Australian Government
Department of Climate Change, Energy, the Environment and Water

Statement of reasons for reconsideration decision under the *Environment Protection and Biodiversity Conservation Act 1999*

I, Murray Watt, Minister for the Environment and Water, provide the following statement of reasons for my decision of 20 May 2025, under section 78C of the *Environment Protection and Biodiversity Conservation Act 1999* **(EPBC Act**), to reconsider and confirm the decision made by Greg Manning, Assistant Secretary, Assessments (WA, SA, NT) and Post Approvals Branch of 3 May 2019 under section 75 of the EPBC Act that the proposed action by Woodside Energy Ltd (**the proponent**) to continue and extend the operating life of the North West Shelf (NWS) Project through the long-term processing of third party gas and fluids and NWS Joint Venture field resources through the NWS Project facilities (**the proposed action**) is a controlled action and sections 15B and 15C are the controlling provisions.

Legislation

1. Relevant legislation is set out in Annexure A.

Background

2. On 14 November 2018, the Department of Climate Change, Energy, the Environment and Water (the **department**) received a valid referral from Woodside Energy Ltd (**the proponent**) to carry out the proposed action.

3. On 3 May 2019, a delegate of the Minister for the Environment (**the delegate**) determined under section 75 of the EPBC Act that the proposed action is a controlled action and sections 15B and 15C are the controlling provisions (**the original referral decision**).

North West Shelf Project History

4. The North West Shelf (**NWS**) Project initially commenced in 1984, having been assessed under the *Environment Protection (Impact of Proposals) Act 1974* (Cth) (EPIP). The current EPIP authorisation is applicable until the NWS Join Venture (**NWSJV**) field resources is depleted. The proposed action area includes the existing Karratha Gas Plant (**KGP**), KGP Buffer Zone, Southern Expansion Lease, King Bay Supply Facility and plant access roads. The remainder of the NWS Project Extension Proposed Action, including the jetty births and two subsea pipelines, is located offshore in WA State waters.

5. The KGP was originally commissioned in 1984 with feed gas and fluid sources from the North Rankin Platform. The KGP has undergone a number of expansions and additional facilities have been installed since it was commissioned and considered under the *Environment Protection (Impact of Proposals) Act 1974* in 1997 and 1998. At present, the existing NWS Project processes natural gas and associated fluids from NWSJV field resources to produce up to 18.5 Mtpa of Liquified Natural Gas (**LNG**) at the KGP. This limit on production exists at the federal level under the EPBC Act following the (not a controlled action) decision in EPBC 2006/3191.

6. In addition to State and Commonwealth environment protection requirements, the following two frameworks apply to the proposed action:

a. City of Karratha Planning Scheme No. 8 (WA Department of Planning, Land and Heritage, 2017).

b. *North West Gas Development (Woodside) Agreement Act 1979* State Agreement between the WA Government and the NWSJV participants. This State Agreement approves the construction and operation of the NWS Project. Four amendments have been made to the Agreement since ratification (in 1985, 1994, 1996 and 2015) to accommodate for further development and changes since the original NWS Project.

Five related proposals (not part of the proposed action)

7. Taken together, this proposed action plus five others are a part of a larger vision, previously known and referred to as the 'Burrup Hub vision'. The following proposals were considered at the original referral decision:

    a. Scarborough Development near shore component, NWS, WA (EPBC 2018/8362 – referral decision made);

    b. Scarborough Offshore Project Proposal, WA (was assessed by NOPSEMA under the EPBC Act strategic assessment arrangement in 2020)

    c. Pluto Gas Project Including Site B (EPBC 2006/2968 – approved with conditions);

    d. Browse to NWS Development, Indian Ocean, WA (EPBC 2018/8319 – awaiting additional information required to make final decision); and

    e. Pluto-NWS Interconnector, Burrup Peninsula, WA (EPBC 2018/8353 – referral decision made).

8. In making the original referral decision, the delegate considered whether the proposed action was a part of a larger action. The proponent acknowledged that the separate referrals noted above and the Scarborough offshore component submitted to NOPSEMA are, in effect, a split referral. They also submitted that the separate referrals should be accepted so they can structure the separate individual projects according to specific commercial requirements. While each will be operated by the proponent, each project is owned by different joint venture partners. The delegate was satisfied that the referral was a part of a larger action but decided to accept the referral.

WA Approval

9. On 30 June 2022, the WA EPA published the finalised state assessment report including recommended conditions for an appeals period between 30 June 2022 and 21 July 2022. The WA Office of the Appeals Convenor received a record number of appeals (776) on the proposed conditions.

10. On 10 August 2022, the department paused the statutory timeframe for the North West Shelf Project Extension to await the outcome of the appeals process.

11. On 12 December 2024, the WA Minister for Environment determined that the proposed action may be implemented subject to conditions and procedures and issued a Ministerial Statement (Statement number 1233) under the *Environmental Protection Act 1986* (WA) (**EP Act**).

12. The issuance of the finalised Ministerial Statement triggered the recommencement of the statutory timeframe for the proposed action. On 13 December 2024, a delegate extended the timeframe for decision to 28 February 2025. On 18 February 2025, a delegate extended the timeframe for decision to 31 May 2025.

Background to Reconsideration Request

13. On 8 July 2022, Environmental Justice Australia (**EJA**), on behalf of the Environment Council of Central Queensland Inc (**ECCQ**), submitted a reconsideration request, on the basis of the availability of substantial new information (section 78(1)(a) of the EPBC Act) (**the reconsideration request**). On the same day, EJA also submitted reconsideration requests for 18 other coal and gas projects that had been determined to be controlled actions.

14. On 11 August 2022, EJA sent a supplementary letter referring to further substantial new information, which it stated was relevant to this request, and to the other 18 requests, that were submitted on 8 July 2022.

15. On 3 November 2022, a delegate of the Minister determined, based on the information then available, that the reconsideration request was a valid request.

16. On 3 November 2022, the reconsideration request was published on the department's public internet portal and public comments were invited for 15 business days, from 3 November to 24 November 2022.

17. On 3 November 2022, relevant State and Commonwealth Ministers were informed of the reconsideration request and invited to comment.

18. On 3 November 2022, the proponent was also invited to comment on the reconsideration request.

19. On 10 November 2022, the department sent the proponent a request for further information (**RFI**) on the greenhouse gas (**GHG)** emissions associated with the proposed action, emissions management and consumers of end-product extracted as part of the proposed action.

20. On 29 August 2023, EJA noted that it had provided pre-final-publication versions of the Intergovernmental Panel on Climate Change's (**IPCC**) *Working Group II contribution to the Sixth Assessment Report of the IPCC* (**WGII**) and *Working Group III contribution to the Sixth Assessment Report of the IPCC* (**WGIII**) Reports as part of the reconsideration request, and that final consolidated versions of those reports had since been released.

21. On 6 October 2023, EJA provided a copy of Annexure III of the WGII Report (Annex III: Scenarios and Modelling Methods) as it had not been provided with the reconsideration request.

22. On 29 April 2024, EJA sent a further supplementary letter to the Minister which enclosed material to further support the position set out in the reconsideration requests of the remaining coal and gas projects.

23. On 20 May 2025, under section 78C of the EPBC Act, I reconsidered and confirmed the referral decision that the proposed action is a controlled action and that the controlling provisions for assessment are:

    - sections 15B and 15C National Heritage places

Evidence or other material on which my findings were based

24. My reconsideration decision was based on a brief prepared by the department, which contained the following attachments:

A.	Original referral decision material **A1**: Signed referral brief dated 3 May 2019 **A2:** Signed referral decision notice dated 3 May 2019 **A3:** Original referral decision briefing package dated 9 May 2019
B.	Request for reconsideration **B1:** Letter from EJA dated 8 July 2022 **B2**: Annexure 1 **B3:** Sources of Information for Annexure 1 **B4**: Annexure 2 – Analysis of research on climate change and its impacts on Matters of National Environmental Significance under the EPBC Act **B5:** Annexure 2.1 – Spreadsheets of data **B6:** Annexure 2.2 – Sources of data for Annexure 2.1 **B7:** Annexure 2.3 – Fire Impact Maps **B8:** Letter from EJA providing further material dated 11 August 2022 **B9:** State of the Environment Report 2021 **B10:** Pre-final-publication versions of the IPCC WGII and WGIII Reports **B11**: Final consolidated versions of the IPCC WGII and WGIII Reports **B12:** Letter from EJA regarding IPCC WGII and WGIII Reports dated 29 August 2023 **B13:** Letter from EJA regarding Annexure III of the WGII Report (Annex III: Scenarios and Modelling Methods) dated 4 October 2023 **B14**: Annexure III of the WGII Report (Annex III: Scenarios and Modelling Methods) provided by EJA via email on 6 October 2023 **B15:** Letter from EJA providing further material dated 29 April 2024 **B16:** IEA Net Zero Roadmap, 2023 update **B17:** IEA World Energy Outlook, 2023 **B18:** Expert report by Ms. Rachel Wilson, 26 April 2024
C.	Reconsideration decision notice –

D.	Letters **D1:** Letter to proponent **D2:** Letter to requestor **D3**: Letter to State Minister **D4:** Letter to Minister for Indigenous Australians, the Senator the Hon Malarndirri McCarthy **D5:** Letter to Minister for Climate Change and Energy, the Hon Chris Bowen MP **D6:** Letter to Minister for Resources and Minister for Northern Australia, the Hon Madeleine King MP **D7:** Letter to Minister for Science, Senator the Hon Tim Ayres **D8:** Letter to Minister for Agriculture, Fisheries and Forestry, the Hon Julie Collins MP **D9:** Minister for Industry and Innovation, Senator the Hon Tim Ayres
E.	Signed validity brief dated 3 November 2022
F.	Commonwealth Ministers' responses to invitation to comment: **F1:** Minister for Indigenous Australians, the Hon Linda Burney MP **F2:** Minister for Climate Change and Energy, the Hon Chris Bowen MP **F3:** Minister for Resources and Minister for Northern Australia, the Hon Madeleine King MP **F4**: Minister for Industry and Science, the Hon Ed Husic MP **F5:** Minister for Agriculture, Fisheries and Forestry, Senator the Hon Murray Watt
G.	State Minister response to invitation to comment
H.	Proponent response to invitation to comment
I.	Request for further information (RFI) on proposed action's emissions
J.	J1: Proponent final response to RFI J2: Proponent's Environmental Review Document J3: Proponent's informal response to department
K.	Public Comments **K1:** Public Portal Comments

	K2: Attachments to Public Portal Comments **K3:** Ministerial Submissions direct to the Minister **K4:** Requestor Submission dated 24 November 2022, including attached World Energy Outlook 2022 (Free Data Set) **K5:** Additional Public Portal Comments
L.	**L1:** IEA Global Gas Security Review Report 2024 (IEA's annual gas market report for 2024) **L2:** IGU Global Gas Report 2024 **L3:** Global LNG Outlook 2024-2028
M.	Synthesis Report of the IPCC Sixth Assessment Report (AR6)

Reconsideration request

25. In the reconsideration request, EJA stated that its request was made on the basis of substantial new information about the impacts the proposed action will have or is likely to have on matters of national environmental significance (**MNES**), including a number of MNES not listed in the original referral decision. EJA stated that the information provided with the reconsideration request demonstrated that the proposed action will or is likely to have significant physical effects on a number of MNES because of the GHG emissions associated with the proposed action. EJA requested that I revoke the original referral decision and substitute a new decision under section 75(1) of the EPBC Act, listing all MNES that it had identified as affected by climate change as controlling provisions.

26. EJA estimated the GHG emissions associated with the processing and combustion of the gas from the proposed action. It contended that, if the proposed action goes ahead, there is a real (as opposed to remote) chance that these GHG emissions will result in physical effects of climate change (fire, ocean heatwaves and acidification, drought, rainfall extremes and flooding) and, as a result, the proposed action will have, or is likely to have, a significant impact on a number of MNES.

27. EJA analysed documents that referred to climate change and its effects on MNES with reference to certain reports on climate change by authoritative national and international organisations. EJA outlined its methodology and collated its findings in Annexure 2 of its reconsideration request. I noted that some of the key findings are:

    a. The *Working Group I contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, *Climate Change 2021: The Physical Science Basis*, establishes unequivocally that human actions have caused a global temperature increase.

    b. The frequency, severity and duration of extreme fire weather conditions have increased in southern and eastern Australia. Extreme fire weather in 2019/2020 was at least 30% more likely than a century ago due to climate change (IPCC WGII Report).

c. Rising sea surface temperatures have exacerbated marine heatwaves, notably near Western Australia in 2011, the Great Barrier Reef in 2016, 2017 and 2020, and the Tasman Sea in 2015/2016, 2017/2018 and 2018/2019 (IPCC WGII Report).

d. The oceans around Australia are acidifying — the average pH of surface waters has decreased since the 1880s by about 0.1, representing an over 30% increase in acidity. These changes have led to a reduction in coral calcification and growth rates on the Great Barrier Reef (IPCC WGII Report; Commonwealth Scientific and Industrial Research Organisation and Bureau of Meteorology, *State of the Climate 2020*).

e. Climate change will result in more drought in southern and eastern Australia (IPCC WGII Report).

f. Extreme rainfall intensity in northern Australia has been increasing (IPCC WGII Report).

g. The world's governments plan to produce more than twice the amount of fossil fuels in 2030 than would be consistent with limiting warming to 1.5°C (*United Nations Environment Programme, The Production Gap: 2021 Report*).

h. All global modelled pathways that limit warming to 1.5°C with no or limited overshoot, and those that limit warming to 2°C, involve rapid and deep and in most cases immediate GHG emission reductions in all sectors (*IPCC WGIII Report, Summary for Policy Makers*).

i. As part of further climate change, more extreme fire weather in southern and eastern Australia can be expected (*high confidence*) (IPCC WGII Report).

j. In southern Australia, some forest ecosystems (alpine ash, snow gum woodland, pencil pine and northern jarrah) are projected to transition to a new state or collapse due to hotter and drier conditions with more fires (IPCC WGII Report).

k. Future ocean warming, coupled with periodic extreme heat events, is projected to lead to the continued loss of ecosystem services and ecological functions (*high confidence*) (IPCC WGII Report).

28. The reconsideration request stated that, in order to demonstrate the likely significant impacts of climate change on MNES, EJA reviewed and analysed authoritative sources of information relevant to the protection of MNES. The material included conservation advices, listing advices, management plans, information from the department's Species Profile and Threats database (**SPRAT**), Ecological Character Descriptions for Ramsar Wetlands, World Heritage State Party Reports, International Union for the Conservation of Nature (**IUCN**) Conservation Outlook Assessments for World Heritage properties, management plans for National Heritage places, Commonwealth marine environment report cards and bioregional plans – referred to by EJA as **source material**.

29. EJA subjected this source material to a code-driven, text-mining process that identified statements that appear to acknowledge the impacts of climate change. The code was prepared by Dr Isaac Peterson. A subsequent search was performed to identify statements on the impacts of fire, which EJA stated was a specific focus because of the directness of its impacts on MNES and because of its particular significance for the Australian environment. The outcome of the text-mining process was reviewed by EJA reviewers to confirm each search result was relevant, in the sense of conveying the idea that a value, property or other

aspects of an MNES is, will be, or will potentially be vulnerable to or impacted by climate change or the physical effects of climate change. The review process was also used to enable EJA to identify any gaps, incoherence or formatting errors in the results produced by the code.

30. EJA's findings from its text-mining process were that climate change is likely to impact the following MNES:

    a. the world heritage values of declared World Heritage properties

    b. the National Heritage values of National Heritage places

    c. the ecological character of declared Ramsar wetlands

    d. listed threatened species in the critically endangered category

    e. listed threatened species in the endangered category

    f. listed threatened species in the vulnerable category

    g. listed threatened ecological communities in the critically endangered category

    h. listed threatened ecological communities in the endangered category

    i. listed threatened species (other than a species included in the extinct category or a conservation dependent species) and listed threatened ecological communities (other than an ecological community in the vulnerable category)

    j. listed migratory species

    k. the environment in a Commonwealth marine area (containing listed marine species)

    l. the environment in the Great Barrier Reef Marine Park.

