

# Statement of Reasons

## **TELLUS HOLDINGS LIMITED – CHANDLER FACILITY – NOTICE OF AN ALTERATION – CLAUSE 14A OF THE ENVIRONMENTAL ASSESSMENT ADMINISTRATIVE PROCEDURES 1984**

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### **PROPOSAL**

The Chandler Facility (the Proposal) proposed by Tellus Holdings Limited (the Proponent) was assessed under the *Environmental Assessment Act 1982* (EA Act) at the level of an Environmental Impact Statement. Assessment Report 83 was provided to the Minister on 30 November 2017.

The Proponent wrote to the Northern Territory Environment Protection Authority (NT EPA) on 8 May 2019 to provide notice of alterations to the Proposal under clause 14A of the *Environmental Assessment Administrative Procedures 1984* (EAAP) after withdrawing a previous variation notice submitted in September 2018. Further information was requested on 20 May 2019 to inform the NT EPA's decision on the altered Proposal. The Proponent responded to the further information request on 16 December 2019.

The altered Proposal includes the following new infrastructure:

- construction and operation of an above-ground storage facility located on the Chandler site for the temporary storage of 150 000 tonnes of waste, including hazardous waste.

The following infrastructure from the previously assessed proposal would not be required for the altered Proposal:

- construction and operation of the Apirnta Facility, an above-ground storage facility for the temporary storage of 400 000 tonnes of waste, including hazardous waste, located on Henbury Station
- construction and operation of a rail siding at the proposed Apirnta Facility on Henbury Station
- construction and use of a private access road from the Stuart Highway to the Apirnta Facility
- construction and use of a private haul road from the Apirnta Facility to the Chandler site.

A consequence of the alterations would be that waste, including hazardous waste, would be transported on public roads, including Maryvale Road and Chambers Pillar Road, from an intermodal transit station at the Brewer Estate near Alice Springs to the Chandler Facility site on Maryvale Station.

Maryvale and Chambers Pillar Roads require upgrades to a suitable standard for the Proponent's proposed use. While the Proponent is the agent of change for required road upgrades, the road is owned by the NT Government Department of Infrastructure, Planning and Logistics (DIPL). DIPL would be the proponent of the public road upgrades required for the Proposal.

DIPL has indicated that upgrading the Maryvale Road is within the NT Government's infrastructure plan and its preference would be to upgrade the road to a two lane sealed standard in a single stage within the current Proposal timeframe, should the Chandler Facility be approved and proceed. DIPL has also indicated that it is investigating realigning the road north of Titjikala, which

would allow Proposal traffic to by-pass the community. The Proponent indicates it would contribute funding to the Maryvale Road upgrade.

The Brewer Estate intermodal transit station is a separate proposal for waste transfer that the Proponent referred to the NT EPA. On 15 August 2019, the NT EPA decided that environmental impact assessment of the transit station under the EA Act was not required.

## CONSULTATION

The notification was reviewed in consultation with Northern Territory Government (NTG) advisory bodies and the responsible Minister as required by clause 14A(3) of the EAAP (Attachment 1). In particular, consultation with DIPL occurred to clarify requirements and future planning for the public road network as applicable to the Proposal.

## JUSTIFICATION

The NT EPA is satisfied that the Proposal has been altered from that previously assessed as outlined in the Proponent’s notification and summarised above.

The NT EPA assessed the potential for significant environmental impacts and risks associated with the alteration against the NT EPA’s environmental factors and objectives, and in accordance with the requirements under the EA Act. The NT EPA identified four environmental factors that could be significantly impacted by the altered components of the Proposal (Table 1).

*Table 1: Key environmental factors considered for this assessment*

Theme	Key Environmental Factor	Objective
Land	1. Terrestrial environmental quality	Maintain the quality of land and soils so that environmental values are protected.
	2. Terrestrial flora and fauna	Protect the NT’s flora and fauna so that biological diversity and ecological integrity are maintained.
People and Communities	3. Social, economic and cultural surroundings	Protect the rich social, economic, cultural and heritage values of the Northern Territory.
	4. Human health	Ensure that the risks to human health are identified, understood and adequately avoided and/or mitigated.

### 1. Terrestrial environmental quality

Objective: Maintain the quality of land and soils so that environmental values are protected.

The NT EPA’s Assessment Report 83 identified the loss of containment of hazardous waste during transport to Chandler, and the temporary storage of waste above ground, as potential sources of significant impact to terrestrial environmental quality. As a result of the alteration, the majority of locations potentially impacted by that impact source have changed (as described in the Proposal section above).

