

## Appendix A

### **Guidelines for preparing assessment documentation relevant to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for proposals being assessed under the NSW Assessment Bilateral**

#### **Central West Pumped Hydro (EPBC 2022/09331)**

##### Introduction

1. On 16 November 2022, a delegate of the Commonwealth Minister for Environment determined Central West Pumped Hydro was 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 actions are:
  - i. listed threatened species and communities (sections 18 and 18A)
2. The proposed action will be assessed in accordance with the bilateral assessment agreement between the Australian and NSW governments *Amending Agreement No. 1*, and as such, is required to be assessed in the manner specified in Schedule 1 to that Agreement, including, addressing the matters outlined in Schedule 4 of the *Environment Protection and Biodiversity Conservation Regulations 2000* (EPBC Regulations).
3. The proponent must undertake an assessment of all protected matters that may be impacted by the development under the controlling provision identified in paragraph 1. The Commonwealth Minister for the Environment considers that the proposed action is likely to have a significant impact on threatened species and communities listed in **Appendix A**.
4. The proponent 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 proponent 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

5. The Environmental Impact Statement (EIS) must address all matters outlined in Schedule 4 of the EPBC Regulations and all matters outlined below in relation to the controlling provisions.

##### Project Description

6. The title of the action, background to the action and current status.
7. 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 Matters of National Environmental Significance (MNES).
8. How the action relates to any other actions that have been, or are being taken in the region affected by the action.

9. 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

10. The EIS must include an assessment of the relevant impacts 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

11. For each of the relevant matters protected that are likely to be significantly impacted by the action, the EIS 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.
12. Where a significant residual adverse impact to a relevant protected matter is considered likely, the EIS must provide information on the proposed offset strategy, including discussion of the conservation benefit associated with the proposed offset strategy.
13. For each of the relevant matters likely to be impacted by the action the EIS 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 the species or community;
  - iii. wildlife conservation plan for the species; and

- iv. any strategic assessment.

**Note:** the relevant guidelines and policy statements for each species and community are available from the Department of Climate Change, Energy, the Environment and Water Species Profiles and Threats Database.

<http://www.environment.gov.au/cgi-bin/sprat/public/sprat.pl>

- 14. In addition to the general requirements described above, specific information is required with respect to each of the determined controlling provisions. These requirements are outlined in paragraphs 15-17.

## **Key Issues**

### **Biodiversity (threatened species and communities)**

#### Assessment Requirements

- 15. The EIS must identify each EPBC Act listed threatened species and community likely to be impacted by the action. For any species and communities that are likely to be impacted, the proponent must provide a description of the nature, quantum and consequences of the impacts. For species and communities potentially located in the project area or in the vicinity that are not likely to be impacted, provide evidence why they are not likely to be impacted.
- 16. For each of the EPBC Act listed threatened species and communities likely to be impacted by the action the EIS must provide a separate:
  - i. 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. For ecological communities, this includes any condition thresholds provided in the listing advice or approved conservation advice;
  - ii. a description and quantification of habitat in the study area (including suitable breeding habitat, suitable foraging habitat, important populations and habitat critical for survival). For the ecological communities, assessments should be targeted to determine if the vegetation patches conform to the EPBC listed threatened ecological communities.
  - iii. 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.
  - iv. a description of 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 and listed migratory species. It must clearly identify the location and quantify the extent of all impact areas to each relevant EPBC listed species and community.
  - v. quantification of the offset liability for each species and community significantly impacted, and information on the proposed offset strategy, including discussion of the conservation benefit for each species and community, how offsets will be secured, and the timing. 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'.

**Note:** For the purposes of approval under the EPBC Act, it is a requirement that offsets directly contribute to the ongoing viability of the specific protected matter impacted by a proposed action and deliver an overall conservation outcome that improves or maintains the viability of the MNES i.e. 'like for like'. In applying the BAM, residual impacts on EPBC Act listed threatened ecological communities must be offset with Plant Community Type(s)

(PCT) that are ascribed to the specific EPBC listed ecological community. PCTs from a different vegetation class will not generally be acceptable as offsets for EPBC listed communities.

