

# Planning and Development (Environmental Impact Statement – Denman Prospect Deferred Area and Bushfire Protection Zones) Exemption 2017\*

**Notifiable instrument NI2017–183**

made under the

**Planning and Development Act 2007, s211H (EIS exemption - decision)**

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## **1 Name of instrument**

This instrument is the *Planning and Development (Environmental Impact Statement – Denman Prospect Deferred Area and Bushfire Protection Zones) Exemption 2017*.

## **2 Commencement**

This instrument commences on the day after its notification day.

## **3 EIS exemption decision**

In accordance with section 211H of the *Planning and Development Act 2007*, I have decided that the expected environmental impact of the Denman Prospect Deferred Area and Bushfire Protection Zones proposal has already been sufficiently addressed by a recent study.

A copy of the EIS exemption consideration report is included in the schedule.

## **4 EIS exemption - expiry**

In accordance with Section 211I, the EIS exemption expires 5 years after the day it is notified.

Mick Gentleman MLA  
Minister for Planning and Land Management  
6 April 2017

\*Name amended under Legislation Act, s 60



**ACT**  
Government

# **DENMAN PROSPECT DEFERRED AREA AND BUSHFIRE PROTECTION ZONE**

**APPLICATION  
FOR EIS EXEMPTION  
CONSIDERATION REPORT**

March 2017

This report evaluates the application for an exemption under section 211 of the *Planning and Development Act 2007*, from requiring a completed Environmental Impact Statement in the development application for the Denman Prospect Deferred Area and Bushfire Protection Zone.

**Ref no:** 201500255

**Date lodged:** 8 September 2016

**Project:** Denman Prospect Deferred Area and Bushfire Protection Zone

**Proponent:** Land Development Agency

The following information provides the certificate of approval for issue of this report.

**Document no:** 1-2015/28928

**Date of issue:** 16 March 2017

	Position	Name	Signature	Date
Reviewed by	Executive Director	Brett Phillips		
	Deputy Director-General	Gary Rake		
Approved by	Director-General	Dorte Ekelund		

## Table of Contents

Application for EIS Exemption .....	i
Consideration Report .....	i
1. Introduction .....	5
1.1. Project .....	5
1.2. Background .....	7
2. Environmental impact assessment .....	8
2.1. Impact track triggers .....	8
2.2. EIS Exemption process .....	10
2.3. The EIS exemption application .....	11
2.4. EIS exemption decision .....	11
2.5. Consultation .....	12
3. Matters of National Environmental Significance .....	14
3.1. EPBC Act strategic assessment .....	14
4. Impacts on Schedule 4 items .....	17
4.1. Schedule 4 Part 4.3 Item 1– impacts on species or ecological communities .....	17
4.2. Schedule 4 Part 4.3 Item 2– native vegetation clearance .....	21
4.3. Schedule 4 Part 4.3 Item 3– impacts on a nature reserve and special purpose reserve..	24
5. Other potential environmental impacts .....	26
5.1. Bushfire management .....	26
6. EIS Exemption conditions .....	28
7. Conclusion .....	32
Appendix 1 – Referral entity comments .....	33
Appendix 2 – Molonglo NES plan endorsement and approval decision .....	35
 Figure 1 – Location of the proposed works .....	 6
Figure 2 - The EIS Exemption process .....	10
Figure 3 – Area of Molonglo Valley covered by the strategic assessment .....	15

## Tables

Table 1 - Legal land description and tenancy .....	7
Table 2 - EIS triggers per Schedule 4 of the PD Act.....	8
Table 3 - Summary of public consultation .....	13
Table 4- Assessment of supporting information – Schedule 4 Part 4.3 Item 1 .....	19
Table 5 - Mitigation measures – Box Gum Woodland and Pink-tailed Worm Lizard .....	20
Table 6 -Assessment of supporting information – Schedule 4 Part 4.3 Item 2 .....	23
Table 7 - Mitigation measures – native vegetation clearance.....	23
Table 8 -Assessment of supporting information – Schedule 4 Part 4.3 Item 3 .....	25
Table 9 - Mitigation measures – Reserves .....	25
Table 10 – Conditions for development approval .....	29

## Glossary and definitions

ACT	Australian Capital Territory
CEMP	construction environmental management plan
DA	development application
DoE	Commonwealth Department of the Environment and Energy
EIA	Environmental impact assessment: the process of identifying, predicting, evaluating and mitigating the biophysical, social, and other relevant effects of development proposals before major decisions and commitments are made.
EIS	Environmental impact statement: a document prepared to detail the expected environmental, social and economic effects of a development, and state commitments to avoid, mitigate or satisfactorily control and manage any potential adverse impacts of the development on the environment. In the ACT, an EIS is required for proposals in the impact track as per Section 127 of the <i>Planning and Development Act 2007</i> .
EMP	environmental management plan
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i>
EPSDD	Environment, Planning and Sustainable Development Directorate
EPA	Environment Protection Authority
PD Act	<i>Planning and Development Act 2007 (ACT)</i>
MNES	Matter of national environmental significance

## 1. Introduction

This report is to the ACT Minister for Planning and Land Management on the assessment of the environmental impact statement exemption (EIS Exemption) application in relation to the Denman Prospect deferred area and bushfire protection zone. The application was made by the Land Development Agency under section 211B of the *Planning and Development Act 2007* (the PD Act).

If an EIS exemption is granted, a development application (DA) will be required to be lodged in the impact track. The DA process will also include a statutory public notification period.

### 1.1. Project

In 2013 an EIS Exemption was granted for the development of Molonglo Valley Stage 2. At that time, a decision was made to defer consideration of an area in the northwest due to information gaps. Following further investigations, the Land Development Agency is now proposing for the majority of the deferred area to be used for bushfire asset protection rather than urban development.

The proposal includes the development of a small area of low density residential development in the northern area of Denman Prospect and bushfire asset protection works adjacent to the Denman Prospect urban development areas.

The project involves the following elements:

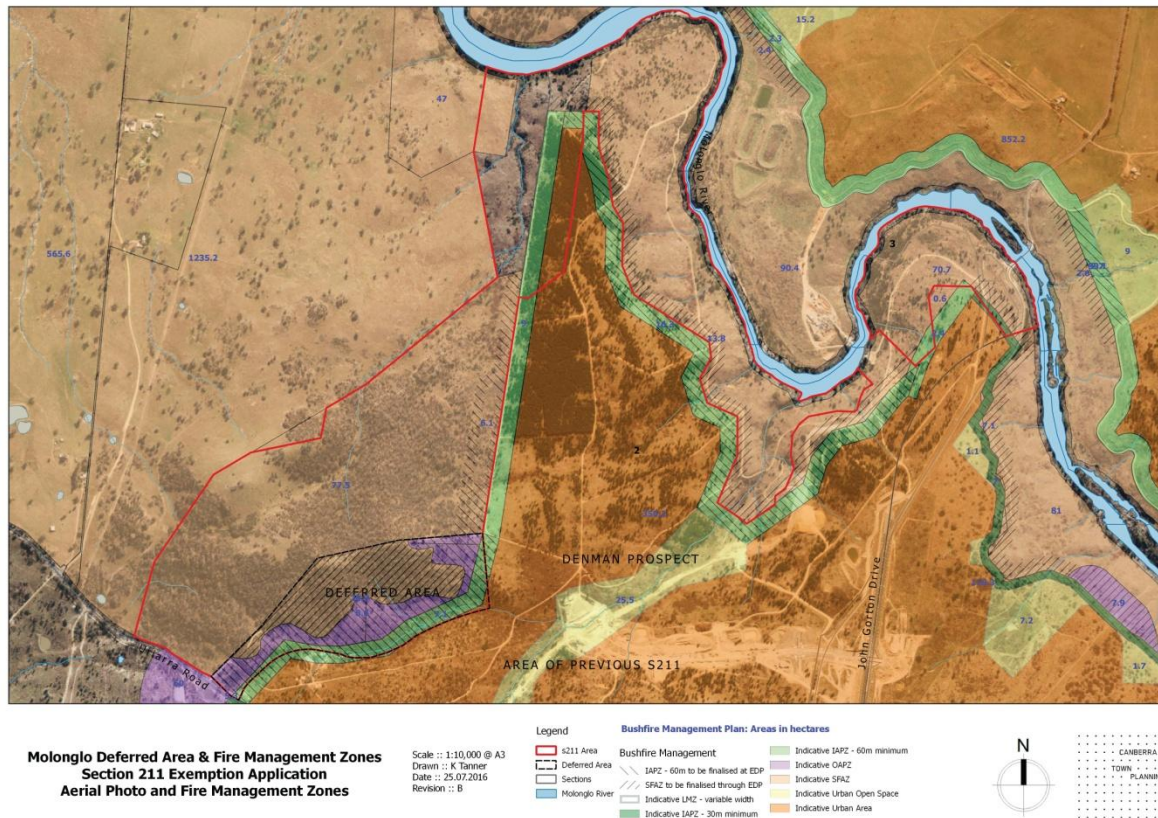
- Approximately 5ha of low density residential development; and
- Establishment of bushfire protection zones (inner and outer asset protection zones and strategic firefighting advantage zones).

