



# Browse LNG Precinct



## Browse Liquefied Natural Gas Precinct Strategic Assessment Report

(Draft for Public Review)

December 2010

# Appendix A-1

Preface to the Scope of the  
Strategic Assessment



**Browse LNG Precinct**

# **Preface to the Scope of the Strategic Assessment**

**Strategic Assessment for the Browse LNG  
Precinct**

**Department of State Development**

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## 1.0 BACKGROUND & PURPOSE OF THIS DOCUMENT

Western Australia's Minister for State Development (as **Proponent**) proposes to develop a "Common-User Liquefied Natural Gas (**LNG**) hub precinct" (referred to as the **Browse LNG Precinct**<sup>1</sup>) for the processing of Browse basin gas resources in Western Australia.

In recognition of the environmental and heritage values of the region, as well as the significant economic potential in relation to the extraction and processing of LNG from the Browse Basin, the environmental impact assessment for the Browse LNG Precinct will be undertaken concurrently as a Strategic Assessment by agreement between the State and Commonwealth Governments.

This Preface is intended to provide more context on the Strategic Assessment process and the information expectations at each stage of the approvals process.

The Scope of the Strategic Assessment (Scope document) has been prepared by the Proponent to provide more detail on the scope of the studies being considered and progressed as part of the Strategic Assessment process. Some additional studies may be required after the Strategic Assessment has been completed to inform adaptive management processes or as part of a subsequent approvals process where applicable. This Preface explains the approach to be taken.

Some information in the Scope document relating to the background of the Strategic Assessment is repeated in the beginning of this Preface document to assist with readability and provide more up to date information on key components of the process. Where this Preface is at variance with text within the Scope of the Strategic Assessment, this Preface prevails.

## 2.0 STRATEGIC ASSESSMENT APPROACH

The Strategic Assessment is being undertaken concurrently under both the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**) and the State of Western Australia's *Environmental Protection Act 1986* (**EP Act**).

A Strategic Assessment under the EPBC Act enables the Commonwealth Minister for the Environment to endorse a Plan for a Browse Basin common-user LNG precinct and its associated activities and, as a separate process, approve actions or a class of actions that are to be undertaken in accordance with that endorsed Plan.

A Strategic Assessment under the EP Act allows the State Minister for the Environment to approve certain future proposals and apply implementation conditions to future proposals at the completion of the Strategic Assessment. A future proposal assessed by Strategic Assessment can be declared a Derived Proposal by the Environmental Protection Authority (**EPA**) provided it meets certain statutory requirements. If a proposal is declared to be a Derived Proposal, the EPA cannot further assess the proposal. The State Minister for the Environment may then impose relevant implementation conditions determined at the completion of the Strategic Assessment to each particular Derived Proposal.

### 2.1 APPROVALS PROCESS

The Strategic Assessment process for the development of the Browse LNG Precinct is effectively being conducted as a three stage process that leads to an implementation stage:

- 1) Kimberley site selection process and Northern Development Taskforce site evaluation review including early advice provided by the EPA under Section 16(e) of the EP Act on environmental sensitivities associated with short-listing of sites (EPA Report 1306).
- 2) Strategic Assessment Report Development and Finalisation process:
  - Draft Strategic Assessment Report (SAR) prepared, open for public comment for 8 weeks;
  - SAR finalised taking into account any comments received;
  - SAR submitted to EPA and DEWHA for assessment and review;

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<sup>1</sup> Any reference to Kimberley LNG Precinct or similar terms in other earlier documentation should be read as Browse LNG Precinct

## PREFACE TO THE SCOPE OF STRATEGIC ASSESSMENT

- State (EP Act): assessment by the EPA of a Strategic Proposal as described in the SAR and the setting of implementation conditions by the State Minister for the Environment that would apply to future Derived Proposals identified in the SAR.
  - Commonwealth (EPBC Act): two stage process - a) endorsement of the Plan as described in the SAR and, if the Plan is endorsed, b) the approval of actions (if any) by the Commonwealth Minister for the Environment that will be taken in accordance with the Plan (including any conditions to be attached to those approvals). In all cases, the approval holder will be the person taking the action/class of actions.
- 3) Subsequent actions
- State (EP Act): declaration by the EPA of Derived Proposal(s) that were identified as 'future proposals' in the strategic assessment and the application by the State Minister for the Environment of the conditions relevant to the Derived Proposal(s).

### **IMPLEMENTATION**

- Commitments/processes in the Derived Proposal are carried out/implemented.
- Commonwealth (EPBC Act): approved actions/classes of actions may commence and must be taken in accordance with the endorsed Plan and any approval conditions.
- Monitoring and audit of compliance with the Plan and any conditions of approval.

These stages are described below and illustrated in Figure 1.

