



Approval

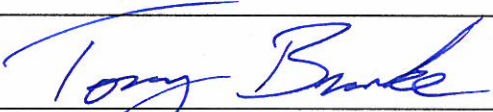
MURRUMBIDGEE TO GOOGONG WATER TRANSFER AND ASSOCIATED INFRASTRUCTURE, ACT/NSW (EPBC 2009/5124)

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

Proposed action

person to whom the approval is granted	ACTEW Corporation Pty Ltd
proponent's ACN (if applicable)	86 069 381 960
proposed action	To construct and operate a water transfer pipeline from the Murrumbidgee River at Angle Crossing (ACT) to Googong Dam via Burra Creek (NSW) as described in the referral document accepted by the Department on 9 October 2009 and the Public Environment Report accepted on 2 July 2010.

Decision-maker

name and position	Tony Burke Minister for Sustainability, Environment, Water, Population and Communities
signature	
date of decision	29 October 2010

Approval decision

controlling provision	Decision
Listed threatened species and communities (sections 18 & 18A)	Approved
Commonwealth land (sections 26 & 27A)	Approved
conditions of approval	
This approval is subject to the conditions specified below in Attachment A	
expiry date of approval	
This approval has effect until 29 October 2110	

Conditions of approval

This approval is subject to the conditions specified below.

Water extraction, gauging and reporting

1. The person taking the action must submit an Extraction and Gauging Plan that describes in detail how river flow and water extraction will be gauged, measured and reported in the Murrumbidgee River, to the Minister for approval. The plan must address the following requirements:
 - a) how river flow will be measured at Lobb's Hole gauging station and other relevant locations;
 - b) how baseflow in the Murrumbidgee River will be maintained to abide by the conditions of this approval;
 - c) reporting of water extraction data; and
 - d) reporting of any breaches of this approval.

The project may not operate until an Extraction and Gauging Plan is approved by the Minister. The approved plan must be implemented.

Sustainable Diversion Limit Plan

2. The person taking the action must submit a Sustainable Diversion Limit Plan (SDL Plan) to the Minister for approval to ensure the long-term protection and recovery of listed threatened fish species in the Murrumbidgee River, including the Murray Cod (*Maccullochella peelii peelii*), the Trout Cod (*Maccullochella macquariensis*) and Macquarie Perch (*Macquaria australasica*). The SDL Plan must be developed in consultation with expert(s) approved by the department, and in accordance with Terms of Reference submitted for the Department's approval within four weeks of the date of this approval decision. The Terms of Reference must address the matters outlined at Attachment B to this decision.

The project may not operate without an approved SDL Plan. The approved SDL Plan must be implemented.

Threatened Species and Ecological Communities Management and Offsets

3. The person taking the action must submit a Biodiversity Management and Offset Plan to address impacts on listed threatened species and ecological communities to the Minister for approval prior to commencing construction. The Biodiversity Management and Offset Plan must include the following:
 - a) a description of the survey effort already undertaken for listed threatened species and ecological communities, and any extra surveys that may be required pre-construction as described in condition 3. b);
 - b) an outline of the methodology of additional flora surveys, by a botanist with expertise in surveying for the Small Purple-pea (*Swainsona recta*), Hoary Sunray (*Leucochrysum albicans* var. *tricolour*) and Button Wrinklewort (*Rutidosis leptorrhynchoides*). The surveys must be conducted at the correct time of year, and specifically target the parts of the project area that are most likely to provide habitat for the species, particularly in areas that were not surveyed for the species previously;

- c) precise mapping showing the location of all known Small Purple-pea, Hoary Sunray and Button Wrinklewort plants in the project area, the location of the areas of greatest potential for having additional plants of these species in the project area and the precise location of the pipeline easement. These maps must be provided to the Department but must not be published at a scale that indicates individual plants;
- d) demonstrate how construction of the pipeline and associated activities will avoid removing any individuals of the Small Purple-pea, or, if removal is necessary, provide details of a Small Purple-pea land offset, management and planting programs to ensure no net loss to the population;
- e) describe how the alignment of the pipeline easement minimises impacts on the Small Purple-pea, Hoary Sunray, Button Wrinklewort and Pink-tailed Worm Lizard (*Aprasia parapulchella*);
- f) explain how the extent and condition of EPBC listed threatened ecological communities (TEC's) was determined;
- g) detailed mapping of TEC's, including habitat condition, including the project area and other areas proposed to be used as offsets;
- h) a description of how the Small Purple-pea, Hoary Sunray and Button Wrinklewort and Pink-tailed Worm Lizard will be managed during construction of the pipeline;
- i) a description of how native vegetation (including TEC's) will be rehabilitated after the construction of the pipeline;
- j) a description of how any threatened plants will be propagated and re-established;
- k) a description of how weed management and rehabilitation of native vegetation and threatened species habitat will be undertaken and funded in the long-term; and
- l) commitments to managing and protecting in perpetuity any parcel of land set aside as an offset.