Works to support urban development will include the installation of services and facilities and water sensitive urban design measures including drainage, ponds and pipes.

#### 1.1.1. Project location

The Denman Prospect deferred area and bushfire protection zone EIS exemption application relates to land in Molonglo Valley, Australian Capital Territory. The deferred area is bounded by the suburb of Denman Prospect which is currently being constructed to the south and east, Uriarra Road to the west and rural land proposed as a bushfire management area to the north.

The bushfire management area is located to the north of the deferred area and the suburb of Denman Prospect and also includes the land between the eastern urban boundary of Denman Prospect and the Molonglo River.



### 1.1.2. Legal land description and tenancy

The Denman Prospect deferred area and bushfire protection zone will directly and indirectly affect eight blocks. Table 1 shows the legal land description for each block affected by the proposal and the details of tenancy type and tenant.



**Table 1 - Legal land description and tenancy**

Block	Section	District	Tenancy	Tenant
<b>Directly affected lands</b>				
403		Stromlo	Unleased Territory Land	PCS Forests
2	2	Molonglo Valley	Unleased Territory Land	PCS Forests and Environment
5	2	Molonglo Valley	Unleased Territory Land	PCS Forests and Environment
1	3	Molonglo Valley	Unleased Territory Land	PCS Forests
2	3	Molonglo Valley	Unleased Territory Land	PCS Environment
3	3	Molonglo Valley	Unleased Territory Land	PCS Environment
4	3	Molonglo Valley	Unleased Territory Land	PCS Environment
5	3	Molonglo Valley	Unleased Territory Land	PCS Environment

## 1.2. Background

The Denman Prospect deferred area and bushfire protection zone are part of the development of the Molonglo Valley. These areas are the remaining lands that form part of Molonglo Stage 2. Consideration of these lands was deferred during the assessment of Molonglo Stage 2 due to information gaps.

The need for urban development in the Molonglo Valley was identified in the Canberra Spatial Plan 2004. A subsequent variation to the Territory Plan was adopted in August 2008 allowing urban development to occur within the Molonglo Valley. The suburbs of Wright and Coombs within Molonglo Valley Stage 1 were subject to an EIS exemption in July 2009 and are currently under construction. In July 2013 an EIS exemption was granted for Molonglo Stage 2, revoking two separate EIS exemptions for parts of Molonglo Stage 2.

The Molonglo Valley urban development has been subject to a strategic assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act). The strategic assessment resulted in the production and formal endorsement of the NES Plan. This plan identifies and describes the required management, mitigation and offsetting requirements of the Australian Government Department of the Environment and Energy (DoE) to adequately protect matters of National Environmental Significance (MNES). A description of this process and document can be found in section 3 of this report.



## 2. Environmental impact assessment

Environmental impact assessment processes are used to identify, predict, plan for and manage the impacts of development proposals before a decision is made about the project going ahead. An environmental impact assessment process is required for projects in the impact track.

Section 123 of the PD Act states that the impact track applies to a development if:

- the relevant development table states that the impact track applies
- the proposal is of a kind mentioned in Schedule 4 of the PD Act
- the Minister makes a declaration under section 124
- section 125 or section 132 applies to the proposal, or
- the Commonwealth Minister responsible for the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) advises the Minister in writing that the development is a controlled action under the EPBC Act, section 76.

### 2.1. Impact track triggers

The Denman Prospect deferred area and bushfire protection zone is in the impact track as it is a development of a kind mentioned in Schedule 4 of the PD Act. This proposal triggers the Schedule 4 items listed in Table 2.

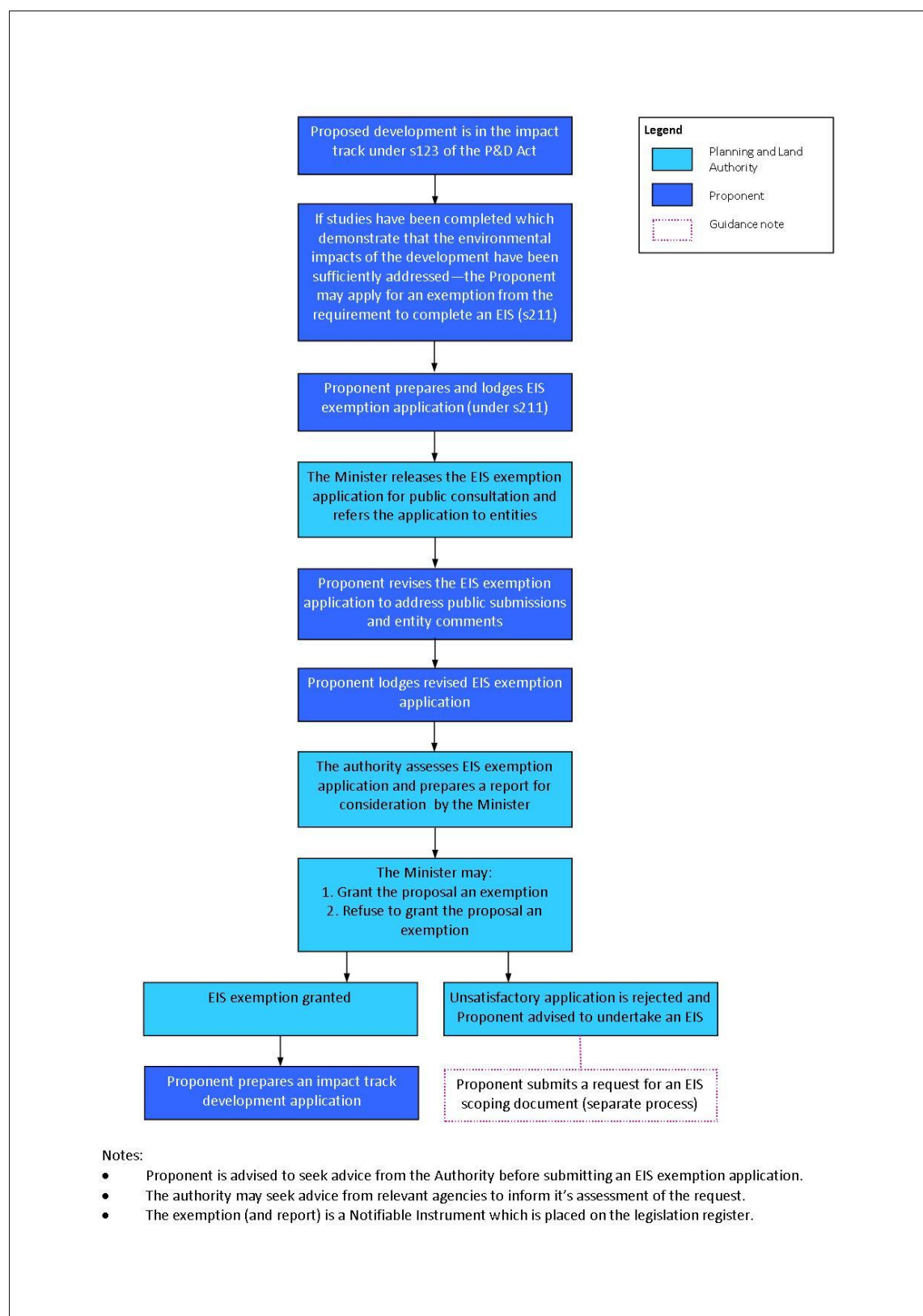
**Table 2 - EIS triggers per Schedule 4 of the PD Act**

Item Number	Description	Project Component
Part 4.3, item 1	Proposal that is likely to have a significant adverse environmental impact on 1 or more of the following, unless the conservator of flora and fauna provides an environmental significance opinion indicating that the proposal is not likely to have a significant adverse environmental impact: (a) a critically endangered species; (b) an endangered species; (c) a vulnerable species; (d) a conservation dependent species; (e) a provisionally listed threatened species; (f) a listed migratory species; (g) a threatened ecological community; (h) a protected native species; (i) a Ramsar wetland; (j) any other protected matter	The strategic fire advantage zone and parts of the outer asset protection zones extend into areas with moderately modified Yellow Box – Red Gum Grassy Woodland and Pink-tailed Worm Lizard habitat.
Part 4.3, item 2(b)	Proposal involving— (b) the clearing of more than 5.0ha of native vegetation in a native vegetation area, on land that is designated as a future urban area under the territory plan, unless the conservator of flora and fauna produces an environmental significance opinion that the clearing is not likely to have a significant adverse environmental impact.	The proposed development area is zoned as a Future Urban Area. If the entire area proposed for residential development is cleared, the 5 hectare threshold may be exceeded.

