



Australian Government

Department of the Environment, Water, Heritage and the Arts

Referral of proposed action

What is a referral?

The *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) protects matters of national environmental significance (NES), and the environment, in relation to Commonwealth actions, and actions on (or impacting upon) Commonwealth land. The purpose of a referral is to determine whether your proposed action will need formal assessment and approval under the EPBC Act.

Your referral will be the principal basis for the Minister for the Environment, Heritage and the Arts' decision as to whether approval is necessary and, if so, the type of assessment that will be taken. These decisions are made within 20 business days.

When do I need to make a referral?

A referral must be made for actions that are likely to have a significant impact on matters protected by Part 3 of the EPBC Act:

- World Heritage (sections 12 and 15A)
- National Heritage places (sections 15B and 15C)
- Wetlands of international importance (sections 16 and 17B)
- Listed threatened species and communities (sections 18 and 18A)
- Listed migratory species (sections 20 and 20A)
- Protection of the environment from nuclear actions (sections 21 and 22A)
- Marine environment (sections 23 and 24A)
- Protection of the environment from actions involving Commonwealth land (sections 26 and 27A)
- Protection of the environment from Commonwealth actions (section 28)

OR

- actions that may have a significant impact on the environment of Commonwealth land (even if taken outside Commonwealth land)
- actions taken on Commonwealth land that may have a significant impact on the environment generally
- actions by Commonwealth Authorities that are likely have a significant impact on the environment require approval.

You may still make a referral if you believe your action is not going to have a significant impact, or if you are unsure.

To help you decide whether or not your proposed action requires approval (and, therefore, if you should make a referral), read the following documents, available from the Department web site:

- the Policy Statement titled *Principle Significance Guidelines 1.1 – Matters of National Environmental Significance*. Additional sectoral guidelines are also available.
- the Policy Statement titled *Principle Significance Guidelines 1.2 - Actions on, or impacting upon, Commonwealth land, and actions by Commonwealth agencies*.
- the interactive map on the web site—enter a location to obtain a report on what matters of NES may occur in that location.

A staged or component action

An action that is a component of a larger action may not be accepted separately and may require referral of the larger action for consideration under the EPBC Act. Refer to *Fact Sheet 6: Staged Developments/Split Referrals*.

If you want to make a referral for a staged or component referral, contact the EPBC Act Referrals Section (1800 803 772).

Permits

Some activities may also require a permit under other sections of the EPBC Act, whether or not approval is required. Information is available on the Department web site.

Completing the referral form

Completing this form will help ensure that you submit the information required by the EPBC Regulations.

All referrals MUST be published on the Department's web site for public comment (the Department will arrange this) and should generally be:

- readily understood by the public
- no longer than 25 A4-sized, single-sided pages
- typed (main text no smaller than 11 points)
- have clearly legible maps and diagrams
- supplied unbound or electronically.

Provide supporting documentation, such as environmental reports or surveys, as attachments. However, the referral form must contain the core information, so that it provides an adequate basis for public comment and decision-making.

Provide coloured maps, figures or photographs to help explain the project and its location. Aerial photographs, in particular, can provide a useful perspective and context. Figures should be good quality as they may be scanned and viewed electronically as black and white documents. Maps should be of a scale that clearly shows the location of the proposed action and any environmental aspects of interest.

Using the MS Word file to enter your information

You can complete your referral by entering your information into this Word file.

Instructions are provided in green text. If you do not see the instructions you need to reveal 'hidden' text. A toolbar with buttons to turn the instructions on and off should be visible when you open the file.

Normally the instruction text will not print. (If you wish to print a copy of the form with the instructions you will need to select the Options button in the Print dialog and select Hidden text.)

Submitting the referral form

By mail to

EPBC Act Referrals Section
Environment Assessment Branch
Department of the Environment,
Water, Heritage and the Arts
GPO Box 787
CANBERRA ACT 2601

By fax to 02 6274 1789

- Referrals must be of sufficiently clear quality to be scanned into electronic format.
- Address the fax to the mailing address, and clearly mark it as a 'Referral under the EPBC Act'.
- Follow up with a mailed hardcopy including copies of any attachments or supporting reports.

By email to epbc.referrals@environment.gov.au.

- Clearly mark the email as a 'Referral under the EPBC Act'.
- Attach the referral as a Microsoft Word file and, if possible, a PDF file.
- To ensure file sizes are not too large (below two megabytes), enclose maps and figures as separate files if necessary. If unsure, send a question to the email address.
- Follow up with a mailed hardcopy including copies of any attachments or supporting reports.

What happens next?

The Department will write to you at the end of the 20 business day period to advise you of the outcome of your referral and whether or not formal assessment and approval under the EPBC Act is needed. There are three types of decisions about the referral.

The proposed action is NOT LIKELY to be significant and does NOT NEED approval

No further consideration is required under the environmental assessment provisions of the EPBC Act and the action can proceed (subject to any state or local government requirements).

The proposed action is NOT LIKELY to be significant IF undertaken in specified manner

The specified manner in which you must carry out the action will be identified as part of the final decision. You must report your compliance with the specified manner to the Department.

The proposed action is LIKELY to be significant and does NEED approval

The proposed action is subject to a public assessment process before it can be considered for approval. The level of assessment will be decided at the same time. (Further information about the levels of assessment and basis for deciding the approach are available on the web site.)

