

Notice

Environmental Protection Act 1994

Internal review decision and statement of reasons

This notice is issued pursuant to sections 521(9) and 521(10) of the Environmental Protection Act 1994 to give written notice of the decision on an internal review application, provide a statement of reasons for the decision and to advise you of your right of appeal against the decision.

Reference: P-EA-100521948

Ellen Roberts
National Coordinator
Lock the Gate Alliance
1/28 Donkin St, Westend, QLD, 4101

Attention: ellen@lockthegate.org.au

Dear Ellen

Re: Decision on internal review application

Thank you for your application to review an original decision to approve the application. Your internal review application was received on 10/09/2024

The chief executive has decided to confirm the original decision.

The reasons for confirming the original decision are given in the below statement of reasons.

Statement of Reasons

Jurisdiction of original decision

1. The Notice of Decision to approve the application (the original decision) was issued on 5/08/2024 pursuant to s. 176 of the *Environmental Protection Act 1994* (the Act).
2. The original decision to approve the application was made by Helena Braye, Manager of the Energy and Extractive Resources Assessment Team, Energy and Extractive Resources branch in the Environmental Services and Regulation division. This officer has the appropriate delegation to make the decision.

Background and chronology of events

Environmental authority (EA) P-EA-100522021 was approved on 5 August 2024 and is currently in effect for Mahalo North coal seam gas project. The location of the operation within Queensland, the subject of this assessment is:

Approximately 45km north of Rolleston on PL1128

The environmentally relevant activities (ERAs) being undertaken at the site are:
Non-Scheduled – Petroleum Activity – Petroleum Lease (PL)

On 20 October 2023, Comet Ridge Mahalo North Pty Ltd applied for a new environmental authority application.

On 31 January 2024, an information request was issued requesting further clarification on matters including:

- Vegetation clearing
- Predicted subsidence impacts within the strategic cropping area
- Impacts to bats
- Noise modelling
- Air modelling and
- Greenhouse gas emission modelling.

From 10 February 2024, the application was first publicly notified. After receiving the applicant's declaration of compliance, the department determined that the public notification did not meet the requirements under s156(2) and s156(3) of the EP Act.

On 19 March 2024, an information request response was received that provided clarification on the matters requested.

On 15 April 2024, a notice was issued directing the application to be publicly notified in a way directed by the department.

From 27 April 2024, the application was publicly notified online in the 'Emerald Today' newspaper. A statutory declaration stating that the public notification requirements were met was provided on 28 May 2024. The delegate determined that substantial compliance with public notification requirements under s 152, 153 and 156 of the EP Act has been achieved.

On 28 May 2024, two public submissions were received from Lock the Gate Alliance and Environmental Advocacy in Central Queensland. These submissions were taken into consideration in the assessment of the application.

On 5 August 2024, the department issued the decision notice to the applicant and the two submitters.

On 10 September 2023, Lock the Gate Alliance applied for an internal review of the decision to approve the EA application.

Internal review application

1. By application dated 10 September 2024, from Lock the Gate Alliance seeks the internal review of an original decision of a delegate of the administering authority to approve the application pursuant to s172(2) (a). Lock the Gate Alliance seeks to revoke the Original Decision P-EA-100522021.
2. As per s. 519 of the Act, the approval of the application is a decision mentioned in Schedule 2 of the Act as an 'original decision'.

3. The application for review of the original decision was properly made in the approved form by a dissatisfied person in accordance with s. 520 of the Act. The dissatisfied person is Lock the Gate Alliance. The application for review of the original decision was supported by enough information to enable the administering authority to decide the application.
4. Pursuant to s. 521(2)(a) of the Act, an application for internal review must be lodged within 10 business days after the day on which the person receives notice of the original decision or the administering authority is taken to have made the decision, or a longer period allowed by the administering authority in special circumstances. The application submitted by Lock the Gate Alliance was made within 10 business days.
5. I am satisfied that Lock the Gate Alliance has complied with the statutory requirements for making an internal review application, including s. 521 of the Act.