Part 4.3, item 3	Proposal for development on land reserved under s315 for the purpose of a wilderness area, national park, nature reserve or special purpose reserve, unless the conservator of flora and fauna produces an environmental significance opinion that the proposal is not likely to have a significant adverse environmental impact.	A strategic fire advantage zone extends into the nature reserve and special purpose reserve adjacent to the Molonglo River.
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## 2.2. EIS Exemption process

The flowchart below outlines the EIS exemption application process.



**Figure 2 - The EIS Exemption process**

Application for EIS Exemption Consideration Report  
Denman Prospect Deferred Area and Bushfire Protection Zone  
FINAL – 16 March 2017

### 2.3. The EIS exemption application

In accordance with section 211B of the *Planning and Development Act 2007* the application for an EIS exemption was submitted by the Land Development Agency to the planning and land authority (the Authority), within the Environment, Planning and Sustainable Development Directorate (EPSDD) on 8 September 2016. As required by *EIS exemption application - Form 1M*, the application contained the following information to inform the assessment of the application:

- Application for s211 Exemption, Land Development Agency, May 2016
- Letter responding to initial check failure for Application 201500255 Denman Prospect – s211 EIS Exemption, Canberra Town Planning, August 2016
- Bushfire Risk Strategy Molonglo Stage 3, Denman Prospect & the Molonglo River Corridor Australian Capital Territory prepared for the Land Development Agency, Australian Bushfire Protection Planners Pty Limited, April 2016
- Analysis of Vegetation Structure and Fire Risk – West Denman Prospect, Umwelt, April 2015
- Molonglo Adaptive Management Strategy, Territory and Municipal Services, May 2013
- Molonglo Valley Plan for the Protection of Matters of National Environmental Significance (NES Plan), ACT Planning and Land Authority, September 2011
- Decision to endorse the Molonglo Valley Plan for the Protection of Matters of National Environmental Significance, Australian Capital Territory, Australian Government Department of Sustainability, Environment, Water, Population and Communities, October 2011
- Denman Prospect Deferred Area & Bushfire Protection Zone – Application for Section 211 Exemption Report, Canberra Town Planning, September 2016

### 2.4. EIS exemption decision

Section 211H of the PD Act states that the Minister may grant an EIS exemption for the proposal if satisfied that the expected environmental impact of the development proposal has already been sufficiently addressed by a recent study, whether or not the recent study relates to the particular development proposal.

In deciding whether the environmental impact of the development proposal has been sufficiently addressed by the recent study, the Minister must consider:

- (a) whether the recent study was conducted by an appropriately qualified person with relevant expertise and experience in relation to the environmental values of the land in the proposal; and
- (b) if the recent study does not relate directly to the proposal—whether there is sufficient detail to allow assessment of the environmental impacts likely to occur if the proposal proceeds; and
- (c) whether the part of the recent study relevant to the proposal required public consultation through a statutory process or as part of a government policy development; and
- (d) if the recent study is more than 18 months old—whether the Minister is satisfied that the information in the study is current; and
- (e) any submissions received during the consultation period for the EIS exemption application.

This report documents the information presented by the proponent and information received during entity consultation and public notification to inform the Minister in making a decision.

For each impact track trigger an assessment of the supporting information will be made against the criteria above in the corresponding sub-sections under Section 4 of this report.

## **2.5. Consultation**

Entity consultation and public notification were both undertaken for the Denman Prospect deferred area and bushfire protection zone, as required by the PD Act.

### **2.5.1 Entity referral**

Section 211E of the PD Act requires the Minister to consult with entities prescribed in the Planning and Development Regulation 2008 about the EIS exemption application. The Minister may also seek advice from other entities.

For the Denman Prospect deferred area and bushfire protection zone the Authority referred the application to the following mandatory and relevant entities on 23 September 2016:

Entity	Entity response
Heritage Council	18 October 2016
TCCS	18 October 2016
Jemena Gas	21 October 2016
Emergency Services Commissioner	25 October 2016
Conservator of Flora and Fauna	27 October 2016
ACTEW AGL – Electricity and Water	No comment provided
Environment Protection Authority	No comment provided
ACT Health	No comment provided
National Capital Authority	No comment provided
Commissioner for Sustainability and the Environment	No comment provided

Entity submissions are included in this report as they relate to each trigger or potential impact and set out at Appendix 1. Any matters to be considered or conditions that have been recommended by a referral entity will be included in Sections 5 and 6 of this report.

### **2.5.2 Public consultation**

The PD Act requires the Minister to consult with the public on the EIS exemption application for 15 working days. The EIS exemption application was publicly notified from 23 September 2016 to 18 October 2016 in accordance with Section 211C of the PD Act.

No public submissions were received during the consultation period. One public submission was received after the consultation period closed. The public submission was addressed in the revised application.

### 2.5.3 Issues raised in submissions

The following key issues were raised in the submission received after the public consultation period:

- Concerns about the adequacy of the supporting documentation and the need for a full EIS;
- The need for further public consultation on additional supporting information;
- The need for more explicit detail on the impacts to MNES and local biodiversity values;
- Greater scrutiny of the impacts of strategic fire fighting advantage zones and their impacts on biodiversity;
- Management responsibility for the area; and
- The potential conflict between nature reserves and strategic fire fighting advantage zones.

These matters are addressed in Section 4 as they relate to impact triggers.

As a result of the submission received during consultation the applicant:

- provided a supplementary document clarifying bushfire protection works;
- addressed each matter raised in the submission; and
- provided the revised application to the Minister.

### 2.5.4 Additional public consultation

Some of the supporting information for the project has been publically exposed during the EPBC Act strategic assessment for the Molonglo Valley. The consultation was not directly related to this application, however, it did result in the information being available on the Department of the Environment and Energy's website.

Table 3 provides a summary of which information was made available during the additional public consultation process and for what length of time.

**Table 3 - Summary of public consultation**

<b>Title of report</b>	<b>Public consultation method</b>	<b>Number of days</b>
Molonglo NES Plan and Strategic Assessment Report	Information available on website	28 working days

### 3. Matters of National Environmental Significance

Under the EPBC Act a person must not take an action that has, will have, or is likely to have a significant impact on any MNES without approval from the Commonwealth Minister for the Environment and Energy.

#### 3.1. EPBC Act strategic assessment

Under section 146 of the EPBC Act, the Australian Government Environment Minister may agree to assess the impacts of actions under a policy, plan or program as a Strategic Assessment, this may include (but is not limited to):

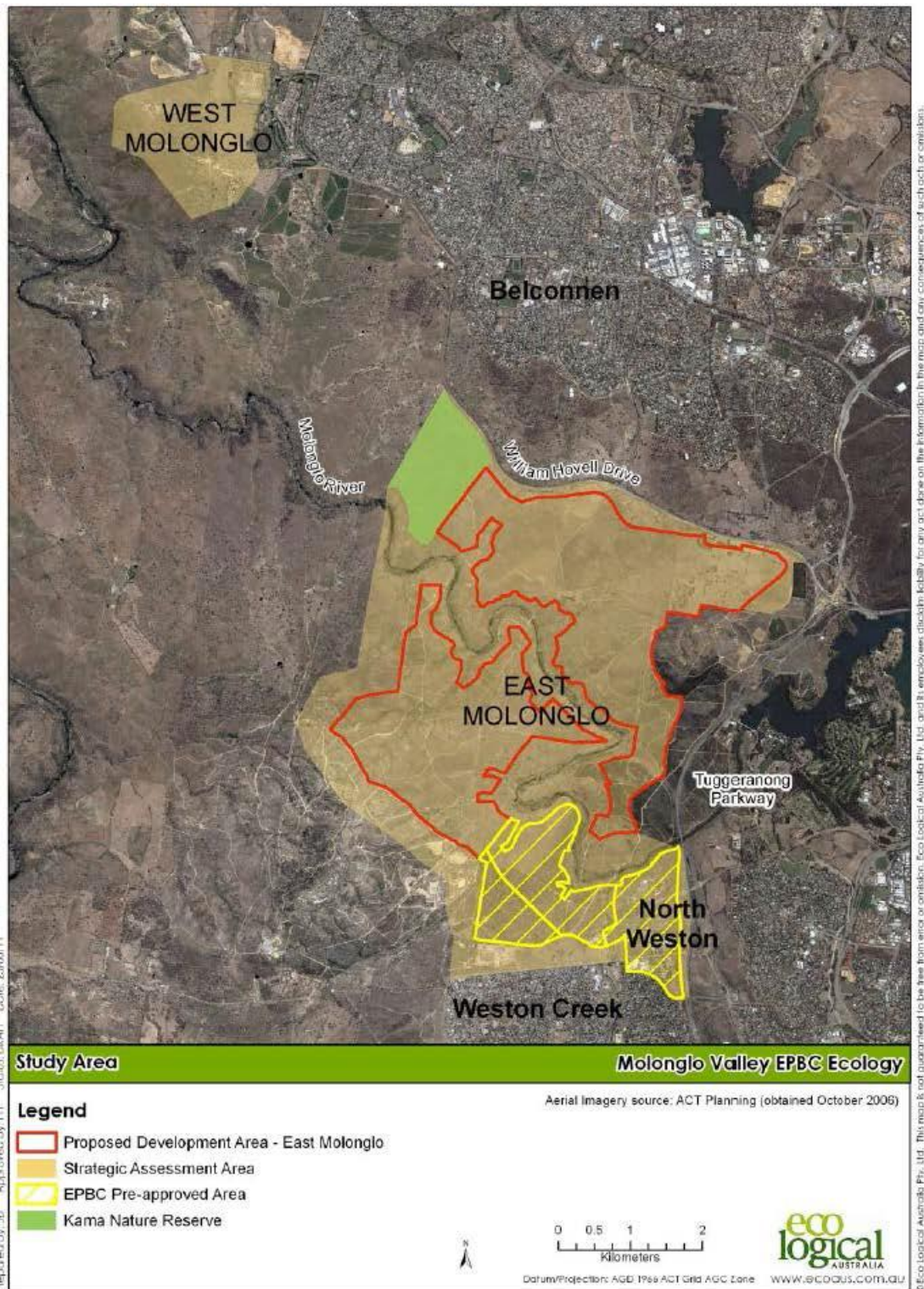
- regional-scale development plans and policies
- large-scale industrial development and associated infrastructure
- fire, vegetation/resource or pest management policies, plans or programs
- water extraction/use policies
- infrastructure plans and policies
- industry sector policies

