

ATTACHMENT 1

Commonwealth Department of Environment and Energy assessment requirements

Guidelines for preparing assessment documentation relevant to the EPBC Act for proposals being assessed under an accredited NSW assessment process

Bulga Optimisation Project Modification (EPBC 2018/8300) (SSD 4960)

Introduction

1. On 17 December 2018, a delegate of the Federal Minister for the Environment and Energy determined that the above project is a controlled action under section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The EPBC Act controlling provisions for the proposed action are:

- i. listed threatened species and communities (sections 18 and 18A); and
- ii. a water resource, in relation to coal seam gas development and large coal mining development (section 24D & section 24E).

The delegate also confirmed that the proposed action will be assessed under the State's accredited assessment process under Part 4 of the *NSW Environmental Planning and Assessment Act 1979* in accordance with the bilateral agreement between the two governments. These guidelines provide specific information on MNES environmental assessment requirements.

2. The Applicant must undertake an assessment of all protected matters that may be impacted by the development under the controlling provisions identified in paragraph 1. The Commonwealth Department of the Environment and Energy (DoEE) considers that there is likely to be a significant impact on the following:

- i. listed threatened species and communities (sections 18 and 18A):
 - a) Central Hunter Valley Eucalypt Forest and Woodland - Critically Endangered;
 - b) Regent Honeyeater (*Anthochaera phrygia*) - Critically Endangered; and
 - c) Swift Parrot (*Lathamus discolor*) - Critically Endangered; and

- ii. a water resource, in relation to coal seam gas development and large coal mining development (sections 24D and 24E).

3. The Applicant must consider each of the protected matters under the triggered controlling provisions that may be impacted by the action. Note that this may not be a complete list and it is the responsibility of the Applicant to undertake an analysis of the relevant impacts and ensure all protected matters that are likely to be impacted are assessed for the Commonwealth Minister's consideration.

General Requirements

Relevant Regulations

4. The Statement of Environmental Effects (SEE) must address the matters outlined in Schedule 4 of the EPBC Regulations and the matters outlined below in relation to the controlling provisions.

Project Description

5. The title of the action, background to the action of the action and current status.
6. The precise location and description of all works to be undertaken (including associated offsite works and infrastructure), structures to be built or elements of the action that may have impacts on MNES.

7. How the action relates to any other actions that have been, or are being taken in the region affected by the action.
8. How the works are to be undertaken and design parameters for those aspects of the structures or elements of the action that may have relevant impacts on MNES.

Impacts

9. The SEE must include an assessment of the relevant impacts¹ of the action on the matters protected by the controlling provisions, including:
 - i. a description and detailed assessment of the nature and extent of the likely direct, indirect and consequential impacts, including short term and long term relevant impacts;
 - ii. a statement whether any relevant impacts are likely to be unknown, unpredictable or irreversible;
 - iii. analysis of the significance of the relevant impacts; and
 - iv. any technical data and other information used or needed to make a detailed assessment of the relevant impacts.

Avoidance, mitigation and offsetting

10. For each of the relevant matters protected that are likely to be significantly impacted by the action, the SEE must provide information on proposed avoidance and mitigation measures to manage the relevant impacts of the action including:
 - i. a description, and an assessment of the expected or predicted effectiveness of the mitigation measures,
 - ii. any statutory policy basis for the mitigation measures;
 - iii. the cost of the mitigation measures;
 - iv. an outline of an environmental management plan that sets out the framework for continuing management, mitigation and monitoring programs for the relevant impacts of the action, including any provisions for independent environmental auditing;
 - v. the name of the agency responsible for endorsing or approving each mitigation measure or monitoring program.
11. Where a significant residual adverse impact to a relevant protected matter is considered likely, the SEE must provide information on the proposed offset strategy, including discussion of the conservation benefit associated with the proposed offset strategy.
12. For each of the relevant matters likely to be impacted by the action the SEE must provide reference to, and consideration of, relevant Commonwealth guidelines and policy statements including any:
 - i. conservation advice or recovery plan for the species or community,
 - ii. relevant threat abatement plan for a process that threatens the species or community
 - iii. wildlife conservation plan for the species
 - iv. any strategic assessment.

¹ Relevant impacts are those impacts likely to significantly impact on any matter protected under the EPBC Act

[Note: the relevant guidelines and policy statements for each species and community are available from the Department of the Environment Species Profiles and Threats Database. <http://www.environment.gov.au/cgi-bin/sprat/public/sprat.pl>]

Key Issues

Biodiversity (threatened species and communities and migratory species)

Comments

13. The removal of 16.4 ha of EPBC Act listed Central Hunter Valley Eucalypt Forest and Woodland will result in a reduction in the amount of this ecological community and a reduction in foraging habitat for the EPBC Act listed Regent Honeyeater and Swift Parrot.

