



**APPROVAL**

**EnergyConnect NSW, Western Section (EPBC 2020/8673)**

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (the EPBC Act). Note that section 134(1A) of the EPBC Act applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

**Details**

<b>Person to whom the approval is granted (approval holder)</b>	NSW Electricity Networks Operations Pty Limited
<b>ACN or ABN of approval holder</b>	ACN: 609 169 959
<b>Action</b>	To construct and operate the western portion of Project EnergyConnect, New South Wales [see EPBC Act referral 2020/8673].

**Approval decision**

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.

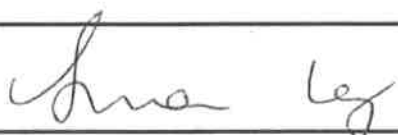
**Controlling Provisions**

<b>Listed Threatened Species and Communities</b>	
Section 18	Approve
Section 18A	Approve

**Period for which the approval has effect**

This approval has effect until **31 December 2121**.

**Decision-maker**

<b>Name and position</b>	The Hon Sussan Ley MP Minister for the Environment
<b>Signature</b>	
<b>Date of decision</b>	10 <sup>th</sup> November 2021 SL

**Conditions of approval**

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.

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## ANNEXURE A – CONDITIONS OF APPROVAL

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### Part A – Conditions specific to the action

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1. To minimise the impacts of the action on **protected matters**, the approval holder must not clear more than the following specified amounts in condition D25 of the **State Infrastructure approval**:
  - a. 0.32 ha of **habitat for *Atriplex infrequens***;
  - b. 6.91 ha of **habitat for Regent Parrot (eastern subspecies)**;

**Note:** Habitat for the *Atriplex infrequens* and Regent Parrot (eastern subspecies) are shown on the maps at **Attachment A** and **Attachment B** respectively.

2. For the protection of **protected matters** the approval holder must:
  - a. Implement conditions B1, B2 and B5 of Part B, Schedule 2 of the **State Infrastructure approval**, where they relate to monitoring, managing, avoiding, mitigating, recording, or reporting on, impacts to **protected matters**.
  - b. Implement conditions D25 and D28 of Part D, Schedule 2 and E1 and E2 of Part E, Schedule 2 of the **State Infrastructure approval**, where they relate to monitoring, managing, avoiding, mitigating, recording, or reporting on, impacts to **protected matters**.
  - c. Notify the Department in writing within 2 **business days** of formally proposing any change to the conditions of the **State Infrastructure approval** for which conditions 1, 2a or 2b apply, and within 5 **business days** of becoming aware of the NSW Government proposing a change to the conditions of the **State Infrastructure approval** for which conditions 1, 2a or 2b apply.
  - d. Notify the Department in writing of any change to the **State Infrastructure approval** for which conditions 1, 2a or 2b apply, and within 5 **business days** of a change to the **State Infrastructure approval** for which conditions 1, 2a or 2b apply being finalised.

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### Part B – Standard administrative conditions

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#### Notification of date of commencement of the action

3. The approval holder must notify the Department in writing of the date of commencement of the action within 10 **business days** after the date of commencement of the action.
4. If the commencement of the action does not occur within 5 years from the date of this approval, then the approval holder must not commence the action without the prior written agreement of the Minister.

#### Compliance records

5. The approval holder must maintain accurate and complete **compliance records**.
6. If the Department makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the Department within the timeframe specified in the request.

**Note:** **Compliance records** may be subject to audit by the Department or an Independent auditor in accordance with section 458 of the EPBC Act, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the Department's website or through the general media.

#### Submission and publication of plans

7. The approval holder must:
  - a. submit plans electronically to the Department
  - b. publish each plan on the website within 20 **business days** of the date the plan is approved by the NSW Planning Secretary, unless otherwise agreed to in writing by the Minister

- c. exclude or redact **sensitive ecological data** from **plans** published on the **website** or provided to a member of the public
- d. keep **plans** published on the **website** until the **completion**.

#### **Annual compliance reporting**

- 8. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or as otherwise agreed in writing by the **Minister**. The approval holder must:
  - a. publish each **compliance report** on the **website** within **60 business days** following the relevant 12 month period
  - b. notify the **Department** by email that a **compliance report** has been published on the **website** and provide the weblink for the **compliance report** within **5 business days** of the date of publication
  - c. keep all **compliance reports** publicly available on the **website** until **completion**
  - d. exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**
  - e. where any **sensitive ecological data** has been excluded from the version published, submit the **full compliance report** to the **Department** within **5 business days** of publication.