Within this context a strategic assessment normally applies to multiple natured projects which would otherwise be assessed on a case-by-case basis under the EPBC Act.

Preliminary environmental investigations in the Molonglo and North Weston area identified several MNES. These included; the Pink-tailed Worm-lizard (listed under the EPBC Act as vulnerable), White Box-Yellow Box-Blakely's Red Gum grassy woodland and derived native grassland (listed as critically endangered), and Natural temperate grasslands of the Southern Tablelands of NSW and the ACT (listed as endangered).

On 16 September 2008, the Federal Minister and the ACT Minister for Planning, announced that a Strategic Assessment of the proposed Molonglo and North Weston Structure Plan (the Structure Plan) would be undertaken in accordance with section 146 of the EPBC Act. This provided potential to address cumulative impacts on MNES and to look for both conservation and planning outcomes on a much larger scale. Figure 3 illustrates the area of land covered by the strategic assessment.





**Figure 3 – Area of Molonglo Valley covered by the strategic assessment**

The Structure Plan is part of the Territory Plan and it sets out the planning and development guidelines and principles for urban development and associated infrastructure at Molonglo and North Weston. It guides urban and commercial development in the Molonglo Valley, including associated infrastructure. The Structure Plan considers a broad range of environmental, social and economic planning issues. It addresses many issues which are unlikely to have an impact on nationally protected matters, and may require adjustment during the life of the Structure Plan.

To protect nationally significant matters without unduly constraining the Structure Plan's implementation, the Federal Environment Minister amended the decision to include a strategic assessment of the ACT Government's *Molonglo Valley Plan for the Protection of Matters of National Environmental Significance* (the NES Plan). The NES Plan identifies nationally protected matters in the Molonglo Valley likely to be affected by implementing the Structure Plan, and sets out protection and conservation strategies to avoid unacceptable impacts. The strategic assessment ensures that development undertaken in the Molonglo Valley avoids unacceptable impacts on matters protected under national environment law by outlining commitments to a suite of avoidance, mitigation and offset measures.

To meet the ACT Government's land release schedule, the suburbs of North Weston, Coombs and Wright were removed from the strategic assessment process and were subsequently assessed and approved under separate EPBC Act Part 9 referrals (EPBC referrals 2009/4752, 2009/5041 and 2009/5050).

On 7 October 2011, the Federal Environment Minister endorsed the NES Plan. This was the third strategic assessment in Australia to reach the endorsement stage. The endorsement of the NES Plan allows the Federal Environment Minister to consider giving approval to actions or class of actions that are taken in accordance with the endorsed Plan.

On 20 December 2011, the Federal Environment Minister approved actions associated with urban development in East Molonglo as described in the endorsed NES Plan.

Copies of the NES plan endorsement and the approval decision are included at Appendix 2.

## 4. Impacts on Schedule 4 items

This section summarises the impacts of the development on relevant items from Schedule 4 of the PD Act. For each item the supporting studies and the comments of referral entities and the public are summarised along with any recommended mitigation measures. A conclusion is made on whether or not the information satisfies the requirements of section 211 of the PD Act.

### 4.1. Schedule 4 Part 4.3 Item 1– impacts on species or ecological communities

The strategic fire advantage zone and parts of the outer asset protection zones for this development extend into areas with moderately modified Yellow Box – Red Gum Grassy Woodland and Pink-tailed Worm Lizard habitat. The ongoing management of these areas for bushfire protection may impact this community and species.

The EIS Exemption application notes that minimal or no works are required for bushfire management in areas of Box Gum Woodland to achieve target fuel loads. In addition, the urban development works will not impact Box Gum Woodland.

No other protected species or ecological communities have been identified as present within the project area or likely to be impacted by the project.

#### 4.1.1 Impacts

##### Box Gum Woodland

The activities associated with the proposed development which will potentially impact on Box Gum Woodland are:

- management works in bushfire protection zones to achieve target fuel loads; and
- indirect impacts to Box Gum Woodland adjacent to the urban development area such as:
  - edge effects, being changes to community structure that could occur at the boundary of patches of this community as a result of disturbance from the proposal such as changing species composition and weed invasion;
  - removal of some habitat features including trees, fallen timber and shrubs; and
  - erosion and sedimentation.

The Box Gum Woodland impacted by management works in the bushfire protection zones is in moderate condition.

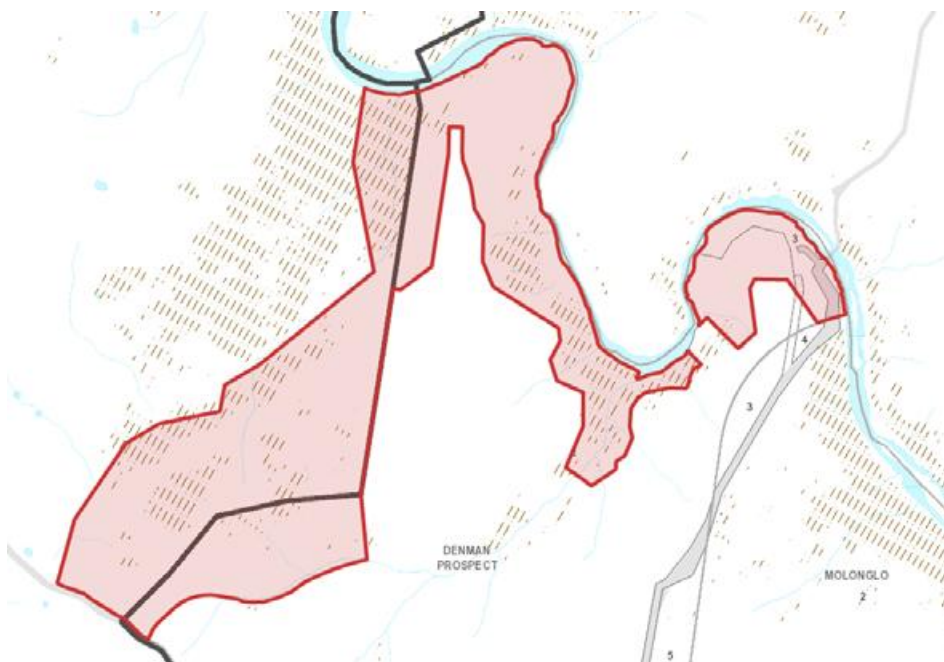


**Figure 4 – Box Gum Woodland in the study area**

#### Pink-tailed Worm Lizard

There are several moderate and high quality patches of Pink-tailed Worm Lizard (PTWL) habitat in the subject area. The area proposed for urban development does not impact on any PTWL habitat. The proponent has proposed a number of measures to minimise impacts. These include minimising any bushfire management works required in areas of habitat and avoiding hazard reduction burns in PTWL habitat areas unless absolutely necessary. Any burns that must be undertaken will be between late winter and mid spring.





**Figure 5 –Pink-tailed Worm Lizard habitat in the study area**

#### **4.1.2 Previous studies and investigation**

Three studies and a proposed fuel management works summary have been considered in investigating impacts on species and ecological communities in support of the request for an EIS Exemption. Some of this information was provided in response to entity and public comments. The information used by the proponent to support the request is listed and assessed for relevance in Table 4.