31. EJA's findings included that climate change decreases habitat availability by increasing fragmentation, changes species' distribution, facilitates the spread of invasive species, increases erosion rates, and decreases water quality. EJA's conclusions about the impact of climate change on MNES from this process are discussed further under the Protected Matters heading below.

32. EJA sought from Professor Lesley Hughes, a Distinguished Professor of Biology and Interim Executive Dean at Faculty of Science and Engineering at Macquarie University, an independent expert opinion on the analysis and conclusions in the reconsideration request. Professor Hughes' opinion is that the material used by EJA and EJA's analysis of that material supports the following propositions:

    a. There is a real (as opposed to a remote) chance that a consequence of continued emission of GHG emissions into the atmosphere — including through the combustion of coal and/or gas — will be an increase in the regularity, scope and intensity of climate hazards (such as fire, heat extremes, marine heatwaves and ocean acidification, heavy precipitation and flooding, and drought).

    b. There is a real (as opposed to a remote) chance that those events (or one or more of them) will adversely affect the following MNES:

        i. the world heritage values of declared World Heritage properties

ii. the National Heritage values of National Heritage places

iii. the ecological character of declared Ramsar wetlands

iv. listed threatened species in the critically endangered category

v. listed threatened species in the endangered category

vi. listed threatened species in the vulnerable category

vii. listed threatened ecological communities in the critically endangered category

viii. listed threatened ecological communities in the endangered category

ix. listed threatened species (other than a species included in the extinct category or a conservation dependent species) and listed threatened ecological communities (other than an ecological community in the vulnerable category)

x. listed migratory species

xi. the environment in a Commonwealth marine area (containing listed marine species)

xii. the environment in the Great Barrier Reef Marine Park.

33. EJA also sought from Professor David Karoly, an honorary Professor in the School of Geography, Earth and Atmospheric Sciences at the University of Melbourne, an expert report on the analysis and conclusions on the climate system and the physical impacts of climate change in the reconsideration request. Professor Karoly's opinion is that the material used by EJA and EJA's analysis of that material supports the following propositions:

a. There is an approximately linear relationship between anthropogenic carbon dioxide (**CO_2**) emissions and global temperature, such that every tonne of CO_2 emissions adds to global warming. Reaching net zero anthropogenic CO_2 emissions is a requirement to stabilise human-induced global temperature at any level.

b. Limiting human-induced global warming requires deep reductions in CO_2 and other GHG emissions (compared to historical and present rates) in the coming decades. The modelled pathways for limiting global warming necessitate drastic cuts to the use of fossil fuels and require a substantial amount of fossil fuels to remain unburned.

c. Human-induced climate change will cause unavoidable increases in multiple climate hazards in Australia, including fire, heat extremes, marine heatwaves and acidification, heavy precipitation and flooding and drought. These physical effects become larger in direct relation to increased global warming.

d. There is a real (as opposed to a remote) chance that a consequence of continued emission of GHG emissions into the atmosphere — including through the combustion of coal and/or gas — will be an increase in the regularity, scope and intensity of climate hazards (such as fire, heat extremes, marine heatwaves and ocean acidification, heavy precipitation and flooding, and drought).

e. There is a real (as opposed to a remote) chance that those events (or one or more of them) will adversely affect the following MNES:

e. the world heritage values of declared World Heritage properties

e. the National Heritage values of National Heritage places

e. the ecological character of declared Ramsar wetlands

e. listed threatened species in the critically endangered category

e. listed threatened species in the endangered category

e. listed threatened species in the vulnerable category

e. listed threatened ecological communities in the critically endangered category

e. listed threatened ecological communities in the endangered category

e. listed threatened species (other than a species included in the extinct category or a conservation dependent species) and listed threatened ecological communities (other than an ecological community in the vulnerable category)

e. listed migratory species

e. the environment in a Commonwealth marine area (containing listed marine species)

e. the environment in the Great Barrier Reef Marine Park.

34. Professor Karoly also considered that additional material is likely to strengthen the analysis in Annexure 2 of the reconsideration request. Professor Karoly stated that:

a. One of the key risks provided in *IPCC Sixth Assessment Report Working Group II Fact Sheet – Australasia: Climate Change Impacts and Risk* is the "Inability of institutions and governance systems to manage climate risks (high confidence)", which is of particular relevance to this case.

b. There is an additional climate hazard - sea level rise and extreme sea level and storm surge events - that is increasing in frequency and intensity due to climate change along all Australian coasts. Coastal inundation associated with this climate hazard is likely to have major impacts on coastal ecosystems and coastal wetlands.

c. The State of the Environment 2021 Report (**SOE Report**) (which had not been published at the time Professor Karoly provided his report) was likely to supplement the material in Annexure 1 and Annexure 2 but was unlikely to change any of the propositions.

35. EJA's supplementary letter dated 11 August 2022 referred to the SOE Report as additional information to support its request of 8 July 2022. In that supplementary letter, EJA highlighted the following from the SOE Report as key findings relevant to the reconsideration requests:

a. Warming of the Australian climate, and associated changes in the climate system, are driven by increased concentrations of greenhouse gases in the atmosphere. Changes to the climate are inevitable, based on greenhouse gases that have

already been emitted, but further changes in the second half of the 21st century will depend on the level of future global emissions.

b. The intensity and frequency of extreme weather-related events – including heatwaves, droughts, bushfires and floods – are changing. Ongoing increases in land and sea temperatures across Australia driven by climate change have coincided with multiple extreme weather events, devastating impacts on many of Australia's unique natural ecosystems and caused the death of many individuals of many species.

c. Pressures on Australian biodiversity have not improved since the 2016 State of the Environment Report and outcomes for species and ecosystems are generally poor. Multiple pressures are interacting to amplify threats to biodiversity, and abrupt changes in ecological systems that are occurring. In particular, climate change and associated extreme events, compounded by other pressures, have had a major impact on biodiversity over the past 5 years, with consequences likely to be evident for many years to come. Many species and ecosystems will require their status to be assessed or reassessed in the coming years, and urgent recovery actions will be needed to avert extinction.

d. Climate change (affecting water temperature, salinity, acidification, circulation and ocean nutrients) remains one of the pressures with the highest impact on the Australian marine environment. Substantial and widespread degradation of Australia's marine environmental values is expected if the pressures identified in the SOE Report are not addressed.

36. I noted that the department has also considered the SOE Report and identified additional relevant themes:

a. Climate change is seen as one of the most significant threats to the Outstanding Universal Value of World Heritage properties globally. Identified climate change-related impacts to Australian World Heritage properties in the last 5 years include: bushfires which cause loss of vegetation and other landscape impacts, mass coral bleaching events, significant seagrass dieback and marine ecosystem changes, increased drying, vegetation community decline, increased habitat reduction, changes to saltwater and freshwater wetlands, increased wetness and more waterway sedimentation due to intense wet events after drought.

b. A 2016 national review of National Heritage places (Wildlife Heritage & Marine Division 2017) found that 67% of National Heritage places experienced climate change pressures.

c. The *Great Barrier Reef Marine Park Authority Outlook Report* (2019) identified the main threat to the Great Barrier Reef as climate change. Marine heatwaves have been associated with coral bleaching on the Great Barrier Reef in successive years, resulting in impaired recruitment and recovery of reefs. Before 2016, only 2 mass coral bleaching events had occurred in the Great Barrier Reef. Following the bleaching event of 2016, there were further mass bleaching events in 2017 and 2020. Projections reported by the IPCC indicate that coral reefs are expected to decline globally by a further 70-90% (relative to 2015) at 1.5°C global warming, and by more than 99% at 2°C global warming.

d. Threats to migratory seabirds include the redistribution of their prey in response to climate change and the southwards movement of some species due to climate change.

e. Ramsar wetlands are vulnerable to further hydrological changes and drying under future climate change scenarios. Drought conditions, in conjunction with increased consumptive water use, result in a decrease in flows into wetlands and reduction in inundation. The *2019 Aerial Survey of Wetland Birds in Eastern Australia* (Porter et al. 2019) found that the wetland area index was the lowest since surveys began in 1983.

37. In addition to the material in EJA's request, in making my decision I also considered the *Sixth Assessment Report* (**AR6**) *Synthesis Report: Climate Change 2023* released by the IPCC on 20 March 2023. This report synthesises the findings from the IPCC's earlier reports on climate science, impacts and adaptation, and mitigation of climate change, including in relation to the contribution of GHG emissions from fossil fuel infrastructure.

38. I took into account both the pre-final-publication versions of the IPCC WGII and WGIII Reports and the final consolidated versions of those reports in making my decision and noted that the department had done the same in preparing my brief.

39. In EJA's further supplementary letter dated 29 April 2024, EJA provided further material in support of its reconsideration request. The enclosed material included:

a. the *2023 IEA's Net Zero Roadmap: A Global Pathway to keep the 1.5°C Goal in Reach*. This report includes data and analysis that maps out a pathway for the global energy sector to achieve net zero CO_2 emissions by 2050 and play its part in achieving the 1.5°C goal;

b. the *IEA's World Energy Outlook 2023*. The report revises its 2022 projections in its stated policies scenario on the direction of the energy economy, based on the actual state in different sectors, countries and regions; and

c. an Expert report by Ms Rachel Wilson, dated 26 April 2024. This report provides an opinion from an economist with expertise in the electricity and fossil fuels markets and modelling, that supports the substitution submission made in the reconsideration requests. I noted that Ms Wilson's opinions include that "one cannot know with a level of certainty or confidence that any particular forecast will be correct to 2050, as to either coal or gas markets, and that similarly it is "unknowable" what will be the effect or removal of a particular supply or coal or gas from the coal or gas markets".

40. EJA noted in its letter that it had already provided 2022 versions of the IEA reports in Annexure 1 of the reconsideration request. I considered both the newer and older versions of the IEA reports in making my decision, in addition to the Expert report of Ms Rachel Wilson.

Submissions and consultation

41. Under section 78B of the EPBC Act, public comment on the reconsideration request was invited for 15 business days from 3 November to 24 November 2022 and comments were also sought from the proponent and relevant State and Commonwealth Ministers, as described at [16] to [18] above.

42. I took into account the public comments, proponent comments and comments from relevant State and Commonwealth Ministers which are summarised below.

Commonwealth Ministers

43. On 3 November 2022, in accordance with section 78B(4) of the EPBC Act, the following Commonwealth Ministers were informed of the reconsideration request and invited to give the department, within 15 business days, information about whether a matter referred to in any of paragraphs 78(1)(a) to (ca) of the EPBC Act was applicable in relation to the proposed action:

    a. Minister for Indigenous Australians, Senator the Hon Malarndirri McCarthy
    b. Minister for Agriculture, Fisheries and Forestry, the Hon Julie Collins MP
    c. Minister for Climate Change and Energy, the Hon Chris Bowen MP
    d. Minister for Science, Senator the Hon Tim Ayres
    e. Minister for Resources and Minister for Northern Australia, the Hon Madeleine King MP
    f. Minister for Infrastructure, Transport, Regional Development and Local Government, the Hon Catherine King MP
    g. Minister for Industry and Innovation, Senator the Hon Tim Ayres.

44. On 24 November 2022, a representative of the National Indigenous Australians Agency responded on behalf of the Minister for Indigenous Australians and noted that they had no comment on the reconsideration request.

45. On 24 November 2022, a representative of the Department of Agriculture, Fisheries and Forestry responded on behalf of the Minister for Agriculture, Fisheries and Forestry and noted that they had no comment on the reconsideration request.

46. On 28 November 2022, a representative of the Department of Climate Change, Energy, the Environment and Water responded on behalf of the Minister for Climate Change and Energy and noted that they had no comment on the reconsideration request.

47. On 9 December 2022, the Minister for Industry and Science responded that he had no comment on the reconsideration request.

48. On 13 December 2022, a representative of the Department of Industry, Science and Resources (DISR) responded on behalf of the Minister for Resources and Minister for Northern Australia and noted (also referring to the other projects subject to EJA's reconsideration request of 8 July 2022):

    a. DISR supports the sustainable development of all resource projects where they are conducted in compliance with relevant environmental protection legislation. The support of DISR for the original assessment of projects was subject to the proponent obtaining the relevant environmental approvals, required by State and Commonwealth agencies. New information provided in the reconsideration requests does not alter the original conditional support of DISR toward the reconsidered projects.

49. On 14 December 2022, a representative of the Department of Infrastructure, Transport, Regional Development, Communications and the Arts responded on behalf of the Minister for Infrastructure, Transport, Regional Development and Local Government and stated that they had no comment on the reconsideration request.

State Ministers

50. On 3 November 2022, in accordance with section 78B(5) of the EPBC Act, the WA Minister for Environment and Climate Change, the Hon Reece Whitby MLA, was informed of the reconsideration request and invited to give, within 15 business days, comment on whether a matter referred to in any of paragraphs 78(1)(a) to (ca) of the EPBC Act was applicable in relation to the proposed action, and any other information they considered relevant to the reconsideration.

51. A late response was received from the Director General of the WA Department of Water and Environmental Regulation, Ms Michelle Andrews on 22 December 2022. The response noted that the WA Government considers that the environmental assessment of the North West Shelf Project Extension (EPA reference 2186, DWERA-001891/5) is complete for the purposes of the WA EP Act. The response also noted that a final decision on whether or not to approve the project under the EP Act has not yet been made. A proposed WA approval for the project is currently undergoing an appeals process through the WA Appeals Convenor.

Public submissions

52. As required under section 78B(6) of the EPBC Act, the reconsideration request was published on the department's public internet portal on 3 November 2022. Public comments on whether a matter referred to in any of paragraphs 78(1)(a) to (ca) was applicable in relation to the action were invited for 15 business days, from 3 November 2022 to 24 November 2022.

53. The department received 2,614 comments through its public portal.

54. On the public portal, members of the public were invited to respond to the five prompts set out in Table 1 below.

Table 1: Public comment questions and response options

Question Number	Question	Response Options
1	Do you consider there is substantial new information available about the impacts the action has, will have or is likely to have on a matter protected under Part 3* of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act)?	Yes/No or Blank
2	Provide reasons for your answer and/or any comments below.	Text Comment or Blank
3	Do you consider there has been a substantial change in circumstance that was not foreseen at the time of the first referral decision and that relates to the impacts the action has, or will have or is likely to have on a matter protected under Part 3* of the EPBC Act?	Yes/No or Blank

4	Provide reasons for your answer and/or any comments below.	Text Comment or Blank
5	If applicable, provide any other comments on whether you consider there are reasons to revoke the first referral decision and substitute a new decision. This may include any other comments on whether a matter referred to in any of paragraphs 78(1)(a) to (ca) of the EPBC Act applies in relation to the action. *(The current version of the EPBC Act can be accessed through the department's website).	Text Comment or Blank

Question 1: Do you consider there is substantial new information available about the impacts the action has, will have or is likely to have on a matter protected under Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act)?

55. The department received the following responses in relation to Question 1:

- Yes – 2321 responses
- No – 76 responses
- Blank – 217 responses

Question 2: Provide reasons for your answer and/or any comments below.

