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Australian Government

**Department of Climate Change, Energy,
the Environment and Water**

Statement of Reasons for a Decision on not Controlled Action Under the *Environment Protection and Biodiversity Conservation Act 1999*

I, ANDREW MCNEE, Division Head, Environmental Permitting and Compliance Division, in the Department of Climate Change, Energy, the Environment and Water (the **department**), in my capacity as Assistant Secretary, Environment Assessments Queensland and Sea Dumping Branch at the former Department of Agriculture, Water and the Environment, delegate for the Minister for the Environment and Water (**Minister**), provide the following statement of reasons for my decision of 9 February 2022 under section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**). On 9 February 2022, I determined that the proposed action by Carbon Transport and Storage Corporation Pty Ltd (**CTSCo**) to conduct a carbon dioxide test injection demonstration including construction of a transportation facility, flowline and associated infrastructure (EPBC 2021/9122), is not a controlled action under the EPBC Act.

Legislation

1. Relevant excerpts of the EPBC Act are set out in **Annexure A**.

Background

Description of the proposed action and location

2. CTSCo proposes to conduct a GHG test injection demonstration (containing at least 98% carbon dioxide) for three years, including construction of a transportation facility, flowline and associated infrastructure (**the proposed action**).
3. The proposed action area is situated within the Western Downs Regional Council local government area in Queensland. The proposed action area is located between Moonie River and Moonie Highway, 36 kilometres (km) west of Moonie.
4. The referral information described the proposed action to include the:
 - a) construction of a transportation facility to offload the GHG stream from insulated containers on trucks and conversion from cryogenic liquid to supercritical fluid.
 - b) construction of a 9 km underground flowline that is 100 mm wide, which will carry the GHG stream from the transport facility to the test injection site. The flowline will be installed 1.5 to 2 metres underground within an existing 5 metre wide cleared road easement.
 - c) transfer and the storage of approximately 110,000 tonnes per year of the GHG stream at the West Moonie-1 injection well (drilled in 2020) 2.3 km underground into the Precipice Sandstone reservoir.

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5. The following actions are not part of the proposed action referred under the EPBC Act, but are relevant to the proposed action and relate to an Environmental Authority currently being considered for amendment by the Queensland Department of Environment and Science:
 - a) the transportation of GHG stream by truck from the Millmerran Power Station to the transportation facility using public roads over a distance of 260 kilometres.
 - b) the test injection well that was drilled in 2020 under the Environmental Authority.
 - c) the West Moonie-2 monitoring well was drilled in 2021 and is positioned to be within the CO₂ reservoir below surface.
 - d) other monitoring infrastructure include a Gubberamunda aquifer monitoring bore, a shallow alluvium monitoring bore, an air monitoring station and buried seismic monitoring lines.
6. The development footprint is 10.98 ha.

Description of the environment

7. The proposed action area is predominately rural zoned land. The land is primarily cleared for grazing with some areas used for cropping. Coal and petroleum mining exploration activities have been conducted within and adjacent to the proposed action area.
8. Currajong State Forest is located adjacent to the proposed action area to the west and forms part of the parcels associated with the proposed action area. No works were proposed in Currajong State Forest.
9. The GHG stream flowline is proposed to cross Stephens Creek which is a tributary of the Moonie River and South Branch Stephens Creek.
10. The referral material stated that the Precipice Sandstone aquifer in the proposed action area does not contain subterranean groundwater dependent ecosystem (GDE) and is unlikely to support stygofauna and I noted that the department agreed.

Procedural history

11. On 10 January 2022, the department received a valid referral from CTSCo, under section 68 of the EPBC Act. CTSCo stated that it considered the proposed action is not a controlled action for the purposes of the EPBC Act. In accordance with section 74(3) of the EPBC Act, the referral was published on the department's website on the same date and public comments were invited for a period of 10 business days until 24 January 2022. No public comments were received on the referral.
12. On 10 January 2022, in accordance with section 74(1) of the EPBC Act, the following Commonwealth Ministers were invited by letter to comment on the referral:
 - a) The Hon Ken Wyatt AM MP, Minister for Indigenous Australians
 - b) The Hon Angus Taylor MP, Minister for Industry, Energy and Emissions Reduction
 - c) The Hon Barnaby Joyce MP, Minister for Infrastructure, Transport, Regional Development
 - d) The Hon Keith Pitt MP, Minister for Resources and Water

13. By letter dated 10 January 2022, in accordance with section 74(2) of the EPBC Act, Mr Chris Loveday, delegate for the Hon Meaghan Scanlon, Queensland Minister for the Environment and the Great Barrier Reef was invited to comment on the referral.
14. On 9 February 2022, I decided under section 75 of the EPBC Act that the proposed action was not a controlled action.