If the action is likely to be significant it is called a *controlled action* and the particular matters upon which the action may have a significant impact (such as World Heritage or threatened species) are known as the *controlling provisions*.

Compliance audits

The Department may audit your project at any time to ensure that it was completed in accordance with the information provided in the referral or the stated particular manner. If the project changes, such that the degree of significance could vary, you should write to the Department to advise of the changes, and likely significance, or discuss with the EPBC Act Referrals Section (1800 803 772).

For more information

- call the Department of the Environment, Water, Heritage and the Arts Community Information Unit on 1800 803 772 or
- visit the web site www.environment.gov.au/epbc

All the information you need to make a referral, including documents referenced in this form, can be accessed from this web page.

Referral of proposed action

Project title

The continued use of existing and approved infrastructure at the Port Kembla Coal Terminal, allowing products to be received by road 24 hours a day, 7 days a week.

1 Contacts

1.1 Referring party

Name

Philip Paton

Title

Town Planner

Organisation

Cardno Forbes Rigby

Postal address

278 Keira Street, Wollongong, NSW 2500

Telephone

(02) 4228 4133

Email

philip.paton@cardno.com.au

1.2 Responsible party

Name

Peter Green

Title

General Manager

Organisation

Port Kembla Coal Terminal

Postal address

PO Box 823, Wollongong, NSW 2500

Telephone

(02) 4228 0288

Email

peter.green@pkct.com.au

1.3 Proponent

Same as 1.2

Name

Title

Organisation

Postal address

Email

2 Summary of proposed action

NOTE: You must attach an A4 size map/plan(s) showing the location and approximate boundaries of the area in which the project is to occur. The summary below should encompass any alternative locations, timeframes or activities that are listed in Section 3.2.

2.1	Short description Use 2 or 3 sentences to uniquely identify the proposed action and its location.	Continued existing uses of Port Kembla Coal Terminal and delivery of product by public road 24 hours a day, seven days a week up to a maximum of 10 million tonnes per annum (mtpa). PKCT location and coal haulage routes are as identified in the attached Preliminary Environmental Assessment (PEA).						
2.2	Latitude and longitude If area less than 5 hectares, provide the location as a single pair of latitude and longitude references. If area greater than 5 hectares, provide bounding location points. Do not use AMG coordinates.		Latitude			Longitude		
		location point	degrees	minutes	seconds	degrees	minutes	seconds
		Administration building	-34	27	11	150	53	52
2.3	Locality Provide a brief physical description of the project location (proximity to major towns etc).	PKCT is located approximately 3.5km south of Wollongong city centre. Refer to Section 1 of the PEA.						
2.4	Size of the development footprint or work area (hectares)	No physical development is proposed.						
2.5	Street address of the site	PKCT, Port Kembla Road, Inner Harbour, Wollongong, NSW 2500.						
2.6	Lot description Describe the lot numbers and title description, if known.	Lot 2005 DP 1030233						
2.7	Local Government Area and Council contact (if known)	Wollongong City Council. There is no Council contact as the proposal will be determined by DoP under Part 3A of the EP&A Act 1979. Howard Reed is the DoP contact – (02) 9228 6308.						
2.8	Project life Specify the estimated start date of construction/operation and the operational life of the project.	No construction is proposed. The commencement of 24 hour deliveries via public road is likely to commence immediately following approval. It is expected that road deliveries will take 10 years to reach 10mtpa.						
2.9	Alternatives Does the proposed action include alternatives?		No					
2.10	State assessment Is the action subject to a state or territory environmental impact assessment?		Yes, complete Section 3.5					
2.11	Component of larger action Is the proposed action a component of a larger action?		No					

3 Detailed project description

NOTE: The proposal described here is the action(s) on which ALL subsequent decisions under the EPBC Act will be made, including decisions on significance, level of assessment (if needed) and approval (if needed). It is therefore important that the description is complete and includes all components and activities associated with the action, as well as any specific alternatives to be assessed. If certain related components are not intended to be included within the scope of the referral, this should be clearly explained in Section 3.6.

3.1 Description of proposal

You *must* provide a description of all the activities you propose to carry out as part of your action. This should be a detailed description outlining all aspects of the proposal and referencing figures, as appropriate.

Port Kembla Coal Terminal (PKCT) is the major coal intermodal facility in southern NSW for the transfer of coal from rail and road to ship. The terminal is responsible for receiving, assembling and loading coal from the Southern and Western New South Wales coal fields, which is to be transported by ship to international and domestic markets. PKCT has two bulk handling facilities; a high capacity Coal Berth that handles the loading of coal, and a Bulk Products Berth that loads and unloads a range of bulk products.

PKCT is serviced by extensive road and rail infrastructure. Currently, PKCT receives and transfers to ship approximately 11.7 million tonnes of coal per annum, with approximately 43% delivered by road and the remaining 57% by rail. All of the coal received is loaded onto ships with 93% destined for export and 7% for the domestic market.

The Port is a key link in the coal supply chain for the Illawarra and Lithgow areas. PKCT is seeking to have the restriction under State Environmental Planning Policy (Infrastructure) 2007 associated with public road deliveries removed, to allow the Coal Terminal to receive freight by public road at all existing operational times, and in line with other operations in the Port Kembla Port Corporation precinct.