56. The department received the following responses in relation to Question 2:

- Comment – 2417 responses
- Blank – 197 responses

57. I noted that the public comments raised similar issues to public comments the department received in relation to other reconsiderations requests made by EJA. Respondents who answered 'Yes' in response to Question 1 made comments summarised as follows:

a. the reconsideration request includes information that is new and substantial because it did not exist when the first decision was made or was not before the decision maker when the first decision was made;

b. information about the climate change-fuelled 2019-20 bushfires and the impacts on species, communities and other protected areas was not available when the first decision was made;

c. the reconsideration request includes recent, factual and scientific information about climate change from documents such as IPCC reports and the 2021 State of the Environment Report;

d. the project will increase GHG emissions which will accelerate climate change and extreme weather events such as floods and droughts;

e. the reconsideration request includes information that details the climate change-related impacts of the proposed action on MNES;

f. the Minister is required to take into account the precautionary principle when assessing fossil fuel projects;

g. the government's newly legislated emissions targets mean that the impacts of this project should be re-assessed;

h. the proposed action should not proceed;

i. the proposed action will affect culturally significant areas or species, over which Indigenous people should have sovereignty;

j. undertaking the proposed action would contravene international agreements and conventions, be morally irresponsible, and would lessen Australia's international reputation;

k. the government's policies are inadequate to deal with climate change;

l. Australia should move away from fossil fuels to ensure resource sustainability, social and economic stability, and to safeguard the planet for future generations;

m. the approval of the proposed action would be inconsistent with scientific advice and would result in global warming exceeding 1.5°C in global temperature with catastrophic results, some of which are irreversible;

n. the current environmental assessment system is inadequate to consider climate change;

o. the project will contribute to damage to the Great Barrier Reef, Ningaloo Reef, alpine environments, Ramsar wetlands and other protected ecological areas;

p. the project will directly and indirectly impact threatened species including marine megafauna, birds, terrestrial species and freshwater species;

q. more gas extraction is not needed because alternative technologies are increasingly available and economically viable;

r. allowing the project to proceed raises concerns about the integrity of the government;

s. the project affects Murujuga rock art, undermines broader Indigenous heritage and the rights of Indigenous peoples; and

t. the project will contribute to sea level rise, impacting fragile coastal ecosystems and Pacific Islands nations.

58. The respondents who answered 'No' in response to Question 1 made comments summarised as follows:

a. GHG emissions have historically been underestimated by fossil fuel companies, and carbon capture is ineffective;

b. gas and oil exploration has become safer for the marine environment, and the benefits of cheap energy and a strategic advantage outweigh local environmental damage; and

c. massive profits by extraction companies produce minimal returns for the Australian people in terms of tax and royalties.

Question 3: Do you consider there has been a substantial change in circumstance that was not foreseen at the time of the first referral decision and that relates to the impacts the action has, or will have or is likely to have on a matter protected under Part 3 of the EPBC Act?

59. The department received the following responses in relation to Question 3:

- Yes – 552 responses
- No – 1668 responses
- Blank – 394 responses

Question 4: Provide reasons for your answer and/or any comments below.

60. The department received the following responses in relation to Question 4:

- Comment – 1586 responses
- Blank – 1028 responses

61. I noted that the public comments raised similar issues to public comments the department received in relation to other reconsiderations requests made by EJA. Respondents who answered 'Yes' to Question 3 made comments summarised as follows:

a. the project affects Murujuga rock art, undermines broader Indigenous heritage and the rights of Indigenous peoples;

b. the NWS project will have significantly adverse impacts on thousands of MNES, as outlined by the Environmental Council of Central Queensland (**ECCQ**), due to its contribution to climate change via cumulative GHG emissions;

c. project approval is incompatible with the goal to achieve net-zero emissions;

d. the NWS project is the largest industrial emitter in WA;

e. if allowed to continue running until 2070, the facility will produce 4.3 billion tonnes of emissions. This is approximately 8 times Australia's annual emissions, as reported to the UNFCCC in 2021;

f. every tonne of carbon dioxide emitted accelerates climate change;

g. the material is 'substantial new information' that details new impacts of MNES: key species, ecological communities, and world heritage places (sic); and

h. Australia is already leading the world in mammal extinctions.

62. Respondents who answered 'No' for Question 3 made comments summarised as follows:

a. not applicable (N/A);

b. the reconsideration requester is not relying on this argument for their legal intervention;

c. the reconsideration request provided substantial new information;

d. there is less room to ignore scientific evidence now that climate effects are being witnessed;

e. fossil fuel impacts have been known for decades;

f. this form of resource mining and process is not new and the technical risks and the damage that's done through the process are known and are unacceptable; and

g. alternative energy sources should be considered because gas is a finite resource, and money needs to be invested into sustainable energy sources.

Question 5: If applicable, provide any other comments on whether you consider there are reasons to revoke the first referral decision and substitute a new decision. This may include any other comments on whether a matter referred to in any of paragraphs 78(1)(a) to (ca) of the EPBC Act applies in relation to the action.

63. The department received the following responses in relation to Question 5:

- Comment – 1658 responses
- Blank – 956 responses

64. The majority of the responses made comments similar to those in Questions 2 and 4, and raised similar issues to public comments received in relation to other reconsideration requests made by EJA, and also raised the following issues

a. climate change is having impacts on people's physical and mental health;

b. concern about climate change impacts on the Great Barrier Reef, Ningaloo Reef and other protected areas;

c. there should be no new gas or coal projects;

d. the Samuel Review outlines that cumulative impacts and future challenges like climate change are not effectively considered under the EPBC Act;

e. climate change impacts other countries; such as our Pacific neighbours;

f. humanity must be considered before economic profits;

g. there is a lack of support and funding for Australian environmental research;

h. the capacity for the Australian environment and its people to recover from climate change effects is diminishing;

i. decarbonising our economy is the future, no more "business as usual";

j. "every emission counts" – feelings of shame/guilt/stress about Australia's role in accelerating climate change;

k. scope 3 emissions need to be included in reporting;

l. extreme weather events – bushfires, flood, drought; and

m. negative effects will be worsened as a direct result of the project.

Other public comments received

65. Three additional public submissions relating to EJA's 18 reconsideration requests were submitted through the online portal for another project (EPBC 2022/09393) which was open for comment on a referral. The submissions were made during the public comment period for EJA's 18 reconsideration requests, and I have taken them into account.

Public comments – made directly to Minister Plibersek

66. In addition to the above public comments, members of the public also wrote directly to Minister Plibersek regarding the proposed action or generally concerning EJA's 18 reconsideration requests. These comments were provided outside of the department's formal public comment process. Of these submissions, one did not agree with the premise of the reconsideration request, noting, in summary:

    a. Fossil fuel production supports the Australian economy; and

    b. Select evidence does not support decarbonisation.

67. The remaining 24 direct submissions either supported the reconsideration request and/or considered the proposed action should not proceed. The submissions made comments similar to those discussed in paragraphs [576157, 61 and 6464] and also raised the following additional concerns summarised as follow:

    a. food and water security and accessibility;

    b. Indigenous cultural heritage and sacred site protection;

    c. wildlife and animal welfare; and

    d. loss of homes and potential inability to access insurance.

68. EJA (on behalf of the ECCQ) also made a submission to Minister Plibersek on 24 November 2022 on the 18 reconsideration requests. The submission referred to the International Energy Agency (**IEA**) *World Energy Outlook 2022* which provides an update to the IEA's *Net Zero by 2050 – A Roadmap for the Global Energy Sector Emissions by 2050* (**NZE 21**). In particular, EJA noted that the update to the NZE 21 confirms previous scenarios presented by the IEA and IPCC, being that deep reductions are required in coal and gas markets to meet temperatures below 1.5°C, and those markets do not require the approval of long lead-time gas projects or any new coal mines or coal mine extensions. It also noted that the update to the NZE 21 confirms that:

    a. If the proposed action (or any of the other Proposed Projects, being the proposed action and the other projects also subject to EJA's reconsideration request of 8 July 2022) is assumed to be approved and exist, then, at minimum, emissions resulting from the extraction of coal and gas from the proposed action would result in reaching a minimum temperature which is above 1.5°C. Less harmful scenarios cannot occur in a future with any of the Proposed Projects.

    b. In order to achieve the updated NZE 21 scenario, total energy supply of coal has already peaked, and total energy supply of natural gas will peak by 2030. In light of this, the demand for the coal or gas that would be extracted pursuant to each of the Proposed Projects (being the proposed action and the other projects also subject to EJA's reconsideration request of 8 July 2022) is not fixed and it cannot be said that

the impacts will necessarily be the same in a future without the Proposed Project as they would be in a future with it.

c. There are many scenarios (and other technically feasible scenarios which have been validated by the IPCC AR6 Working Group III) which cannot be achieved with input assumptions equivalent to the projected future supply of coal or gas entailed by the 18 Proposed Projects.

69. In making my decision, I took into account the public submissions that were made directly to me as well as those received through the public portal.

Proponent comments

Proponent's submission on the reconsideration request

70. On 3 November 2022, in accordance with section 78B(2) of the EPBC Act, the proponent was invited to comment on the reconsideration request.

71. On 31 January 2023, the proponent provided its response to the invitation to comment.

72. The proponent responded that:

a. The Minister should not revoke the Delegate's Decision because the Reconsideration Request does not comply with the requirements of section 78A(2) of the EPBC Act, and Regulation 4AA.01 of the *Environment Protection and Biodiversity Conservation Regulations 2000 (Cth)*. There is no 'substantial new information' concerning impacts to MNES; and

b. The proponent requests the opportunity to review, and provide further submissions, on any information provided in response to the public invitation, should the Minister intend to revoke and substitute the controlled action decision on the basis of new information.

73. In particular, the proponent submitted that the information in the reconsideration request does not relate to the proposed action, as the information is directed to continued cumulative global greenhouse gas emissions and not the potential adverse impacts of the proposed action.

Request for further information on GHG emissions from the proponent

74. On 10 November 2022 the department sent the proponent a RFI on the GHG emissions associated with the proposed action. The RFI requested information on:

a. scope 1, 2, and 3 emissions associated with the proposed action;

b. emissions management; and

c. consumers of end-product extracted as part of the proposed action.

75. The RFI sought that GHG emissions estimates should be aggregated in million tonnes carbon dioxide equivalent (**Mt CO_2-e**) and defined GHG by reference to section 7A of the *National Greenhouse and Energy Reporting Act 2007* (Cth) (**NGER Act**). It also defined

scope 1, 2 and 3 GHG emissions by reference to the department's National Greenhouse Accounts Factors workbook, [1] which categorises emissions as follows:

a. Scope 1 – direct emissions which are produced from sources within the boundary of an organisation and as a result of that organisation's activities (e.g. fugitive emissions from gas production).

b. Scope 2 – indirect emissions which occur outside of the boundary of an organisation from the generation of electricity that is consumed by the organisation.

c. Scope 3 – indirect emissions, other than electricity, which occur outside of the boundary of an organisation as a result of actions by the organisation (e.g. regasification and burning of the product gas from the proposed action by a third party to make steel or generate electricity).

Response to RFI Question 1: Scope 1, 2, and 3 emissions associated with the proposed action

76. On 31 January 2023, the proponent responded to the department's RFI about the projected emissions associated with the proposed action. I noted that the department reviewed the information provided and sought clarification on the proponent's response. The proponent resubmitted their response to the RFI on 4 September 2023.

77. The proponent identified the activities resulting in scope 1, 2 and 3 GHG emissions associated with the proposed action. In the proponent's response, scope 1 and scope 2 emissions are counted together because scope 2 emissions are relatively miniscule (only 0.002 Mtpa) (0.1% of scope 1 and 2 project emissions). Scope 2 emissions associated with the proposal will arise from electricity consumption at the King Bay Supply Base, which is a separate facility to the KGP. Scope 1 emissions from the proposed action are expected to occur through:

a. use of gas turbine compressors (needed to cool and liquefy natural gas) (53.1%);

b. use of acid gas removal (needed to remove CO2, methane and other volatile organic compounds from natural gas) (23.4%);

c. electricity generation (needed to power the KGP) (15.7%);

d. flaring (needed to ensure worker and plant safety by burning unexpected surges of gas) (2.8%);

e. use of furnaces (needed to supply hot water for stabilising condensate) (4.8%); and

f. fugitive emissions (small emissions of gas to the atmosphere from incidental activities) (0.1%).

78. The scope 3 emissions derive from the combustion of saleable product gas by third parties within Australia (13%) and overseas (87%). The proponent notes that the contribution from Australia is due to the legislative requirements of Western Australia's Domestic Gas Policy, which requires 15% of gas developed to be provided for the domestic market. Subsequently, the scope 3 emissions within Australia will be variable based on production. For the purposes of the assessment, maximum extraction has been considered.

[1] Available at https://www.dcceew.gov.au/climate-change/publications/national-greenhouse-accounts-factors.

79. The proponent quantified the total and average annual estimated scope 1, 2 and 3 GHG emissions associated with the proposed action, within and outside Australia, as set out in Table 2 below. The proponent states that scope 1 and scope 2 emissions represent approximately 8.76% of total projected emissions from the proposed action. The majority of the emissions associated with the proposed action are scope 3 (approximately 91.24% of total projected emissions from the proposed action).

Table 2: Proponent's estimate of GHG emissions associated with the proposed action (Mt CO_2-e)

	Scope 1 and 2	**Scope 3**		**Total (Scope 1, 2 & 3)**	
	Australia	Australia	Overseas	Australia	Globally (includes Aust.)
Annual average	7.70	10.38	69.81	18.08	87.89
Total	385	519	3490.5	904	4394.31

80. The proponent also advised that the proposed action's *total average annual* emissions (scope 1, 2, and 3) *within Australia* represent 3.63% of Australia's estimated annual national emissions from the Paris Agreement inventory for the 2020 reporting year, which was the latest year with reported data available at the time. The department advised that 2022 data is now available and estimated, based on the latest reported data, that the proposed action's *total average annual emissions* (scope 1, 2, and 3) *within Australia* represent 4.18% of Australia's estimated annual national emissions.

81. Further, the proponent advised that the proposed action's *total average annual* emissions (scope 1, 2 and 3) *within Australia and outside Australia combined* represent 0.183% of global emissions (measured in CO_2-e) in 2019, which was the latest year with reported data available at the time. The department advised that 2021 data is now available and based on the latest reported data the department estimated that the proposed action's *total average annual emissions* (scope 1, 2 and 3) *within Australia and outside Australia combined* represent 0.177% of 2021 global emissions.

Response to RFI Question 2: Emissions Management

82. The proponent also advised the department of the measures that are proposed to avoid, reduce and monitor emissions associated with the proposed action, including:

    a. annual measurement and reporting of actual GHG emissions from the KGP;

    b. requirements under the Western Australian government's legislation, which includes compliance with the proposed action's North West Shelf Extension Proposal GHG Management Plan, or a revised version of this plan, which contains the following avoidance and management measures that had at that time received a proposed approval by the Chair of the Western Australian Environmental Protection Authority, Professor Matthew Tonts: [2]

[2] On 12 December 2024, the WA Minister for Environment approved the proposal subject to conditions under the WA *Environment Protection Act 1986*. Under the WA approval, the proponent is not required to implement this plan in its current form or a revised form following the updated WA greenhouse gas emissions policy for major projects on 15 October 2024.

i. the proponent will reduce GHG emissions according to incremental targets every 5 years to percentages below the existing project emissions baseline (15% below in 2025; 30% below in 2030; 47% below in 2035; 65% below in 2040; 82% below in 2045; net zero by 2050);

ii. the Western Australian government's then proposed approval requires 12-monthly reviews and revisions (improvements) to GHG emissions targets set out in the GHG Management Plan, which include engaging an independent reviewer and other revisions that involve consultation with the Murujuga Aboriginal Corporation of the Burrup Peninsula area; and

iii. separate to the GHG Management Plan likely to be required by a final approval by the Western Australian government, the Western Australian government has also taken steps to legislate a net zero by 2050 target, and the proponent would be required to meet this in addition to federal targets.

c. compliance with all Commonwealth requirements to reduce, avoid and monitor GHG emissions, including the Safeguard Mechanism;

d. undertaking 5-yearly assessments of emissions reduction technologies from 2025 onward that could be implemented to reduce GHG emissions, and where adopted, these new measures are to be incorporated in a report submitted to the Western Australian government for approval, which must be implemented if approved; and

e. the 5-yearly reporting from 2025 just mentioned also includes requirements for the proponent to report the type, quantity, identification or serial number, and date of retirement or cancellation of any authorised carbon offsets (such as Australian Carbon Credit Units) which have been retired or cancelled and which have been used to offset proposal emissions. [3]

Response to RFI Question 3: Consumers of end-product

83. I noted that, each likely consumer country is a party to the Paris Agreement.

84. I noted that countries to which the gas is currently or likely to be exported have announced or adopted domestic laws and policies to achieve their targets to reduce their GHG emissions as set out in their nationally determined contributions (**NDCs** – being emissions reduction commitments), set out in Table 3 below.