Grounds to conduct a review of an original decision

1. The internal review was conducted by me as a delegate of the administering authority by instrument of delegation dated 14/04/2023 in accordance with s. 521 of the Act. As required by s. 521(8)(b) of the Act, my position within the administering authority of Director is not a less senior office than that of the original decision maker.

Internal review decision requirements and statutory timeframes

1. In considering the application, I am to 'review the original decision' and 'consider any properly made submissions' and 'make a decision to confirm or revoke the original decision, or 'vary the original decision in a way the administering authority considers appropriate.' (s. 521(5) of the Act).
2. I must therefore determine whether, having regard to the information provided by Lock the Gate Alliance in support of their application for an internal review of an original decision, the decision on the application made on 5/08/2024 should be confirmed, revoked or varied.
3. One internal review application was received for the original decision and no submissions were received for the internal review application. The review decision must therefore be made within 15 business days after the administering authority received the internal review application, or a longer period that the administering authority may in special circumstances employ, of not more than five additional business days as provided in s. 521 (15) (b) (ii) of the Act.

Review decision

My decision is to confirm the original decision. The decision was made on 9/10/2024 which was within the timeframe as required under s. 521 (15) (b) (ii), of the Act.

Documents and other material considered in making the review decision

In arriving at my review decision, I had before me for consideration the following material:

- The application for a review of the original decision submitted by Lock the Gate Alliance dated 10 September 2024 including attachments and supporting documentation;
- The Notice of the Decision on the application dated 5 August 2024 and the reasons for the decision as stated on the original decision notice;
- The environmental authority – P-EA-100522021;
- The EA application received on 20 October 2023 inclusive of the Environmental Authority Information Report – with the following Appendices

- Appendix A – Pre-lodgement advice
- Appendix B – Water Management Plan
- Appendix C – Groundwater Impact Assessment Report
- Appendix D – Ecological Assessment Report
- Appendix E – Aquatic Values Assessment Report
- Appendix F – Desktop Assessment
- Appendix G – Air Quality Assessment
- Appendix H – Acoustic Assessment
- Greenhouse Gas Assessment received on 7 November 2023
- The information request notice issued on 31 January 2024;
- The information request response dated 19 March 2024 inclusive of:
 - The draft Environmental Management Plan
 - Attachment B – Mahalo Project
 - Attachment C – Terrestrial Ecological Assessment Report
 - Attachment D – Noise Report
 - Attachment E – Air Report
- Internal technical advice provided to the assessment officer with respect to air on 6 June 2024, with respect to noise on 21 December 2023 and 10 May 2024, with respect to Biodiversity on 19 January 2024 and 28 May 2024;
- Assessment report for the application dated 5 August 2024;
- Submission on the environmental authority application for Comet Ridge Mahalo North Coal Seam Gas Project from Lock the Gate Alliance dated 27 May 2024;
- Submission on the environmental authority application for Comet Ridge Mahalo North Coal Seam Gas Project from Environmental Advocacy in Central Queensland Inc. dated 27 May 2024;
- The *Environmental Protection Act 1994*; and
- The *Human Rights Act 2019*.

Findings on material questions of fact

Following careful consideration of all the documents and matters outlined above, I have made the following findings of fact:

In reviewing this decision, I have considered *section 176 of the EP Act* (and the standard criteria).

Section 176 requires the decision maker to comply with any relevant regulatory requirement, have regard to the application, any standard conditions for the relevant activity or authority, and any response given for an information request and the standard criteria.