Evidence or other material on which my findings were based

I made my decision regarding this proposed action after considering the referral decision brief and its attachments prepared by officers of the department (**decision brief**), which I signed on 9 February 2022. The documents included within the decision brief are outlined below:

A	Referral document
A1	MNES report
A2	Ecology report
A3	Aquatic Ecology report
B	ERT report
C	MINISTERIAL COMMENTS
C1	Comment from Commonwealth Minister for Indigenous Australians
C2	Comment from Commonwealth Minister for Industry, Energy and Emissions Reduction
C3	Comment from Commonwealth Minister for Resources and Water
C4	Comment from State Minister for the Environment and the Great Barrier Reef
D	Decision notice
E	LETTERS
E1	Letter to CTSCo
E2	Letter to state Minister for the Environment and the Great Barrier Reef
E3	Letter to Commonwealth Minister for Indigenous Australians
E4	Letter to Commonwealth Minister for Industry, Energy and Emissions Reduction
E5	Letter to Commonwealth Minister for Infrastructure, Transport, Regional Development
E6	Letter to Commonwealth Minister for Resources and Water

Public comments

15. I noted that no public comments were received during the public comment period.

Commonwealth Ministerial comments

16. As stated in paragraph 12, the department invited four Commonwealth Ministers to comment on the proposed action. Responses were received from three ministers and were included as attachments to the decision brief.

17. On 21 January 2022, a delegate of the Minister for Industry, Energy and Emissions Reduction responded, stating that the Department of Industry, Science, Energy and Resources has nil comment on the proposal.
18. On 24 January 2022, a delegate of the Minister for Resources and Water responded, stating that Geoscience Australia concurs with the CTSCo that there are no impacts to any Matters of National Environmental Significance, as a result of the proposed action.
19. On 25 January 2022, a delegate of the Minister for Indigenous Australians responded, commending the engagement undertaken by the CTSCo with the Bigambul People for the development of a Cultural Heritage Management Plan (CHMP); and recommending the development of tangible and intangible cultural heritage values as part of the CHMP.
20. No comments were received from the Hon Barnaby Joyce MP, Minister for Infrastructure, Transport, Regional Development.
21. I took into account the matters raised in these Commonwealth Ministerial comments to the extent they were relevant to the determination of whether the proposed action is a controlled action.

State/Territory Ministers

22. On 14 January 2022, Mr Loveday responded on behalf of the Hon. Meaghan Scanlon, the then Queensland Minister for the Environment and the Great Barrier Reef, noting that the proposed action would be assessed using the environmental impact statement (EIS) process in Chapter 3 of the *Environmental Protection Act 1994* and that the proposal is likely to be assessed as a coordinated project under Part 1 of that Act.

Findings on material questions of fact

Referral of a larger action

23. Before determining whether the proposed action was a controlled action, I considered whether it was a component of a larger action that CTSCo proposes to take, and if so, whether I should decide not to accept the referral of the proposed action pursuant to the discretion under section 74A(1) of the EPBC Act.
24. Section 74A(1) of the EPBC Act states that if the Minister (or me, as her delegate) is satisfied the action that is the subject of the referral is a component of a larger action the person proposes to take, the Minister (here, me as her delegate) may decide not to accept the referral. This is a discretionary decision and, as such, I was not obliged to exercise the power.
25. The referral material described that the carbon dioxide for test injection would be sourced from the Post Combustion Capture (PCC) plant at the Millmerran Power Station located 260 km from the project site. The PCC plant is the subject of a separate approval process by Intergen Pty Ltd, operator of the Millmerran Power Station. As the person proposing to take the action for this referral, CTSCo, is different to Intergen Pty Ltd, I agreed with the department that section 74A does not apply and the action is not a component of a larger action that CTSCo proposes to take.