PREFACE TO THE SCOPE OF STRATEGIC ASSESSMENT

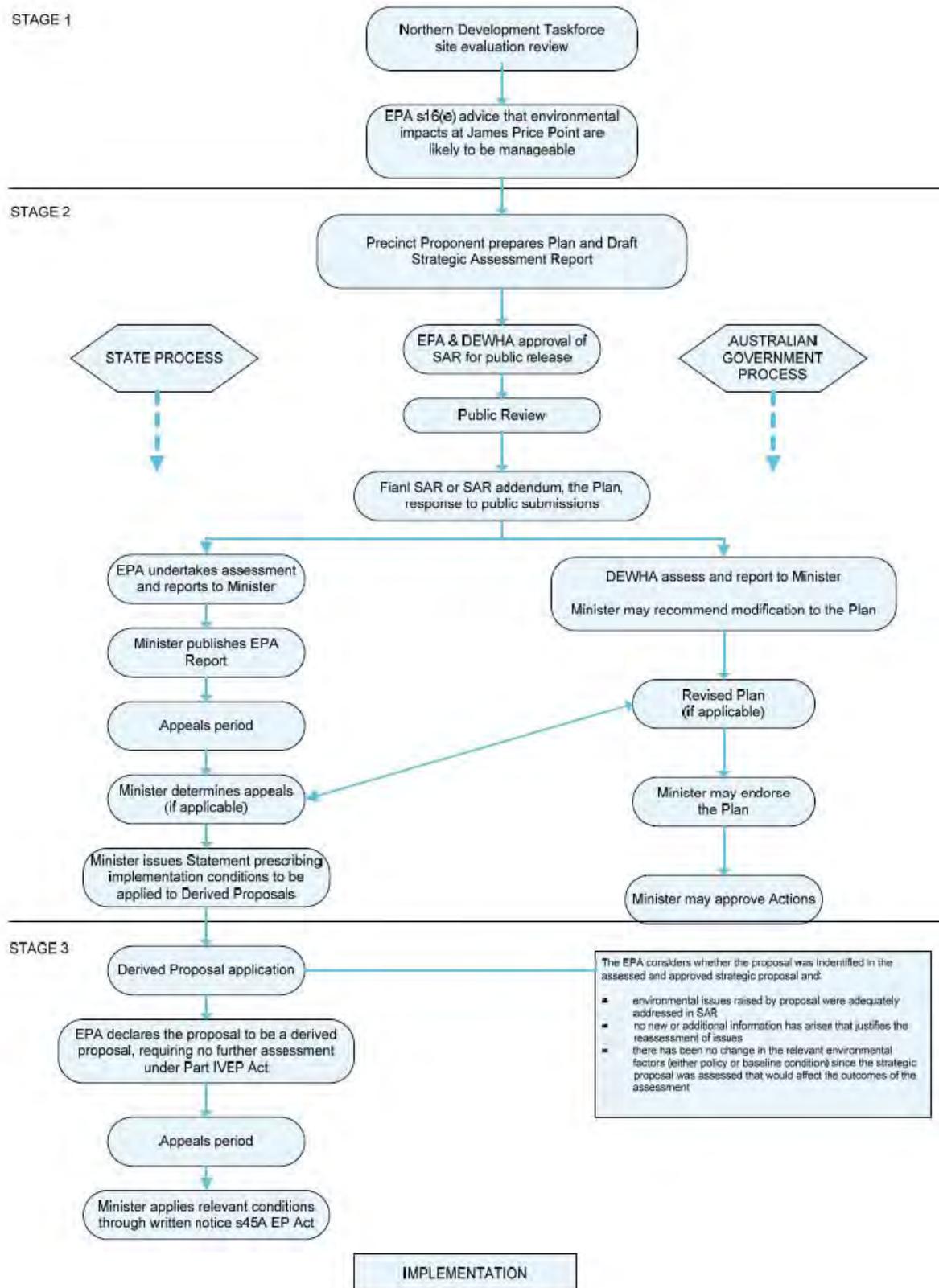


Figure 1 Strategic assessment process

More information on key steps in this process is provided in the following sections.

### 2.1.1 Northern Development Taskforce Site Evaluation Review and WA EPA's Section 16(e) Advice

The section 16(e) process is depicted in Figure 1 within Stage 1, which is now complete. EPA Report 1306<sup>2</sup> was released on 19 December 2008 providing the Minister for Environment advice for consideration under Section 16(e) of the Environmental Protection Act 1986 (WA). The Report provided the Minister for Environment with advice on environmental matters relating to the site selection process including the 11 sites evaluated in the NDT site evaluation report. The EPA also provided advice on the likely environmental acceptability of the four shortlisted sites, including James Price Point. The EPA based its assessment on the Northern Development Taskforce (NDT) site evaluation review, which allowed the EPA to provide early guidance on the environmental impacts that would require attention during the next stage of the strategic assessment and as a contribution to the Government's determination on a preferred site.