In the Lock the Gate Alliance request for an Internal review, the following six issues were identified and have been considered by me as outlined below:

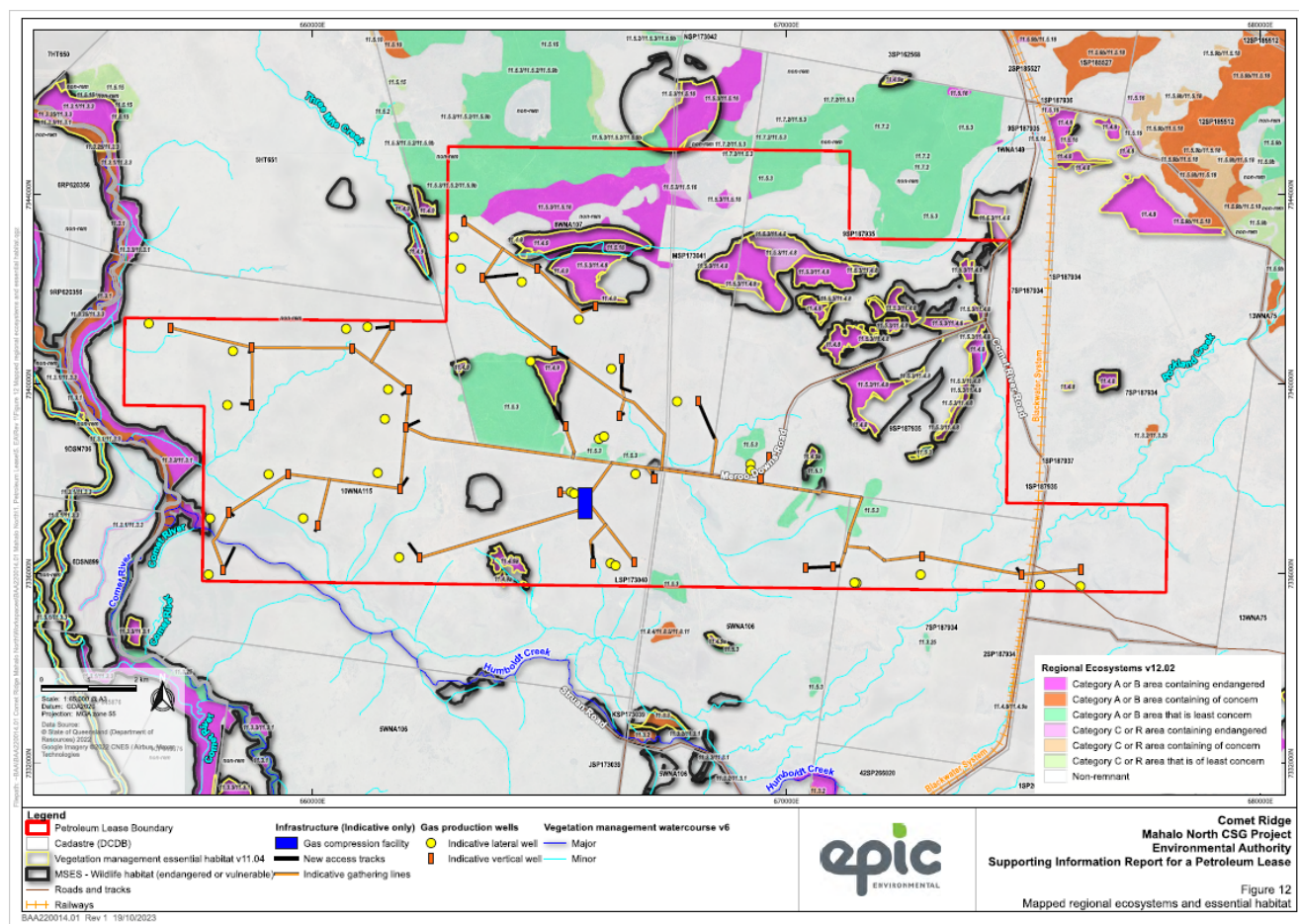
1. The application is inconsistent with the precautionary principle – standard criteria (a) (i)

I note that in the Intergovernmental Agreement on the Environment (IGA) decrees *‘that the precautionary principle should inform policy making and program implementation. Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.’* The IGA decrees *that in the application of the precautionary principle, public and private decisions should be guided by: 1, careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment; and 2, an assessment of the risk-weighted consequences of various options.*