Whether any Part 3 provisions are controlling provisions

26. As a delegate of the Minister, the question before me under section 75 of the EPBC Act was to decide whether the referred action is a controlled action and which provisions of Part 3 (if any) are controlling provisions for the proposed action.
27. Section 67 of the EPBC Act provides that an action is a controlled action if the taking of the action, without the Minister's approval for the purposes of a provision of Part 3, would be prohibited by the provision (the controlling provision for the action).
28. In accordance with section 75(2) of the EPBC Act, in making my decision, I considered all adverse impacts the proposed action will have, or is likely to have, on each matter protected by a provision of Part 3 of the EPBC Act. In making my decision, I did not consider any beneficial impacts that the proposed action will have, or is likely to have, on each matter protected by a provision of Part 3 of the EPBC Act.
29. In making my decision, I considered information provided in the referral documentation, as well as Commonwealth and State Ministerial comments received on the referral. I considered and accepted that the information before me was adequate to make my decision under section 75 of the EPBC Act.
30. Having regard to the information before me, and the matters relevant to my decision, for the reasons set out below, I agreed with the department's recommendation in the decision brief that I decide the proposed action is not a controlled action because it is not likely to have a significant impact on a matter protected by Part 3 of the EPBC Act.

Listed threatened species and threatened ecological communities (sections 18 and 18A)

31. I noted that the department's Environment Reporting Tool (ERT) report, dated 11 January 2022, identified 19 listed threatened species and 4 threatened ecological communities that are likely or known to occur within 5 km of the proposed action area. Based on the location of the proposed action and the potential habitat present in the area, the department considered, and I accepted, that impacts may potentially arise in relation to the following listed threatened species and threatened ecological communities:
 - a. Koala (*Phascolarctos cinereus* – combined populations of Qld, NSW and ACT) – vulnerable;
 - b. Squatter pigeon (southern) (*Geophaps scripta scripta*) – vulnerable;
 - c. Brigalow (*Acacia harpophylla* dominant and codominant) – endangered; and
 - d. Poplar Box Grassy Woodland on Alluvial Plains ecological community – endangered.

Koala (*Phascolarctos cinereus* – combined populations of Qld, NSW and ACT) – vulnerable

Species information

32. I considered the species information on the department's Species Profile and Threats (SPRAT) database on the Koala.

Proposed action area

33. With respect to the environment within and surrounding the proposed action area, I noted:

- a. That the referral stated there is suitable habitat within the impact footprint which has the potential to be used by Koalas. This habitat however is degraded and contains only scattered Koala food trees; and
- b. while there were no Koalas found to be present in the impact footprint, it is likely that Koalas utilise the impact footprint to move and disperse through habitat patches adjacent to the impact footprint.

Potential impacts

34. I noted that two new access tracks that are part of the proposed action would result in the removal of 0.06 ha of remnant vegetation, which is likely to be utilised by Koalas.

Conclusion

35. I considered the nature of the proposed action, the referral documentation and the department's EPBC Act Policy Statement, *Matters of National Environmental Significance - Significant impact guidelines 1.1* (2013) (MNES Significant Impact Guidelines 1.1).¹

36. The department considered, and I agreed, that the loss of 0.06 ha of habitat was unlikely to have a significant impact on the Koala.

Squatter pigeon (southern) (*Geophaps scripta scripta*) – vulnerable

Species information

37. I considered the information on the characteristics, habitat and range of the Squatter Pigeon in the SPRAT profile.

Potential impacts

38. I noted the flowline was proposed to be constructed along an already cleared track. The proposed action would however result in the loss of 1.5 ha of suitable breeding and foraging habitat for the Squatter Pigeon.

39. I noted that much of the loss of foraging habitat is expected to be temporary during the construction phase only.

Conclusion

40. I considered the nature of the proposed action, the referral documentation and the department's MNES Significant Impact Guidelines 1.1.

41. The department considered, and I agreed, that the loss of 1.5 ha of habitat was unlikely to have a significant impact on the Squatter Pigeon.

Brigalow (*Acacia harpophylla* dominant and codominant) – endangered, and Poplar Box Grassy Woodland on Alluvial Plains ecological community – endangered

Threatened ecological community information

¹ The Matters of National Environmental Significance - Significant impact guidelines 1.1 is available at [Significant Impact Guidelines 1.1 - Matters of National Environmental Significance - DCCEEW](#).

42. I considered the information on the characteristics and range of the Brigalow (*Acacia harpophylla* dominant and codominant) (**Brigalow ecological community**) in the SPRAT profile.
43. I also considered the information on the characteristics and range of the Poplar Box Grassy Woodland on Alluvial Plains ecological community (**Poplar Box Grassy Woodland**) available in the SPRAT profile.
44. I noted that the Brigalow ecological community and the Poplar Box Grassy Woodland were recorded adjacent to the proposed action disturbance area. Although these communities were mapped as occurring along Tarawindi Road, they were not present in the road reserve where the flowline was to be constructed and where the transport facility was to be constructed.