17. Any significant residual impacts not addressed by the BAM may need to be addressed in accordance with the EPBC Act 1999 Environmental Offset Policy.

<https://www.dcceew.gov.au/environment/epbc/publications/epbc-act-environmental-offsets-policy>.

#### **Other approvals and conditions**

18. 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.

#### **Environmental Record of person proposing to take the action**

19. 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.

#### **Information Sources**

20. For information given in an EIS, the EIS 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.

#### **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
- Amending Agreement No. 1 (2020) - Item 18.1, Item 18.5, Schedule 1
- *Matters of National Environmental Significance - Significant impact guidelines 1.1* (2013) EPBC Act
- *Environment Protection and Biodiversity Conservation Act 1999* Environmental Offsets Policy October 2012

The international conventions, management plans and principles that must be considered in relation to this proposal include:

- Listed threatened species and communities
  - Australia's obligations under the:
    - Convention on Biological Diversity,
    - the Convention on Conservation of Nature in the South Pacific (Apia Convention),
    - the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
  - Any relevant recovery plans or threat abatement plans
  - The policies and plans that must be considered in relation to this proposal include:
    - Relevant conservation advice/s: <http://www.environment.gov.au/cgi-bin/sprat/public/sprat.pl>; and
    - Relevant strategic assessment reports.

## Appendix A

### ***Protected matters relevant to the Central West Pumped Hydro (EPBC 2022/09331) project***

#### **Specific risks**

Key risks associated with the proposed action from the Commonwealth perspective include:

- Likely and potential significant impacts to EPBC listed threatened species and ecological communities resulting from the clearing of native vegetation in the project footprint, and potential for indirect impacts as a result of project activities. The department believe the proposed action will clear suitable foraging or breeding habitat that is critical for the survival of the threatened species above-mentioned.
- Potential impacts to EPBC listed threatened species and communities from the take of water from the Fish River.

Further information is required during the assessment stage to address these risks and determine the listed threatened species and ecological communities that will be directly and indirectly impacted by the proposed action.

#### **Listed threatened species and communities (s18 &18A)**

Based on the information in the referral documentation, the location of the action, species records and likely habitat present in the area, there are likely to be significant impacts to:

- Koala (*Phascolarctos cinereus*) (combined populations of Qld, NSW, and the ACT) – Endangered  
The proposed action is likely to impact approximately 147 ha of potential Koala habitat
- Gang-gang Cockatoo (*Callocephalon fimbriatum*) – Endangered  
The proposed action will clear approximately 147 ha of breeding and / or foraging habitat for the species.
- Bathurst Copper Butterfly (*Paralucia spinifera*) – Vulnerable  
The proposed action will remove up to 4 ha of Bathurst Copper Butterfly habitat
- Greater Glider (southern and central) (*Petauroides volans*) – Endangered  
The proposed action will clear approximately 89.5 ha of breeding and/or foraging habitat for the species

Additionally, the proposed action may significantly impact additional listed threatened species or communities including but not limited to the following:

- Grey-headed Flying-fox (*Pteropus poliocephalus*) - Vulnerable
- Spotted-tailed Quoll (SE mainland population) (*Dasyurus maculatus maculatus*) – Endangered
- Regent Honeyeater (*Anthochaera phrygia*) – Critically Endangered
- Booroolong Frog (*Litoria booroolongensis*) – Endangered
- Pink-tailed Legless Lizard (*Aprasia parapulchella*) – Vulnerable

Further information is required regarding whether all habitat for the Koala is considered. Specifically, PCT 227 *Blakely's Red Gum – Yellow Box grassy tall woodland of the NSW Southwestern Slopes Bioregion* is listed in referral documentation as habitat for the Pink-tailed Legless Lizard (*A. parapulchella*) but not as Koala habitat.

The referral states that Gang-gang Cockatoos (*C. fimbriatum*) were recorded during field surveys, further information is required on survey results such as numbers recorded for cockatoos during surveys.

**Note:** uncertainty around the extent and number of protected matters that may be impacted will need to be resolved through the assessment process once final alignment and construction plans have been completed.

**Note:** this may not be a complete list and it is the responsibility of the proponent to ensure any protected matters under these controlling provisions are assessed for the Commonwealth decision-maker's consideration.