Construction may not commence in any areas that contain habitat for the Small Purple-pea, Hoary Sunray, Button Wrinklewort and Pink-tailed Worm Lizard or in TEC's until the plan is approved. The approved plan must be implemented.

Burra Creek Environmental Management

4. The person taking the action must submit a Burra Creek Environmental Management Plan to the Minister for approval that establishes a statistically valid ecological monitoring program to detect and manage any environmental harm to the ecological elements of Burra Creek or increase in the weeds problem along Burra Creek. The plan must include:
 - a) indicators, parameters and criteria to be used in measuring changes in the aquatic and riparian ecological elements of Burra Creek;
 - b) criteria to be used in measuring the diversity, distribution, abundance or density of weeds along the banks of Burra Creek;
 - c) protocols for on-going reporting of adverse changes to the ecological elements of Burra Creek, or an increase in the diversity, distribution, abundance or density of weeds along the banks of Burra Creek ;
 - d) the proposed location of monitoring sites; and
 - e) management triggers and actions.

The project may not operate until a Burra Creek Environmental Management Plan is approved by the Minister. The approved plan must be implemented.

Decommissioning and Closure Plan

5. A decommissioning and closure plan must be prepared for the Minister's approval at least one year prior to the anticipated date of decommissioning. Once approved by the Minister, the plan must be implemented.

Publication Requirements

6. Management plans and reports (however described) referred to in these conditions of approval must be made publicly available on the ACTEW Corporation website.

An Annual Performance Report must be provided to the Department and published on the ACTEW Corporation website that reports on the implementation of these conditions and any approved plans required under these conditions. The first Annual Performance Report must report on the time period from the commencement of construction of the project through to 12 months after the commencement of operation of the project. The first Annual Performance Report must be submitted within 13 months of the date of commencement of the operation of the project. Subsequent annual reports must be submitted every 12 months from this date, and must cover the 12 month period following the previous report.

Record Keeping

7. The person taking the action must maintain accurate records of activities associated with or relevant to the above conditions of approval, and make them available on request by the Department. Such documents may be subject to audit by the Department and used to verify compliance with the conditions of approval.

Variations sought by the person taking the action

8. If the person taking the action wishes to carry out an action otherwise than in accordance with any plan, report, program or system (however described) approved in relation to this approval, they may submit a revised plan, report, program or system (however described) for the Minister's approval. If the Minister approves a revised plan, report, program or system (however described) the person taking the action must implement that plan, report, program or system (however described) instead of the plan, report, program or system (however described) as originally approved.

Variations sought by the Minister

9. If the Minister believes that it is necessary or desirable for the better protection of any relevant controlling provision to do so, the Minister may request that the person taking the action make specified revisions to any plans, reports, programs or systems (however described) approved pursuant to these conditions. The person taking the action must comply with any such request. The revised plans, reports, programs or systems (however described) must be implemented.

Commencement

10. Within 30 days of commencement of construction, the person taking the action must advise the Department in writing the actual date of commencement of construction.

Within 30 days of commencement of operation, the person taking the action must advise the Department in writing the actual date of commencement of operation.

If the action has not been substantially commenced within 5 years of the date of this approval the action must not commence without the written agreement of the Minister.

Independent Auditor

11. Upon the direction of the Minister, the person taking the action must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the Minister. The independent auditor must be approved by the Minister prior to the commencement of the audit. Audit criteria must be agreed to by the Minister and the audit report must address the criteria to the satisfaction of the Minister.

Definitions

Baseflow – the minimum rate of river flow at (or below) which water may not be extracted.

Construction – construction includes any action-related construction and commissioning activities within the terrestrial and aquatic disturbance footprints of the project, excluding investigatory works such as, but not limited to, geotechnical, geophysical, biological and cultural heritage surveys, baseline monitoring surveys and technology trials.

The Department - the Australian Government Department responsible for the *Environment Protection and Biodiversity Conservation Act 1999*.

Ecological elements – physical and biological features that support habitat for native flora and fauna, including EPBC listed threatened species.