**Table 4- Assessment of supporting information – Schedule 4 Part 4.3 Item 1**

TITLE & AUTHOR OF STUDY	QUALIFIED PERSON	RECENT STUDY	INFORMATION DIRECTLY RELATED TO PROPOSAL?	EXPERT/ PEER REVIEWED
Analysis of Vegetation Structure and Fire Risk – West Denman Prospect, Umwelt	Yes	Yes - April 2015	Yes	Not required
Bushfire Risk Strategy Molonglo Stage 3, Denman Prospect and the Molonglo River Corridor, Australian Capital Territory, Australian Bushfire Protection Planners	Yes	Yes – April 2016	Yes	Not required
Molonglo Adaptive Management Strategy	Yes	Yes – May 2013	Yes – as part of the strategic assessment	Approved by Department of the Environment and Energy
Denman Prospect Summary of Proposed Fuel Management Works, ACT Parks and Conservation Service, January 2017	Yes	Yes – January 2017	Yes	Not required

It is considered that these studies provide sufficient detail to allow an assessment of the environmental impacts associated with the proposal.

#### **4.1.3 Key findings**

The key findings in the EIS Exemption application supporting information are:

- no Box Gum Woodland or Pink-tailed Worm Lizard habitat will be impacted by the proposed urban development;
- only minimal works will be undertaken for bushfire mitigation in areas of Box Gum Woodland;
- hazard reduction burning in areas of Box Gum Woodland will occur no more frequently than every 10 years;
- hazard reduction burning in areas of Pink-tailed Worm Lizard habitat will be avoided. If necessary it will be done between late winter and mid spring; and
- works will be undertaken consistent with the Molonglo Valley NES Plan and the Adaptive Management Strategy which provide for the protection of MNES.

#### **4.1.4 Entity referral and public comments**

The Conservator of Flora and Fauna provided comments on the proposal which related to impacts on Box Gum Woodland and Pink-tailed Worm Lizard. The comments suggested that the biological values of the site are well documented in the EIS Exemption application.

The applicant provided additional information addressing concerns raised in the public submission.

#### **4.1.5 Recommended mitigation measures**

The recommended mitigation measures for the impacts of the development on Box Gum Woodland and the Pink-tailed Worm Lizard identified in the authority's assessment, entity and public submissions and the reports submitted by the proponent are included in Table 5.

**Table 5 - Mitigation measures – Box Gum Woodland and Pink-tailed Worm Lizard**

Number	Impact of development	Mitigation Measure
1	Impacts on Box Gum Woodland resulting from the establishment and maintenance of bushfire risk mitigation zones.	Hazard reduction burns in Box-Gum Woodland areas will be no more frequent than every 10 years, and longer if fuel levels remain naturally low or are kept low by other management techniques.
2	Impacts on Pink-tailed Worm Lizard resulting from the establishment and maintenance of bushfire risk mitigation zones.	Hazard reduction burning to be avoided in areas of known Pink-tailed Worm Lizard habitat unless absolutely necessary. If it must occur, it is to be limited to late winter to mid spring.

#### **4.1.6 Offsets**

A range of offsets were proposed during the strategic assessment for the Molonglo Valley. The offset package included both direct and indirect offsets. No further offsets are proposed for this development.

#### 4.1.7 Conclusion

The supporting studies and the comments of relevant entities provide sufficient information on the impacts of the proposal on Box Gum Woodland and Pink-tailed Worm Lizard.

Further investigation and environmental assessment of the impacts of the proposal on species and ecological communities is not considered necessary for this project. The conditions attached to this EIS Exemption will be applied through conditions of approval on any subsequent development application.

In addition, the impacts to Box Gum Woodland and Pink-tailed Worm Lizard associated with the development of the Molonglo Valley district have been offset through the Molonglo Valley strategic assessment.

#### 4.2. Schedule 4 Part 4.3 Item 2– native vegetation clearance

This development is expected to result in approximately 5ha of native vegetation clearance in an area identified as a Future Urban Area under the Territory Plan (see Figures 6 and 7 below). This clearance will facilitate urban development.

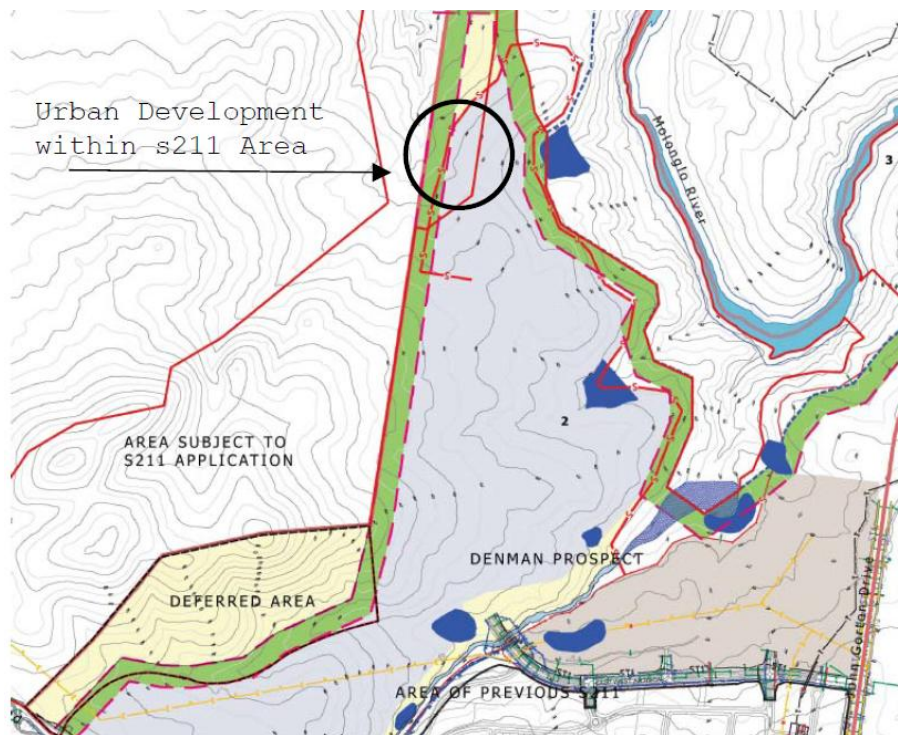


Figure 6 – Approximate developable areas plan





**Figure 7 – Approximate urban development area**

The EIS Exemption application report also specifies that minor works or upgrades for bushfire access could be required, which could involve further native vegetation clearance. No works are currently proposed.

It is noted that urban development in Denman Prospect deferred area is no longer proposed. This area will be managed for bushfire protection. The exclusion of urban development from this area reduces the extent of native vegetation clearance.

#### **4.2.1 Impacts**

The identified impacts related to native vegetation clearance are:

- removal of approximately 5ha of native vegetation for urban development;
- removal of habitat features, including trees, fallen timber and shrubs; and
- impact on native vegetation within Asset Protection Zones (APZs) due to bushfire management activities or track upgrades for access.

#### **4.2.2 Previous studies and investigations**

Three studies have been considered in investigating impacts on native vegetation in support of the request for an EIS Exemption. The information used by the proponent to support the request is listed and assessed for relevance in Table 6.

**Table 6 -Assessment of supporting information – Schedule 4 Part 4.3 Item 2**

TITLE & AUTHOR OF STUDY	QUALIFIED PERSON	RECENT STUDY	INFORMATION DIRECTLY RELATED TO PROPOSAL?	EXPERT/ PEER REVIEWED
Analysis of Vegetation Structure and Fire Risk – West Denman Prospect, Umwelt	Yes	Yes - April 2015	Yes	Not required.
Bushfire Risk Strategy Molonglo Stage 3, Denman Prospect and the Molonglo River Corridor, Australian Capital Territory, Australian Bushfire Protection Planners, August	Yes	Yes – April 2016	Yes	Not required.
Molonglo Adaptive Management Strategy	Yes	Yes – May 2013	Yes – as part of the strategic assessment.	Approved by the Department of the Environment and Energy.

#### **4.2.3 Key findings**

Approximately 5 hectares of native vegetation will be removed for the construction of the urban area. In addition, some minor vegetation removal may be required for management works and access in the bushfire protection zones.

#### **4.2.4 Entity referral and public comments**

The Conservator of Flora and Fauna provided comments on the proposal which related to impacts on this trigger. The comments suggested that the biological values of the site are well documented.

#### **4.2.5 Recommended mitigation measures**

The recommended mitigation measures for the impacts of the development on native vegetation identified in the authority's assessment, entity and public submissions and the reports submitted by the proponent are included in Table 7.

**Table 7 - Mitigation measures – native vegetation clearance**

Number	Impact of development	Mitigation Measure
1	Loss of vegetation and topsoil	<p>All areas of disturbance will be revegetated immediately following construction.</p> <p>Hazard reduction burns in the Red Stringybark Dry Sclerophyll Forest will only occur every five to ten years and be undertaken in a mosaic pattern.</p>

2	Native vegetation - impacts on residual native vegetation	The removal of vegetation will be minimised and will be consistent with the requirements of the NES plan. Within the strategic fire zones the proposed work will be limited to the maintenance of fuel loads through appropriate grazing, slashing or burning.
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#### **4.2.6 Conclusion**

The supporting studies and the comments of relevant entities provide sufficient information on the impacts of the proposal on native vegetation.

