



**APPROVAL**

**Kurri Kurri Gas Fired Power Station, NSW (EPBC 2021/8888)**

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>	Snowy Hydro Limited
<b>ACN or ABN of approval holder</b>	ACN: 090 574 431
<b>Action</b>	To construct and operate a gas fired power station and associated infrastructure at Hart Road, Loxford, NSW [See EPBC Act referral 2021/8888].

**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>Commonwealth actions</b>	
Section 28	Approve

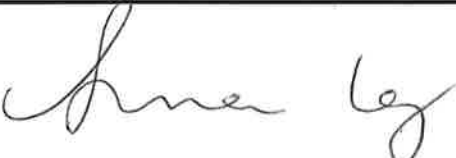
**Period for which the approval has effect**

This approval has effect until 31 December 2075.

**Decision-maker**

<b>Name and position</b>	The Hon Sussan Ley MP Minister for the Environment
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**Signature**



**Date of decision**

6<sup>th</sup> February 2022

**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

**Note** – words appearing in **bold** have the meaning assigned to them at Part C – Definitions.

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### Part A – Conditions specific to the action

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The objective of condition 1 is to minimise the impacts on the **environment** from an action taken by a **Commonwealth agency**.

1. To ensure there is no adverse **impact** on the **environment** as a result of the action, the **approval holder** must comply with conditions A8-A12 of Part A, B1-B11, B19-B20, B35-40, B41-B43, B46 of Part B, C1-C4 of Part C of the **State development consent** (to the extent the conditions in Part C relate to **environment**).
2. The action must only occur within the boundary (shown in red) on the map at Attachment A.

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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.

#### Annual compliance reporting

7. Following **commencement of the action**, the **approval holder** must prepare a **compliance report** addressing compliance with each of the conditions of this approval, including implementation of commitments made in all management **plans** and strategies required under any condition of the **State development consent** that is referred to in this approval, in respect of every calendar year, or otherwise in accordance with an annual date that has been agreed to in writing by the **Minister**. The **approval holder** must:
  - a. publish each **compliance report** on a **website** within 3 months 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 this approval expires
  - 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

8. 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.
9. 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

10. The **approval holder** must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
11. For each **independent audit**, 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.
12. 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 the end date of this approval.

### Completion of the action

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

### Changes to State development consent

14. The **approval holder** must notify the **Department** in writing of any proposed change to the **State development consent** that may relate to **environment** within **2 business days** of formally proposing a change or within **5 business days** of becoming aware of any proposed change.
15. The **approval holder** must notify the **Department** in writing of any change to the **State development consent** conditions that may relate to **environment**, within **10 business days** of a change to conditions being finalised.

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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:

**Approval holder** means the person to whom the approval is granted as identified on the approval notice for EPBC 2021/8888, or to whom the approval is transferred under S145B of the **EPBC Act**, or a person who may take the **action** in accordance with section 133(2A) of the **EPBC Act**.

**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)

**Commencement of the action** means the first instance of any specified activity associated with the action including **clearing** and construction of any infrastructure. **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 **Development Application Area**;
- iii. protect environmental and property assets from fire, weeds and pests, including construction of fencing, and use/or 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 **environment**.

**Commonwealth agency** means a company in which the whole of the shares or stock, or shares or stock carrying more than one-half of the voting power, is or are owned by or on behalf of the Commonwealth, in accordance with s528 of the **EPBC Act**.

**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 of the action** means the date on which all specified activities associated with the action have permanently ceased.

**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** means the erection of a building or structure that is or is to be fixed to the ground and wholly or partially fabricated on-site; the alteration, maintenance, repair or demolition of any building or structure; preliminary site preparation work which involves breaking of the ground

(including pile driving); the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding the installation of temporary fences and signage..

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

**Development Application Area** means the area shown within the red boundary and labelled as “site boundary” at Annexure 1 to this approval.

**Environment’** is defined in section 528 of the EPBC Act as including:

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) natural and physical resources; and
- (c) the qualities and characteristics of locations, places and areas; and
- (d) heritage values of places; and
- (e) the social, economic and cultural aspects of a thing mentioned in paragraph (a), (b), (c) or (d).

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

**Incident** means any event which has the potential to, or does, impact on the **environment**, other than as authorised by this approval.

**Impact/s** means any measurable direct or indirect harmful change.

**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).

**Monitoring data** means the data required to be recorded under the conditions of this approval.

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

**Plan(s)** means any of the documents required to be prepared, approved by the **Minister**, implemented by the approval holder and published on the **website** in accordance with these conditions (includes action management plans and/or strategies).

**Protected matter** means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.

**State development consent** means the State development consent for Hunter Power Project (Kurri Kurri Power Station), made under Section S.19 of the *Environmental Planning & Assessment Act 1979*, for application number SSI 12590060, dated 17 December 2021.

**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.

**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.

**ATTACHMENTS**

1. **Attachment A:** Map of proposed action area and boundary (shown in red)

Attachment A – Map of proposed action area and boundary (shown in red)



Figure 5-1 Habitat types and habitat features