Extraction – removal of any water from the ACT Murrumbidgee for water supply or for environmental flows, or any other water extraction from the Murrumbidgee River for the ACT water supply.

Minister is the Australian Government Minister responsible for the *Environment Protection and Biodiversity Conservation Act 1999*.

Operation of the action – water being extracted from the Murrumbidgee River and released in Burra Creek.

River flow – the volume of water flow that is or would be would be passing Lobb's Hole if the project was not extracting water. When the project is not being operated, river flow = the flow in the Murrumbidgee River at Lobb's Hole gauging station. When the project is extracting water, river flow = the flow in the Murrumbidgee River at Lobb's Hole gauging station plus the volume of water being extracted by the project.

Draft Terms of Reference for the Development of the Sustainable Diversion Limit Plan

The Sustainable Diversion Limit Plan must include the following matters:

- a) describe where all water extractions occur, that are undertaken by the person taking the action, that impact on the Murrumbidgee River, and provide a detailed description of their operating rules;
- b) take into account of the cumulative impacts of the various water extractions noted in a), and the environmental flows released from Tantangara Dam;
- c) take into account the natural flow regime that occurred in the Murrumbidgee River prior to the construction of the Tantangara Dam (both volume and timing);
- d) ensure that very low and low flows required to protect and enhance the ecological elements required by listed threatened fish species are not impacted by the action, by determining a suitable 'baseflow' measured in ML/day, taking account of the natural flow regime;
- e) protect very low and low flows by ensuring that the extraction of water at any time must not be at a rate that would cause the river flow to fall below the 'baseflow' required under d)
- f) protect very low, low and moderate flows by defining a maximum percentage of the river flow which may be extracted at any time;
- g) describe how the extraction limits required under d), e) and f) take a precautionary approach in protecting the ecological elements required by listed threatened fish populations of the Murrumbidgee River, considering current threats and the limited knowledge of their ecological requirements;
- h) if the 'baseflows' required under d) and e) are described in terms of flow percentiles, justify the period of flow data from which the percentiles were derived, taking account of the natural flow regime;
- i) prevent environmental-flows from Tantangara Dam from being extracted in the ACT;
- j) describe research and monitoring of the ecological elements required by listed threatened fish populations, and the listed threatened fish populations themselves;
- k) ensure that mortality of larvae or juveniles of EPBC listed fish at the intake pump station at Angle Crossing is minimised.
- l) provide management triggers and actions in the event of a decline in the ecological elements required by listed threatened fish populations or a decline in the populations or recruitment rate of listed threatened fish;
- m) include provisions to offset the impacts on listed threatened fish species, by rehabilitation of riparian habitat, the construction of a fishway at Point Hut Crossing, habitat enhancement of the sediment affected areas of the ACT Murrumbidgee or improving the water quality of the upper Murrumbidgee; and
- n) include definitions and a glossary of relevant terms such as 'very low flows'.



The Hon Tony Burke MP

Minister for Sustainability, Environment, Water, Population and Communities

B10/2258

Mr Mark Sullivan
Managing Director
ACTEW Corporation Pty Ltd
GPO Box 366
CANBERRA CITY ACT 2601

Dear Mr Sullivan

Decision on Approval

**Murrumbidgee to Googong Water Transfer and Associated Infrastructure,
ACT/NSW (EPBC 2009/5124)**

I refer to the proposal by ACTEW Corporation to construct and operate a water transfer pipeline from the Murrumbidgee River at Angle Crossing (ACT) to Googong Dam via Burra Creek (NSW), as submitted to the Department of Sustainability, Environment, Water, Population and Communities on 9 October 2009.

I have considered the proposal in accordance with Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and have decided to grant an approval to ACTEW Corporation. A notice of my decision is attached for your information.

I understand that ACTEW is meeting with officers from the Department to discuss a process for the development of a Sustainable Diversion Limit Plan, and that the final Terms of Reference for this Plan will be submitted for approval within 4 weeks of the date of the project's approval. I also note that a condition of the approval includes the requirement for ACTEW to provide the final Sustainable Diversion Limit Plan for my approval no less than 10 weeks prior to the commencement of operations. I understand that it is ACTEW's intention to submit this Plan early in 2011 to avoid any potential delays to future investment decisions.

If you have any further questions about this decision please contact Vicki Middleton on (02) 6274 2240 or vicki.middleton@environment.gov.au.

Yours sincerely

A handwritten signature in blue ink that reads 'Tony Burke'.

Tony Burke

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