[3] The Western Australian government's proposed approval conditions apply these requirements to reservoir emissions, but this is obsolete under the recent 2023 changes to the federal Safeguard Mechanism whereby reservoir emissions cannot be offset, and under the final WA approval on 12 December 2024.

Table 3: The NDCs of each likely consumer country party to the Paris Agreement

Country/Jurisdiction	NDC
Australia	Reduce national GHG emissions by 43% from 2005 levels by 2030. Achieve net zero emissions by 2050.
Japan	Reduce GHG emissions by 46% by 2030 from 2013 levels. Net zero commitment by 2050.
South Korea (ROK)	Reduce GHG emissions by 40% by 2030 from 2018 levels. Net zero commitment by 2050.
China	Reduce GHG emissions by 65% per unit of GDP by 2030 from 2005 levels. Net zero commitment by 2060.
EU	Reduce GHG emissions by 55% by 2030 from 1990 levels. Net zero commitment by 2050.

85. Under the Paris Agreement, the scope 3 emissions associated with the combustion of the gas are accounted for as scope 1 and 2 emissions in the consumer countries' respective inventories.

86. On 29 July 2024, the department sent an informal request for further information to the proponent to determine the proportion of gas to be supplied from the KGP to the domestic and global markets. On 30 August 2024, the proponent responded and stated that, as required by the North West Shelf State Agreement (**NWSSA**)[4],all resource owners who use the KGP have a domestic gas commitment agreement with the WA Government that requires them to provide a portion of LNG production in domestic gas. Additionally, the proponent stated that the Joint Venture partners in NWS are required to provide 15% of LNG as domestic gas under the NWSSA.

87. The proponent stated in their Environmental Review Document that the facility's maximum LNG production is 18.5 mtpa of LNG, which will not increase if the proposed action is approved. The proponent states that it is not possible to predict the exact volumes of domestic gas and LNG that may be processed through the KGP during the proposed project extension timeframe due to multiple variables including environmental approvals, which resource owners' gas will be processed, and the quantum of their respective domestic gas commitments. The amount of domestic gas and LNG figures provided by the proponent were based on the highest reported annual production rate during the 2013/14 to 2017/18 financial years (the five years preceding the Environmental Review Document). I noted that this is the maximum possible annual domestic gas production if KGP is operating at full capacity with no optimisation of facilities.

International and domestic initiatives, and frameworks for addressing climate change

88. In making my decision, I took into account the department's advice on the international and domestic initiatives, and frameworks for addressing climate change to the extent it was

[4] North West Gas Development (Woodside) Agreement Act 1979

relevant to whether there is substantial new information about the impacts that the action has or will have, or is likely to have, on a matter protected by a provision of Part 3. The following discussion reflects the department's advice on the relevant international and domestic initiative and frameworks for addressing climate change, which I accepted.

International gas initiatives

89. I noted that one of the primary concerns with the use of gas is the emission of methane. Methane is a greenhouse gas which absorbs heat 84 times faster than carbon dioxide over a 20-year period. During COP26, in November 2021, the Global Methane Pledge (GMP) was launched by the EU and the United States. The GMP seeks to reduce global methane emissions across all sectors by at least 30% below 2020 levels by 2030.

    a. China is the only country in Table 3 which has not joined the pledge. While four EU, four countries (Hungary, Latvia, Lithuania and Poland) have not joined the GMP.

    b. Australia joined the GMP in 2022.

90. The department advised that it is not aware of any existing natural gas or LNG specific initiatives aimed at reducing the volume of natural gas consumed globally. Rather, there is significant global development of LNG export projects.

91. The *Global Gas Security Review 2024* noted that the balance of domestic demand and supply has allowed Algeria from North Africa to increase exports, particularly as EU nations seek alternatives to Russian gas due to the sanctions. Nigeria is the top LNG exporter in Africa and is developing new gas pipelines to increase gas volumes available for LNG exports, expecting to add 5 bcm per year of liquefication capacity by 2026. The department notes that this is approximately equivalent to 3.675 Mtpa.

92. The Global Energy Monitor develops and analyses data on energy infrastructure, resources and uses. The department notes that each country listed above exports LNG into the Asian market. The LNG terminals data released in September 2024 notes that:

    a. The United States has 57 proposed export projects, 17 export projects in construction resulting in 274.9 Mtpa and 75.5 Mtpa respectively of LNG export capacity.

    b. Russia has 25 proposed export projects, 2 export projects in construction resulting in 255.5 Mtpa and 13.2 Mtpa respectively of LNG export capacity.

    c. Canada has 8 proposed export projects, 3 export projects in construction resulting in 36.8 Mtpa and 16.1 Mtpa respectively of LNG export capacity.

    d. Qatar has 2 proposed export projects, 6 export projects in construction resulting in 16.0 Mtpa and 49.0 Mtpa respectively of LNG export capacity.

International momentum behind the transition away from fossil fuels

93. The Global Stocktake, agreed at 28th Conference of the Parties (**COP28**) to the United Nations Framework Convention on Climate Change (**UNFCCC**), saw parties agree to transition away from fossil fuels in energy systems. This is the first time all parties to the

Paris Agreement have acknowledged the need to transition away from fossil fuels under the UNFCCC.

94. The Global Stocktake decision also called on parties to the Paris Agreement to triple renewable energy capacity globally and double the global average annual rate of energy efficiency improvements by 2030, and to accelerate efforts to transition away from fossil fuels in energy systems.

    a. Over 120 countries, including Australia, also signed the Global Pledge on Renewables and Energy Efficiency, which commits them to work together to triple the world's installed renewable energy generation capacity to at least 11,000 GW by 2030 and collectively to double the global average annual rate of energy efficiency improvements from around 2% to over 4% every year until 2030.

    b. Of the 5 export destinations in Table 3, Australia, Japan, ROK and all member states of the EU joined the Pledge.

Regional Action

95. The Asia-Pacific Energy Cooperation has set two energy goals through its Energy Working Group:

    a. To improve energy intensity by at least 45 percent by 2035 compared to 2005 levels;

    b. To double the share of modern renewables in the energy mix by 2030, relative to the numbers from 2010.

96. The Association of Southeast Asian Nations (**ASEAN**), while not having an emissions reduction target, does have the:

    a. *ASEAN Strategy for Carbon Neutrality*, which includes eight strategies to deliver the carbon-neutral journey;

    b. *ASEAN Plan of Action of Energy Cooperation,* which sets aspirational targets of 23% share of Renewable Energy in total primary energy supply, and 35% share of renewable energy in ASEAN installed power capacity by 2025.

97. The European Council and Parliament reached a provisional agreement on a new EU Regulation to reduce energy sector methane emissions in Europe and in global supply chains in November 2023.

    a. The regulation will oblige the fossil gas, oil and coal industry to properly measure, monitor, report and verify their methane emissions according to the highest monitoring standards, and take action to reduce them.

    b. The agreement now requires formal adoption by both the European Parliament and the Council. Once this process is completed, the new legislation will be published in the Official Journal of the Union and enter into force.

98. In 2023 the Asia Zero Emissions Community (**AZEC**) was launched by 11 partner countries to advance decarbonisation in Asia towards the goal of carbon neutrality while achieving economic growth and energy security. During the launch, the then Japanese Prime Minister Kishida said the community would 'create a huge new decarbonisation market in Asia.'

Through the AZEC, countries apply for Japanese funding for energy projects. Most approved projects have been fossil fuel-based technologies such as LNG, ammonia co-firing with coal plants and carbon capture and storage.

Japanese policies that may reduce demand for Australian gas

99. The department advised that there are no explicit statements from the Japanese government that they plan to completely phase out gas in their domestic energy system. However, Japan has clearly signalled a plan to reduce gas use in favour of renewable alternatives in their Outline of Strategic Energy Plan (**OSEP**).

    a. The OSEP involves reducing LNG for energy generation from 37% in 2019 to 20% in 2030, with concurrent increases in the adoption of nuclear and renewable energy for electricity generation.

    b. Under the OSEP, Japan 'will pursue the shift to natural gas on demand side and decarbonization of gas through methanation and other means, which play a significant role in decarbonizing heat demand. We will also work to further strengthen the resilience of gas.'

100. Similarly, in their First NDC (22 October 2021), they explained that, to meet their goal of net-zero by 2050, 'Japan will put forward all possible efforts in all areas including by thorough energy efficiency measures, maximum introduction of renewable energy, as well as decarbonization of public sectors and local communities.'

101. There are several policies in place that will reduce the use of fossil fuels. In December 2022, the Japanese government announced Japan's Green Transformation **(GX)** Strategy to drive economic growth and development through emissions mitigation. The GX Strategy is economy wide, covering the energy, transport, built environment, industry and finance sectors. The GX Strategy targets in the energy and industry sectors that will likely impact demand for Australian fossil fuels include:

    a. to reach 36-38% of renewable energy in the country's power mix by 2030

    b. to install 10GW of Offshore Wind Power and 104-118GW Solar Power by 2030

    c. to restart nuclear power and aim for 20-22% of country's power mix by 2030

    d. to establish successful cases of ammonia/ hydrogen co-firing by 2024, so as to support development of supply chain starting 2025, and to achieve lowered costs by 2030

    e. to expand supply of green steel to 10 million tonnes by 2030

    f. to cut 30% of CO_2 emission in steel industry from 2013 levels by 2030.

102. To assist in meeting these targets, the Japanese government has committed 20 trillion yen (about 140 billion US dollars) of government funding to the GX Strategy to realise, within the next ten years, a combined total investment of 150 trillion yen in green transformation, from both the public and private sectors. Some of this funding has so far been allocated to:

    a. Support for hydrogen, investment in hard to abate sectors, energy efficiency, next generation renewable energy technologies, start-ups and small and medium-size enterprises (SMEs) in green transformation sectors (13 trillion yen in total).

    b. Tax credits to support the production of green steel.

c. Subsidy scheme to cover the cost gap between low-carbon hydrogen (and its derivatives) and fossil equivalents.

103. In addition, an Emissions Trading Scheme will be implemented in phases from 2026 for sectors with high emissions; and from 2028, a Carbon Levy targeting fossil fuel importers such as power, oil and gas companies, will be introduced with a gradual increase to incentivise GX investments to reduce reliance on fossil fuels.

Korean policies that may reduce demand for Australian gas

104. The largest source of the ROK's annual GHG emissions is electricity and heat production (53%). Coal has traditionally been the largest energy source for electricity production in ROK (33%), followed closely by natural gas and nuclear power.

105. In the ROK's Enhanced Update of its First NDC (23 December 2021), they explained that 'aged coal power plants will be shut down or shift their fuels from coal to Liquified Natural Gas (LNG)' to meet their 2030 targets.

106. The ROK's 10th Basic Energy Plan for Electricity Supply and Demand, released in 2023, has set a target to reduce the share of gas-derived electricity.

107. The ROK plans that a third of its energy will come from hydrogen by 2050, over 80% of which will be imported.

108. Investment in renewables is focussed on solar, offshore and onshore wind. In 2021, the Framework Act on Carbon Neutrality and Green Growth for Coping with Climate Crisis was passed to strengthen policy measures to reduce GHG emissions using green technology and green industry.

Chinese policies that may increase demand for Australian gas

109. Natural gas and oil accounted for less than 4% of China's power generation, yet their consumption has been growing steadily, recording respective year-on-year increase rates of 7.2% and 9.1% in 2023. China holds the most LNG purchase agreements of any country.[5]

110. In China's Enhanced Update of its First NDC (28 October 2021) they explained that:

a. 'China will stringently curb coal-powered projects, set strict limitation on the increase in coal consumption over the 14th five year plan (FYP) period and to phase it down in the 15th FYP period. The large scale development of wind and solar power will be accelerated, hydro power in accordance with local condition will be developed, nuclear power will be advanced in an ordered manner with the premise of ensured safety, and peaking power including energy storage and gas-powered electricity will be stepped up rapidly.'

[5] Corbeau, A.-S. and Yan, S. (2022) *Implications of China's Unprecedented LNG-Contracting Activity, Center on Global Energy Policy*. Available at: https://www.energypolicy.columbia.edu/publications/implications-of-chinas-unprecedented-lng-contracting-activity/ Bloomberg (2023) *China's Taking Control of LNG as Global Demand Booms, Bloomberg Markets*. Available at: https://www.bloomberg.com/news/articles/2023-02-19/china-s-moving-to-take-control-of-liquefied-natural-gas-as-global-demand-booms

b. In Hong Kong 'in the energy sector, coal is gradually replaced by natural gas for electricity generation.'

c. In Macao 'the proportion of electricity generated using natural gas increased from 30.9% in 2008 to 72.6% in 2019' and they have introduced 'natural gas buses and electric taxis'.

111. Following their NDC, the Chinese Government released China's Policies and Actions for Addressing Climate Change (2022) that summarises China's progress in responding to climate change since 2021, including climate adaptation and mitigation approaches. The document identifies the need to optimise the energy mix by:

a. Vigorously developing non-fossil energy.

b. Enhancing clean utilisation of fossil energy.

c. Implementing strict controls on total energy consumption and implemented targeted measures to enhance flexibility in energy consumption.

112. China is rapidly scaling up electricity storage capacity. This has the potential to significantly reduce China's reliance on coal- and gas-fired power plants to meet peaks in electricity demand and to facilitate the integration of larger amounts of variable wind and solar power into the grid.[6]

113. China has made significant investments in renewable energies, including almost two-thirds of global wind and solar projects under construction in recent years.[7]

International framework for addressing climate change

114. The international climate treaties – the Paris Agreement, adopted on 12 December 2015 and the UNFCCC, adopted on 9 May 1992 – are the primary multilateral mechanisms governing the international response to climate change.

115. The Paris Agreement entered into force on 4 November 2016. There are 198 parties to the UNFCCC, of which 195 members are parties to the Paris Agreement, including Australia. The department notes that, on 20 January 2025, the United States initiated the process to withdraw from the Paris Agreement. This process will take approximately 12 months to be finalised. Once finalised there will be 194 parties to the Paris Agreement. The Paris Agreement "aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:

a. Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;".

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[6] Analysis: Clean energy was top driver of China's economic growth in 2023 - Carbon Brief: https://www.carbonbrief.org/analysis-clean-energy-was-top-driver-of-chinas-economic-growth-in-2023/#:~:text=China's%20%24890bn%20investment%20in,%25%20year-on-year.

[7] China building two-thirds of world's wind and solar projects | China | The Guardian https://www.theguardian.com/world/article/2024/jul/11/china-building-twice-as-much-wind-and-solar-power-as-rest-of-world-report

116. Under the Paris Agreement, all parties must prepare, communicate and maintain successive NDCs and pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions. Under the Paris Agreement, emissions that occur within a party's jurisdiction are accounted for within that party's national GHG inventory. Emissions associated with the combustion of exported Australian fossil fuels are accounted for in the national GHG inventories of the importing countries.

117. In Australia, emissions reduction targets and national climate mitigation policies are the responsibility of the Minister for Climate Change and Energy, the Hon Chris Bowen MP.

118. Under Article 4 of the Paris Agreement, Parties "aim to reach global peaking of greenhouse gas emissions as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter in accordance with best available science, so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty."

119. The Australian Government has committed to reduce national GHG emissions, track progress towards those commitments, and report annually on Australia's GHG emissions. Australia submitted its first NDC to the UNFCCC in 2015. In June 2022, Australia submitted an updated NDC that strengthens our 2030 target to 43% below 2005 levels and reaffirms the net zero emissions by 2050 target.