The EPA concluded the following regarding James Price Point:

"The environmental impacts and risks of locating a precinct in the James Price Point area are likely to be manageable. The risk of future expansion being significantly constrained is likely to be low.

Based on the available data, the EPA considers that the James Price Point area is the least environmentally constrained of the two short-listed sites on the Dampier Peninsula for a gas processing precinct."

### 2.1.2 Strategic Assessment

The State and Commonwealth Governments entered into an agreement (the Strategic Assessment Agreement) to undertake concurrent environmental assessments through a coordinated and collaborative process, utilising a single set of documents to inform both processes. Terms of Reference (**ToR**) for the Strategic Assessment were agreed by both Governments and finalised following a public comment period. The ToR provides the framework for the SAR and the strategic assessment must be undertaken in accordance with the ToR, in order to meet the requirements of both the EP Act and the EPBC Act.

The ToR requires the Proponent to prepare a **Plan** for the LNG Precinct and its associated activities as well as the preparation of a **Report** (Draft SAR) assessing the environmental, heritage and socio-economic impacts of actions under the Plan, and the proposed arrangements to manage those impacts.

The Draft SA is required to be released for a public review period, notionally currently set at eight weeks. The Proponent may then prepare a Supplement to the Draft SAR or issue a Final SAR taking into consideration matters raised during the public review.

#### **EP Act:**

The EPA will then prepare a report on the Final SAR outlining its assessment and recommended conditions that would be applied to future proposals identified in the Strategic Proposal (Derived Proposals).

The EPA Report and recommended conditions are then open to appeal and the state Minister determines appeals and issues a Statement prescribing the implementation conditions to be applied to future Derived Proposals. At this point in the process, the conditions do not apply to a specific party and there are no approved projects under the EP Act. That is, the strategic assessment outcomes (the prescribed Ministerial conditions) do not take effect until such time as a Derived Proposal has been declared under s39B of the EP Act and written notice is served under section 45A of the EP Act.

#### **EPBC Act:**

The process under the EPBC Act is as described above with the exception that once the Final SAR is received by the Commonwealth Minister, the Commonwealth Minister may recommend modifications to the Plan. Provided those modifications (if any) are made, the Commonwealth Minister may then endorse the Plan. Should the Plan be endorsed in this way, the Commonwealth Minister may then give approval to actions that are to be taken in accordance with the Plan. In giving approvals for these actions, the Commonwealth Minister may also attach conditions to those approvals.

### 2.1.3 Derived Proposals under the EP Act

Following the setting of conditions on a Strategic Proposal, a proponent may refer a proposal to the EPA under s38 and request (in that referral) that the referred proposal be declared a Derived Proposal (Stage 3 in Figure 1).

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<sup>2</sup> The full EPA Report 1306 is available for download from [www.epa.wa.gov.au](http://www.epa.wa.gov.au) under EPA Reports > Archives.

Under s39B of the EP Act, the EPA can then declare that the proposal is a Derived Proposal if the referred proposal was identified in the Strategic Proposal and it was agreed or decided that the referred proposal could be implemented (subject to conditions).

The EPA may refuse to declare the referred proposal to be a derived proposal if:

- environmental issues raised by the Derived Proposal were not adequately addressed in the Strategic Assessment
- significant new or additional information has arisen that justifies the reassessment of the issues raised by the proposal
- there has been a significant change in the relevant environmental factors since the strategic proposal was assessed.

If a proposal is declared to be a Derived Proposal by the EPA under s39B, there is no further assessment by the EPA. The EPA must publicly record the declaration and notify the Minister of the decision. Any person can appeal the EPA's decision to declare a Derived Proposal to the Minister.<sup>3</sup>

The previously published implementation conditions apply to Derived Proposal upon any appeals being concluded<sup>4</sup> by the issue of a Ministerial Statement outlining that the proposal can be implemented subject to the conditions under s45A of the EP Act. Where the strategic proposal identified two or more future proposals, the Minister may elect to apply only the relevant conditions to the Derived Proposal. For example, a proposal for the development of an onshore third party contractor use area within the LNG Precinct could be declared a Derived Proposal but conditions regarding marine impacts (to the extent they are not relevant) would not be applied to Derived Proposal for the development of the third party contractor area.

## 2.2 INFORMATION EXPECTATIONS AT EACH STAGE OF THE ASSESSMENT PROCESS

The information that is required at each stage of the assessment process is linked to the purpose and outcomes of the stage of the assessment:

- 1) **Stage 1** (completed): Environmental opportunities and constraints of over forty sites down to a shortlisting of four sites in the Kimberley to enable the EPA to provide early guidance on environmental impacts.
- 2) **Stage 2** (under way): Information regarding environmental values, potential impacts and management mechanisms to demonstrate that the environmental issues raised are manageable and to outline the management arrangements that will be in place to do so.
- 3) **Stage 3**: The referral of a future proposal (Derived Proposal) consistent with that assessed in Stage 2, subject to there being no significant new information or change in the relevant environmental factors since the strategic assessment causing the EPA to refuse to declare the proposal a derived proposal.

