

Public record pursuant to s. 39 of the *Environmental Protection Act 1986*

Proposal title: Derby Future Energy System

Proposal description: Construction and operation of a renewable energy solar generation system to supply power to the town of Derby in the Kimberley region. The proposal comprises ground-mounted solar photovoltaic (PV) system up to 21 megawatts (MW), battery energy storage systems (BESS) up to 10 MW, a new thermal power station up to 8 MW, and a transmission network connection route. The thermal power station will be installed adjacent to the existing power station on Broome Street in Derby. The solar PV and BESS will be installed at either Site A (2.5 km south of Derby) or at Site B (5 km south of Derby). A transmission network connection route will connect the solar PV and BESS to a substation at the existing power station. The transmission network connection will either be an overhead or underground electrical distribution or transmission line and will be up to 8.9 km long.

Proposal location: Shire of Derby-West Kimberley

EO number: APP-0029251

Date referral received: 06-06-2025 **Date more information received:** N/A

Referrer: Regional Power Corporation T/A Horizon Power

Proponent: Regional Power Corporation T/A Horizon Power

Potential significant effects:

There are potential impacts on: flora and vegetation from the clearing of up to 73.5 ha of native vegetation; terrestrial fauna from the clearing of habitat and from collision with infrastructure; and social surroundings including noise, dust and vibration from construction.

Preliminary key environmental factors: flora and vegetation, terrestrial fauna, social surroundings.

Public comment on referral information:

Do not assess:	0
Assess: a) Referral information	0
b) Environmental review - no public review	0
c) Public environmental review	1
<i>Total submissions:</i>	1

Decision: s. 38G(1) – Not Assess

Referral Examined, preliminary investigations and inquiries conducted. Proposal not to be assessed under Part IV of the *Environmental Protection Act 1986* (EP Act) – Advice given.

Summary of reasons pursuant to s. 38G(1)(c)

The Environmental Protection Authority (EPA) has decided not to assess the proposal because:

- The EPA considers the likely environmental effects of the proposal, after taking into account the mitigating effects of other statutory decision-making processes, are not so significant as to warrant formal assessment under Part IV of the EP Act.
- The EPA's decision has been made on the basis of the proponent implementing the proposal in accordance with the Proposal Content Document dated 5 June 2025 and

implementing the management measures and monitoring set out in the Environmental Management Plan (EMP) (Appendix A, Horizon Power 2025). Changes to expected implementation content and/or management which are likely to result in significant environmental effects have not been considered as part of the decision for this proposal and may result in a new referral being required for that different proposal.

- Vegetation types within the proposal area are typical and widespread within the region and there are no TECs, PECs, or threatened or priority flora species within the development envelope. The EPA notes that the types of impact associated with the clearing of native vegetation can be regulated under Part V Division 2 of the EP Act.
- The proponent has proposed measures, including establishing avoidance areas around habitat trees suitable for several significant fauna species, to minimise direct and indirect impacts. The EPA notes that the impacts associated with loss of fauna habitat can be regulated under Part V Division 2 of the EP Act, and that the proponent will be required to obtain authorisation under s40 of the *Biodiversity Conservation Act 2016* (BC Act) to take or disturb threatened fauna. Additionally, the proponent has referred the proposal under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for assessment of potential impacts to species of Matters of National Significance (MNES) and, if deemed a controlled action, the impacts on MNES could be regulated to be consistent with the relevant EPA objectives.
- The impacts from noise, dust and vibration associated with construction of the proposal will be short-term and can be adequately managed through implementation of the EMP. The long-term impact on visual amenity is considered unlikely to be significant due to existing infrastructure in the area (thermal power station and transmission network connection route) and the solar PV and BESS facility's location out of the townsite away or shielded by existing vegetation from sensitive receptors. The EPA considers that the impacts during construction of the proposal could be assessed and regulated under Part V Division 3 of the EP Act.
- The proponent is committed to avoiding direct impacts to all Aboriginal cultural heritage values and will undertake a survey of the development envelope with the support of the Traditional Owners. The EPA notes the proponent has engaged with the two Native Title claimants for the area and will establish a Heritage Protection Agreement with them. If any Aboriginal heritage sites are identified, the potential impact could be assessed and regulated under s18 of the *Aboriginal Heritage Act 1972* (AH Act).
- No significant impacts to Aboriginal heritage sites or values are expected as a result of the proposal, and the environmental outcome of the proposal is likely to be consistent with the EPA's objective for social surroundings.
- The EPA considered the cumulative impacts of the proposal with other activities within the Fitzroy Trough Interim Biogeographic Regionalisation for Australia (IBRA) subregion. The EPA concluded that the relatively low proportionate impacts on flora and vegetation and habitat for terrestrial fauna from the proposal are unlikely to

contribute to cumulative impacts which undermine achievement of the EPA's objectives.

- The EPA does not consider that the proposal impacts will combine or interact in a holistic way which requires assessment by the EPA.

Material information considered by the EPA in this decision:

The EPA has considered the following material information in making its decision:

- The proponent's referral and referral supporting documentation (dated 5 June 2025) including Appendix A, as published on the EPA's website.
- GHD (2024) *Kimberley IRP Biological Survey*, Rev 0, 25 July 2024.
- EP Act s 3, s 4, Part IV, Admin Procedures, EPA factor and technical guidance.

Public advice:

The EPA publishes the following public advice for the benefit of other decision-making authorities to ensure that their statutory decision-making processes achieve and assure environmental outcomes consistent with the EPA's environmental factor objectives:

- The EPA notes that impacts associated with the clearing of native vegetation for the proposal, including suitable habitat for threatened fauna species, can be regulated under Part V Division 2 of the EP Act (administered by the Department of Water and Environmental Regulation).
- Ministerial Authorisation is likely required under section 40 of the BC Act to take or disturb threatened fauna. The EPA expects that conditions will be applied to this authorisation as appropriate for the purpose of mitigating or offsetting the impact, as outlined under section 41 of the BC Act.
- The abstraction of groundwater, including dewatering, will be regulated under the *Rights in Water and Irrigation Act 1914* and require implementation of a Groundwater Operating Strategy (GWOS). The EPA expects that the GWOS will include consideration of appropriate groundwater monitoring and triggers to mitigate impacts to environmental values.
- The EPA expects that the works approval and licensing process under Part V Division 3 of the EP Act can manage potential impacts to the environment associated with emissions or discharges.
- The proposal will be considered Public Works and is likely to be exempt from development approval under section 6 of the *Planning and Development Act 2005*, however the EPA notes that due regard is required with respect to:
 - the purpose and intent of any planning scheme that has effect in the locality where, and at the time when, the right is exercised;
 - the orderly and proper planning, and the preservation of the amenity, of that locality at that time; and
 - any advice provided by the responsible authority in the course of the consultation required.

- Ministerial Authorisation is required under section 18 of the AH Act to alter or disturb Aboriginal heritage sites. The EPA expects that conditions will be applied to this authorisation as appropriate relating to Aboriginal sites or objects, mitigation strategies or the use of the land.

Appeals: There are no rights of appeal under the EP Act in respect of this decision.



Darren Walsh

CHAIR

Delegate of the Environmental Protection Authority

Date: 02 July 2025