120. On 12 December 2023, the Australian Government agreed to the Parties' first Global Stocktake under the Paris Agreement. Paragraph 28 of the Global Stocktake report "calls on Parties to contribute to the following global efforts, in a nationally determined manner, taking into account the Paris Agreement and their different national circumstances, pathways and approaches:

    a. Tripling renewable energy capacity globally and doubling the global average annual rate of energy efficiency improvements by 2030;

    b. Accelerating efforts towards the phase-down of unabated coal power;

    c. Accelerating efforts globally towards net zero emission energy systems, utilizing zero- and low-carbon fuels well before or by around mid-century;

    d. Transitioning away from fossil fuels in energy systems, in a just, orderly and equitable manner, accelerating action in this critical decade, so as to achieve net zero by 2050 in keeping with the science;

    e. Accelerating zero- and low-emission technologies, including, inter alia, renewables, nuclear, abatement and removal technologies such as carbon capture and utilization and storage, particularly in hard-to-abate sectors, and low-carbon hydrogen production;

    f. Accelerating and substantially reducing non-carbon-dioxide emissions globally, including in particular methane emissions by 2030;

    g. Accelerating the reduction of emissions from road transport on a range of pathways, including through development of infrastructure and rapid deployment of zero and low-emission vehicles;

h. Phasing out inefficient fossil fuel subsidies that do not address energy poverty or just transitions, as soon as possible".

Domestic Measures

121. The *Climate Change Act 2022* (Cth) enshrines Australia's emissions reduction targets in legislation – 43% below 2005 levels by 2030 and net zero emissions by 2050.

122. These targets are supported by a suite of measures, including:

a. The Australian Government's commitment to 82% renewable electricity by 2030, a national target to ensure a timely transition away from reliance on increasingly unreliable and uneconomic ageing coal generation to a more reliable system with lower cost and emissions.

b. A Capacity Investment Scheme, to encourage new investment in renewable energy by underwriting 23GW renewable generation and 9GW clean dispatchable capacity.

c. The National Reconstruction Fund, which will provide up to $3 billion for renewable and low emissions technology investment.

d. The decarbonisation of existing industries and creation of new clean energy industries through the $1.9 billion Powering the Regions Fund.

e. The National Energy Transformation Partnership to coordinate action by the Commonwealth states and territories to achieve net zero emissions in the electricity system by 2050 and reach 82% renewable electricity by 2030.

f. $20 billion investment to upgrade the electricity grid to manage more renewable energy through the Rewiring the Nation program.

g. Introducing climate reporting standards for financial institutions and large publicly listed companies.

h. $224.3 million investment in new community batteries across Australia to support the grid and maximise the benefits of Australia's rooftop solar installations, through the Community Batteries for Household Solar program.

i. $102.2 million for the Community Solar Banks program to establish solar banks around Australia, providing access to solar for around 25,000 households who are unable to install rooftop solar.

j. $83.8 million to develop and deploy microgrid technology across First Nations communities.

k. Australia's first National Electric Vehicle Strategy.

l. The Future Gas Strategy that maps the Australian Government's plan for how gas will support the Australian economy's transition to net zero.

m. Reforms to the Safeguard Mechanism.

n. National Hydrogen Strategy

Future Gas Strategy

123. In May 2024, the Federal Government released the Future Gas Strategy **(the strategy**) which maps the plan for how gas will support the transition to net zero. The objectives of the strategy are to:

    a. support decarbonisation of the Australia economy

    b. safeguard energy security and affordability

    c. entrench Australia's reputation as an attractive trade and investment destination

    d. help our trade partners on their own paths to net zero.

124. The strategy outlines the role that gas will have in helping both Australian and international economies transition to global net zero. The long-term role of gas-powered generation is to provide firming and peaking support as the grid becomes increasingly powered by renewable energy.

125. Additionally, the strategy outlines that LNG will continue to play a significant role in reducing the carbon intensity of the region's energy mix, particularly by replacing more emission intensive fuels like coal, while supporting energy security and stability.

126. Importantly, the strategy specifies that the current emissions from the extraction and production of gas must reduce for Australia to reach net zero by 2050.

Safeguard Mechanism

127. The Safeguard Mechanism requires Australia's largest GHG emitters to keep their net emissions below emissions limits (baselines). The Safeguard Mechanism applies to facilities that have direct (scope 1) emissions of more than 100,000 tonnes CO_2-e in a financial year.

128. The reformed Safeguard Mechanism commenced on 1 July 2023 and requires facility baselines to decline each year, reducing net emissions in line with Australia's climate targets. The reforms introduced a requirement that information on scope 1 emissions provided in the course of the EPBC assessment must be reported to the Climate Change Authority, the Minister for Climate Change and the Secretary of the relevant department, on approval of the action if the action is likely to result in:

    a. a new designated facility (that is, a facility the operation of which will result in a total amount of covered emissions of greenhouse gases during a financial year with a carbon dioxide equivalence exceeding 100,000 tonnes or more), or

    b. an increase in the emissions of a facility which is already covered by the Safeguard Mechanism.

129. The proponent advised in its response to the RFI that its facility, which is the subject of the proposed action, is already covered by the Safeguard Mechanism and that the 'project must maintain its net emissions below a current baseline of 7.57 mtpa CO_2-e'.

Domestic gas markets

130. The Australian Energy Market Operator (**AEMO**) releases two annual Gas Statement of Opportunities (**GSOO**) for Australia's East Coast and the Western Australian Gas Markets.

131. In December 2023, AEMO published the Western Australian GSOO (**WA GSOO**). The WA GSOO forecasts domestic gas supply and demand over a 10-year period. The WA GSOO forecasts that the WA gas market is expected to remain in deficit throughout the majority of the 10-year forecast; with significant demand-side risks including commercial operation of new gas-consuming facilities.

132. From 2030 onwards, further gas supplies are forecast to be required to meet increasing demand.

133. While increased electrification across the economy and multiple (up to 20) decarbonisation projects in the mining industry are forecast to reduce gas demand, overall domestic demand is forecast to grow from 1,133 TJ/day in 2024 to 1,325 TJ/day in 2033. This is largely driven by the commercial operation of new gas-consuming facilities and the retirement of coal powered generation increasing the reliance on gas powered generation.

134. In March 2024, AEMO released the annual East Coast GSOO (**EC GSOO**). The EC GSOO forecasts the adequacy of gas supplies to meet consumers' needs for 20 years. The EC GSOO continues to forecast risks of shortfalls on extreme peak demand days from 2025, and annual supply gaps will require new sources of supply from 2028. While consumption is forecast to decline overtime primarily due to electrification, production is forecast to decline faster.

135. Key forecasts from the EC GSOO include:

    a. Annual residential and small commercial gas consumption is forecast to decline with ongoing electrification.

    b. Large commercial and industrial consumption is forecast to remain relatively stable before reducing sometime in the 2030s.

    c. Gas for electricity generation is forecast to increase in the long term due to electricity demand, closing of coal powered electricity generation and to firm renewable energy generation.

136. From the mid-2030s, the forecast level of gas-powered generation increases as coal generators are forecast to retire through the energy transition.

International gas markets

137. The IEA *Global Gas Security Review 2024* (which includes the *Gas Market Report Q4-2024*), released in October 2024, provides an analysis of market dynamics and contracting trends, with an update on recent gas market developments and short-term forecast through 2025. I noted that the key findings include the following:

    a. Global gas demand was forecast to rise by more than 2.5% in 2024 and reach a new record high of 4200 bcm (the department notes that this is approximately equivalent to 3083 Mt), with similar growth expected in 2025. Fast-growing markets in Asia account for a large amount of the increase while a rebound in Europe's industrial gas demand is also contributing.

    b. Limited growth in Liquefied Natural Gas (LNG) production is keeping supply tight, while geopolitical tensions continue to cause price volatility.

c. LNG supply growth is set to accelerate to near 6% in 2025 as several large LNG projects come online, mainly in the second half of the year. North America will account for the vast majority of new capacity, while new volumes from Africa and Asia will also contribute.

d. Natural gas prices have softened across all key markets compared to their 2022 highs and, markets remain sensitive and vulnerable to unexpected supply and/or demand-side movements. Uncertainties around future natural gas supplies, including from Russia, continued to fuel price volatility.

e. Industry and energy own use is emerging as the primary driver behind stronger gas use and is projected to contribute more than half of demand growth.

f. Global gas trade is set to continue to grow in 2025, supported by higher LNG supply.

138. The *Global Gas Report 2024* was released in August 2024 by the International Gas Union **(IGU)**, Snam and Rystad Energy. The IGU represents the global gas industry covering over 90% of the global gas market. I noted the key findings include:

a. Global gas demand increased 1.5% from 2022 in 2023 and expected to further increase 2.1% in 2024. It is forecasted to increase to 4138 bcm (the department notes that this is approximately equivalent to 3037 Mt) in 2024. Asia's strong demand contributes to increases in global gas imports.

b. North America and the Middle East mainly contribute to the increase in global gas exports to balance the increase in demand. Global gas production only increased by 0.5% due to production declines in Europe and Russia.

c. Geopolitical tensions (as well as any significant shift in demand or supply) continue to cause price volatility in the market.

d. Natural gas combustion for power generation creates approximately half of the CO_2 emissions when compared to coal emissions, which is crucial to the transition to renewable energy.

e. Emerging zero and low CO_2 technology such as biomethane, hydrogen and CO_2 capture capacity are expected to be critical in decarbonisation of energy.

f. Global shifts including the increase use of Artificial Intelligence, extreme weather events and electric vehicles leading to a future increase in power demand. This future demand will likely be more than the world's 2030 demand reduction targets. Current investment in natural gas supply is insufficient to meet the global demand trend towards 2030.

g. CO_2-e emissions from gas are expected to remain level, despite the increase in demand and production due to ongoing reductions in gas value chain emissions intensity.

139. The *Global LNG Outlook 2024-2028* was released in April 2024 by the Institute for Energy Economics and Financial Analysis (**IEEFA**). I noted the key findings included:

a. Lackluster demand growth combined with a massive wave of new export capacity is poised to send global liquefied natural gas (LNG) markets into oversupply within two years.

b. In Japan, South Korea, and Europe—which together account for more than half of the world's LNG demand—combined imports fell in 2023 and will likely continue falling through 2030.

c. In emerging Asian markets, structural LNG demand growth faces economic, political, financial, and logistical challenges that an oversupplied environment may not fully resolve.

d. IEEFA expects global LNG supply capacity to rise to 666.5 MTPA by the end of 2028, which exceeds International Energy Agency (IEA) demand scenarios through 2050.

Statutory framework for reconsideration decisions

140. I noted that, pursuant to section 78C of the EPBC Act, I must reconsider the original referral decision and either confirm the decision or revoke the decision in accordance with subsection 78(1), and substitute a new decision for it.

141. Under section 78(1) of the EPBC Act, I may revoke a decision made under section 75(1) about an action and substitute a new decision under that section for the first decision, but only if one of the circumstances in section 78(1)(a)-(ca) applies.

142. EJA's reconsideration request was made on the basis of section 78(1)(a). EJA submitted that I should be satisfied that the revocation and substitution is warranted by the availability of substantial new information about the impacts that the action has or will have or is likely to have on a matter protected by a provision of Part 3 (**protected matter**) (paragraph 78(1)(a)).

143. The department advised that section 78(1)(aa) contained another ground for reconsideration which appeared potentially applicable having regard to the information in EJA's request and provided through the section 78B consultation process. Under section 78(1)(aa), I may revoke a decision and substitute a new decision if I am satisfied that the revocation and substitution is warranted by a substantial change in circumstances that was not foreseen at the time of the first decision has occurred that relates to the impacts that the action has or will have or is likely to have on a protected matter.

144. Under section 75 of the EPBC Act, I am required to decide whether the action that is the subject of the referred proposal is a controlled action, and which provisions of Part 3 (if any) are controlling provisions for the action. In making my decision, I must consider all adverse impacts the action has, will have, or is likely to have, on the matter(s) protected by a provision (or provisions) of Part 3. I must not consider any beneficial impacts the action has, will have or is likely to have on the protected matters.

145. Section 391 provides that I must take account of the precautionary principle in making a decision under section 75, to the extent I can do so consistently with the other provisions of the EPBC Act. The department advised that, while a reconsideration decision is not a decision listed in section 391 as a decision where the precautionary principle must be taken into account, section 78C(1) requires me to reconsider a section 75 decision, and a section 75 decision is listed in section 391.

Findings on material questions of fact

146. My findings on material questions of fact in relation to my reconsideration decision, addressing the relevant requirements of the EPBC Act, are set out below.

147. The reconsideration request of 8 July 2022 says that there is substantial new information about the impacts that the proposed action has or will have, or is likely to have, on various matters protected by Part 3 of the EPBC Act and that this warrants the revocation and substitution of the original referral decision. My consideration of the reconsideration request and findings are set out below, with respect to each of the protected matters specified in the request:

    a. the world heritage values of declared World Heritage properties (sections 12 and 15A)

    b. the National Heritage values of National Heritage places (sections 15B and 15C)

    c. the ecological character of declared Ramsar wetlands (sections 16 and 17B)

    d. listed threatened species in the critically endangered category (section 18(2))

    e. listed threatened species in the endangered category (section 18(3))

    f. listed threatened species in the vulnerable category (section 18(4))

    g. listed threatened ecological communities in the critically endangered category (section 18(5))

    h. listed threatened ecological communities in the endangered category (section 18(6))

    i. listed threatened species and listed threatened ecological communities (section 18A)

    j. listed migratory species (sections 20 and 20A)

    k. the environment in Commonwealth marine areas (sections 23(2), 24A(3), (4)) (containing listed marine species)

    l. the environment in the Great Barrier Reef Marine Park (sections 24B(2), 24C(5), (7)).

148. I also considered whether any of the grounds at sections 78(1)(aa) to (d) may be the basis for a decision to reconsider the original referral decision. I accepted the department's advice that they would not be, for the following reasons:

    a. The requirements for the grounds at sections 78(1)(b) to (ca) are not met because the original referral decision was a controlled action decision, and those grounds only apply where the original referral decision was that the action was 'not a controlled action'.

    b. The requirement for the ground at section 78(1)(d) is not met because the reconsideration request was not made under section 79.

c. The requirements for the ground at section 78(1)(aa) are not met because, for the reasons set out with respect to the ground at section 78(1)(a), below and having regard to the information provided by EJA and through the section 78B consultation process, I was not satisfied that there has been a substantial change in circumstances that relates to the impacts of the action.

World heritage values of declared World Heritage properties (sections 12 and 15A)

Referral information

149. I noted that the original referral decision does not include this controlling provision because the proposed action does not occur within or adjacent to any declared World Heritage properties. The delegate considered it unlikely that the proposed action would have a significant impact on the world heritage values of declared World Heritage properties given the nature and scale of the proposed action, its potential impacts, and its distance from declared World Heritage properties.

150. When making the original referral decision, the delegate considered climate-related evidence from the World Resources Institute literature published in 2014 in relation to this protected matter, particularly as it related to potential climate change flow-on effects of GHG emissions that could indirectly impact on protected matters under the EPBC Act. The delegate found that the proposed action would not have any climate change related impacts on protected matters, including the world heritage values of declared World Heritage properties.

Substantial new information about the impacts of the proposed action

151. In the reconsideration request, EJA identified over 470 documents that it considers demonstrate the likely significant impacts of climate change on matters protected under this controlling provision. These publicly available documents include World Heritage nominations, management plans for World Heritage properties and the IUCN World Heritage Outlook.

152. I found that this information is substantial new information as:

a. much of the information contained in the reconsideration request was not before the delegate and so is new information; and

b. the information is of substance and is not trivial or inconsequential, and demonstrates that climate change has various effects on this protected matter.

153. The information in the reconsideration request identifies 17 of the 20 Australian declared World Heritage properties as likely to be impacted by climate change:

a. Budj Bim Cultural Landscape

b. Fossil Mammal Sites

c. Gondwana Rainforests of Australia

d. Great Barrier Reef

e. Greater Blue Mountains

f. Heard and MacDonald Islands

g. K'gari (Fraser Island)

h. Kakadu

i. Lord Howe Island
j. Macquarie Island
k. Ningaloo Coast
l. Purnululu National Park
m. Shark Bay
n. Tasmanian Wilderness
o. Uluru Kata-Tjuta National Park
p. Wet Tropics of Queensland
q. Willandra Lakes Region

154. The information in the reconsideration request identifies that climate change and its flow-on effects are affecting or will affect the ecology of the identified declared World Heritage properties. Based on the information provided, the extent of the effects appears to vary between the properties, reflecting their unique natural environments. In summary, World Heritage properties containing ecosystems and/or species with low temperature range tolerances (e.g. alpine and coastal environments) are more susceptible to climate change. In general, climate change reduces the resilience of ecosystems due to the increased risks from a range of factors including:

a. Altered (or reduced) abundance and distribution of species critical (and/or unique) to the ecological integrity of the property.

b. Altered hydrological flows causing increasing incursions of saltwater into freshwater (and the reverse) damaging important feeding and breeding habitat.

c. Invasive/pest species gaining a greater foothold.

d. Extreme temperature events causing heat stress to susceptible plants and animals (e.g. the Spectacled Flying Fox *Pteropus conspicillatus*).

e. Altered or inappropriate fire regimes associated with temperature extremes.