Approval is being sought for PKCT to receive product by public road 24 hours a day, 7 days a week up to a maximum amount of 10 million tonnes per annum.

NSW Department of Planning (DoP) has advised that the application under Part 3A NSW Environmental Planning & Assessment Act 1979 for the activity described in 3.1 above should include an assessment of impacts from all PKCT current activities. The approval of the Part 3A application will constitute a 'contemporary' development consent for the ongoing operation of PKCT.

The Preliminary Environmental Assessment for this project provides further information and is attached to this submission.

3.2 Alternative locations, time frames or activities that form part of the referred action

Describe any alternatives related to the physical location of the action, time-frames within which the action is to be taken and alternative methods or activities for achieving the action. Please note, if the action that you propose to take is determined to be a controlled action, any alternative locations, timeframes or activities that are identified here will be subject to environmental assessment and a decision on whether to approve the alternative.

None.

3.3 Previously considered alternatives and the 'do nothing' case

Describe any previously considered alternatives and the reasons why referred action is preferred (e.g. projects affecting heritage values of the built environment where several alternatives may have been considered). Briefly describe the consequences of the 'do nothing' alternative, if relevant.

There are no alternatives to the proposal given it is an existing operation. PKCT has no short term plans to extend its operations or to make substantial changes to its existing infrastructure.

There is no opportunity to develop a rail line and associated loading facilities at West Cliff, and NRE No.1 Collieries. These mines are limited to road haulage by a combination of terrain, land constraints and economic viability issues.

PKCT is ultimately a service provider to the coal industry and is therefore subject to external market influences. Coal that is received by rail from the Lithgow coalfields is predominantly thermal coal, which is exported for use in energy production. The three key mines that deliver coal by road to PKCT predominantly supply coking coal, which is used in steel production. As the thermal and coking coal are destined for different markets, it is imperative to have an intermodal facility, which allows both markets to be flexibly serviced.

Significant potential economic benefit may be lost to the region and NSW, should PKCT constrain the export of coal from the region. These would be far-reaching, in terms of potential jobs and revenue extending from PKCT to the mining industry and Port Kembla Port Corporation, as well as to the State Government in terms of coal production royalties and payroll tax.

3.4 Context, planning framework and state/local government requirements

You *must* explain the context in which the action is proposed, including any relevant planning framework at the state and/or local government level (e.g. within scope of a management plan, planning initiative or policy framework). Describe any Australian Government or state legislation or policies under which approvals are required or will be considered against.

The proposal to permit 24/7 road deliveries to PKCT are viewed as State level in context. This is due to the importance of coal mining and exports to NSW. DoP has also confirmed this proposal is a 'Major Project' under SEPP Major Projects 2005 via notification in the NSW Government Gazette dated 21 December 2007. This development will be assessed under Part 3A of the NSW Environmental Planning and Assessment Act 1979. DoP are the consent authority.

The DoP have issued the Director General Requirements (DGR) for this project dated 20 February 2008. The Environmental Assessment is yet to be submitted to DoP and the statutory consultation period has not commenced.

The Gazettal and DGR are attached to this submission.

3.5 Environmental impact assessments under Commonwealth, state or territory legislation

Describe any environmental assessment of the relevant impacts of the project that has been, is being, or will be carried out under state or territory legislation prior to this referral. Specify the type and nature of the assessment, the relevant legislation and the current status of any assessments or approvals.
You *must* describe or summarise any public consultation undertaken, or to be undertaken, during the assessment. Attach copies of relevant assessment documentation and outcomes of public consultations (if available).

An Environmental Assessment under Part 3A of the NSW Environmental Planning & Assessment Act 1979 is being prepared. This includes assessment of:

- Road safety and traffic congestion due to increased coal truck movements
- Air quality due to escape of dust from PKCT operations
- Noise impacts from coal truck movements and PKCT on site operations
- Impact on climate change due to green house gas emissions from PKCT operations and involvement in the coal industry
- Waste production due to PKCT activities
- Stormwater and surface water management and cleaning prior to release into natural water courses.

DoP have given permission for a 24/7 trial delivery of coal by road to be undertaken to allow expected impacts to be assessed. This trial is operational between 3 March and 14 April 2008. During this time the Illawarra Regional Information Service is conducting telephone surveys of

approximately 300 households which are located in proximity to the roads used by coal trucks travelling to PKCT.

PKCT will also advertise the Part 3A application in a local newspaper and on their web site. Letters advising of the Part 3A application will be sent to over 1000 residential properties by PKCT. If this consultation process demonstrates a public interest PKCT will consider meeting with community representatives. The results from this consultation will be detailed within the Environmental Assessment prior to submission to DoP.

Once the Environmental Assessment is submitted to DoP a statutory consultation will be undertaken and managed by DoP allowing further time for community consultation.

3.6 A staged development or component of a larger project

This project relates directly to PKCT operations only.

You *must* provide information about the larger action and details of any interdependency between the stages/components and the larger action. You may also provide justification as to why you believe it is reasonable for the referred action to be considered separately from the larger proposal (e.g. the referred action is 'stand-alone' and viable in its own right, there are separate responsibilities for component actions or approvals have been split in a similar way at the state or local government levels).