Assessment Requirements

14. For each of the EPBC Act listed species predicted to occur in the project site, and each of the EPBC Act listed ecological communities likely to be significantly impacted, the SEE must provide:
 - a. survey results, including details of the scope, timing and methodology for studies or surveys used and how they are consistent with (or justification for divergence from) published Commonwealth guidelines and policy statements and/or the NSW Framework for Biodiversity Assessment (FBA);
 - b. a description and quantification of habitat in the study area (including suitable breeding habitat, suitable foraging habitat, important populations and habitat critical for survival), with consideration of, and reference to, any relevant Commonwealth guidelines and policy statements including listing advices, conservation advices and recovery plans, threat abatement plans and wildlife conservation plans; and
 - c. maps displaying the above information (specific to each EPBC protected matter) overlaid with the proposed action.

[Note - it is acceptable, where possible, to use the mapping and assessment of Plant Community Types (PCTs) and the species surveys prescribed by the FBA as the basis for identifying EPBC Act-listed species and communities. The SEE must clearly identify which PCTs are considered to align with habitat for the relevant EPBC Act listed species or community, and provide individual maps for each species or community.]

15. The SEE must describe the nature, geographic extent, magnitude, timing and duration of any likely direct, indirect and consequential impacts on any relevant EPBC Act listed species and communities. It must clearly identify the location and quantify the extent of all impact areas to each relevant EPBC Act listed species or community.
16. For each of the EPBC Act listed species and communities likely to be impacted by the development, the SEE must provide information on proposed avoidance and mitigation measures to deal with the impacts of the action, and a description of the predicted effectiveness and outcomes that the avoidance and mitigation measures will achieve.
17. The SEE must identify each EPBC Act listed species and community likely to be significantly impacted by the proposed action. Where a significant impact is likely, the SEE must provide information on the proposed offset strategy, including discussion of the conservation benefit, how offsets will be secured, and timing of protection.

[Note - not all of the offset options under the NSW *Biodiversity Conservation Act 2016* are endorsed under the EPBC Act for approval purposes. It is a requirement that offsets directly contribute to the ongoing viability of the specific protected matter impacted by a proposed action i.e. 'like for like'. Like-for-like includes protection of native vegetation that is the same EEC or habitat being impacted, or funding to provide a direct benefit to the matter being impacted i.e. threat abatement, breeding and propagation programs or other relevant conservation measures.]

Water resource, in relation to coal seam gas development and large coal mining development

Comments

18. The Applicant provided hydrological information that is insufficient for an adequate assessment of the impacts of the proposed action on a water resource. DoEE understands that the Applicant has commissioned detailed groundwater modelling specifically for the proposed modification to the Bulga Optimisation Project. This modelling will be available in late January 2019 and should allow a detailed assessment of the potential impacts on the proposed action on groundwater at, and in the vicinity of the site, to be undertaken.

Assessment Requirements

19. The SEE must provide a description of the location, extent and ecological characteristics and values of the identified water resource potentially affected by the project.
20. The assessment of impacts should include information on:
- i. any substantial and measurable changes to the hydrological regime of the water resource, for example a substantial change to the volume, timing, duration or frequency of ground and surface water flows;
 - ii. the habitat or lifecycle of native species, including invertebrate fauna and fish species, dependent upon the water resource being seriously affected; and
 - iii. substantial and measurable change in the water quality and quantity of the water resource—for example, a substantial change in the level of salinity, pollutants, or nutrients in the wetland; or water temperature that may adversely impact on biodiversity, ecological integrity, social amenity or human health.
21. The SEE should specifically consider potential impacts on private groundwater users, groundwater and surface water quality, groundwater dependent ecosystems, surface water catchments, surface water flows and flooding and water licencing arrangements. In particular, consideration must be given to potential impacts on Wollombi Brook, Loders Creek and the Hunter River.
22. The SEE must provide adequate information to allow the project to be reviewed by the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development, as outlined in the *Information Guidelines for Independent Expert Scientific Committee advice on coal seam gas and large coal mining development proposals* (IESC, October 2015).

Other approvals and conditions

23. Information in relation to any other approvals or conditions required must include the information prescribed in Schedule 4 Clause 5 (a) (b) (c) and (d) of the EPBC Regulations 2000.

Environmental Record of person proposing to take the action

24. Information in relation to the environmental record of a person proposing to take the action must include details as prescribed in Schedule 4 Clause 6 of the EPBC Regulations 2000.

Information Sources

25. For information given in an SEE, the SEE must state the source of the information, how recent the information is, how the reliability of the information was tested; and what uncertainties (if any) are in the information.

Anticipated Engagement

26. A draft SEE should be provided to DoEE prior to finalisation to ensure the above assessment requirements have been met.

REFERENCES

- *Environment Protection and Biodiversity Conservation Act 1999* - section 51-55, section 96A(3)(a)(b), 101A(3)(a)(b), section 136, section 527E
- *Environment Protection and Biodiversity Conservation Regulations 2000 Schedule 4*
- NSW Assessment Bilateral Agreement (2015) - Item 18.1, Item 18.5, Schedule 1
- *Matters of National Environmental Significance - Significant impact guidelines 1.1* (2013) EPBC Act
- *Environment Protect and Biodiversity Conservation Act 1999 Environmental Offsets Policy* October 2012
- *Information Guidelines for Independent Expert Scientific Committee advice on coal seam gas and large coal mining development proposals* (2014)