**Note:** Compliance reports may be published on the **Department's** website.

#### **Reporting non-compliance**

- 9. The approval holder must notify the **Department** in writing of any: **incident**; **non-compliance** with the conditions; or **non-compliance** with the commitments made in **plans**. The notification must be given as soon as practicable, and no later than **2 business days** after becoming aware of the **incident** or **non-compliance**. The notification must specify:
  - a. any condition which is or may be in breach
  - b. a short description of the **incident** and/or **non-compliance**
  - c. the location (including co-ordinates), date, and time of the **incident** and/or **non-compliance**. In the event the exact information cannot be provided, provide the best information available.
- 10. The approval holder must provide to the **Department** the details of any **incident** or **non-compliance** with the conditions or commitments made in **plans** as soon as practicable and no later than **10 business days** after becoming aware of the **incident** or **non-compliance**, specifying:
  - a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future
  - b. the potential impacts of the **incident** or **non-compliance**
  - c. the method and timing of any remedial action that will be undertaken by the approval holder.

#### **Independent audit**

- 11. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
- 12. For each **independent audit** requested by the **Minister** under condition 11, the approval holder must:
  - a. provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**

- b. only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**
  - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
13. The approval holder must publish the audit report on the **website** within **10 business days** of receiving the **Department's** approval of the audit report and keep the audit report published on the **website** until **completion**.

#### **Completion**

14. Within 30 days after the **completion**, the approval holder must notify the **Department** in writing and provide **completion data**.

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### **Part C - Definitions**

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In these conditions, except where contrary intention is expressed, the following definitions are used:

**Business day** means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.

**Clear or Clearing** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation (but not including weeds – see the *Australian weeds strategy 2017 to 2027* for further guidance).

**Commence/Commencement of the action** means the first instance of any specified activity associated with the action including **clearing** and **construction**. **Commencement of the action** does not include minor physical disturbance necessary to:

- i. undertake pre-clearance surveys or monitoring programs
- ii. install signage and /or temporary fencing to prevent unapproved use of the project area
- iii. protect environmental and property assets from fire, weeds and pests, including installation of temporary fencing, and maintenance of existing surface access tracks
- iv. install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on the **protected matters**
- v. undertake pre-construction minor works (as defined in Schedule 1 of the **State Infrastructure approval**) where the work does not impact **protected matters**.

**Completion data** means an environmental report and spatial data clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is **shapefile**.

**Completion** means the time at which all activities associated with **construction** have permanently ceased and requirements of conditions 2a and 2b have been fully met.

**Compliance records** means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully.

**Compliance reports** means written reports:

- i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**
- ii. consistent with the **Department's Annual Compliance Report Guidelines (2014)**
- iii. include a **shapefile** of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period

- iv. annexing a schedule of all plans prepared and in existence in relation to the conditions during the relevant 12 month period.

**Construction** has the same meaning as "Construction" stated in Table: Definitions in Schedule 1 of the **State Infrastructure approval**.

**Department** means the Australian Government agency responsible for administering the EPBC Act.

**EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*.

**Habitat for *Atriplex infrequens*** means the areas designated 'Atriplex infrequens species polygon' and shown shaded in orange on the map at Attachment A.

**Habitat for Regent Parrot (eastern subspecies)** means the area designated 'Regent Parrot (eastern subspecies) species polygon' and shown with diagonal pink cross hatching on the map at Attachment B.

**Incident** means any event which has the potential to, or does, impact on one or more **protected matter(s)** other than as authorised by this approval.

**Independent audit**: means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines (2019)*.

**Minister** means the Australian Government Minister administering the EPBC Act including any delegate thereof.

**Non-compliance** means an occurrence, set of circumstances or development that is a breach of this approval.

**Plan(s)** means any of the documents required to be prepared under the conditions of the **State Infrastructure approval** for which conditions 1, 2a and 2b apply.

**Protected matter** means a matter protected under a controlling provision in Part 3 of the EPBC Act for which this approval has effect, including the EPBC Act listed species:

- Regent Parrot (eastern subspecies) (*Polytelis anthopeplus monarchoides*), and
- *Atriplex infrequens*

**Sensitive ecological data** means data as defined in the Australian Government Department of the Environment (2016) *Sensitive Ecological Data – Access and Management Policy V1.0*.