Conclusion

45. I considered the nature of the proposed action, the referral documentation and the department's MNES Significant Impact Guidelines 1.1.
46. The department considered, and I agreed, that the proposed action was unlikely to have a significant impact on the Brigalow ecological community and the Poplar Box Grassy Woodland.

Other listed species

47. I noted that the ERT report identified the potential presence of additional threatened species or communities within 5 km of the proposed action area. I accepted the department's advice that, on the basis of the information available, such as the SPRAT database and the referral material, significant impacts to other species or communities was unlikely.

Conclusion on Threatened Species and Threatened Ecological Communities

48. On the basis of the matters discussed above, I considered that the proposed action was not likely to have a significant impact on listed threatened species and threatened ecological communities.
49. For these reasons, I decided that sections 18 and 18A are not controlling provisions for the proposed action.

Other Part 3 provisions that are not controlling provisions

50. I also considered whether any other Part 3 provision was a controlling provision for the proposed action. For the reasons set out below, I was satisfied that no other Part 3 provisions were controlling provisions.

<p>World Heritage Properties (s12 & s15A)</p>	<p>I noted that the ERT report did not identify any declared World Heritage properties located within or adjacent to the proposed action area.</p> <p>Given the information contained in the referral documentation, the nature and scale of the proposed action and its potential impacts, and the distance to World Heritage properties, I considered that the proposed action is unlikely to have a significant impact on the World Heritage values of World Heritage properties.</p> <p>For these reasons, I accepted the department's advice that sections 12 and 15A are not controlling provisions for the proposed action.</p>
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<p>National Heritage places (s15B & s15C)</p>	<p>I noted that the ERT did not identify any National Heritage places located within or adjacent to the proposed action area.</p> <p>Given the information contained in the referral documentation, the nature and scale of the proposed action and its potential impacts, and the distance to National Heritage places, I considered that the proposed action is unlikely to have a significant impact on the National Heritage values of National Heritage places.</p> <p>For these reasons, I accepted the department's advice that sections 15B and 15C are not controlling provisions for the proposed action.</p>
<p>Ramsar wetlands (s16 & s17B)</p>	<p>I noted that the ERT did not identify any Ramsar listed wetlands of international importance within or adjacent to the proposed action area. I noted that the nearest Ramsar Wetland is Riverland, approximately 1000km from the proposed action.</p> <p>Given the information contained in the referral documentation, the nature and scale of the proposed action and its potential impacts, and the distance to Ramsar listed wetlands of international importance, I considered that the proposed action is unlikely to have a significant impact on the ecological character of Ramsar listed wetlands of international importance.</p> <p>For these reasons, I accepted the department's advice that sections 16 and 17B are not controlling provisions for the proposed action.</p>
<p>Migratory species (s20 & s20A)</p>	<p>I noted that the ERT identified the potential presence of 9 migratory species within 5km of the proposed action area.</p> <p>Based on the location of the proposed action and the potential habitat present in the area, the department considered, and I agreed, that a significant impact to listed migratory species is unlikely.</p> <p>For these reasons, I accepted the department's advice that sections 20 and 20A are not controlling provisions for the proposed action.</p>
<p>Nuclear action (s21 & s22A)</p>	<p>I noted that the proposed action does not meet the definition of a nuclear action, as defined in the EPBC Act.</p> <p>For this reason, I accepted the department's advice that sections 21 and 22A are not controlling provisions for the proposed action.</p>
<p>Commonwealth marine environment (s23 & s24A)</p>	<p>I noted that the proposed action is not being undertaken in a Commonwealth marine area.</p> <p>Given the information contained in the referral documentation, the nature and scale of the proposed action and its potential impacts, and its distance to a Commonwealth marine area, I considered the proposed</p>