The applicant has made a significant effort to situate project infrastructure in areas already cleared of vegetation wherever possible, thereby demonstrating the application is consistent with the precautionary principle. The application states that *‘the disturbance footprint has been subject to several revisions in order to further avoid identified higher value habitats’*. The application states *‘there will be very little clearing of remnant vegetation required. Accordingly, there will no impact to landscape connectivity and habitat fragmentation as a result of the project.’*

The activity proposed by this application is coal seam gas extraction, which has been practised in Queensland for over a decade and the risks associated with the activity are known. The application has demonstrated significant avoidance and mitigation measures to reduce the direct and indirect impacts to environmental values from the project activities (see figure below from the application depicting the location of project infrastructure). The project has avoided impacts to remnant vegetation as much as possible with only 1.17ha of remnant vegetation to be impacted and 178.27ha of disturbance to occur in non-remnant vegetation.

I have formed a view that the application is consistent with the precautionary principle.



2. The application is inconsistent with the principle of intergenerational equity – standard criteria (a) (ii)

The IGA principle of intergenerational equity requires ‘that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations’.

In the assessment of the application, the department has applied appropriate environmental authority conditions to regulate and restrict impact to the receiving environment to ensure the health, diversity and productivity of the environment is maintained for the benefit of future generations.

To ensure impacts to the environment are limited, thereby ensuring the health, diversity and productivity within the project area are maintained, the administering authority has included the following conditions in the environmental authority:

- G1 – authorised the extent of the activities
- A1 – details the limits for contaminant from the activity to be released to air
- B7 – details that no activities are permitted in Category A, B or C environmentally sensitive areas nor the primary protection zones and secondary protection zones, except as detailed in B8.
- B9 limits authorised impacts to Prescribed Environmental Matters including those that relate to non-remnant vegetation.
- N1 details the noise limits at sensitive places.
- WT1 details that no contaminants are to be directly or indirectly released to waters.

Internal review decision and statement of reasons

- R3 requires that within 12 months of works associated with the activity ceasing over an area of land, disturbance must be rehabilitated to either the requirements of R4 if the area does not have biodiversity values and to the requirements of R5 if the area has biodiversity values.

I have formed the view that the application is suitably constrained by the conditions in the environmental authority such that the health, diversity and productivity within the project area are maintained as much as is possible with the existence of the project.

3. The application is inconsistent with Commonwealth and State plans – standard criteria (b)

The standard criteria require the consideration of *any Commonwealth or State government plans, standards, agreements or requirements about environmental protection or ecological sustainable development*. Lock the Gate Alliance has not specified which plans the original decision is inconsistent with.

In assessing the application the delegate considered the following:

- *Environmental Protection Act 1994*
- *Environmental Protection Regulation 2019;*
- *Environmental Protection (Air) Policy 2019;*
- *Environmental Protection (Noise) Policy 2019;*
- *Environmental Protection (Water and Wetland Biodiversity) Policy 2019;*
- *Environmental Offset Act 2014;*
- *Environmental Offset Regulation 2019;*
- *Nature Conservation Act 1992;*
- *Vegetation Management Act 1999;*
- *Waste Reduction and Recycling Act 2011;*
- *Water Act 2000;*
- *Fisheries Act 1994;*
- *Petroleum and Gas (Production and Safety) Act 2004;*
- *Coal Seam Gas Water Management Policy 2012; and*
- *Regional Planning Interests Act 2014.*

Therefore, I have formed the view that the assessment of the application has had regard to standard criteria that requires consideration of any Commonwealth or State government plans, standards, agreements or requirements about environmental protection or ecological sustainable development.

4. The application will adversely affect the character, resilience and value of the receiving environment – standard criteria (e) – namely the impacts of climate change contributed to by the Project's continued accretion of GHG emissions, the impacts of the Project on biodiversity and the impacts of the Project on groundwater and surface water.