Further investigation and environmental assessment of the impacts of the proposal on native vegetation is not considered necessary for this project. The conditions attached to this EIS Exemption will be applied through conditions of approval on any subsequent development application.

#### **4.3. Schedule 4 Part 4.3 Item 3– impacts on a nature reserve and special purpose reserve**

The subject site extends into an area of nature reserve, in the north western corner and into an area of special purpose reserve along the Molonglo River. There is no urban development proposed in these areas, however, they will form part of the strategic fire advantage zone. As such, they may require some works to ensure they are managed effectively. The EIS Exemption application report indicates that any works will be consistent with the Molonglo Adaptive Management Strategy.

The application indicates that the reserve areas naturally have a low fire fuel level which will reduce the requirement for fuel management.

##### **4.3.1 Impacts**

The identified impacts related to undertaking works in a reserve reserve are:

- potential impacts on native vegetation, which provides habitat and forage for native species; and
- potential impacts on protected matters, including Pink-tailed Worm Lizard and Box Gum Woodland.

##### **4.3.2 Previous studies and investigations**

Three studies have been considered in investigating impacts on the reserves supporting the request for an EIS Exemption. The information used by the proponent to support the request is listed and assessed for relevance in Table 8.

**Table 8 -Assessment of supporting information – Schedule 4 Part 4.3 Item 3**

TITLE & AUTHOR OF STUDY	QUALIFIED PERSON	RECENT STUDY	INFORMATION DIRECTLY RELATED TO PROPOSAL?	EXPERT/ PEER REVIEWED
Analysis of Vegetation Structure and Fire Risk – West Denman Prospect, Umwelt	Yes	Yes - April 2015	Yes	Not required
Bushfire Risk Strategy Molonglo Stage 3, Denman Prospect and the Molonglo River Corridor, Australian Capital Territory, Australian Bushfire Protection Planners, August	Yes	Yes – April 2016	Yes	Not required
Molonglo Adaptive Management Strategy	Yes	Yes – May 2013	Yes – as part of the strategic assessment	Approved by the Department of the Environment and Energy

#### **4.3.3 Key findings**

The area of proposed works which is part of a nature reserve and special purpose reserve is already a landscape fire management zone. According to the EIS Exemption application report management of this area will not change as a result of this application. It will continue to be managed in the same way. The establishment of bushfire fighting advantage zones will ensure the current condition of this area is maintained.

#### **4.3.4 Entity referral and public comments**

The Conservator of Flora and Fauna provided comments on the proposal which related to impacts on this trigger. The comments suggested that the biological values of the site are well documented.

#### **4.3.5 Recommended mitigation measures**

The recommended mitigation measures for the impacts of the development on reserves identified in the authority's assessment, entity and public submissions and the reports submitted by the proponent are included in Table 9.

**Table 9 - Mitigation measures – Reserves**

Number	Impact of development	Mitigation Measure
1	Potential impacts on native vegetation, which provides habitat and forage for native species.	Works will be consistent with existing management practices in this area.
2	Potential impacts on protected matters, including Pink-tailed Worm Lizard and Box Gum Woodland.	Works will be consistent with existing management practices in this area.

#### **4.3.6 Conclusion**

The supporting studies and the comments of relevant entities provide sufficient information on the impacts of the proposal on land in reserves.

Further investigation and environmental assessment of the impacts of the proposal on reserves is not considered necessary for this project. The conditions attached to this EIS Exemption will be applied through conditions of approval on any subsequent development application.

### **5. Other potential environmental impacts**

This section summarises the potential impacts of the development on the environment other than those impacts which are impact track triggers discussed in Section 4.

#### **5.1. Bushfire management**

The subject site is within the ACT's declared bushfire prone area. Molonglo Valley Stage 2, which includes the suburb Denman Prospect, is intended to contain up to 18,000 people. Appropriate bushfire management methods are required to manage the bushfire risk at the urban edge.

For residential areas which are bounded by significant areas of open space, fuel reduction is generally achieved through maintenance of APZs.

The EIS Exemption application included a Bushfire Risk Strategy for Molonglo Stage 3, Denman Prospect and the Molonglo River Corridor (Australian Bushfire Protection Planners, 2015) that describes the bushfire risks for the subject area. It also outlines management measures required to mitigate the bushfire risk. In particular the establishment and management of Inner Asset Protection Zones (IAPZ) and Strategic Firefighting Advantage Zones (SFAZ).

In addition, the revised application includes a summary of proposed fuel management works designed to reduce fuel loads and promote growth of the remaining individuals through thinning.

##### **5.1.1 Impacts**

The following potential impacts were identified from the maintenance of IAPZs and SFAZs:

- removal of Box-Gum Woodland trees due to silvicultural thinning and burning;
- introduction of weeds and impacts on seed production of Box-Gum Woodland within the Molonglo River riparian area;
- mortality of plants of endangered species by mechanical compaction or over grazing;
- impacts on Pink-tailed Worm Lizard from injury or mortality from management activities;
- damage to Limestone bluffs and terraces from management activities;
- erosion of soils from tracks worn by people, livestock and plant/machinery; and
- impacts on Pink-tailed Worm Lizard from the collection/removal of surface rock to improve ease of slashing/mowing activities with IAPZs and SFAZs.

### **5.1.2 Recommended mitigation measures**

The key commitments and mitigation measures recommended in the reports accompanying the application and by the referral entities are:

- hazard reduction burns in Red Stringybark Dry Sclerophyll Forest will only occur every five to ten years in a mosaic pattern;
- hazard reduction burns in Box-Gum Woodland areas will occur no more frequently than every 10 years, longer if fuel levels remain naturally low or are kept low by other management techniques;
- hazard reduction burning will be avoided in areas of known Pink-tailed Worm Lizard habitat unless absolutely necessary. If burning must occur, it is to be limited to late winter to mid spring; and
- grazing will be used to maintain fuel loads and as a mechanism to maintain ecological health and diversity.

## 6. EIS Exemption conditions

Table 10 details the conditions that are proposed to be set if an EIS Exemption is granted. These conditions should be taken into account by the planning and land authority when assessing a DA for the proposal.

If a conditional EIS exemption is granted for a development application, section 128 (1)(b)(iv) of the PD Act requires the approval of the development proposal to be consistent with the EIS Exemption conditions.



**Table 10 – Conditions for development approval**

No	Condition	Endorsement/ approval	Development stage	Condition of approval
1	Heritage – Unanticipated Discovery Protocol	ACT Heritage Council	Prior to commencement of works	An 'Unanticipated Discovery Protocol' (UDP) must be submitted to and endorsed by the ACT Heritage Council prior to the commencement of works. It must set out how any additional Aboriginal places or objects encountered will be managed in accordance with <i>Heritage Act 2004</i> provisions.
2	Bushfire Mitigation		During operation	All works must be consistent with the Bushfire Risk Strategy – Molonglo Stage 3, Denman Prospect and the Molonglo River Corridor (Australian Bushfire Protection Planners, 2016).
3	Bushfire standards	ESA	Development application and during operation	Works must be consistent with ESA advice in Appendix 1.
4	Bushfire OAPZ Management	ESA	Development application	Confirmation must be provided to ACTF&R that PCS will manage the outer asset protection zone as per Bushfire Operations Plans.
5	Bushfire SFAZs	ESA	During operation	<p>The existing Strategic Fire Advantage Zone edges are to be maintained and managed as per Fuel Management Standards of ACT Bushfire Management Standards.</p> <p>All bushfire protection zones must meet the prescriptions in the ACT Strategic Fire Management Plan 2014 – Version 3.</p>

No	Condition	Endorsement/ approval	Development stage	Condition of approval
6	Bushfire thinning strategies	Conservation Research (EPSDD)	During operation	Thinning strategies for fuel management, including the intervals for burning, must be determined in consultation with Conservation Research (EPSDD).  Thinning for fuel management in SFAZ 3, 6, 8 and 9 must only target Red Stringybark.
7	Molonglo Adaptive Management Strategy	EPSDD	During construction and operation	All works must be undertaken in a manner consistent with the Molonglo Adaptive Management Strategy.
8	Hazard reduction burning - BGW		During operation	Hazard reduction burns in Box-Gum Woodland areas must be no more frequent than every 10 years, and longer if fuel levels remain naturally low or are kept low by other management techniques.
9	Hazard reduction burning - PTWL		During operation	Hazard reduction burning must be avoided in areas of known Pink-tailed Worm Lizard habitat unless absolutely necessary. If it must occur, it must be limited to late winter to mid spring.
10	Revegetation		During operation	All areas of disturbance must be revegetated immediately following construction.
11	Hazard reduction burns - Red Stringybark Dry Sclerophyll Forest		During operation	Hazard reduction burns in the Red Stringybark Dry Sclerophyll Forest must only occur every five to ten years and be undertaken in a mosaic pattern.
12	NES Plan		During operation	The removal of vegetation must be minimised and must be consistent with the requirements of the NES plan.