While the NT EPA considers that the potential impacts to terrestrial environmental quality associated with loss of containment during temporary waste storage remain significant, the area of land that has the potential to be impacted is reduced by the altered Proposal. This is due to the

relocation of the storage facility from the greenfield Apirnta site to within the proposed Chandler site footprint and a >50% reduction, from the original proposal, in the volume of waste to be stored temporarily on the surface during the four-year construction period.

The conditions of the route for transport of hazardous waste would be significantly improved with sealing of the Maryvale Road; however, the proximity of the route to Titjikala and potential for interactions with non-project traffic by using the public road network, in contrast to the original proposal, confounds the potential impacts and risks, potentially increasing the consequences of loss of containment of hazardous waste.

The NT EPA considers that these potential impacts and risks can be managed through existing legislative requirements, including the following:

- Transport operators between Brewer Estate and the Chandler Facility would require a licence with conditions issued under the *Waste Management and Pollution Control Act 1998* (WMPC Act) and an environment protection approval and licence under the WMPC Act would be required by the Proponent for temporary above-ground storage of listed wastes at the Chandler site. Without these licences, waste transport and storage for the Proposal could not commence.
- All movements of controlled waste interstate would require a Waste Transport Certificate from the point of origin to storage at the Brewer and Chandler facilities in accordance with the National Environment Protection (Movement of Controlled Waste between States and Territories) Measure.
- The transport of dangerous goods will be regulated by NT Worksafe under the *Transport of Dangerous Goods by Road or Rail (National Uniform Legislation) Act 2010*.

Additionally, as a result of the NT EPA's assessment of the Chandler Facility, a number of recommendations applicable to constructing and operating the altered Proposal were made in Assessment Report 83 to improve the mitigation of potential impacts and risks associated with the transport and storage of hazardous wastes. Relevant recommendations will be considered in conditioning the environment protection approval and licence under the WMPC Act for the altered Proposal, including recommendations relating to the waste acceptance criteria, waste storage and handling procedures, financial security and requirements for independent expert peer review.

The NT EPA considers the risks of waste transport and storage incidents are well known with recognised controls to minimise the likelihood of spills occurring and detailed emergency response and clean up procedures in the event of a spill. In addition, as a condition of the licence under the WMPC Act, any licensed transporter within the NT requires an Emergency Response Plan (ERP). The Draft ERP submitted in the NOI identified the emergency procedures to be followed, reporting requirements to Emergency Services, as well as the notification requirements of any incidents in accordance with clause 14 of the WMPC Act.

Additionally, the Chandler Facility, including the temporary waste storage area, will require a Major Hazard Facility licence including a Safety Case under the *Work Health and Safety (National Uniform Legislation) Act 2011*. The Safety Case describes the safety management system at the site, which includes a substantial risk assessment and a description and analysis of controls to be in place to prevent loss of containment and other potential hazards.

The NT EPA is satisfied that the Proponent's transport and storage requirements for hazardous waste under legislation is appropriate to manage the risk and potential impacts of loss of containment of hazardous waste to the terrestrial environment, provided the Maryvale Road is sealed prior to its use for transporting hazardous waste. The NT EPA considers that its objective for terrestrial environmental quality is likely to be met.

If DIPL's plan to seal Maryvale Road does not align with the Proponent's plan to transport hazardous waste on the road, alternative arrangements for hazardous waste transport to the Chandler site (and potentially, alternative temporary surface storage arrangements) would be required for the Proposal to proceed. Any significant variation to the Proposal, including changes to the transport route, must be referred to the NT EPA under the *Environment Protection Act 2019*.

## **2. Terrestrial flora and fauna**

Objective: Protect the NT's flora and fauna so that biological diversity and ecological integrity are maintained.

The removal of the Henbury access road, Chandler haulage road and Apirnta facility and rail siding from the Proposal significantly reduces the overall Proposal footprint. The use of existing roads and storage of wastes within the footprint of the previously assessed Chandler site reduces the risks to biodiversity values, including threatened species under the *Territory Parks and Wildlife Conservation Act 1976* and Matters of National Environmental Significance under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). However, there is the potential for a species of threatened plant to be impacted by the proposed upgrade of the Maryvale Road.