4 Affected environment

NOTE: You must attach a map(s)/plan(s) clearly showing the location of the action in relation to any matters of national environmental significance

Describe the affected area, emphasising the relevant matters protected by the EPBC Act. Your maps and plans should specify the location and boundaries of the project area, and where relevant the affected area in respect to any:

- World Heritage properties
- National Heritage places
- Ramsar wetlands
- listed threatened species or communities and/or known habitat for these species or communities
- listed migratory species and/or known habitat for these species
- Commonwealth Heritage Places
- places on the Register of the National Estate or other environmental features (eg conservation reserves/parks and areas of remnant native vegetation).

If the action will affect Commonwealth land or is being undertaken by a Commonwealth agency, also describe the more general environment. The Policy Statement titled *Principle Significance Guidelines 1.2 - Actions on, or impacting upon, Commonwealth land, and actions by Commonwealth agencies* provides further details on the type of information needed.

4.1 Matters of national environmental significance

4.1 (a) World Heritage Properties

Confirmation from the Department of the Environment, Water, Heritage and the Arts is requested regarding the requirement for permission under the EPBC Act for the PKCT project based on a potential impact on the Great Barrier Reef due to a possible increase in ocean temperature from climate change brought about by green house gas (GHG) emissions from the PKCT involvement in the emission of GHG from the coal industry.

4.1 (b) National Heritage Places

Not known to be applicable to the PKCT project.

4.1 (c) Wetlands of International Significance (Ramsar)

Not known to be applicable to the PKCT project.

4.1 (d) Listed threatened species and ecological communities

Not known to be applicable to the PKCT project.

4.1 (e) Listed migratory species

Not known to be applicable to the PKCT project.

4.1 (f) Nuclear actions

Not known to be applicable to the PKCT project.

4.1 (g) Commonwealth marine areas

Confirmation from the Department of the Environment, Water, Heritage and the Arts is requested regarding the requirement for permission under the EPBC Act for the PKCT project based on a potential impact on a commonwealth marine area due to a possible increase in ocean temperature from climate change brought about by green house gas (GHG) emissions from the PKCT involvement in the emission of GHG from the coal industry.

4.2 Important or unique aspects of the environment, if relevant

4.2 (a) Soil and vegetation characteristics

The soil and vegetation at the PKCT site and adjoining areas has been highly disturbed over many decades of industrial land uses. Impacts to soil or vegetation from off site activities related to PKCT will have no impact on soil or vegetation as deliveries to PKCT take place along established transportation corridors. There are no important or unique aspects impacted by the onsite or off site operations related to PKCT.

4.2 (b) Water flows, including rivers, creeks and impoundments

PKCT hold Environmental Protection Licence (EPL) 1625. An aspect of this is the cleaning and monitoring of surface water discharge. PKCT comply with the requirements of this EPL. There will be no alteration to the control cleaning or monitoring of onsite surface water due to this proposal. There are no natural water flows, rivers or creeks across the PKCT property. Off site activities associated with PKCT are related to the transportation of coal. These deliveries will not impact on water flows.

4.2 (c) Outstanding natural features, including caves

There are no natural features effected by on site PKCT operations or the delivery of coal.

4.2 (d) Gradient

This PKCT project will not have any impact on gradient.

4.2 (e) Buildings or other infrastructure

There are no buildings affected by the ongoing operations of PKCT or the increase in road delivery of coal or approval to deliver 24/7.

4.2 (f) Marine areas

PKCT is located adjacent to the coast. The location is highly disturbed due to the creation and maintenance of the harbour area. There are no known important or unique marine areas close to PKCT.

4.2 (g) Kinds of fauna

Due to the highly disturbed and industrialised nature of the PKCT site and adjoining land and marine areas there are not any important or unique fauna species which are, or will be, affected by the PKCT Project. Off site PKCT activities relate to the delivery of coal. Trucks and trains use existing routes which are not proposed to be altered by this proposal. There are not considered to be any impacts on important or unique fauna from this proposal.

4.2 (h) Current state of the environment

Include information about the extent of erosion, whether the area is infested with weeds or feral animals and whether the area is covered by native vegetation or crops

There are not any current important or unique matters relating to the state of the environment in relation to the PKCT project. There is no erosion, weeds or feral animals on the PKCT site. There is no native vegetation on the PKCT site.

4.2 (i) Commonwealth Heritage Places and places on the Register of the National Estate

There are no heritage places or properties impacted by continued onsite or off site PKCT related operations.

You must include details of any Commonwealth Heritage Places and places on the Register of the National Estate if the proposed action is by a Commonwealth agency or may affect Commonwealth land.

4.2 (j) Known Indigenous heritage values

You must include details of Indigenous values if the proposed action is by a Commonwealth agency or may affect Commonwealth land.

PKCT on site or off site related activities have no impact on indigenous heritage values. The action is not proposed by a Commonwealth agency and will not affect Commonwealth land.

4.2 (k) Other important or unique values of the environment

None in relation to the PKCT proposal.

Describe any other key features of the environment affected by, or in proximity to the proposed action (for example, any national parks, conservation reserves, wetlands of national significance etc).

4.2 (l) Tenure of the action area (eg freehold, leasehold)

The PKCT premises are located on land owned by the Port Kembla Port Corporation. PKCT are a tenant.