No	Condition	Endorsement/ approval	Development stage	Condition of approval
13	Construction environment management plan	EPA	Before works commence	<p>A CEMP must be developed and implemented addressing the commitments made by the proponent in the EIS Exemption application.</p> <p>The CEMP should include, but not be limited to:</p> <ul style="list-style-type: none"> <li>• Sediment and erosion control plan</li> <li>• Weed management plan</li> <li>• Environmental management plan</li> </ul>
14	Environmental Protection Agreement	EPA	Before works commence	An Environmental Protection Agreement must be in place for the estate works.
15	NES clearance budgets	EPSDD	During construction and operation	Any clearance of BGW or PTWL habitat must be quantified and reported to EPSDD for reporting against the Molonglo NES Plan clearance budget.

## 7. Conclusion

Having regard to the supporting information provided by the applicant and comments received from referral entities and the public, the planning and land authority has assessed the Denman Prospect deferred area and bushfire protection zone as meeting the requirements for an EIS exemption under the PD Act.

It is the planning and land authority's assessment that the proponent has provided sufficient information to the ACT Government and the community to allow an informed evaluation of potential environmental impacts which could be attributed to the proposal. The supporting information and referral entities have proposed a range of mitigation measures and conditions to reduce or avoid potential environmental impacts arising from construction and operational activities associated with the project. It is considered that any potential adverse impacts can be adequately addressed by implementing the conditions outlined in this report.

The planning and land authority's recommendation is that the supporting information submitted with the application has adequately identified and considered those matters of potentially significant impact and that further environmental assessment is not required. The expected environmental impact of the development proposal has already been sufficiently addressed by recent studies.

The planning and land authority's recommendation is that the Minister grant the Denman Prospect deferred area and bushfire protection zone an EIS exemption under section 211H of the PD Act.

## Appendix 1 – Referral entity comments

Entity	Comments	EPSDD assessment notes
Jemena Gas	Jemena has no comment to make.	Noted. Future DAs will be referred to Jemena for comment.
Emergency Services Commissioner	<p>ACT Emergency Services Agency (ESA) has been closely involved in the consideration of bushfire management options in the Denman Prospect deferred area and bushfire protection zones and support the Bushfire Risk Strategy submitted as part of the EIS Exemption application.</p> <p>ESA supports the EIS Exemption, noting the need to meet the requirements for bushfire mitigation in the Bushfire Risk Strategy.</p> <p>ACT Fire and Rescue has reviewed the bushfire risk assessment report B132154, prepared by Australian Bushfire Protection Planners Pty Ltd and concurs with its findings and recommendations including the provision and specifications of asset protection zones.</p> <p>The site is to be managed to inner asset protection zones (IAPZ) standards. Table 4 of the ACT Bushfire Management Standards (2014) provides specific detail, where at least 80% of the area is to be maintained at overall fuel hazard &lt;low. Tree planting is to have 3-5m canopy separation with &gt;3m fuel gap to crown. Grass is to be maintained at &lt;200mm height when curing &gt;70%. Landscape design is to consider bushfire principals, and plants are to be selected for low flammability characteristics.</p> <p>The IAPZs is to be 60 metres wide the full length of the urban edge as defined in ACT Bushfire Management Standards with no Outer Asset Protection Zone, to compensate where an OAPZ is not achievable.</p> <p>ACTF&amp;R requires confirmation that TAMS will manage the outer asset protection zone as per Bushfire Operations Plans and there will be an expectation that the Government will meet funding for the proposed management strategies of the BOP's to be undertaken to reduce the fuel loads.</p> <p>The use of SFAZs does allow the management for biodiversity to be protected where other APZs would not meet that requirement. The existing Strategic Fire Advantage Zone edges to be maintained and managed as per Fuel Management Standards of ACT Bushfire Management Standards.</p>	<p>It is noted that ESA supports the EIS Exemption application subject to conditions.</p> <p>The asset protection zone requirements will be applied as conditions on any future DAs. This has been identified as a condition in this assessment report.</p>

Heritage Council	<p>The ACT Heritage Council supports the EIS Exemption, as the heritage values of the place have been established in prior studies, and as these studies are sufficient to inform an assessment of potential heritage impacts of the proposed activity.</p> <p>The Council notes that while only two heritage places remain within the application area, a number of Aboriginal places and objects have been previously recorded and salvaged within this area, and the application area has potential to contain additional Aboriginal places and objects.</p> <p>In this context, the Council identifies the following condition:</p> <ul style="list-style-type: none"> <li>• An 'Unanticipated Discovery Protocol' (UDP) is required for the project, to set out how any additional Aboriginal places or objects encountered will be managed in accordance with <i>Heritage Act 2004</i> provisions. This UDP should be submitted to and endorsed by the Council prior to the commencement of works.</li> </ul>	<p>It is noted that the Heritage Council supports the EIS Exemption application subject to conditions.</p> <p>This requirement will be applied as a condition on any future DAs. It has been identified as a condition in this assessment report.</p>
TCCS	TCCS acknowledges that adequate studies have been undertaken and sufficient documentation has been prepared to support the application for EIS exemption.	Noted. Future DAs will be referred to TCCS for comment.

## **Appendix 2 – Molonglo NES plan endorsement and approval decision**





Australian Government

Department of Sustainability, Environment, Water, Population and Communities

***Environment Protection and Biodiversity Conservation Act 1999***

**Notification of**

**DECISION TO ENDORSE THE MOLONGLO VALLEY PLAN FOR THE PROTECTION OF MATTERS OF NATIONAL ENVIRONMENTAL SIGNIFICANCE, AUSTRALIAN CAPITAL TERRITORY**

This decision is made under Section 146 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

**Endorsement decision**

<b>Policy, plan or program that is endorsed</b>	<i>Molonglo Valley Plan for the Protection of Matters of National Environmental Significance</i> (ACT Government, September 2011).
<b>Content of the policy, plan or program</b>	The Plan outlines commitments regarding urban development, and broadacre land use in East and West Molonglo, ACT (shown in <u>Annexure 1</u> ), including commitments to protect matters of national environmental significance

**Person authorised to make decision**

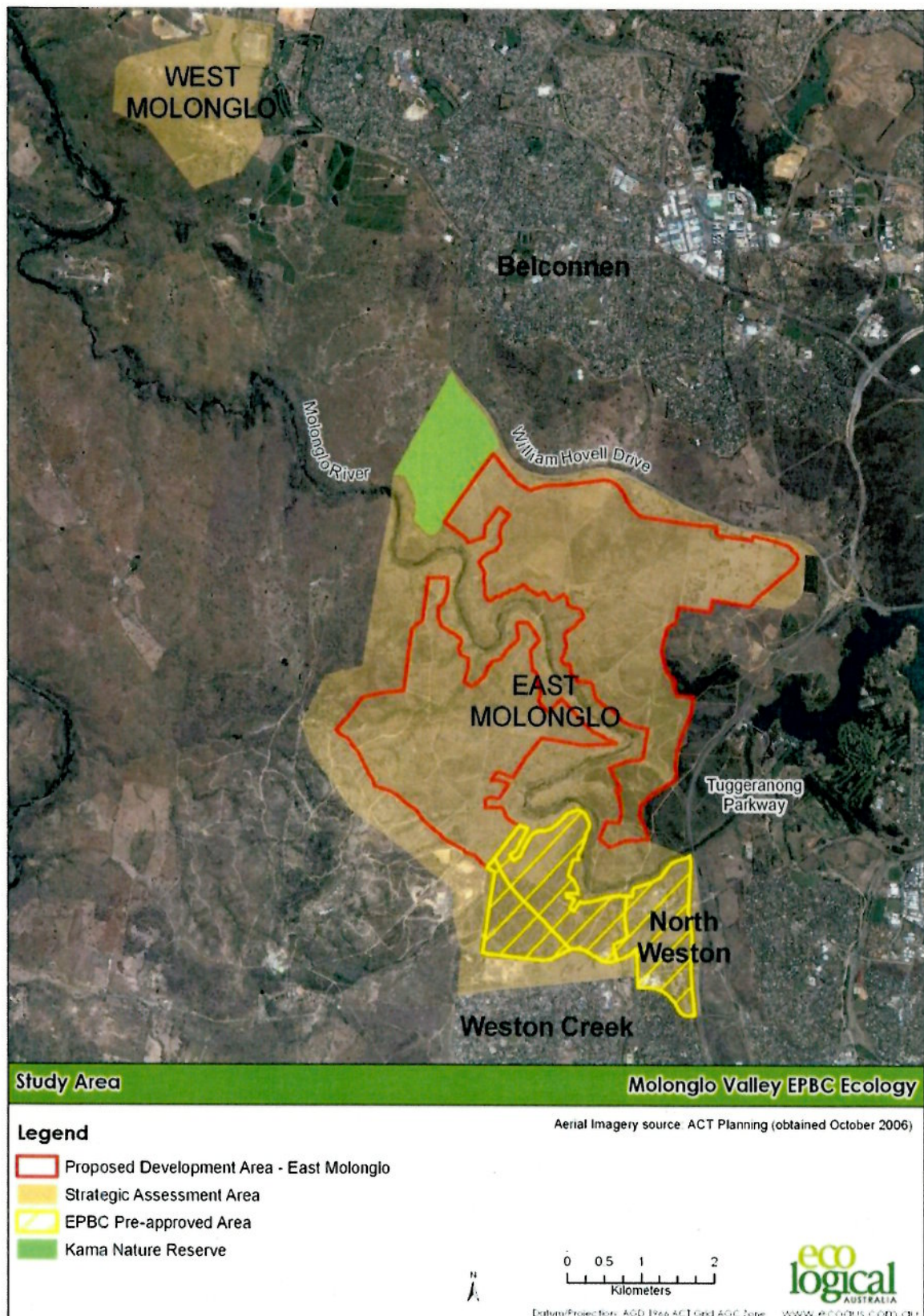
<b>Name and position</b>	The Hon Tony Burke MP Minister for Sustainability, Environment, Water, Population and Communities
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**Signature**