	<p>action is unlikely to have a significant impact on the environment in a Commonwealth marine area.</p> <p>For these reasons, I accepted the department's advice that sections 23 and 24A are not controlling provisions for the proposed action.</p>
<p>Great Barrier Reef Marine Park (s24B & s24C)</p>	<p>I noted that the proposed action is not being undertaken in the Great Barrier Reef Park.</p> <p>Given the information contained in the referral documentation, the nature and scale of the proposed action and its potential impacts, and the distance to the Great Barrier Reef Marine Park, I considered the proposed action is unlikely to have a significant impact on the Great Barrier Reef Marine Park.</p> <p>For these reasons, I accepted the department's advice that sections 24B and 24C are not controlling provisions for the proposed action.</p>
<p>A water resource, in relation to coal seam gas development and large coal mining development (s24D & s24E)</p>	<p>I noted that the proposed action does not involve a coal seam gas or a large coal mining development.</p> <p>For this reason, I accepted the department's advice that sections 24D and 24E are not controlling provisions for the proposed action.</p>
<p>Commonwealth land (s26 & s27A)</p>	<p>I noted that the proposed action is not being undertaken on Commonwealth land.</p> <p>Given the information contained in the referral documentation, the nature and scale of the proposed action and its potential impacts, and the distance to Commonwealth land, I considered the proposed action is unlikely to have a significant impact to the environment on Commonwealth land.</p> <p>For these reasons, I accepted the department's advice that sections 26 and 27A are not controlling provisions for the proposed action.</p>
<p>Commonwealth Heritage places overseas (s27B & s27C)</p>	<p>I noted that the proposed action is not being taken overseas.</p> <p>For this reason, I accepted the department's advice that sections 27B and 27C are not controlling provisions for the proposed action.</p>
<p>Commonwealth action (s28)</p>	<p>I noted that I person proposing to take the action is not a Commonwealth agency. For this reason, I accepted the department's advice that section 28 is not a controlling provision for the proposed action.</p>

Other matters for decision-making

Significant Impact Guidelines

51. I considered and noted the department reviewed the information in the referral against the department's MNES Significant Impact Guidelines 1.1, which provides guidance on determining whether an action is likely to have a significant impact on a matter protected under Part 3 of the EPBC Act. While these are policy documents and not binding or exhaustive, I considered that the *MNES Significant Impact Guidelines 1.1* were appropriate to have regard to in assessing the likely impacts of the proposed action.

Precautionary principle

52. In making my decision, I was required under section 391 of the EPBC Act to take account of the precautionary principle, which states that a '*lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage*'. I considered the precautionary principle in making my decision under section 75 of the EPBC Act.

Bioregional plans

53. I was required, pursuant to section 176(5) of the EPBC Act, to have regard to a bioregional plan in making any decision to which the plan is relevant. I noted that there were no bioregional plans relevant to the location of the proposed action.

Management plans for Commonwealth Reserves

54. In accordance with section 362(2) of the EPBC Act, I was required not to exercise any functions or powers in relation to a Commonwealth reserve inconsistently with a management plan that is in operation for the reserve. I noted that there are no Commonwealth reserve management plans relevant at the location of the proposed action.

Conclusion

55. In light of my findings above, and not having considered any matter which I am not required or permitted to consider, I was satisfied that the proposed action is unlikely to have a significant impact on matters protected by Part 3 of the EPBC Act. I therefore decided on 9 February 2022, that the proposed action is not a controlled action.

name and position	Andrew McNee Division Head Environmental Permitting and Compliance Division
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signature

date	20 February 2024
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Annexure A - Relevant Legislation

Section 67 of the EPBC Act provides:

What is a controlled action?

An action that a person proposes to take is a controlled action if the taking of the action by the person without approval under Part 9 for the purposes of a provision of Part 3 would be (or would, but for section 25AA or 28AB, be) prohibited by the provision. The provision is a controlling provision for the action.

Section 68 of the EPBC Act relevantly provides:

- (1) A person proposing to take an action that the person thinks may be or is a controlled action must refer the proposal to the Minister for the Minister's decision whether or not the action is a controlled action.
- (2) A person proposing to take an action that the person thinks is not a controlled action may refer the proposal to the Minister for the Minister's decision whether or not the action is a controlled action.

Section 74 of the EPBC Act relevantly provides:

Inviting other Commonwealth Ministers to provide information

- (1) As soon as practicable after receiving a referral of a proposal to take an action, the Minister (the **Environment Minister**) must:
 - a) inform any other Minister whom the Environment Minister believes has administrative responsibilities relating to the proposal; and
 - b) invite each other Minister informed to give the Environment Minister within 10 business days information that relates to the proposed action and is relevant to deciding whether or not the proposed action is a controlled action.