4.2 (m) Existing land uses

PKCT is an intermodal receival and dispatch company. Products (of which the vast majority is coal) are delivered by road or rail to nominated areas within the PKCT leased site. The product is transported within the PKCT site primarily by conveyor belt to outdoor storage areas. When a ship is in port the product is loaded onto the ship for transportation to different locations around Australia and the southern hemisphere.

4.2 (n) Proposed land uses

This proposal does not propose to alter the existing land use. It is only proposed to increase the permitted delivery hours and annual permitted limits of coal via road transportation.

5 Nature and extent of likely impacts

5.1 Likely impacts on matters of national environmental significance (NES)

Your assessment of impacts should refer to the following resources (available from the Department's web site):

- specific values of individual World Heritage properties, National Heritage places and the ecological character of Ramsar wetlands;
- databases at the website enable identification of the potential presence of listed species. In some cases, profiles of relevant species will be available that will assist in the identification of significance;
- *Principle Significance Guidelines 1.1 – Matters of National Environmental Significance*; and
- associated sectoral and species guidelines available on the web site, as relevant.

Note that even if your action will not be taken in a World Heritage area or a Ramsar site it could still impact upon these areas (for example, through downstream impacts).

5.1 (a) Likely impact on the world heritage values of a declared World Heritage property

It is suggested that green house gas emissions could impact climate change resulting in an increase in the temperature of oceans. This temperature increase could detrimentally affect the Great Barrier Reef.

The coal industry, including mining, transportation and burning, contributes to GHG emissions. PKCT are a part of this industry and whilst their individual emissions are very low DoPs requirement to assess impacts from existing and ongoing PKCT operations is considered to warrant a referral relating to the EPBC Act.

On a comparative basis, the total GHG emissions associated with the PKCT project represent a very small proportion of annual global GHG emissions and the project is not expected to make a significant contribution to global warming/climate change.

The consideration of the referral with regard to GHG impacts should be balanced with consideration to:

- the project's contribution to global warming/climate change
- whether refusing the project application would reduce global GHG emissions
- the need for the project
- the benefits of the project, including job creation and its contribution to the NSW economy
- available GHG impact mitigation measures.

There is a definite need for the continued operation and increased throughput at PKCT. Without this facility, and the proposed increase, coal mined in the Southern NSW Coalfields would have to be transported to Kooragang Coal Terminal in Newcastle. This distance of travel would significantly increase GHG emissions related to the transportation of coal. Further it is questionable if Kooragang has the capacity for such an increased throughput which would result in NSW not being able to meet customers export demands. This would have flow on detrimental impacts on the economy and employment in NSW and particularly the Illawarra region.

The benefits of continued operation of PKCT to local business and employees, State resources and Federal tax income far out weighs the very small impact from PKCT on global GHG emissions. If the continued operation or increased throughput of PKCT is refused it is unlikely to result in any reduction in global GHG emissions, as the gap in throughput would almost certainly be filled by another intermodal facility and the coal would still be used.

As part of the Part 3A application PKCT will investigate measures to ensure GHG emissions are minimised and, if possible, reduced.

5.1 (b) Likely impact on the heritage values of a listed National Heritage place

None.

5.1 (c) Likely impact on the ecological character of a declared Ramsar wetland

None.

5.1 (d) Likely impact on the members of a listed threatened species or ecological community, or their habitat

None.

5.1 (e) Likely impact on the members of a listed migratory species or their habitat

None.

5.1 (f) Likely impact on the environment in part of the Commonwealth marine area

It is possible that increased ocean or sea temperatures due to climate change may impact a Commonwealth marine area.

Referral assessment for the same reason as in 5.1(a) is considered relevant.

5.2 Likely impacts for nuclear actions, actions affecting Commonwealth land or actions taken by the Commonwealth

None.

You must describe the nature and extent of likely impacts on the whole environment if your project:

- is a nuclear action,
- will be taken by the Commonwealth or a Commonwealth agency, or
- will affect Commonwealth land.

Your assessment of impacts should refer to the *Principle Significance Guidelines 1.2 - Actions on, or impacting upon, Commonwealth land, and actions by Commonwealth agencies* and specifically address impacts on:

- ecosystems and their constituent parts, including people and communities;
- natural and physical resources;
- the qualities and characteristics of locations, places and areas;
- the heritage values of places; and
- the social, economic and cultural aspects of the above things.

Your referral must identify potential impacts on values recognised in any relevant Commonwealth Heritage Place or a place listed on the Register of the National Estate if this section is applicable. Information on the values of these places is available at the Department's web site through the Heritage Database page.

Where indigenous stakeholders are likely to be affected by your proposed action, your referral should describe any consultations undertaken with indigenous stakeholders. Identify the relevant stakeholders and the status of consultations at the time of the referral. Consultation with indigenous stakeholders should start as early as possible in the life-cycle of the project where such interests are likely to occur or will be affected.

6 Measures to avoid or reduce impacts

GHG emissions directly from PKCT operations are very small. This is because the only diesel powered machinery on site at PKCT is 5 front end loaders and 1 bobcat. All other machinery at PKCT is powered by electricity. There will be very small GHG emissions related to the spontaneous combustion of coal stored on site at PKCT.

GHG emissions associated with offsite activities related to PKCT will be:

- Diesel truck and train engines delivering product to PKCT
- Electricity generation to operate PKCT machinery
- Ship engines taking coal away from PKCT.