**Date of decision**

7.10.11

Annexure 1: Strategic assessment area and development boundary<sup>1</sup>



<sup>1</sup> "EPBC Pre-approved area" denotes the suburbs of North Weston, Coombs and Wright which were assessed and approved under separate EPBC Act Part 9 referrals (EPBC referrals 2009/4752, 2009/5041 and 2009/5050), and are not part of the strategic assessment





**APPROVAL DECISION FOR THE TAKING OF ACTIONS IN ACCORDANCE WITH AN ENDORSED PLAN UNDER THE ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999 (EPBC ACT)**

**MOLONGLO VALLEY PLAN FOR THE PROTECTION OF MATTERS OF NATIONAL ENVIRONMENTAL SIGNIFICANCE, AUSTRALIAN CAPITAL TERRITORY**

<b>General</b>	Further explanatory information related to this approval decision is at Annexure 1.
<b>Approved action/class of actions</b>	All actions associated with urban development in East Molonglo as described in the <i>Molonglo Valley Plan for the Protection of Matters of National Environmental Significance</i> (ACT Government, September 2011) provided such action takes place wholly within the strategic assessment area in East Molonglo (as shown in Annexure 2).
<b>Relevant controlling provisions</b>	The approval has effect for: <ul style="list-style-type: none"><li>• Listed threatened species and communities (sections 18 &amp; 18A)</li><li>• Listed migratory species (sections 20 &amp; 20A)</li></ul>
<b>Period for which approval has effect</b>	The approval has effect until 31 December 2041

**Person authorised to make decision**

<b>Name and Position</b>	The Hon Tony Burke MP Minister for Sustainability, Environment, Water, Population and Communities
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**Signature**

**Date of decision**

20.12.11

**Explanatory information**

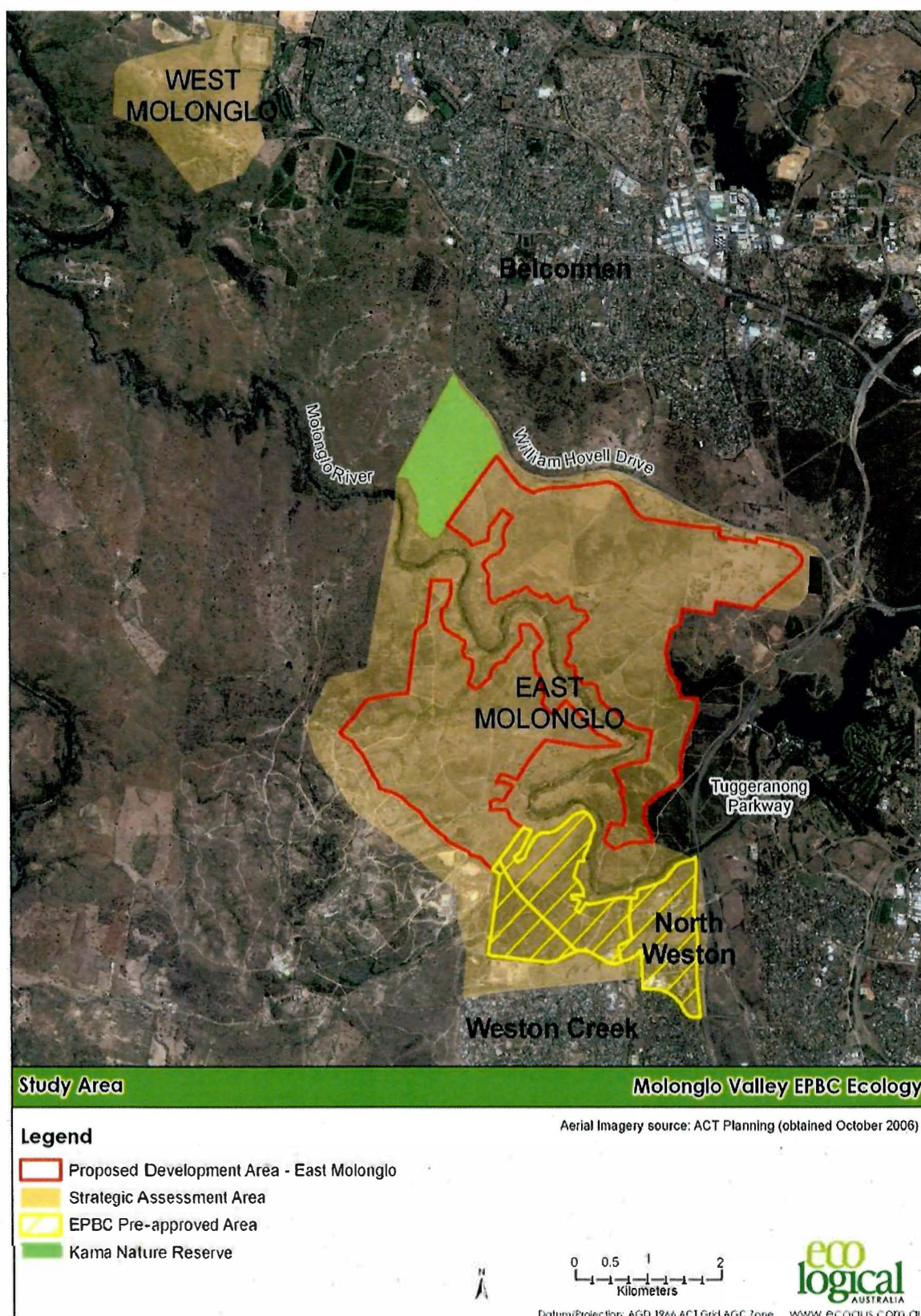
This approval decision is made under section 146B of the EPBC Act which provides for the Minister to approve actions, or classes of actions, undertaken in accordance with a policy, plan or program that has been endorsed following a strategic assessment being undertaken under Part 10 of the EPBC Act. An approval under section 146B of the EPBC Act has the same effect as an approval given under Part 9 of the EPBC Act, therefore actions approved under this decision will not require separate referral, assessment or approval under the EPBC Act prior to being taken.

On 7 October 2011 the Minister for Sustainability, Environment, Water, Population and Communities, the Hon Tony Burke MP (the Minister), endorsed the *Molonglo Valley Plan for the Protection of Matters of National Environmental Significance* (ACT Government, September 2011) (the Plan). The Plan is in respect of urban development, and broadacre land use in East and West Molonglo, ACT (as shown in Annexure 2), and details commitments to protect matters of national environmental significance.

The endorsed Plan provides for all actions associated with development within East and West Molonglo, including infrastructure (such as bridges) and services within the proposed development areas.

This approval applies to all actions associated with urban development in East Molonglo as described in the *Molonglo Valley Plan for the Protection of Matters of National Environmental Significance* (ACT Government, September 2011) provided such action takes place wholly within the strategic assessment area in East Molonglo (as shown in Annexure 2).



Strategic assessment area and development boundary<sup>1</sup>

<sup>1</sup> "EPBC Pre-approved area" denotes the suburbs of North Weston, Coombs and Wright which were assessed and approved under separate EPBC Act Part 9 referrals (EPBC referrals 2009/4752, 2009/5041 and 2009/5050), and are not part of the strategic assessment

Approval Decision under s146B of the EPBC Act for the *Molonglo Valley Plan for the Protection of Matters of National Environmental Significance*, ACT.