**Implementation:** Monitoring and reporting as required.

## 3.0 SCOPE OF THE SAR

The document titled "Scope of the Strategic Assessment" (Scope) has been prepared to provide further details on the proposed methodologies to assess the impacts of the strategic proposal / the Plan and its associated actions.

Following assessment of the SAR, both State and Commonwealth Governments will decide whether the development of the Browse LNG Precinct can be managed in an environmentally and socially acceptable manner and if so, what conditions apply. To facilitate the assessment and meet State and Commonwealth requirements, the SAR will include the following:

- key environmental values of potentially affected areas;
- aspects of the proposal/ class of actions that may cause environmental impact;
- impacts identified;
- management mechanisms and implementation conditions to be in place to avoid, limit/mitigate, or offset environmental impact; and
- assessment of the impact of key aspects (including management) on the key environmental values.

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<sup>3</sup> This appeal is proposed to be removed from the EP Act by the *Approvals and Related Reforms (No. 1)(Environment) Bill 2009*

<sup>4</sup> Subject to passage of the *Approvals and Related Reforms (No. 1)(Environment) Bill 2009*

## PREFACE TO THE SCOPE OF STRATEGIC ASSESSMENT

It is inherent in the nature of a strategic assessment that the exact details of future proposals and the environment may not be known. Regardless, sufficient information needs to be included in the SAR to demonstrate that it is unlikely that there will be unacceptable impacts to key environmental values and that mechanisms can be implemented to ensure that no unacceptable impacts are likely to occur. The need to allow for the situation where all detailed information is not available is inherent to the strategic assessment process. Further potential for variability in future actions by future proponents can and should be taken into account to ensure appropriate assessment occurs at the strategic level and management arrangements are put in place.

Statutory safeguards via the EP Act whereby any new environmental issues must be taken into account before a proposal can be declared as a Derived Proposal.

A strategic assessment may contemplate situations where individual project scope is less certain and the scope of potential future projects needs to remain flexible. In these cases an outcomes-based approach to conditioning future projects may be required.

In order to respond to the strategic nature of the assessment, the SAR and/or the Plan will employ a range of techniques for presenting assessment of impacts and defining management arrangements:

- 1) Regulatory requirements or commercially binding agreements. In some cases the SAR will assess the potential impact from a particular activity as not having an unacceptable impact provided certain parameters can be met. Those parameters may then guide decision making, management measures and conditions under other existing regulatory approval processes or commercial agreements. Examples include groundwater abstraction licences, sea dumping permits, works approvals and heritage protection.
- 2) Outcome-based management. Where key environmental values have been identified (e.g. short range endemic species) but there is uncertainty in respect of the baseline data (e.g. genetics analysis to confirm endemism), outcome based conditions that set environmental limits can be developed to protect key environmental values. Outcome-based conditions will be based on adaptive management whereby the results of monitoring inform the management measures/arrangements. The principles of ecologically sustainable development (including the precautionary principle) will be considered.
- 3) Sensitivity analysis. Where impact is uncertain, a sensitivity analysis may be undertaken to determine whether a range of scenarios changes the environmental outcome. For example, a final design for a full capacity LNG Precinct will necessarily not be available in the SAR – as such the predictions for air emissions will be based on a range of emissions for varying technologies and meteorological scenarios can be assessed to establish potential impacts and what management standards may need to be applied to ensure unacceptable impacts from air emissions are avoided. Future proposals would need to be capable of meeting or further assessment may be required.
- 4) Reasonable maximum impact scenarios. This methodology is most applicable when the project scope is uncertain. For example, the exact configuration of the Port may not be known so the assessment may be based on a footprint that is larger than that expected to ensure that any Port configuration within that footprint is likely to be acceptable, or acceptable subject to certain conditions.
- 5) Management plans. In a strategic assessment it may be appropriate to require the preparation of a management plan to ensure that the methods used by future proposals are appropriate to achieve the required environmental outcome.

For some factors, a range of approaches may be required. For example, a range of air emissions scenarios may be assessed to determine whether a sensitive receptor will be unacceptably affected but there may also be outcome-based conditions applied that set air quality limits at relevant sensitive receptors.

Where critical elements of the scope of an activity or material environment information are not available to the strategic assessment process, this will be clearly articulated as outside of the approval scope. Any activity not assessed in the SA will therefore not be able to be determined to be a derived proposal under the EP Act or part of an approved action under the EPBC Act.