There are GHG emissions from the coal industry which are 'upstream' and 'downstream' of PKCT. These are related to the extraction of coal and the burning of coal.

The calculated PKCT GHG emissions are as follows:

Operations	Scope 1 Emissions (tonnes CO ₂ -e / yr)	Scope 2 Emissions (tonnes CO ₂ -e / yr)	Scope 3 Emissions (tonnes CO ₂ -e / yr)
Existing Operations	41,290	18,690	105,133,697
Existing Operations + 24/7 Road Deliveries	58,158	22,428	148,039,015

The Scope 3 emissions are high because these related to the burning of the coal for energy production at locations away from PKCT and completely outside of PKCT control. It is arguable if the Scope 3 emissions have any direct relevance to the activities at, or related to, PKCT premises.

It is Scope 1 & Scope 2 emissions which are directly influenced by PKCT existing operations and the proposed 24 hours 7 days per week road delivery proposal. A comparison of the PKCT Scope 1 & Scope 2 emissions for existing operations and 24/7 road deliveries and Australian and world GHG emissions is provided below.

	World CO ₂ Emissions	Australian CO ₂ Emissions	PKCT CO ₂ Emissions (Scope 1 & 2)
Actual Amount (tonnes CO ₂ -e / yr)	41,825,000,000	560,000,000	80,586
Percent of World CO ₂ Emissions	100%	1.34%	0.0000019%

As GHG emissions directly from PKCT are so minimal there is little PKCT can do to reduce the impacts. The diesel powered machinery is used within the Bulk Products Berth (BPB) which has significantly lower throughput than the Coal Berth. So whilst the diesel powered machinery is required it does not have a high level of use. Furthermore the low level of use of the BPB does not provide economic viability or operational requirement for the installation of conveyor belts.

PKCT has reviewed the opportunity to reduce GHG emissions associated with offsite activities related to their operations. Coal is transported to PKCT by rail where possible as this is seen to have less GHG emissions than road transport. The only collieries which deliver to PKCT by road do not, and for a variety of reasons can not, have access to rail infrastructure. The option of powering coal trucks by other sources to diesel or petrol has been reviewed. The only possible alternative was biofuels. Such fuels are not supported by the truck manufacturer and as such will not be implemented by the haulage companies.

PKCT has no influence over GHG emissions from power stations, the mining companies or the burning of coal.

The Minister for the Environment, Heritage and the Arts may decide that a proposed action is not a controlled action if the action will be undertaken in a specified manner that will ensure that any potential significant impacts are avoided or reduced by mitigation measures to the extent that they will not be significant (Subsection 77A(1) of the EPBC Act).

To be considered, any such measures must:

- clearly form part of the referral (eg be identified in the referral form and fall within the responsibility of the person proposing to take the action),
- be concrete and prescriptive, and
- be clearly effective in avoiding or mitigating significant impacts.

Examples of relevant measures to avoid or reduce impacts may include the timing of works to avoid critical periods for listed species, avoidance of habitat important for listed species from direct and indirect impacts, application of specific design measures to avoid or reduce impacts, or adoption of specific work practices to reduce or avoid impacts.

More general commitments (eg preparation of management plans or monitoring) and measures aimed at providing environmental offsets, compensation or off-site benefits CANNOT be taken into account in making a decision on significance (but are relevant at the assessment and approval stages if your project proceeds to these stages).

Refer to the Guideline on Application of 'Particular Manner' in Decision-making under the EPBC Act available at the Department's web site.

For any measures intended to avoid or mitigate significant impacts matters protected under the EPBC Act, specify:

- what the measure is
- how the measure is expected to be effective
- the timeframe or workplan for the measure.

7 Conclusion on the likelihood of significant impacts

NOTE: Under the EPBC Act, you must identify in the referral whether or not you believe significant impacts on the matters protected under the Act are likely. If you identify that significant impacts are likely, you must identify the relevant protected matters in section 7.2.

Do you THINK your proposed action is likely to have significant impacts?

<input checked="checked" type="checkbox"/>	No, complete section 7.1
<input type="checkbox"/>	Yes, complete Section 7.2

7.1 Proposed action is NOT LIKELY to have significant impacts

Specify the key reasons why you think the proposed action is NOT LIKELY to have significant impacts.

Key reasons

The contribution of Port Kembla Coal Terminal to GHG emissions associated with the coal industry is very minor as PKCT is only involved by linking land based transport modes to ship transportation. Furthermore PKCT operations directly emit very small amounts of GHG due the vast majority of the machinery being powered by electricity rather than diesel.

Impacts on World Heritage or Commonwealth marine areas directly from PKCT will be so small as to be impossible to calculate. There is also nothing PKCT can directly do to reduce GHG emissions from the entirety of the coal industry.

7.2 Proposed action is LIKELY to have significant impacts

Type 'x' in the box for the matter(s) of the EPBC Act that are impacted

Matters likely to be impacted

<input type="checkbox"/>	sections 12 and 15A (World Heritage)
<input type="checkbox"/>	sections 15B and 15C (National Heritage places)
<input type="checkbox"/>	sections 16 and 17B (Wetlands of international importance)
<input type="checkbox"/>	sections 18 and 18A (Listed threatened species and communities)
<input type="checkbox"/>	sections 20 and 20A (Listed migratory species)
<input type="checkbox"/>	sections 21 and 22A (Protection of the environment from nuclear actions)
<input type="checkbox"/>	sections 23 and 24A (Marine environment)
<input type="checkbox"/>	sections 26 and 27A (Protection of the environment from actions involving Commonwealth land)
<input type="checkbox"/>	section 28 (Protection of the environment from Commonwealth actions)

Specify the key reasons why you think the proposed action is LIKELY to have significant impacts.