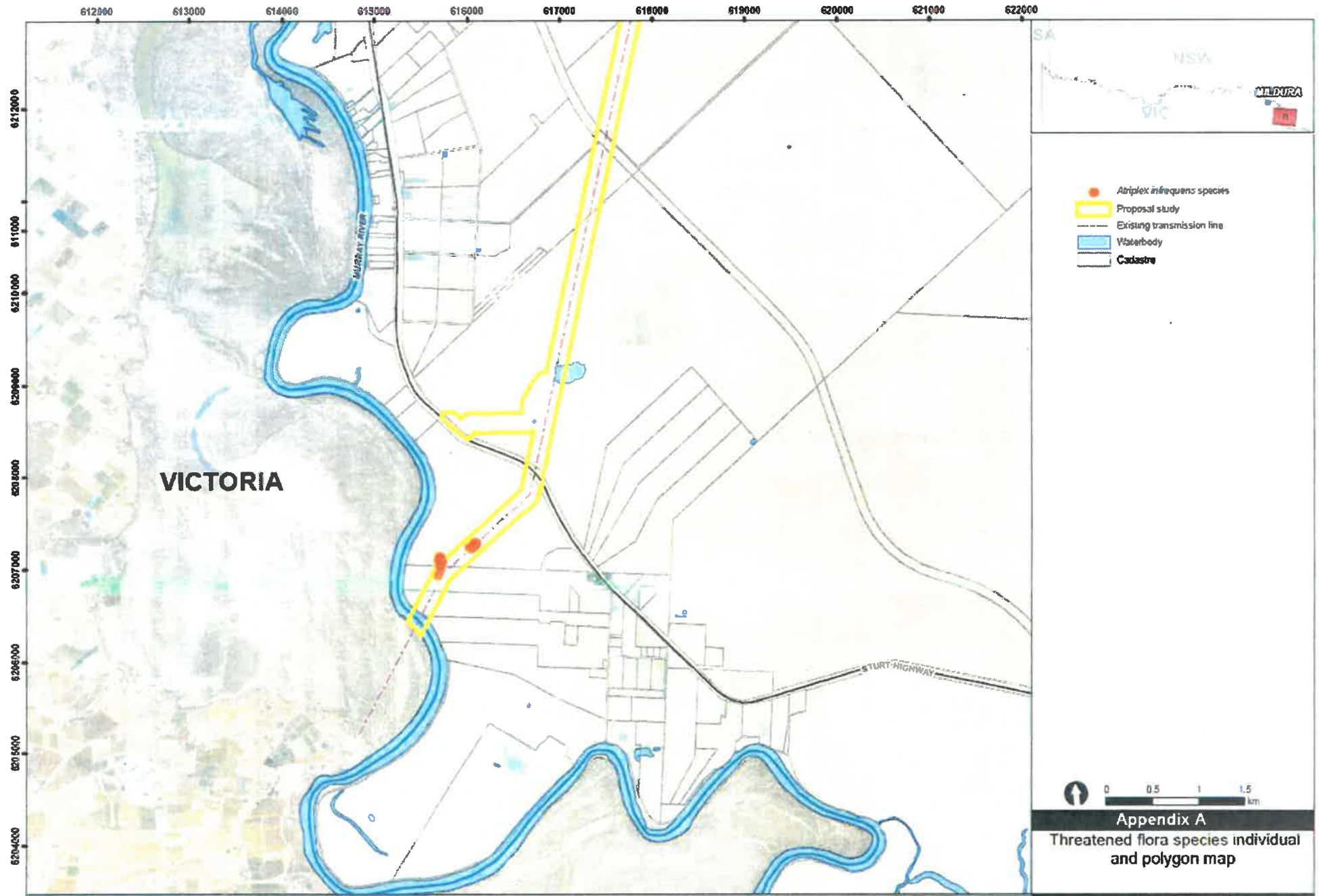
**Shapefile** means location and attribute information of the action provided in an Esri shapefile format. Shapefiles must contain '.shp', '.shx', '.dbf' files and a '.prj' file that specifies the projection/geographic coordinate system used. Shapefiles must also include an '.xml' metadata file that describes the shapefile for discovery and identification purposes.

**State Infrastructure approval** means the NSW Government State Significant Infrastructure: Conditions of Approval for EnergyConnect West, made under Section 5.19 of the *Environmental Planning & Assessment Act 1979*, for application number SSI-10040, dated 28 September 2021.

**Suitably qualified person** means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.

**Website** means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

Attachment A: Habitat for the *Atriplex infrequens* as shown as *Atriplex infrequens* species polygon





**Attachment B: Habitat for the Regent Parrot (eastern subspecies) as shown as Regent Parrot (eastern subspecies) polygon**

