer to Appendix G1)
- irrigation of treated and amended water (refer to Appendix G2)
- Water Monitoring Plan (refer to Appendix G3)
- water baseline report (refer to Appendix G4)
- hydrology and geomorphology assessment (see Appendix H).

The groundwater impact assessment utilised conceptual and numerical models to simulate potential impacts. The assessment considered potential impacts to the Bohena Creek Alluvium, Namoi Alluvium, Pilliga Sandstone and a number of other relevant groundwater resources. The assessment also considered impacts on groundwater dependant ecosystems.

The assessment concluded that the project is unlikely to have a significant impact on ground water resources in the project area and surrounds in terms of water availability and quality, as well as ecosystem functions. The results of the impact assessment show that:

- The predicted impacts on the Gunnedah-Oxley Basin groundwater source in the project area are unlikely to be significant given:
  - The target source has a relatively low value due its low quality, with no known groundwater users extracting water from the coal seams or surrounding source rock
  - All water abstracted will be under licenses obtained under the requirements of the *Water Management Act 2000* and the *Water Sharing Plan for the NSW Murray Darling Basin Porous Rock Groundwater Sources 2011*. The volume of water to be abstracted on average per annum (1.5 gigalitres) is approximately 1.3 percent of the sustainable diversion limit (114.5 gigalitres) identified by the Commonwealth through the Murray Darling Basin Plan.
- The predicted impacts on the Southern Recharge Groundwater Source and Surat Groundwater Source of the Great Artesian Basin are unlikely to be significant due to the predicted drawdown in the Pilliga Sandstone (less than 0.5 metres) for the simulated scenarios, minor predicted changes in groundwater storage (less than 0.06 gigalitres per year for the base case) and minor induced flows.
- The predicted changes on the Upper and Lower Namoi Groundwater Sources are unlikely to be significant in the Namoi Alluvium due to the predicted water table drawdown (less than 0.5 metres), negligible induced change in groundwater storage (less than 0.01 gigalitres per year for the base case) and insignificant induced flows.

- The groundwater modelling results imply that changes to water quality in the Gunnedah-Oxley Basin Groundwater Source, and specifically within the Early and Late Permian coal seam targets are unlikely to be significant due to their relatively low values. Potential changes to water quality in the Great Artesian Basin and Namoi Alluvium are unlikely to be considered as significant due to negligible predicted changes in inter-aquifer flow rates and volumes.

The impact assessment shows that after depressurisation of the target coal seams has taken place, the characteristically low hydraulic conductivity of the deep basin strata (aquifers) significantly limits groundwater replenishment and related impacts on the overlying high value groundwater sources. As such, there is unlikely to be significant impacts on users of the high quality groundwater sources or groundwater dependent ecosystems. Importantly, the water taken from the low value groundwater source is well within the sustainable limits identified by the State and Commonwealth Governments through its water sharing plans. The impact assessment concluded that the project is unlikely to have a significant impact on groundwater resources in the project area and surrounds in terms of water availability and quality, as well as ecosystem functions.

All water take would occur within the NSW legislative framework that establishes sustainable volumes of water that may be licensed for extraction within each water source. Residual impacts groundwater users would be offset through make good arrangements where necessary in accordance with the *NSW Aquifer Interference Policy* (NSW Government 2012a). The groundwater impact assessment, including measures to mitigate and manage potential impacts, is summarised in more detail in Chapter 11.

The potential impacts of management of produced water and salt were found to be readily managed through the implementation of a Produced Water Management Plan. The management of produced water and salt is discussed in detail in Chapter 7. Potential impacts on surface water resources were also not found to be significant and are discussed further in Chapter 12 and Chapter 13.

### 5.3.3 Commonwealth land

Potential impacts to Commonwealth land are limited to Siding Spring observatory, about 80 kilometres south-west of the project area. The referral identified five other Commonwealth lands within around 10 kilometres of the project area, however no potential impacts were identified (see Section 5.2).

Potential impacts to Siding Spring Observatory were primarily addressed through the landscape and visual impact assessment (see Appendix Q), however other aspects such as historic and social value of Siding Spring Observatory were also considered in the historic heritage impact assessment (refer to Appendix O) and social impact assessment (refer to Appendix T1).

Siding Spring Observatory is situated on Commonwealth land about 80 kilometres south-west of the project area. The observatory was established in the 1960s and is operated by the Australian National University. It is the largest observatory in Australia and also houses the largest telescope in Australia; the Anglo-Australian Telescope, which is operated by the Australian Astronomical Observatory.