Key reasons

8 Assessment approach under the EPBC Act

NOTE: If a decision is made that a proposal needs approval under the Act, the Minister will also decide the assessment approach needed to satisfy the objectives of the Act. While the information you have provided in this referral will be taken into account in making this decision, the final decision rests with the Minister.

Type 'x' in the box for the level of assessment you think is appropriate

Level of assessment

<input checked="" type="checkbox"/>	Bilateral Agreement applies
<input type="checkbox"/>	Accredited assessment
<input type="checkbox"/>	Assessment on referral information
<input type="checkbox"/>	Preliminary information
<input type="checkbox"/>	Public Environment Report
<input type="checkbox"/>	Environmental Impact Statement
<input type="checkbox"/>	Commission of Inquiry
<input type="checkbox"/>	No comment/Not sure

Specify any reasons or views that you have that may be relevant to the decision about the appropriate level of assessment.

Key reasons

The PKCT proposal is being assessed under Part 3A of the NSW EP&A Act 1979. A bilateral agreement exists to allow The Department of the Environment, Water, Heritage and the Arts to assess the proposal under the EPBC Act based on the Part 3A application. The Part 3A application has not yet been formally advertised by DoP. If EPBC assessment is required the proposal can be advertised as progressing under the Bilateral Agreement.

9 Environmental history of the responsible party

NOTE: The EPBC Act Regulations provide for the environmental history of the party proposing to take the action to be taken into account when deciding the assessment approach for actions that need approval under the Act.

	Yes	No
<p>9.1 Does the party taking the action have a satisfactory record of responsible environmental management.</p> <ul style="list-style-type: none"> If Yes, provide details <p>Please refer to the enclosed previous three years of annual reports in relation to compliance with the PKCT Environmental Protection Licence. This shows PKCT are responsible environmental managers as environmental impacts are identified, reported and resolved.</p>	X	
<p>9.2 Is the party taking the action subject to any proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources?</p> <ul style="list-style-type: none"> If Yes, provide details 		X
<p>9.3 For an action for which a person has applied for a permit under the EPBC Act, is the person making the application subject to any proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources?</p> <ul style="list-style-type: none"> If Yes, provide details 		X
<p>9.4 If the party taking the action is a corporation, will the action be taken in accordance with the corporation's environmental policy and planning framework?</p> <ul style="list-style-type: none"> If Yes, provide details of environmental policy and planning framework <p>PKCT may be a corporation. Their environmental policy is attached.</p>	X	

10 Information sources and attachments

10.1 References

- List the references used in preparing the referral.
- Highlight documents that are available to the public, including web references if relevant.

10.2 Reliability of information

For information in sections 4 and 5 specify:

- source of the information
- how recent the information is
- how the reliability of the information was tested and
- any uncertainties in the information.

The information provide has been prepared by Cardno Forbes Rigby (CFR) who are the PKCT lead consultant and Project Manager in relation to the Part 3A application regarding proposed increased road deliveries and approval for ongoing operations. This referral has become relevant due to work relating to this Part 3A application and is based on information obtained as part of this project.

CFR work very closely with PKCT and BHP Billiton Illawarra Coal to ensure information is up to date and correct. Information provided in this referral application is therefore very reliable.

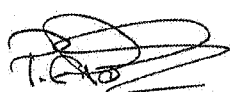
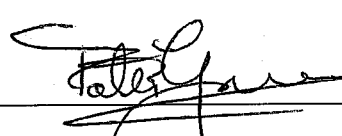
10.3 Attachments

Type 'x' in the box for the documents you have attached.

You must attach	figures, maps or aerial photographs showing the project locality (section 2)	X
	figures, maps or aerial photographs showing the location of the project in respect to any matters of national environmental significance or important features of the environments (section 4)	X
If relevant, attach	copies of any state or local government approvals and consent conditions (section 3.4)	X
	copies of any completed assessments to meet state or local government approvals and outcomes of public consultations, if available (section 3.5)	N/A
	copies of any flora and fauna investigations and surveys (section 4)	N/A
	technical reports relevant to the assessment of impacts on protected matters and that support the arguments and conclusions in the referral (section 4 and 5)	N/A
	report(s) on any public consultations undertaken, including with Indigenous Stakeholders (section 4)	N/A

11 Signatures and declarations

NOTE: Providing false or misleading information is an offence punishable on conviction by imprisonment and fine (Section 489, EPBC Act).