The Rainbow Valley Fuschia (*Eremophila prostrata*), listed as Vulnerable under the EPBC Act, has been identified previously in at least two locations immediately adjacent to the Maryvale Road. Subsequent surveys undertaken at two known locations by the Proponent did not detect the species. This is likely due to the species being ephemeral and responding to disturbance (i.e. fire, groundworks) making detection difficult. While some habitat could be disturbed by Maryvale Road works, the extent of habitat affected would be limited relative to the broader distribution of potentially suitable habitat for the species. The species is also known to have a long-lived dormant soil seed bank and any disturbance from the road works to habitat is likely to have a temporary impact on the species until favourable weather conditions and burning cycles return.

For these reasons, the potential impacts and risks to the species from the proposed road works on Maryvale Road are likely to be low and the NT EPA considers that its objective for terrestrial flora and fauna is likely to be met.

## **3. Social, Economic and cultural surroundings**

Objective: Protect the rich social, economic, cultural and heritage values of the Northern Territory.

### Cultural impacts

The Proponent has committed to managing potential impacts on sacred sites within the development footprint in accordance with requirements of the Aboriginal Areas Protection Authority (AAPA) and Indigenous Land Use Agreement. DIPL will manage approval requirements for all proposed works on the public road network, including obtaining authority certificate(s) from AAPA under the *Northern Territory Aboriginal Sacred Sites Act 1989*. DIPL has indicated that sections of the Maryvale Road may need to be realigned to be fit for purpose while avoiding sacred sites restricted works areas, which currently limit the extent to which some sections of the unsealed road to the north of Titjikala can be upgraded. The NT EPA considers that sacred sites can be protected by complying with the requirements of authority certificates granted for relevant road works.

If DIPL's plan to seal Maryvale Road does not align with the Proponent's plan to transport hazardous waste on the road, alternative arrangements for transporting hazardous waste to the Chandler site (and potentially, alternative temporary surface storage arrangements) may be required for the Proposal to proceed. Any significant variation to the Proposal, including changes to

the transport route, must be referred to the NT EPA under the provisions of the *Environment Protection Act 2019*.

There may be issues with accessibility of sacred sites to Aboriginal custodians due to increased traffic movements during construction and operation of the Proposal, as well as potential impacts to sites near the road in the event of a spill of hazardous waste. Communication with custodians of those sacred sites potentially affected will be essential prior to and throughout the construction and operation of the Proposal. The Proponent committed to implementing a community reference group, which the NT EPA supported in Recommendation 13 of Assessment Report 83. The community reference group and the Proponent's stakeholder engagement strategy are considered important mechanisms for communication with Titjikala community and the development of cultural impact management strategies that may be required as a result of all stages of the Proposal.

Consideration of sacred site protection will also be included in ERPs for waste transport along the transport route between the Brewer Estate and the Chandler site. The Proponent will review the contractor's transport ERP prior to haulage of waste and product and undertake periodic audits against its minimum requirements. Specific measures to ensure appropriate responses to sacred site impacts from loss of containment would need to be addressed within the contractor's ERP. The Proponent indicates that these requirements may be developed in consultation with the Central Land Council and AAPA to protect sacred sites along the transport route. The NT EPA considers that consultation with the community reference group would be an appropriate mechanism to develop arrangements for communication with custodians in the event of an accident.

The NT EPA is satisfied that compliance with requirements under the *Northern Territory Aboriginal Sacred Sites Act 1989*, including obtaining authority certificates from AAPA, will protect sacred sites during works to seal the transport route. After the road is sealed, with the implementation of legislative requirements designed to reduce waste transport risks, appropriate response procedures in the contractors' ERPs, and continued communication by the Proponent with custodians through construction and operation of the Proposal, the NT EPA's environmental objective for cultural surroundings is likely to be met.

### Social and economic impacts

As part of a submission on the Draft EIS for the Chandler Facility, a petition signed by Titjikala residents requested that the Maryvale Road be sealed for the potential socio-economic and human health benefits for Titjikala residents and tourists visiting the region.

The NT EPA considers that sealing the Maryvale Road will benefit the community of Titjikala in terms of safer road conditions and improved access to Alice Springs and its services, as well as benefiting other aspects of the regional economy such as the tourist industry. The use of Maryvale Road unsealed for Proposal traffic would likely negate a benefit from the Proposal for the Titjikala community and create adverse impacts. Sealing of the Maryvale Road from the outset will substantially reduce some of the identified risks; however, noise from increased heavy vehicle movements near the community during operation of the Proposal would be ongoing. The NT EPA's position is that the transport route should be sealed and by-pass Titjikala to avoid traffic from the Proposal directly impacting on the community. The option of realigning the road to the north of Titjikala is being explored by DIPL.