Does the information relate to the impacts that the proposed action has or will have, or is likely to have, on the world heritage values of a declared World Heritage property?

155. I noted that the information in the reconsideration request identified that climate change is having or will have adverse effects on the flora, fauna and ecosystems of the identified World Heritage properties. This will, in turn, have adverse effects on the world heritage values of those properties. Whether the information relates to adverse impacts of the proposed action on this protected matter is discussed below.

156. I accepted the department's advice that, to be satisfied under section 78(1)(a) of the EPBC Act that revocation and substitution of the original referral decision is warranted by the availability of substantial new information, I must be satisfied that the information is about the impacts the proposed action has or will have, or is likely to have, on one or more of the relevant protected matters.

157. For the reasons explained below, I was not satisfied that the information is about the impacts of the proposed action, in accordance with the meaning of 'impact' in s 527E of the EPBC Act.

Statutory test

158. Section 527E of the EPBC Act defines 'impact' for the purposes of the Act. An event or circumstance is an impact of a proposed action if:

a. the event or circumstance is a direct consequence of the action (s 527E(1)(a)), or

b. for an event or circumstance that is an indirect consequence of the action – subject to sub-s 527E(2), the action is a substantial cause of that event or circumstance (s 527E(1)(b)).

159. Section 527E(2) provides for the purposes of paragraph (1)(b) that if:

(a) a person (the primary person) takes an action (the primary action); and

(b) as a consequence of the primary action, another person (the secondary person) takes another action (the secondary action); and

(c) the secondary action is not taken at the direction or request of the primary person; and

(d) an event or circumstance is a consequence of the secondary action;

then that event or circumstance is an impact of the primary action only if:

(e) the primary action facilitates, to a major extent, the secondary action; and

(f) the secondary action is:

(i) within the contemplation of the primary person; or

(ii) a reasonably foreseeable consequence of the primary action; and

(g) the event or circumstance is:

(i) within the contemplation of the primary person; or

(ii) a reasonably foreseeable consequence of the secondary action.

160. I considered that the reconsideration request contains information which demonstrates in a general sense that climate change from anthropogenic sources of GHG emissions has and/or will have physical effects on protected matters. In particular, I accepted that the combustion of coal and/or gas on a global scale results in GHG emissions, which increases the effects of climate change, including the regularity, scope and intensity of climate hazards. I accepted that these effects of climate change will adversely affect the MNES identified by EJA in their application.

161. To the extent the information may be relevant to the physical effects of climate change caused by the proposed action, the reconsideration request contains information about emissions resulting from the processing of gas, and combustion by third parties of the gas to be processed in the proposed action. I accepted the department's advice that, having regard to the information provided by EJA and through the section 78B consultation process, the physical effects of climate change on the world heritage values of declared World Heritage properties are, if anything, indirect consequences of the proposed action: they are events or

circumstances that are removed in time and distance from the taking of the action, which is the processing of gas.

162. Therefore, I determined that for the information in the reconsideration request to be about the impacts of the proposed action under section 527E of the EPBC Act, it must show that the proposed action is a substantial cause of the physical effects of climate change on the world heritage values of a declared World Heritage property.

Applying the statutory test

163. I determined that the proposed action is not a substantial cause of the stated physical effects of climate change on the world heritage values of declared World Heritage properties. Therefore, the information is not about impacts the proposed action has or will have, or is likely to have, on the world heritage values of declared World Heritage properties. As explained below, this is because:

a. The information does not demonstrate that the proposed action will cause any net increase in global GHG emissions and global average temperature (and so, any of the stated physical effects of climate change on the world heritage values of declared World Heritage properties). I considered that whether this will happen is subject to multiple variables; and

b. Even if that were demonstrated, any contribution from the proposed action to global GHG emissions would be very small. It is therefore not possible to say that the proposed action will be a substantial cause of the stated physical effects of climate change on the world heritage values of declared World Heritage properties.

Will the proposed action cause a net increase in GHG emissions and global average temperature?

164. I accepted the department's advice that the likely contribution of the proposed action's emissions towards a net increase in global GHG emissions and global average temperature is subject to a number of variables.

165. One variable is whether any emissions generated by the combustion of the gas from the proposed action will be offset, mitigated or abated. The countries or jurisdictions where the prospective buyers of the gas are expected to combust the gas may at any time implement new policies or regulations regarding emissions within their borders.

166. As set out at paragraph [8484] above, the countries where it is anticipated that the gas from the proposed action will be consumed (Australia, China, Japan, ROK and all member states of the European Union), each have respective NDCs under the Paris Agreement to reduce national emissions and adapt to the impacts of climate change. Under the Paris Agreement (referred to at paragraphs [114 to 120] above), each Party must submit an NDC every five years. These NDCs are required to reflect increased ambition over time. Parties may also submit new or updated NDCs at any time. The emissions generated by combusting gas (including gas from the proposed action) would be counted as scope 1 emissions in the country where combustion occurred and may be subject to mitigation actions or offsetting. These emissions may also qualify as the indirect scope 3 emissions of the source country (in this case, Australia).

167. Further, as set out at paragraph [120] above, a Global Stocktake has been agreed to by Parties under the Paris Agreement, which includes a call to transition away from fossil fuels

in energy systems to achieve net zero by 2050. As set out at paragraphs [95 to 98], there are international and regional initiatives including the GMP, Global Pledge on Renewables and Energy Efficiency and ASEAN Plan of Action on Energy Cooperation, which are directed at encouraging a transition from fossil fuel powered energy to renewable energy.

168. The level of global GHG emissions will also likely be subject to the emissions reduction policies of power companies, and any changes to the efficiency of their power plants. I noted that the department provided examples of changes to the emissions reduction policies of certain companies. For example:

    a. Power companies in Japan have committed to being carbon-neutral by 2050 including phasing out inefficient power plants and improving the efficiency of LNG thermal power generation. [89]

    b. There is a working example of a 50MWe gas-fired power plant which captures 97% of produced CO2 emissions using various carbon capture, utilisation and storage (CCUS) technologies. The US company responsible for the project is building a 300 MWe utility scale plant using the technology which will be operational by 2026. [10]

169. The IEA's Tracking Clean Energy Progress report[11], released in July 2023, notes that:

    a. Since January 2022 around 15 carbon capture, utilisation and storage (CCUS) projects at gas-fired power plants were announced. In total, nearly 50 Mt CO2 of capture capacity at gas-fired power plants is in the project pipeline, primarily in the United States and United Kingdom.

    b. Emission reduction at gas-fired power plants is being accomplished through a combination of applying CCUS, increasing plant efficiencies and co-firing hydrogen-based fuels.

170. More broadly, I accepted the department's advice that, if the proposed action does not proceed, this will not necessarily affect the level of GHG emissions worldwide or the extent to which the world heritage values of declared World Heritage properties will be impacted by the physical effects of climate change stated in the request. That will be subject to a range of other factors, including the level of emissions from sources other than the proposed action.

171. I considered that these factors make it very difficult to estimate the likely net increase (if any) in global GHG emissions from the proposed action's emissions and, by extension, the extent of any net increase in global average temperature and the extent to which the world heritage values of declared World Heritage properties will be impacted by the stated physical effects of climate change.

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[8] JERA Zero CO2 Emissions 2050 | Our Company | JERA

[9] J-POWER BLUE MISSION 2050 | J-POWER (jpower.co.jp)

[10] Clean, Reliable, Low-Cost Energy. | NET Power

[11] Tracking Clean Energy Progress 2023 – Analysis - IEA

172. I considered that it is also likely that, if the proposed action does not proceed, the prospective buyers will purchase an equivalent amount of gas from a supplier other than the proponent, which would result in equivalent amount of GHG emissions when combusted, when compared with the amount estimated for the proposed action. As stated at paragraphs 90 to 92, multiple countries are producing new natural gas facilities and are already exporting LNG to Asian markets.

173. I took into account that the *Global Gas Security Review 2024* notes that destination-free contracts rose from 30% in 2016 to 47% in 2023, mostly driven by the expansion of US LNG supplies. These contracts are forecasted to increase to 51% by 2027 with the gradual expiry of destination-fixed contracts in response to gas supply and demand shocks as highlighted in the 2022-23 gas supply shock from Russia's invasion of Ukraine and more recently, the low availability of hydropower in South Africa.

174. I considered that it is reasonable to assume that, should the proposed action not proceed, the market would respond through an increase in supply elsewhere, in circumstances where there is still anticipated demand for the gas from the proposed action.Moreover, I was not satisfied that the proposed action is likely to result in a net increase to GHG emissions or affect the extent to which the world heritage values of declared World Heritage properties will be impacted by the stated physical effects of climate change.

175. I took into account EJA's submissions that it is not possible for me to be satisfied that the same or a worse impact will necessarily occur in scenarios without the proposed project. I noted that, while the argument presented below by EJA uses the example of coal projects, it remains relevant for all fossil fuel projects, including the proposed action. EJA stated that, although the following same analysis is available for the Proposed Project and it could be precisely modelled for the Proposed Project, detailed modelling is not necessary to demonstrate it as a matter of logic:

> "It is not open to you to rationally be satisfied that the same or worse impact will necessarily occur in scenarios without the Proposed Project. That is because, the best feasible future scenarios (in terms of total future emissions before the achievement of net zero greenhouse gas emissions, and consequent level of warming) cannot eventuate if the Proposed Project is to exist. …
>
> This can be explained by a simple hypothetical. If a coal miner refers a proposed coal mine to the Minister, by which it proposes to extract and sell 10 Mtpa of thermal coal on the seaborne thermal coal market, every year from 2030 to 2050, the Minister must, in making the section 75 decision, assume that coal mine will exist. The minimum likely significant impacts from the accumulated greenhouse gas emissions, including those from that coal mine, are the minimum impacts from a total temperature increase of total future emissions in a world in which: (a) there is a coal market out to 2050; (b) within that coal market, there is a seaborne thermal coal market out to 2050; (c) within that thermal seaborne coal market out to 2050, there is sufficient demand for seaborne thermal coal such that all of the coal from the proposed coal mine is burned, together with all of the more desirable coal on the seaborne thermal coal market from 2030 to 2050 (with desirability determined by the market, primarily by reference to quality, cost and price). By contrast, if the existence of that mine is not assumed, there are feasible scenarios available where there is no coal market out to 2050, no seaborne thermal coal market, or a smaller seaborne thermal coal market out to 2050. As demonstrated by [IPCC] WGIII AR6, there is a large range of better feasible scenarios (in terms of lowest temperature

increase) which are simply not available if one assumes the existence of the coal mine with 10Mtpa on the seaborne thermal coal market out to 2050.

The same analysis is available for the Proposed Project. It could be precisely modelled for the Proposed Project, but detailed modelling is not necessary to demonstrate it as a matter of logic.

It follows that it would be irrational to conclude that the likely significant impacts will necessarily be the same with or without the Proposed Project."

176. The reconsideration request also stated that, in all feasible scenarios in which the proposed action is carried out, there will very likely be physical effects of climate change on World Heritage properties, and, conversely, that feasible scenarios with lesser increases in those effects are available in a future without the proposed action.

177. I agreed with the department's advice that EJA's analysis at paragraphs [175 to 176] above does not address the relevant statutory question, which requires me to consider, in light of new information, whether the proposed action is a substantial cause of the event or circumstance, as outlined at paragraphs [158 to 162] above.

Even if the proposed action were to cause a net increase in GHG emissions and global average temperature, would it be a substantial cause of any physical effects of climate change on the world heritage values of declared World Heritage Properties?

178. In addition, and in any event, I considered whether, if the information in the reconsideration request demonstrated that the proposed action would result in a net increase in global GHG emissions and global average temperature, that increase would be a substantial cause of the physical effects of climate change on the world heritage values of declared World Heritage properties. I determined that there is no reasonable basis for concluding that the proposed action will be a *substantial cause* of those effects.

179. As outlined at paragraph [81] above, in response to a request by the department for information, the proponent provided information demonstrating that the average total annual GHG emissions (scope 1, 2 and 3) from the proposed action represents approximately 87.89 Mt CO_2-e or 0.183% of global annual emissions (measured in CO_2-e). The proponent used Climate Watch's Historical GHG Emissions 2019 data, the latest data available at the time, as the basis for its calculations, consistently with the department's request for information Since then, the department noted that 2021 data has been reported. Based on the latest available data, the department estimated that the proposed action's *total average annual emissions* (scope 1, 2 and 3) *within Australia and outside Australia* combined represent 0.177% of the 2021 global annual emissions.

180. Further, the proponent estimated, in response to the same request for information, that the total GHG emissions associated with the proposed action would be approximately 4394.31 Mt CO_2-e. I noted that the department estimated that the likely increase in global temperature that could arise from the proposed action's estimated total GHG emissions, in a scenario where it could be shown that the proposed action would result in a net increase in global GHG emissions and global average temperature, is approximately $1.97x10^{-3}$°C or 0.00197°C]. The department prepared this estimate assuming a one-for-one relationship between temperature and tonnes of GHG emissions, based on the information EJA provided about findings by the IPCC Working Group I that the relationship between anthropogenic CO_2 and global temperature has thus far been approximately linear, meaning that each 1,000

gigatons of cumulative CO_2 emissions contributes to an approximate 0.45°C increase in global temperature.

181. The IEA *Global Gas Security Review 2024* report also noted global natural gas consumption in 2023 was 4,093 bcm (the department notes that this is approximately equivalent to 3004 Mt). The proposed action's maximum annual output is 18.5 million tonnes per annum (**Mtpa**) and this represents 0.616%of the global gas consumption for 2023.

182. In considering the amounts outlined above, I noted that the IPCC has estimated that total warming from GHG emissions to date is approximately 1.09°C. In view of the amounts outlined at paragraphs [179 to 181] above, I found that the amount of gas to be combusted from the proposed action, and any possible increase in net global GHG emissions and global average temperature that would result from combusting this amount of gas, are very small. I concluded that the proposed action would not be a 'substantial' cause of the physical effects of climate change on World Heritage properties.

183. The reconsideration request asserts that 'there is an approximately linear relationship between cumulative anthropogenic CO_2 emissions and global temperature, such that every tonne of CO_2 emissions adds to global warming', and I accepted this. However, for the reasons discussed above, I did not accept that the contribution that this action makes to emissions will be a 'substantial cause' of the physical effects of climate change on the world heritage values of declared World Heritage properties.

Policy Statement on 'Indirect consequences' of an action

184. I noted that the reconsideration request cites the following excerpt from the department's *Policy Statement on 'Indirect consequences' of an action: Section 527E of the EPBC Act* (**Policy Statement**). In the Policy Statement, this excerpt appears under the heading: 'is the impact too remote from the action?':

> *…an impact that evidence strongly suggests might manifest itself many years later, or occurs at a substantial geographic distance from the location of the original action, may still be an indirect consequence that is substantial enough to be considered an impact.*

185. For the reasons set out above, I was not satisfied that there is any relevant impact.

Conclusion

186. For the reasons given at paragraphs [149 to 185] above, I found that the information in the reconsideration request and the information provided in the department's consultation on the request do not demonstrate that the proposed action will cause a net increase in global GHG emissions and global average temperature (and, therefore, the relevant physical effects of climate change on the world heritage values of declared World Heritage properties). The difficulty in estimating the likely contribution (if any) of the proposed action to the relevant physical effects of climate change on the world heritage values of declared World Heritage properties is one reason that I found that the proposed action is not a substantial cause of those effects.

