

## **Assessment of Matters of NES**

### **Introduction**

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is the primary Commonwealth statute addressing environment protection and the implementation of ecologically sustainable development.

Under the EPBC Act the Minister for the Department of Environment, Water, Heritage and the Arts (DEWHA) becomes the consent authority for development proposals which have, or are likely to have a significant impact on a matter of National Environmental Significance (NES) as defined in the EPBC Act.

If a proposed action will, or is likely to have, a significant impact on a matter of national environmental significance, it must be referred to the Minister of the Department of Environment and Water Resources for a decision on whether assessment and approval is required under the EPBC Act.

The Commonwealth and NSW Governments signed a Bilateral Agreement in January 2007, which allows the assessment regimes under part 3A, 4 and 5 of the EP&A Act, the *Threatened Species Conservation Act 1995* (TSC Act) and the *Fisheries Management Act 1994* (FMA) to be automatically accredited under the EPBC Act. As a result of this agreement, while the action requires referral under the EPBC Act, separate approval under the EPBC Act is no longer required for controlled actions that are undertaken that would have an impact upon matters of NES.

### **Background to the ICP Project**

The ICP Project was referred to the Commonwealth Minister for the Environment under s68 of the EPBC Act in 2001, by Duke Energy International (DEI). The Minister determined that the project was not likely to have a significant impact in a matter of NES, the action would not take place on Commonwealth land and that the action was not a “controlled action”.

The proposed modifications to the ICP Project will not be undertaken on Commonwealth land, thus, in order to determine whether the action is a “controlled action” below is an assessment to determine whether the ICP Project, as modified in this EA, will have a significant impact on a matter of NES. The assessment is undertaken in the following section.

### **Matters of NES**

There are seven matters of NES listed under the EPBC Act (see **Table J-1**). To determine whether the ICP Project as modified would have a significant impact on matters of NES a search was conducted of the EPBC Protected Matters Database on the 11 April 2008 which included a 1 km buffer around the ICP site (study area). The results of the search are outlined in **Table J-1**:

**Table J-1 Matters of NES and Significance of Impact**

Matter of NES	Search Results	Assessment on Significance of Impact
World Heritage Properties	There are no World Heritage Properties within the study area	N/A
National Heritage Places	There are no National Heritage Places within the study area.	N/A
Wetlands of International Importance (Ramsar Wetlands)	There are no Wetlands of International Importance (Ramsar Wetlands) within the study area.	N/A
Threatened Species and Ecological Communities	15 threatened species may occur or are likely to occur within the study area	Due to the highly disturbed nature of the study area, it is unlikely that a significant impact on threatened species and ecological communities will occur as a result of the ICP Project as modified. See <b>Section 9.5</b> for a discussion on the potential impact on terrestrial flora and fauna including the potential impact on the green and golden bell frog.
Migratory Species	15 migratory species may occur or are likely to occur within the study area	Due to the highly disturbed nature of the study area, it is unlikely that a significant impact on migratory species will occur as a result of the ICP Project as modified.
Commonwealth Marine Areas	There are no Commonwealth Marine Areas within the study area.	N/A
Nuclear Actions (including uranium mining)	The ICP Project as modified does not involve any activities involving nuclear fuel or nuclear installations.	N/A

## Conclusion

The modified ICP Project is not considered to have a significant impact on any matters of NES. The impacts of the modified ICP Project are not considered to differ greatly from the impacts of the original ICP project assessed by the DEWHA in 2001. The DEWHA at that time determined that the project was not a 'controlled activity' and, based on the assessment above, it is considered that the ICP Project, as modified, will not constitute a controlled action. Therefore referral to the Minister for the proposed modifications has not been undertaken.