Impacts of climate change

The 'Greenhouse Gas Assessment Report' provided in the application states that, '*the project will contribute only a small fraction to national and state GHG emissions inventory at <0.0027% and <0.008% per annum respectively.*' The applicant has demonstrated that the annual Scope 1 and 2 emissions will consistently remain below 25,000tCO₂-e per annum for the life of the project with a maximum output of 13,628tCO₂-e in the year 2030. The project is not considered to be a medium to high emitter under the National Greenhouse and Energy Reporting Act 2007 (NGER Act) scheme thresholds as the Scope 1 and 2 emissions predicted to be generated from the project do not exceed 25,000tCO₂-e in a year for the duration of the project. The average annual output is 5,931tCO₂-e and

this is significantly under the reporting threshold. As such, because the project is considered to meet the low emitter category, rather than the medium to high emission category, the project does not warrant any GHG conditions in the environmental authority.

Scope 1 emissions over the 30-year life of the Project are projected to be 183,869 tCO₂-e, or an average of 5,931 tCO₂-e per annum. Scope 1 emissions are highest during the construction years (2024 to 2030 and 2032 to 2034) due to the combustion of diesel by machinery and for electricity generation along with the combustion of CSG for electricity generation at the facilities, reaching 13,628 tCO₂-e in 2030.

The Greenhouse Gas Assessment Report states that for Scope 3 emissions, it is assumed that all gas is combusted for power generation rather than a proportion being used for other purposes e.g. Ammonia production – a conservative scenario. The report presents two scenarios for downstream Scope 3 emissions. For scenario 1, where all the gas is combusted to produce electricity total Scope 3 emissions are 2,230,093tCO₂-e and for scenario 2 in which 90% of the gas is used to produce ammonia Scope 3 emissions are 225,000tCO₂-e less at 2,003,905tCO₂-e. Additionally, the emissions intensity of electricity produced from CSG (0.42 to 0.62tCO₂-e/MWh) is less than that of coal fire electricity production (0.86 to 0.99tCO₂-e/MWh). While the applicant has accounted for the Scope 3 emissions, these will also be accounted for by the downstream power generating facility as Scope 1 emissions.

I have formed the view that the GHG emissions from this project are not of a large magnitude and will not lead to significant climate change impacts to the environment.

Impacts of the Project on biodiversity

The impacts to biodiversity values have been minimised with only 1.71ha of remnant vegetation to be impacted. I have formed the view that this is not a significant impact to biodiversity values.

Impacts of the Project on surface water

The potential impacts from the Project to surface water are:

- Increased sediment load in runoff and at stream crossings;
- Reduction in bank stability, erosion and degradation of local water quality at waterway crossings
- Altered stream flow and flood regime from the placement of infrastructure,
- Erosion, salting, vegetation dieback and reduced water quality from runoff from cleared areas and the re-use of CSG water
- Reduced water quality from spills of fuel, oil or chemicals
- Waterway barriers preventing or impeding aquatic fauna movement due to poorly designed and constructed waterway crossings;
- Stormwater discharge and flow redirections.

In the applicant's draft Environmental Management Plan and supporting information document, the following mitigation measures include:

- No clearing with 200m of a wetland or 100m from watercourses;
- Construction of linear infrastructure (with a maximum of 6m width) will only occur during no flow or low flow conditions;
- Erosion and sediment controls will be installed in accordance with Best Practise Erosion and Sediment Control.

The project is not proposing any releases of produced water to surface water. I consider that the water conditions in Schedule WT appropriately constrain project activities in a manner that minimises impacts to surface water environmental values. The project is not proposing to contain any surface water flows and there will be negligible impacts on Comet River flows as a result of the proposed activities,

therefore I have formed the view that there is unlikely to be any significant impacts on the downstream receiving waters.

Impact of the Project on Groundwater

With respect to potential groundwater impacts from the project, the assessment identified the following:

- One active water supply bore may be impacted
- Two registered active water supply bores predicted to be impacted by cumulative development
- No springs impacts
- Potential terrestrial groundwater dependent ecosystems unlikely to be impacts
- Stygofauna unlikely to be impacted
- Groundwater water quality unlikely to be impacted
- Groundwater level drawdown in the alluvium and tertiary hydrogeological units predicted to be less than 0.2m
- Surface subsidence predicted magnitude to be approximately 2mm and 10mm for the cumulative case in the project area
- Negligible impacts to formation integrity and groundwater resource.