The community reference group and the Proponent's stakeholder engagement strategy will be key to maintaining communication with Titjikala community and to help develop social impact management strategies that may be required as a result of the altered Proposal.

The NT EPA considers that the proponent has adequately identified and assessed the potential social and economic impacts and risks associated with the alterations to the Proposal. The establishment of the community reference group to ensure communication with stakeholders and the management of social and economic impacts arising from all stages of the Proposal will help to communicate and identify appropriate strategies to avoid and/or minimise those impacts. With the Maryvale Road sealed to facilitate the altered Proposal, benefits to the Titjikala community would be maximised. The NT EPA emphasises its position that a bypass for Proposal-related traffic to avoid Titjikala would help to alleviate direct adverse potential impacts and risks to the community from the Proposal. The NT EPA is satisfied that the environmental objective for social and economic surroundings is likely to be met.

#### **4. Human health**

Objective: Ensure that the risks to human health are identified, understood and adequately avoided and/or mitigated.

The altered Proposal has the potential to increase dust and risks of loss of hazardous waste containment with corresponding risks to public health from exposure to dust and wastes.

The transport of dangerous goods is currently regulated under the *Transport of Dangerous Goods by Road or Rail (National Uniform Legislation) Act 2010* and the *Work Health and Safety (National Uniform Legislation) Act 2011*, which are administered by NT WorkSafe in the Department of Attorney-General and Justice. A licence for the transport of listed wastes will be required by transport contractors under the WMPC Act. Any use of the Maryvale Road would be managed by DIPL under the *Control of Roads Act 1953*.

The NT EPA is satisfied that the potential impacts and risks to human health associated with transport of hazardous waste on Maryvale Road, can be appropriately managed through the legislative requirements of the Proponent. The NT EPA emphasises its position that the Maryvale Road should be sealed and a by-pass to avoid Titjikala established prior to the transport of hazardous waste to the Chandler site for the altered Proposal. The NT EPA considers that its objective for human health is likely to be met.

#### **CONCLUSION**

The NT EPA concludes that the alterations will reduce the overall significance of the potential adverse environmental impacts and risks arising from the Proposal and will benefit the Titjikala community. The environmental significance of the altered Proposal is such that a Public Environmental Report or Environmental Impact Statement is not required.

With respect to the transport of hazardous waste to the Chandler site, the NT EPA notes that DIPL would be the proponent of works associated with the Maryvale Road. The NT EPA's position is that the Maryvale Road should be sealed and a by-pass should be established to avoid Titjikala before the route is used for transport of hazardous waste. Any significant variation to the Proposal, including changes to the proposed waste transport route if DIPL's and the Proponent's plans for the route do not align, must be referred to the NT EPA under the *Environment Protection Act 2019*. The potential impacts and risks can be managed through existing legislative requirements including the *Northern Territory Aboriginal Sacred Sites Act 1989* and the *Waste Management and Pollution Control Act 1998*.

## DECISION

The NT EPA has decided under the *Environmental Assessment Act 1982* that the Chandler Facility has been altered in such a manner that its environmental significance has changed. However, the environmental significance of the proposed change is such that a Public Environmental Report or Environmental Impact Statement is not required, and the administrative procedures are at end with respect to the proposed action.



**DR PAUL VOGEL AM MAICD**  
CHAIRPERSON  
NORTHERN TERRITORY ENVIRONMENT PROTECTION AUTHORITY

25 JUNE 2020

**Attachment 1: Northern Territory Government Agencies consulted on the Notice of Intent**

Department	Division
Department of Environment and Natural Resources	Flora and Fauna Water Resources Weeds Environment Bushfires NT Rangelands
Department of Infrastructure, Planning and Logistics	Planning Transport and Civil Services Infrastructure
Department of Primary Industry and Resources	Mining Compliance Petroleum Primary Industry Fisheries
Department of Tourism, Sport and Culture	Parks and Wildlife Heritage Tourism NT Arts and Museums
NT Police, Fire and Emergency Services	Business Improvement and Planning
Department of Health	Environmental Health Medical Entomology
Department of Trade, Business and Innovation	Economics and Policy Strategic Policy and Research
Department of Local Government, Housing and Community Development	Maintenance Planning Housing supply
Power and Water Corporation	
Aboriginal Areas Protection Authority	Technical
Department of the Attorney-General and Justice	Commercial Division NT Worksafe
Land Development Corporation	
Department of the Chief Minister	Economic and Environmental Policy Social Policy