	Project title	The continued use of existing and approved infrastructure at the Port Kembla Coal Terminal, allowing products to be received by road 24 hours a day, 7 days a week.
11.1	Party who prepared the referral	I declare that the information contained in this form is, to my knowledge, true and not misleading. I request that the person named in 11.3 below (if any) be designated as the proponent for the action.
	Signature	
	Date	24 th April 2008
	Full name	Philip Paton
11.2	Party who is responsible for action	I declare that the information contained in this form is, to my knowledge, true and not misleading.
	Signature	
	Date	24 April 2008
	Full name	Peter Green
11.3	Proponent (complete only if different from 11.2)	I, being the person nominated in Section 1.3 of this referral form as the nominated proponent (or agent acting on behalf of), agree to be designated as the proponent for the action described above if it is decided that the action requires approval under Part 9 of the EPBC Act.
	Signature	
	Date	
	Full Name	

If the referring party is a small business (fewer than 20 employees), estimate the time, in hours and minutes, to complete this form (include your time reading the instructions, working on the questions and obtaining the information and time spent by all employees in collecting and providing this information).

Hours	Minutes



Australian Government

Department of the Environment, Water, Heritage and the Arts

Mr Peter Green
General Manager
Port Kembla Coal Terminal
PO Box 823
WOLLONGONG NSW 2500

Date
2 June 2008

EPBC Ref
2008/4206

EPBC project officer
Rochelle Basham
02 6274 1874
rochelle.basham@environment.gov.au

Dear Mr Green

Request for additional information
Port Kembla Coal Terminal increase in public road use

Thank you for submitting a referral under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) concerning the above proposed action.

In light of the recent observation of the Green and Golden Bell Frog onsite (as notified by Mr James Anderson on 2 June 2008), we require further information from you to allow us to consider all the relevant issues. Accordingly, we are requesting the provision of the information specified below, pursuant to s.76 of the EPBC Act. Our main concern is the potential impact of the project on the Green and Golden Bell Frog, which is listed as vulnerable under the EPBC Act.

In order for us to consider all relevant issues, we ask that you please provide further information as follows:

- Details of the Green and Golden Bell Frog population onsite, including the location of the sightings, estimated population size, and potential habitat within the site;
- Potential impacts to the species as a result of the proposed action; and
- Any mitigation measures you are proposing to reduce the potential impacts on the species.

In any correspondence with the Department please quote the title of the action and EPBC reference, as shown on the beginning of this letter. You can send information to us:

by letter SE QLD/NSW Assessment Section
 Environment Assessment Branch
 Department of the Environment, Water, Heritage and the Arts
 GPO Box 787
 CANBERRA ACT 2601

by email rochelle.basham@environment.gov.au

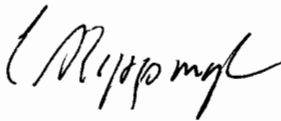
by fax 02 6274 1789

We would appreciate your response as soon as possible. Please note that the timing for us to make a decision on your referral stops on the date of this letter, and restarts once we have received satisfactory information.

We will let you know whether or not approval is needed under the EPBC Act as soon as a decision is taken.

If you have any questions about the process please contact the EPBC project officer and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cathy Skippington'.

Cathy Skippington
Assistant Secretary
Environment Assessment Branch

CC:

Mr Philip Paton

Mr James Anderson



ABN 72 003 942 774
Port Kembla Road, Inner Harbour, Wollongong NSW
PO Box 823, WOLLONGONG NSW 2520 Australia
Tel +61 2 4228 0288 Fax +61 2 4228 7605

17 June 2008

SE QLD/ NSW Assessment Section
Environmental Assessment Branch
Department of the Environment, Water Heritage and the Arts
GPO Box 787
CANBERRA ACT 2601

Attn: Rochelle Basham

Dear Ms Basham

***RE: Request for additional information
Port Kembla Coal Terminal increase in Public Road Use
EPBC Reference: 2008/ 4206***

In response to your request for further information regarding the Green and Golden Bell Frogs discovered at Port Kembla Coal Terminal, the following information is provided for your reference. Since the initial sighting of the Frogs, Biosphere Environmental Consultants have been engaged to provide expert advice on study and management of the frogs.

An Interim Plan of Management has been prepared for the frogs during the winter period, where the species are generally inactive and difficult to comprehensively study. This plan of management is enclosed for your review and covers the information requested in your letter dated 2nd June 2008. Several interim controls with regards to management of the frogs have been recommended by Biosphere Environmental Consultants and endorsed by PKCT.

Biosphere Environs have concluded that the proposed actions associated with the EPBC referral will not adversely impact Green and Golden Bell Frogs at north Port Kembla, subject to mitigation measures being implemented. The implementation of these mitigation measures has commenced and is expected to be completed in the coming weeks.

Should you have any queries please do not hesitate to contact Debra Murphy on 02 4221 1826.

Yours sincerely

Peter Green
General Manager



Australian Government

Department of the Environment, Water, Heritage and the Arts

Notification of REFERRAL DECISION – not controlled action

Port Kembla Coal Terminal increase in public road use, Wollongong NSW
(EPBC Reference 2008/4206)

This decision is made under Section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Proposed action

person named in the referral	Port Kembla Coal Terminal
proposed action	To increase the transport of product to the Port Kembla Coal Terminal using existing public road infrastructure, as described in the referral documentation submitted under the EPBC Act on 9 May 2008 and in additional information received on 18 June and 2 July 2008.

Referral decision: Not a controlled action

status of proposed action	The proposed action is not a controlled action.
---------------------------	---

Person authorised to make decision

Name and position	Cathy Skippington Assistant Secretary Environment Assessment Branch
-------------------	---

signature

date of decision

7-7-08