187. Further, I found that, even if it could be shown that the emissions from the project would result in an increase in net global GHG emissions and global average temperature, the contribution of the proposed action would be very small. I concluded that the 'substantial

cause' requirement for an indirect impact under section 527E(2) of the EPBC Act is not satisfied.

188. As such, I determined that the new information is not about the impacts the proposed action has, will have or is likely to have on the world heritage values of declared World Heritage Properties.

National Heritage values of National Heritage places (sections 15B and 15C)

Referral information

189. I noted that the original referral decision for the proposed action includes this controlling provision because 50 years of ongoing release of certain emissions into the atmosphere of the Burrup Peninsula and its surrounds, resulting from the proposed action, was determined by the delegate to be likely to have a significant impact on the National Heritage values of the Dampier Archipelago (including the Burrup Peninsula) listed National Heritage place. In reaching this finding, the delegate applied the precautionary principle because the proponent could not provide all additional information that was requested that would be needed to demonstrate that potential significant impacts could be avoided or mitigated effectively.

Climate-related evidence was explicitly considered by the delegate. When making the original referral decision, the delegate considered climate-related evidence from the World Resources Institute literature published in 2014 in relation to this protected matter, particularly as it related to potential climate change flow-on effects of GHG emissions that could indirectly impact on protected matters under the EPBC Act. The delegate found that the proposed action would not have any climate change related impacts on protected matters, including the national heritage values of National Heritage places.

Substantial new information about the impacts of the proposed action

190. EJA identified over 230 documents that it considers demonstrate the likely significant effects of climate change on matters protected under this controlling provision. These publicly available documents include information in the Australian Heritage database and management plans for National Heritage places.

191. I considered that this information is substantial new information as:

a. much of the information contained in the reconsideration request was not before the delegate and so is new information; and

b. the information is of substance and is not trivial or inconsequential, and demonstrates that climate change has various effects on this protected matter.

192. The information in the reconsideration request related to 19 National Heritage places:

a. Australian Alps National Parks and Reserves

b. Dampier Archipelago

c. Elizabeth Springs

d. Glass House Mountains National Landscape

e. Grampians Greater Gariwerd National Park

f. Ku-ring-gai Chase National Park

g. Kurnell Peninsula Headland

h. Lesueur National Park

i. Porongurup National Park

j. Recherche Bay (NE Peninsula) Area

k. Stirling Range National Park

l. Warrumbungle National Park

m. Witjira-Dalhousie Springs National Park

n. K'gari (Fraser Island)

o. Great Barrier Reef

p. Greater Blue Mountains

q. Macquarie Island

r. Uluru-Kata Tjuta National Park

s. Wet Tropics of Queensland.

193. The last six places listed above are also declared World Heritage properties. In respect of those six places EJA relied on the information it provided for the World Heritage properties. The discussion below therefore relates to the information EJA provided in relation to the 13 National Heritage places that are not also World Heritage properties.

194. Broadly, the information presented by EJA about the effects of climate change on National Heritage places showed that there are effects on biodiversity in these places due to changing population size and distribution of species, the modification of species composition, and alteration of the geographical extent of habitats and ecosystems. Climate change is likely to exacerbate many existing threats to the ecological integrity of National Heritage places such as:

a. Decreasing and changing water flows

b. Fire weather

c. Invasive species

d. Habitat fragmentation and the loss of key habitat such as hollow bearing trees.

Does the information relate to the impacts that the proposed action has or will have, or is likely to have, on the National Heritage values of a National Heritage place?

195. I accepted the department's advice that the information in the reconsideration request identified that climate change is having or will have adverse effects on the flora, fauna and ecosystems of the identified National Heritage places. This will in turn have adverse effects on the National Heritage values of those places.

196. For the same reasons as those set out at paragraphs [160 to 161] above in relation to the world heritage values of declared World Heritage properties, having regard to the information provided by EJA and through the section 78B consultation process, I found that flow-on climate change effects would be indirect consequences of the proposed action on the National Heritage values of the identified National Heritage places for the purposes of the EPBC Act.

197. For the same reasons as those set out at paragraphs [162 to 185] above in relation to the world heritage values of declared World Heritage properties, I found that the proposed action is not a substantial cause of the stated physical effects of climate change on the National Heritage values of the identified National Heritage places.

Conclusion

198. I found that the new information is not about the impacts the proposed action has, will have or is likely to have on National Heritage places.

199. I noted the department's advice that, because the original referral decision specified sections 15B and 15C as controlling provisions, impacts on the National Heritage values of National Heritage places will be assessed for the purposes of the decision whether or not to approve the proposed action. The further information provided by EJA would not warrant the revocation and substitution of the original decision in relation to the identified controlling provisions, including the controlling provisions under sections 15B and 15C.

Ecological character of declared Ramsar wetlands (sections 16 and 17B)

Referral information

200. I noted that the original referral decision for the proposed action does not include this controlling provision because the proposed action does not occur within or adjacent to any Ramsar listed wetland of international importance. The delegate considered it unlikely that the proposed action would have a significant impact on the ecological character of a declared Ramsar wetland given the nature and scale of the proposed action, its potential impacts, and its distance to Ramsar listed wetlands of international importance.

201. When making the original referral decision, the delegate considered climate-related evidence from the World Resources Institute literature published in 2014 in relation to this protected matter, particularly as it related to potential climate change flow-on effects of GHG emissions that could indirectly impact on protected matters under the EPBC Act. The delegate found that the proposed action would not have any climate change related impacts on protected matters, including the ecological character of declared Ramsar wetlands.

Substantial new information about the impacts of the proposed action

202. EJA has identified over 50 documents that it considers demonstrate the likely significant impacts of climate change on matters protected under this controlling provision. These publicly available documents include the ecological character descriptions for Ramsar sites.

203. I considered that this information is substantial new information as:

a. much of the information contained in the reconsideration request was not before the delegate and so is considered new information; and

b. the information is of substance and is not trivial or inconsequential, and demonstrates that climate change has various effects on this protected matter.

204. The information in the reconsideration request identified 51 of Australia's 53 Ramsar wetlands as likely to be affected by climate change. The effects of climate change identified in the information relate predominately to changes associated with altered water balance, including:

    a. Rising sea levels that increase the incursion of salt water into estuary waters and freshwater wetland habitat, affecting the freshwater biota within the wetlands.

    b. The increased intensity of tidal storm surges, increasing foreshore shoreline erosion and inundation processes.

    c. Altered rainfall patterns, affecting water quality, ground water recharge and vegetation.

    d. Longer drier periods, increasing evaporation which affect salinity and groundwater levels.

205. The information in the reconsideration request also shows that climate change exacerbates existing pressures on Ramsar wetlands from water resource developments, invasive species and drought.

Does the information relate to the impacts that the proposed action has or will have, or is likely to have, on the ecological character of declared Ramsar wetlands?

206. The ecological character of a Ramsar wetland is the combination of the ecosystem components, processes and benefits/services that characterise the wetland at a given point in time. I accepted the department's advice that the information in the reconsideration request identified that climate change is altering the water balance of Ramsar wetlands which, in turn, is having adverse effects on the ecological character of declared Ramsar wetlands.

207. For the same reasons as those set out at paragraphs [160 to 161] above in relation to the world heritage values of declared World Heritage properties, having regard to the information provided by EJA and through the section 78B consultation process, I found that flow-on climate change effects are indirect consequences of the proposed action on the ecological character of declared Ramsar wetlands for the purposes of the EPBC Act.

208. For the same reasons as those set out at paragraphs [162 to 185] above in relation to the world heritage values of declared World Heritage properties, I found that the proposed action is not a substantial cause of the stated physical effects of climate change on the ecological character of declared Ramsar wetlands.

Conclusion

209. I found that the new information is not about the impacts the proposed action has, will have or is likely to have on the ecological character of Ramsar wetlands.

Listed threatened species and ecological communities (sections 18 and 18A)

Referral information

210. I noted that the original referral decision does not include controlling provisions under sections 18 and 18A because identified potential impacts (light emissions, acoustic disturbance, habitat degradation and loss, discharges and leaks, significant hydrocarbon spills, and vehicle and vessel collisions) were found by the delegate to be unlikely to result in a significant impact to listed threatened species and communities.

211. When making the original referral decision, the delegate considered climate-related evidence from the World Resources Institute literature published in 2014 in relation to this protected matter, particularly as it related to potential climate change flow-on effects of GHG emissions that could indirectly impact on protected matters under the EPBC Act.. The delegate found that the proposed action would not have any climate change related impacts on protected matters, including listed threatened species and ecological communities.

Substantial new information about the impacts of the proposed action

212. EJA has identified over 2,000 documents that it considers demonstrate the likely significant impacts of climate change on matters protected under these controlling provisions. These publicly available documents include conservation advices and listing advices for individual species and the IUCN Red List assessments. EJA divided its information for these provisions into three groups – listed fauna, listed flora and listed ecological communities. The department's analysis of this information was grouped in the same way, which I have adopted below.

213. I considered this information is substantial new information as:

    a. some of the information contained in the reconsideration request was not before the delegate and so is new information; and

    b. the information is of substance and is not trivial or inconsequential, and demonstrates that climate change has various effects on this protected matter.

Listed threatened fauna

214. EJA considers that 366 listed faunal species are likely to be affected by climate change. The information in the reconsideration request identified that climate change is likely to increase the frequency and severity of droughts, floods, and bushfire due to increased temperature and altered rainfall patterns. These weather events will affect the availability and distribution of breeding and foraging habitats for listed faunal species. For example, reduced waterflows can result in the loss of streamside vegetation and floods and bushfires impact on the water quality of aquatic environments. The effects of climate change are more pronounced for fauna with restricted area of occupancy and low-density populations at those sites.

215. The information in the reconsideration request also identified other sources of physical pressures on listed faunal species such as water extraction, feral predation, feral herbivores, introduced pests and developments (e.g. roads and agriculture).

Listed threatened flora

216. EJA considers that 1,048 listed floral species are likely to be affected by climate change. The information in the reconsideration request identified that climate change will cause Australia's climate to get hotter and drier, resulting in the potential for increased drought and climate-induced bushfires of increased intensity and frequency. This change in climate will affect the habitat suitability of listed floral species – particularly those which occur in small, fragmented populations with specific habitat requirements (e.g. moisture content) or in a highly restricted geographic range (e.g. alpine regions). In addition, the effects of extreme rainfall flood events associated with climate change may affect listed floral species, for example, by leading to the erosion of swampy floodplain habitat and causing physical damage to listed flora.

217. The information in the reconsideration request also identified other pressures on listed floral species, such as habitat fragmentation, encroachment from developments, introduced pests and diseases, and human recreational activities (e.g. bushwalking, camping and abseiling).

Listed ecological communities

218. EJA considers that 74 listed threatened ecological communities are likely to be affected by climate change. The information in the reconsideration request identified that climate change poses a serious long-term threat to terrestrial, coastal, and aquatic ecosystems that are listed threatened ecological communities. Wetlands, swamps, moist open forest, and rainforests will be under greater stress from a drier climate. Coastal ecological communities will be impacted by rising sea levels.

219. The information in the reconsideration request also noted that climate change not only directly threatens the species within ecological communities that cannot adapt, but it is also likely to exacerbate existing threats including:

a. Loss of habitat

b. Altered hydrological regimes

c. Altered fire regimes

d. The spread of invasive species and disease

e. Tree decline due to prolonged drought and heat stress

f. Human activities.

Does the information relate to the impacts that the proposed action has or will have, or is likely to have, on listed threatened species and ecological communities?

220. I accepted the department's advice that the information in the reconsideration request identified that climate change is having, or will have, adverse effects on the habitats of listed threatened species and the composition of listed threatened ecological communities.

221. For the same reasons as those set out at paragraphs [160 to 161] above in relation to the world heritage values of declared World Heritage properties, having regard to the information provided by EJA and through the section 78B consultation process, I found that flow-on climate change effects are indirect consequences of the proposed action on listed threatened species and ecological communities for the purposes of the EPBC Act.

222. For the same reasons as those set out at paragraphs [162 to 185] above in relation to the world heritage values of declared World Heritage properties, I found that the proposed action is not a substantial cause of the stated physical effects of climate change on listed threatened species and ecological communities.

Conclusion

223. I found that the new information is not about the impacts the proposed action has, will have or is likely to have on listed threatened species and ecological communities.

Listed migratory species (sections 20 and 20A)

Referral information

224. I noted that the original referral decision for the proposed action does not include this controlling provision because identified potential impacts (light emissions, acoustic disturbance, habitat degradation and loss, discharges and leaks, significant hydrocarbon spills, and vehicle and vessel collisions) were found by the delegate to be unlikely to result in a significant impact to listed migratory species.

225. When making the original referral decision, the delegate considered climate-related evidence from the World Resources Institute literature published in 2014 in relation to this protected matter, particularly as it related to potential climate change flow-on effects of GHG emissions that could indirectly impact on protected matters under the EPBC Act. The delegate found that the proposed action would not have any climate change related impacts on protected matters, including listed migratory species.

Substantial new information about the impacts of the proposed action

226. EJA has identified over 150 documents and information that it considers demonstrate the likely significant impacts of climate change on matters protected under this controlling provision. This publicly available material includes information about individual species from the department's SPRAT and conservation and listing advices.

227. I considered this information is substantial new information as:

    a. some of the information contained in the reconsideration request was not before the delegate and so is new information; and

    b. the information is of substance and is not trivial or inconsequential, and demonstrates that climate change has various effects on this protected matter.

228. EJA considers 133 listed migratory species are likely to be impacted by climate change. The information in the reconsideration request identifies relationships between climate change and listed migratory species, for example:

    a. Migratory waders – global warming and associated changes in sea level are likely to have long-term effects on breeding, staging, and non-breeding grounds.

    b. Cold water marine mammals – increasing ocean temperatures predicted by climate change scenarios could potentially decrease the extent of their occurrence with warmer water extending southwards.

    c. Marine turtles – changing temperatures and weather patterns associated with climate change are likely to have both direct physiological effects on marine turtles as well as indirect effects through impacts on critical habitats.

Does the information relate to the impacts that the proposed action has or will have, or is likely to have, on listed migratory species?

229. I accepted the department's advice that the information in the reconsideration request identified that climate change is having, or will have, adverse effects on migratory species.

230. For the same reasons as those set out at paragraphs [160 to 161] above in relation to the world heritage values of declared World Heritage properties, having regard to the information

provided by EJA and through the section 78B consultation process, I found that flow-on climate change effects are indirect consequences of the proposed action on listed migratory species for the purposes of the EPBC Act.

231. For the same reasons as those set out at paragraphs [162 to 185] above in relation to the world heritage values of declared World Heritage properties, I found that the proposed action is not a substantial cause of the stated physical effects of climate change on listed migratory species.

Conclusion

232. I found that the new information is not about the impacts the proposed action has, will have or is likely to have on listed migratory species.

Environment in a Commonwealth marine area (sections 23 and 24A)

Referral information

233. I noted that the original referral decision does not include this controlling provision because, although the delegate considered that potential impacts on the environment in a Commonwealth marine area (**CMA**) may be plausible, the delegate concluded that it was unlikely the proposed action would have a significant impact on the environment in a CMA given the nature and scale of the proposed action, its potential impacts and its distance from CMAs.

234. When making the original referral decision, the delegate considered climate-related evidence from the World Resources Institute literature published in 2014 in relation to this protected matter, particularly as it related to potential climate change flow-on effects of GHG emissions that could indirectly impact on protected matters that form part of the CMA provision. The department advised, and the delegate agreed, that this provision indirectly includes listed threatened species and ecological communities and listed migratory species as components of the environment of the CMA. The delegate found that the proposed action would not have any climate change related impacts on protected matters, including the environment in CMAs.

Substantial new information about the impacts of the proposed action

235. EJA has identified over 540 documents that it considers demonstrate the likely significant impacts of climate change on the matter protected under this controlling provision. These publicly available materials include bioregional plans, species group and marine environment report cards and region profiles.