Inviting comments from appropriate State or Territory Minister

- (2) As soon as practicable after receiving, from the person proposing to take an action or from a Commonwealth agency, a referral of a proposal to take an action in a State or self-governing Territory, the Environment Minister must, if he or she thinks the action may have an impact on a matter protected by a provision of Division 1 of Part 3 (about matters of national environmental significance):
 - (a) inform the appropriate Minister of the State or Territory; and
 - (b) invite that Minister to give the Environment Minister within 10 business days:
 - i) comments on whether the proposed action is a controlled action; and
 - ii) information relevant to deciding which approach would be appropriate to assess the relevant impacts of the action (including if the action could be assessed under a bilateral agreement).

Inviting public comment

- (3) As soon as practicable after receiving a referral of a proposal to take an action, the Environment Minister must cause to be published on the Internet:
- (a) the referral; and
 - (b) an invitation for anyone to give the Minister comments within 10 business days (measured in Canberra) on whether the action is a controlled action.

Section 74A of the EPBC Act relevantly provides:

- (1) If the Minister receives a referral in relation to a proposal to take an action by a person, and the Minister is satisfied the action that is the subject of the referral is a component of a larger action the person proposes to take, the Minister may decide to not accept the referral.

[...]

- (4) If the Minister decides to accept a referral under subsection (1), the Minister must, at the time of making a decision under section 75:
- (a) give written notice of the decision to the person who referred the proposal to the Minister; and
 - (b) publish in accordance with the regulations (if any), a copy or summary of the decision.

Section 75 of the EPBC Act relevantly provides:

Is the action a controlled action?

- (1) The Minister must decide:
- (a) whether the action that is the subject of a proposal referred to the Minister is a controlled action; and
 - (b) which provisions of Part 3 (if any) are controlling provisions for the action.
- (1AA) To avoid doubt, the Minister is not permitted to make a decision under subsection (1) in relation to an action that was the subject of a referral that was not accepted under subsection 74A(1).

Minister must consider public comment

- (1A) In making a decision under subsection (1) about the action, the Minister must consider the comments (if any) received:
- (a) in response to the invitation under subsection 74(3) for anyone to give the Minister comments on whether the action is a controlled action; and
 - (b) within the period specified in the invitation.

Considerations in decision

- (2) If, when the Minister makes a decision under subsection (1), it is relevant for the Minister to consider the impacts of an action:
- (a) the Minister must consider all adverse impacts (if any) the action:
 - i) has or will have; or
 - ii) is likely to have;
 on the matter protected by each provision of Part 3; and
 - (b) must not consider any beneficial impacts the action:
 - i) has or will have; or
 - ii) is likely to have;
 on the matter protected by each provision of Part 3.

Timing of decision and designation

- (5) The Minister must make the decisions under subsection (1) and, if applicable, the designation under subsection (3), within 20 business days after the Minister receives the referral of the proposal to take the action.

Section 391 of the EPBC Act relevantly provides:

Taking account of precautionary principle

- (1) The minister must take account of the precautionary principle in making a decision listed in the table in subsection (3), to the extent he or she can do so consistently with the other provisions of this Act.

Precautionary principle

- (2) The **precautionary principle** is that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage.

Decisions in which precautionary principle must be considered

- (3) The decisions are:

Decisions in which precautionary principle must be considered		
Item	Section decision is made under	Nature of decision
1	75	whether an action is a controlled action

Section 527E of the EPBC Act relevantly provides:

- (1) For the purposes of this Act, an event or circumstance is an **impact** of an action taken by a person if:

- (a) the event or circumstance is a direct consequence of the action; or
 - (b) for an event or circumstances that is an indirect consequence of the action – subject to subsection (2), the action is a substantial cause of that event or circumstance.
- (2) For the purposes of paragraph (1)(b), if:
- (a) a person (the **primary person**) takes an action (the **primary action**); and
 - (b) as a consequence of the primary action, another person (the **secondary person**) takes another action (the **secondary action**); and
 - (c) the secondary action is not taken at the direction or request of the primary person; and
 - (d) an event or circumstance is a consequence of the secondary action;
- then that event or circumstance is an **impact** of the primary action only if:
- (e) the primary action facilitates, to a major extent, the secondary action; and
 - (f) the secondary action is:
 - (i) within the contemplation of the primary person; or
 - (ii) a reasonably foreseeable consequence of the primary action; and
 - (g) the event or circumstances is:
 - (i) within the contemplation of the primary person; or
 - (ii) a reasonably foreseeable consequence of the secondary action.