The site of Siding Spring Observatory was chosen due to its favourable combination of high elevation, low humidity, non-turbulent atmosphere, clean air and clear night skies. The observatory has a historic position in Australian and international astronomy, as evidence of the operations of the Australian National University, the Australian Astronomical Observatory and their predecessors. The heritage values of the Siding Spring Observatory are recognised by the Australian National University, including it in its *Heritage Strategy 2010 – 2012* (Australian National University 2009). A historic heritage report prepared for Warrumbungle Shire Council (High Ground Consulting 2006) identified Siding Spring Observatory as 'a significant site in the development of Australian astronomy'. Siding Spring Observatory is not listed on the National Heritage List, Commonwealth Heritage List, or non-statutory Register of the National Estate.

The observatory is an operating research facility utilised by the local, Australian and international astronomy community, which continues to be a location for important scientific research. It is also a popular tourist attraction in the Warrumbungle region; the observatory has a visitor centre and a viewing gallery of the Anglo-Australian Telescope. As an operating research facility, public access to Siding Spring Observatory is restricted to day time visits.

Consultation with the Australian National University and Australian Astronomical Observatory has indicated that operations at Siding Spring Observatory have been affected by lighting from urban and resource developments in the region. As such, potential lighting impacts were considered to be the main potential impact of the project on Siding Spring Observatory.

The main sources of light from the project would be a safety flare at Leewood and a second safety flare at Bibblewindi. Safety flares are required to safely manage gas during commissioning and maintenance activities and in non-routine situations. Up to six small pilot flares would also be operating in the gas field, if required, during well appraisal.

Limited site lighting required for safe operations would be present at Leewood, Bibblewindi and Westport workers' accommodation. As drilling activities are required to be undertaken on a continuous basis, night lighting would be in place during the construction of a well, which is expected to take between 10 and 30 days at each site, depending on well type. Operational well pads do not require night lighting.

Night time traffic movement requirements and associated lighting for the project would be relatively minor and insignificant in comparison with existing traffic volumes on the Newell Highway.

Consultation with relevant representatives from Siding Spring Observatory has indicated the potential for impacts to observing conditions at the observatory as a result of the project is negligible given the limited flame height of safety flares, the small number and dispersed location of potential pilot flares, and the minimal operational night lighting requirements.

If the safety flare is required to be operated at its full capacity at night, it may be visible at the observatory. However, the use of the safety flare to this extent is limited to during commissioning and maintenance activities and in non-routine situations (which are expected to occur infrequently). Accordingly, the landscape and visual impact assessment found that the pilot well flares and safety flares is unlikely to cause an impact on the long-term operation of Siding Spring Observatory.

The project would generate air emissions such as particulate matter (including dust) and nitrogen dioxide. These emissions have the potential to affect the clarity of the night sky and therefore the observing conditions at Siding Spring Observatory. The concentration of these and other emissions were assessed to comply with the relevant air quality standards and would generally decrease with distance from source to become indistinguishable from surrounding air quality. Impacts to observing conditions at Siding Spring Observatory are therefore not predicted. Air emissions are discussed further in Chapter 18.

As discussed in the landscape and visual impact assessment, the design and operation of the project would give due consideration to the good lighting design principles in the *Dark Sky Planning Guideline: Protecting the observing conditions at Siding Spring* (NSW Department of Planning and Environment 2016), and Australian Standard AS 4282-1997 *Control of the obtrusive effects of outdoor lighting* and the Australian/New Zealand Standard AS/NZS 1158-2010 *Lighting for roads and public spaces for roadways and plant*, as applicable.

Due to the nature of the project and the significant distance to Siding Spring Observatory, direct, indirect, cumulative, facilitated or residual impacts upon the environment of Commonwealth land on which the observatory is situated are not expected. Given this, no social or cultural impacts on people and communities who work, visit or otherwise benefit from Siding Spring Observatory are expected. Consequently, monitoring for Commonwealth land impacts of the project is not required.

Visual impacts are discussed further in Chapter 23, while potential social or cultural values are discussed further in Chapter 21 and Chapter 26.

### 5.3.4 Facilitated impacts

The significant impact guidelines define facilitated impact as further actions (including actions by third parties) made possible by a project. The project would produce marketable gas to meet demand that could include a range of domestic and commercial users in NSW, eastern Australia and export markets.

Considered against a base case of growing demand that would occur with or without the project, the project is not considered to be the cause of significant facilitated development by third parties.

A transmission pipeline to transport the product gas to market will be subject to a separate approval and is not part of this development proposal. The Proponent is working with a pipeline partner to develop a gas transmission pipeline solution that would make the gas available to market.