236. I considered that this information is substantial new information as:

    a. much of the information contained in the reconsideration request was not before the delegate and so is new information; and

    b. the information is of substance and is not trivial or inconsequential, and demonstrates that climate change has various effects on this protected matter.

237. EJA considers that the environment in five of the six CMAs and over 390 listed marine species are likely to be impacted by climate change.

238. The information in the reconsideration request identifies the relationships between climate change related events and the environment in CMAs, for example:

a. Increased frequency of storms – may cause habitat modification by altering coastal landscapes, particularly sandy beaches and low-lying islands, resulting in changes to the structure, function, and capacity of coastal ecosystems to deliver ecosystem function.

b. Sea level rise – may have consequences when combined with increasing cyclone frequency, particularly for habitats associated with inshore dolphins and some breeding seabirds.

c. Ocean acidification – may have physiological effects on many species and may also cause changes to the composition of ecological community structures dependent on hard substrate environments, which may in turn impact on food sources for higher trophic level species.

239. The information in the reconsideration request identifies that one third of reef building corals face an elevated extinction risk from climate change, and that climate change may thus threaten all sea snakes, which are coral reef specialists. The information in the reconsideration request also indicates that climate change, and associated changes in sea level, are likely to have a long-term impact on the breeding, staging, and non-breeding grounds of migratory shorebirds. In general, species that inhabit low-lying areas (e.g. beaches and atolls) will be subject to inundation and loss of habitat, and species that are geographically bounded will be impacted by rising temperatures.

Does the information relate to the impacts that the proposed action has or will have, or is likely to have, on the environment in a Commonwealth marine area?

240. I accepted the department's advice that the information in the reconsideration request identified that climate change is, or will have, adverse effects on the environment in a CMA, in particular ecosystems and their constituent parts which in turn impact on the qualities and characteristics of locations and places within a CMA.

241. For the same reasons as those set out at paragraphs [160 to 161] above in relation to the world heritage values of declared World Heritage properties, having regard to the information provided by EJA and through the section 78B consultation process, I found that flow-on climate change effects are indirect consequences of the proposed action on the environment in a CMA for the purposes of the EPBC Act.

242. For the same reasons as those set out at paragraphs [162 to 185] above in relation to the world heritage values of declared World Heritage properties, I found that the proposed action is not a substantial cause of the stated physical effects of climate change on the environment in a CMA.

Conclusion

243. I found that the new information is not about the impacts the proposed action has, will have or is likely to have on the environment in a CMA.

Environment in the Great Barrier Reef Marine Park (sections 24B and 24C)

Referral information

244. I noted that the original referral decision does not include this controlling provision because the proposed action does not occur within or adjacent to the Great Barrier Reef Marine Park (**the Park**). The delegate considered it unlikely that the proposed action would have a

significant impact on the Park because of the nature and scale of the proposed action, its potential impacts, and its distance to the Park.

245. When making the original referral decision, the delegate considered climate-related evidence from the World Resources Institute literature published in 2014 in relation to this protected matter, particularly as it related to potential climate change flow-on effects of GHG emissions that could indirectly impact on protected matters under the EPBC Act. The delegate found that the proposed action would not have any climate change related impacts on protected matters, including the environment in the Great Barrier Reef Marine Park.

Substantial new information about the impacts of the proposed action

246. EJA has identified over 13 documents and information that it considers demonstrate the likely significant impacts of climate change on matters protected under this controlling provision. These publicly available materials include bioregional plans, species group and marine environment report cards and region profiles. The information provided for this controlling provision was the same information as provided for the Park under the World Heritage controlling provision.

247. I considered that this information is substantial new information as:

a. much of the information contained in the reconsideration request was not before the delegate and so is new information; and

b. the information is of substance and is not trivial or inconsequential, and demonstrates that climate change has various effects on this protected matter.

248. The information in the reconsideration request identified that climate change is the most serious threat to the environment in the Park and compounds the impacts of other existing threats such as land-based run off, coastal development, and direct use (particularly fishing).

249. For example, climate change reduces the Park's resilience, with thermal extremes causing mass mortality of adult coral and a decline in coral recruitment, as well as mass mortality of fish and invertebrates, in shallow northern reef lagoons in 2016. Small changes in sea levels also increase erosion, which has effects on turtle and seabird nesting beaches and causes land inundation, affecting tidal habitats (e.g. brackish saltmarsh habitats are being displaced by mangroves).

Does the information relate to the impacts that the proposed action has or will have, or is likely to have, on the environment in the Great Barrier Reef Marine Park?

250. I accepted the department's advice that the information in the reconsideration request identified that climate change is having, or will have, adverse effects on the environment in the Park, in particular its ecosystems and constituent parts, which can in turn impact on the qualities and characteristics of locations and places within the Park and its heritage values.

251. For the same reasons as those set out at paragraphs [160 to 161] above in relation to the world heritage values of declared World Heritage properties, having regard to the information provided by EJA and through the section 78B consultation process, I found that any flow-on climate change effects are indirect consequences of the proposed action on the environment of the Park for the purposes of the EPBC Act.

252. For the same reasons as those set out at paragraphs [162 to 185] above in relation to the world heritage values of declared World Heritage properties, I found that the proposed action

is not a substantial cause of the stated physical effects of climate change on the environment in the Park.

Conclusion

253. I found that the new information is not about the impacts the proposed action has, will have or is likely to have on the environment in the Park.

Precautionary principle

254. As a request has been made pursuant to section 78A of the EPBC Act, I accepted the department's advice that I was required to reconsider the decision under section 75 (about whether an action is a controlled action and which provisions of Part 3 (if any) are controlling provisions for the action). As noted above, in making a decision under section 75, I am required to take account of the precautionary principle (section 391) to the extent that I can do so consistently with the other provisions of the EPBC Act. The precautionary principle is that a lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage. I noted that the precautionary principle was taken into account in the original referral decision.

255. In making my decision to confirm the referral decision, I took into account the precautionary principle. I considered that, while the information in the reconsideration request demonstrates that there is a risk of serious or irreversible harm arising from climate change, for the reasons I have explained above, the GHG emissions from the proposed action will not or are not likely to cause 'impacts' on protected matters. I was therefore not satisfied that the revocation and substitution of the original referral decision was warranted by substantial new information about the impacts of the proposed action.

Conclusion

256. In light of the findings described at [146-255] above, I was not satisfied that the revocation and substitution of the original referral decision was warranted by the availability of substantial new information about the impacts that the action has or will have, or is likely to have, on protected matters.

257. As discussed above at [148], I also considered whether any of the grounds at sections 78(1)(aa) to (d) may be the basis for a decision to reconsider the original referral decision, but found that they would not be.

258. Therefore, I decided to confirm the original decision that the proposed action is a controlled action and that the controlling provisions are sections 15B and 15C National Heritage places.

Murray Watt, Minister for
the Environment and Water

signature 

date of decision 25/9/25

Annexure A - Relevant extracts from the *Environment Protection and Biodiversity Conservation Act 1999*

78 Reconsideration of decision

Limited power to vary or substitute decisions

(1) The Minister may revoke a decision (the ***first decision***) made under subsection 75(1) about an action and substitute a new decision under that subsection for the first decision, but only if:

(a) the Minister is satisfied that the revocation and substitution is warranted by the availability of substantial new information about the impacts that the action:

(i) has or will have; or

(ii) is likely to have;

on a matter protected by a provision of Part 3; or

(aa) the Minister is satisfied that the revocation and substitution is warranted by a substantial change in circumstances that was not foreseen at the time of the first decision and relates to the impacts that the action:

(i) has or will have; or

(ii) is likely to have;

on a matter protected by a provision of Part 3; or

(b) the following requirements are met:

(i) the first decision was that the action was not a controlled action because the Minister believed the action would be taken in the manner identified under subsection 77A(1) in the notice given under section 77;

(ii) the Minister is satisfied that the action is not being, or will not be, taken in the manner identified; or

(ba) the following requirements are met:

(i) the first decision was that the action was not a controlled action because of a provision of a bilateral agreement and a management arrangement or an authorisation process that is a bilaterally accredited management arrangement or a bilaterally accredited authorisation process for the purposes of the agreement;

(ii) the provision of the agreement no longer operates in relation to the action, or the management arrangement or authorisation process is no longer in force under, or set out in, a law of a State or a self-governing Territory identified in or under the agreement; or

(c) the following requirements are met:

(i) the first decision was that the action was not a controlled action because of a declaration under section 33 and a management arrangement or an authorisation process that is an accredited management arrangement or an accredited authorisation process for the purposes of the declaration;

(ii) the declaration no longer operates in relation to the action, or the management arrangement or authorisation process is no longer in operation under, or set out in, a law of the Commonwealth identified in or under the declaration; or

(ca) the following requirements are met:

(i) the first decision was that the action was not a controlled action because of a declaration under section 37A and a bioregional plan to which the declaration relates;

(ii) the declaration no longer operates in relation to the action, or the bioregional plan is no longer in force; or

(d) the Minister is requested under section 79 to reconsider the decision.

Note 1: Subsection 75(1) provides for decisions about whether an action is a controlled action and what the controlling provisions for the action are.

Note 2: A person (other than a Minister of a State or self-governing Territory) may request the Minister to reconsider a decision made under subsection 75(1) about an action on the basis of a matter referred to in any of paragraphs 78(1)(a) to (ca). See section 78A.

Note 3: If the Minister decides to revoke a decision under subsection (1) and substitute a new decision for it, the Minister is not required to carry out the processes referred to in sections 73 and 74 again before making the new decision.

Reversing decision that provision of Part 3 is not controlling provision

(2) A provision of Part 3 letting an action be taken if the Minister has decided that a particular provision (the ***prohibiting provision***) of that Part is not a controlling provision for the action does not prevent the Minister from acting under subsection (1) to revoke a decision that the prohibiting provision is not a controlling provision for an action and substitute a decision that the prohibiting provision is a controlling provision for the action.

Decision not to be revoked after approval granted or refused or action taken

(3) The Minister must not revoke the first decision after:

(a) the Minister has granted or refused an approval of the taking of the action; or

(b) the action is taken.

General effect of change of decision

(4) When the first decision is revoked and a new decision is substituted for it:

(a) any provisions of this Chapter that applied in relation to the action because of the first decision cease to apply in relation to the action; and

(b) any provisions of this Chapter that are relevant because of the new decision apply in relation to the action.

Change of designation of proponent

(5) If the Minister believes a person (the ***first proponent***) designated under section 75 as proponent of an action is no longer an appropriate person to be the designated proponent of the action, the Minister may revoke the designation and designate another person (the ***later proponent***) as proponent of the action.

Consent to designation

(6) The Minister may designate the other person as proponent of the action only if:

(a) he or she consents to it and the person proposing to take the action agrees to it; or

(b) the other person is the person proposing to take the action.

Effect of change of designated proponent

(7) If the Minister revokes the designation of the first proponent and designates the later proponent:

(a) the provisions of this Chapter that applied to the first proponent cease to apply to the first proponent in relation to the action but apply to the later proponent; and

(b) for the purposes of those provisions the later proponent is taken to have done anything the first proponent did in relation to the action; and

(c) for the purposes of those provisions anything done in relation to the first proponent in relation to the action is taken to have been done in relation to the later proponent.

78A Request for reconsideration of decision by person other than State or Territory Minister

(1) A person (other than a Minister of a State or self-governing Territory) may request the Minister to reconsider a decision made under subsection 75(1) about an action on the basis of a matter referred to in any of paragraphs 78(1)(a) to (ca).

Note: Section 79 deals with requests for reconsideration by a Minister of a State or self-governing Territory.

(2) A request under subsection (1) must:

(a) be in writing; and

(b) set out the basis on which the person thinks the decision should be reconsidered; and

(c) if the regulations specify other requirements for requests under subsection (1)—comply with those requirements.

(3) If a request is made under subsection (1) in relation to a decision that an action is a controlled action, or that particular provisions are controlling provisions for an action, then:

(a) if the request is made by the designated proponent of the action—Part 8 ceases to apply in relation to the action until the Minister makes a decision in relation to the request; but

(b) if the request is made by another person—the application of Part 8 in relation to the action is not affected by the making of the request (subject to the outcome of the reconsideration).

(4) If:

(a) because of paragraph (3)(a), Part 8 has ceased to apply in relation to an action; and

(b) the Minister confirms the decision that is the subject of the request under subsection (1);

then:

(c) the application of Part 8 in relation to the action resumes (as does any assessment process under that Part that had previously commenced in relation to the action); and

(d) for the purposes of the resumed application of Part 8, a day is not to be counted as a business day if it is:

(i) on or after the day the Minister received the request; and

(ii) on or before the day the Minister confirms the decision.

78B Minister must inform interested persons of request and invite comments

(1) The Minister (the ***Environment Minister***) must comply with this section if he or she receives a request under section 78A to reconsider a decision made under subsection 75(1) about an action.

Informing designated proponent of request and inviting comments

(2) If the request is made by a person other than the designated proponent of the action, the Environment Minister must:

(a) inform the designated proponent of the request in accordance with subsection (3); and

(b) invite the designated proponent to give the Environment Minister, within 10 business days, comments on the request.

(3) For the purpose of paragraph (2)(a), the Environment Minister must inform the designated proponent of the request by giving the designated proponent such information relating to the request as the Minister considers appropriate. The Minister need not (for example) reveal the identity of the person who made the request.

Inviting other Commonwealth Ministers to provide information

(4) The Environment Minister must:

(a) inform any other Minister who the Environment Minister believes has administrative responsibilities relating to the action of the request; and

(b) invite each Minister informed to give the Environment Minister, within 10 business days, information about whether a matter referred to in any of paragraphs 78(1)(a) to (ca) is applicable in relation to the action.

Inviting comments from appropriate State or Territory Minister

(5) If the request relates to an action proposed to be taken in a State or self-governing Territory and the Environment Minister thinks the action may have an impact on a matter protected by a provision of Division 1 of Part 3 (about matters of national environmental significance), the Environment Minister must:

(a) inform the appropriate Minister of the State or Territory of the request; and

(b) invite that Minister to give the Environment Minister, within 10 business days:

(i) comments on whether a matter referred to in any of paragraphs 78(1)(a) to (ca) is applicable in relation to the action; and

(ii) any other information that the Minister of the State or Territory considers relevant to the reconsideration.

Note: Subsection (5) also applies in relation to a request that relates to an action that is to be taken in an area offshore from a State or the Northern Territory. See section 157.

Inviting public comment

(6) The Environment Minister must publish on the internet:

(a) the request; and

(b) an invitation for anyone to give the Environment Minister, within 10 business days (measured in Canberra), comments in writing on whether a matter referred to in any of paragraphs 78(1)(a) to (ca) is applicable in relation to the action.

78C Minister must reconsider decision and give notice of outcome

Reconsideration of decision

(1) As soon as practicable after the end of the time within which information or comments may be given under section 78B in relation to a request under section 78A to reconsider a decision about an action, the Minister must:

(a) reconsider the decision; and

(b) either:

(i) confirm the decision; or

(ii) revoke the decision in accordance with subsection 78(1), and substitute a new decision for it.

Notice of outcome of reconsideration

(2) The Minister must give written notice of the outcome of the reconsideration to:

(a) the person who requested the reconsideration; and

(b) the person proposing to take the action (if that person is not the person referred to in paragraph (a)); and

(c) the designated proponent of the action (if the designated proponent is not the person referred to in paragraph (a) or (b)); and

(d) if the reconsideration relates to an action referred to in subsection 78B(5)—the appropriate Minister of the State or Territory.

(3) After giving notice as described in subsection (2), the Minister must publish notice of the outcome of the reconsideration. The regulations may specify how the publication is to be made. Subject to any such regulations, the publication must be made in a way the Minister considers appropriate.

Reasons for outcome of reconsideration

(4) The Minister must give reasons for the outcome of the reconsideration to a person who:

(a) has been given notice of the outcome of the reconsideration under paragraph (2)(a), (b) or (c); and

(b) within 28 days after being given the notice, has requested the Minister to provide reasons.

The Minister must do so as soon as practicable, and in any case within 28 days after receiving the request.