The conditions in schedule WS of the environmental authority requiring for a Water Impact Monitoring Program and an Annual Water Monitoring Report will ensure that any unpredicted potential groundwater water level drawdown or change in water quality are detected and appropriately managed. I have formed the view that the project will not have significant impacts on groundwater environmental values.

5. The application is contrary to the public interest – standard criteria (i)

The *Environmental Protection Act 1994* states that the Act is to be administered, as far as practicable, in consultation with, and having regards to the view and interests of, industry, Aboriginal and Torres Strait Islander peoples, interested groups, persons and the community.

The assessment considered the two public submissions made on the application in their decision on the application.

The project is a low-risk activity, where the project has been designed to avoid and minimise risks and the remaining risk of environment impacts are managed appropriately through conditions in the environmental authority and the implementation of an environmental management plan. The project is also proposing to supply to the Australian domestic gas market for the next 30 years.

I have formed the view that the application is compatible with the public interest by way of positive economic and social contributions to rural Queensland and controlled management of low-risk impacts to the environment.

6. The application is not compatible with human rights, namely a) the right to life of people in Queensland (s16); b) the rights of First Nations Peoples (s 28); c) the rights of children (s 26); d) the right to property (s24); e) the right to privacy and home (s25(a)); and f) the right to enjoy human rights without discrimination (s15(2)).

Cultural Rights

The application may impact the rights of Aboriginal peoples and in particular the cultural rights of the Gaangalu Nations People whom have an interest in the land. The project covers parts of four properties which are all have freehold title and over which no Native Title claims exist. The application has a Cultural Heritage Management Strategy in place, whereby a cultural heritage ground survey will be conducted prior to land disturbance utilising the Gaangalu Nations People as advisors to ensure that no damage, destruction or degradation of cultural heritage artefacts occurs during the construction or operation of the gas extraction activities.

I have formed the view that the environmental authority conditions together with the Cultural Heritage Management Strategy will protect the Gaangalu Nations People from most impacts on cultural rights, and the impacts will be adequately managed and that on the balance of competing factors favours imposing a limit on these human rights.

Right to life, Property rights, Protection of children, Recognition and equality before the law

The application would be but one of many sources of accretion of GHGs into the atmosphere and one of many factors contributing to climate change generally.

The project will be a source of accretion of GHGs into the atmosphere and makes a very low contribution to climate change (the project's contribution at only a small fraction of national and state GHG emissions inventory at <0.0027% and <0.008% per annum respectively), while at the same time supporting the Queensland community's ability to live in comfort, undertake employment, access education and practise culture, as such freedoms of people also positively benefit from the extraction of fossil fuels.

I do not believe that the GHG emissions from the project will negatively impact human rights by approving greenhouse gas accretion that would lead to dangerous climate change.

Whilst the Right to life, Property Rights, Protection of Children, and the Right to Recognition and Equality are engaged, I have formed the view that the Right to Life, Property Rights, Protection of Children and the Right to Recognition and Equality are not limited.

Human rights

A human rights assessment was carried out in relation to this decision and the human rights engaged by the EA application are addressed in section 6 above.

Reasons for the Review Decision

After careful consideration of the material and other evidence identified above, and having made the above findings of fact, I have decided to confirm the original decision.

As required by s. 521(9) I must, within 10 business days after making the review decision, give written notice of the decision to the applicant and any persons who were given notice under this Act of the original decision, including a statement of reasons for the decision on the internal review application and to advise them of their right of appeal against the decision.

Right to appeal

In accordance with s. 521(10)(b) of the Act I can advise that you have the right to appeal this decision to the Land Court in accordance with the mechanism provided in the Act. See the link to the review and appeal information sheet https://environment.des.qld.gov.au/_data/assets/pdf_file/0032/87890/era-is-review-appeal.pdf



Juliana McCosker
Acting Director
Business Centre Coal
Environmental Services and Regulation
Department of Environment and Science
Date: 23 October 2024