## 5.4 Environmental record of the proponent

Santos NSW (Eastern) Pty Ltd has had no proceedings against it under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources known to Santos.

On 1 August 2016 the Land and Environment Court of New South Wales (NSWLEC) found that the production water project at Leewood is properly characterised as being for the purpose of the activity of petroleum exploration and is, thus, permitted by the provisions of the NSW State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 without the need for development consent (*People for the Plains Incorporated v Santos NSW (Eastern) Pty Limited and Ors* [2016] NSWLEC 93). The Court also found that the NSW *Petroleum (Onshore) Act 1991* permits the Leewood facility to deal with produced water from petroleum exploration activities undertaken on PEL 238 in addition to produced water generated by petroleum exploration and / or assessment activities being undertaken on PAL 2.

The People for the Plains Incorporated have appealed the decision. Santos NSW Pty Ltd is the first respondent, Santos NSW (Eastern) Pty Ltd is the second respondent and EnergyAustralia Narrabri Gas Pty Ltd is the fourth respondent to the appeal. At the time of writing the decision of the appeal is yet to be handed down.

Santos NSW Pty Ltd and EnergyAustralia Narrabri Gas Pty Ltd are applicants for the four petroleum production leases for the project.

On 10 January 2014 the NSWLEC fined Santos NSW Pty Ltd (formerly Eastern Star Gas Limited) the amount of \$52,500 after Santos NSW Pty Ltd pleaded guilty to four charges under the NSW *Petroleum (Onshore) Act 1991* (*Connell v Santos NSW Pty Ltd* [2014] NSWLEC 1). The charges relate to a spill of an estimated 10,000 litres of production water at a water treatment plant at Bibblewindi on 25 June 2011. The decision is *Connell v Santos NSW Pty Ltd* [2014] NSWLEC 1.

Prior to 17 November 2011, Santos NSW Pty Ltd was a company listed on the Australian Stock Exchange as Eastern Star Gas Limited. The water treatment plant and the petroleum activities under PEL 238 and PAL 2 were undertaken by Eastern Star Gas Limited. Prior to 17 November 2011 Santos Limited did not operate the water treatment plant or undertake petroleum activities under PEL 238 or PAL 2.

Following Santos Limited's acquisition of Eastern Star Gas Limited, Santos undertook a detailed review of Eastern Star Gas' former operations including a review of the Bibblewindi Water Treatment Plant. Santos ceased operation of the reverse osmosis plant at the Bibblewindi Water Treatment Facility on 15 December 2011 and the plant has been dismantled. Produced water that was stored at the facility has been transferred to the Leewood Produced Water Management Facility. Santos has been progressively rehabilitating the areas affected by the incidents.

Santos' environment, health and safety policy and planning framework is included with other existing policies in Appendix T1.

## 5.5 Other Commonwealth legislation

### Native Title Act 1993

The objectives of the *Native Title Act 1993* are to:

- recognise native title rights and set down basic principles in relation to native title in Australia
- provide for the validation of past acts which may be invalid because of the existence of native title
- provide for a future regime in which native title rights are protected and conditions imposed on acts affecting native title land and waters
- provide a process by which native title rights can be established and compensation determined, and by which determinations can be made as to whether future grants can be made or acts done over native title land and waters
- provide for a range of other matters, including the establishment of a National Aboriginal and Torres Strait Islander Land Fund.

A native title claim has been made over the project area by the Gomeri People (Federal Court proceeding NSD2038/2011). An application for four PPLs covering the project area has been made under the *Petroleum (Onshore) Act 1991*. The grant of these PPLs is considered a 'future act' under the *Native Title Act 1993* as it has the potential to impact on native title rights and interests.

Consent is being sought for the grant of four PPLs from the Registered Native Title Claimants within the area through the 'Right to Negotiate' process. This process requires the PPL applicants, the State and the Registered Native Title Claimants to negotiate in good faith for a period of at least six months.

On 20 May 2015 a section 29 notice was advertised in the *Koori Mail*, with the notice also being advertised in *The Land* on 21 May 2015 to commence the Right to Negotiate process. The PPL applicants will continue to engage with the Registered Native Title Claimants through the Right to Negotiate process.

### Aboriginal and Torres Strait Islander Heritage Protection Act 1984

The *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* can protect areas and objects that are of particular significance to Aboriginal people. The Act allows the Minister, on the application of an Aboriginal person or group of persons, to make a declaration to protect an area, object or class of objects from a threat of injury or desecration. Though rarely used, a declaration under the Act could be made with regard to areas or objects in the project area.

