



**Planning &
Infrastructure**

Major Projects Assessment

Mining & Industry

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Andrea Sutton
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Our Ref: 10/13705

Dear Ms Sutton

**State Significant Development – Supplement to Director General's Requirements
Continuation of Bengalla Mine Project (SSD-5170)**

I refer to the Director-General's requirements issued for the Bengalla Continuation Project, 13 March 2012.

As you are aware, this project has been declared a controlled action under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The Department of Sustainability, Environment, Water, Populations and Communities has accredited the NSW Part 4 State Significant Development assessment process for the project.

To ensure that sufficient information is provided to enable an appropriate level of assessment of relevant matters of National Environmental Significance, the Director-General has issued supplementary requirements for the Environmental Impact Statement (EIS) under section 78A(8A) of the *Environmental Planning and Assessment Act 1979*. A copy of the supplementary requirements is attached

You must ensure that the EIS adequately addresses the Director-General's requirements issued on 13 March 2013, as well as the attached supplementary requirements.

To speed up the assessment process, it is recommended that the EIS for the project include separate appendices dealing with State and Commonwealth biodiversity matters. However, the main reports should deal with these matters in an integrated manner.

If you have any enquiries about these requirements, please contact David Mooney on the details above.

Yours sincerely

 12/7/12

David Kitto
Director
Mining & Industry Projects
as delegate for the Director-General

Supplementary Director-General's Requirements

Section 78A(8A) of the *Environmental Planning and Assessment Act 1979*

A delegate for the Commonwealth Minister for Sustainability, Environment, Water, Population and Communities has determined the Continuation of Bengalla Mine, NSW (EPBC 2012/6378), involving the continuation of the existing Bengalla Coal Mine, approximately 4 kilometres west of Muswellbrook in the Upper Hunter Valley, NSW, to be a controlled action under section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The action is likely to have a significant impact on the EPBC Act listed critically endangered white-box – yellow box – Blakely's red gum grassy woodland and derived native grassland ecological community (box-gum woodland). Significant impacts are also considered possible for a number of other species and communities protected by the EPBC Act including, but not limited to, those listed in [Appendix A](#).

In accordance with the one-off accredited assessment process for this project, the environmental assessment of the impacts of the controlled action must be assessed under the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The assessment should include enough information about the action and its relevant impacts to allow the Minister for Sustainability, Environment, Water, Population and Communities to make an informed decision on whether or not to approve the action under the EPBC Act.

The following assessment requirements concerning matters in the EPBC Act and schedule 4 of the *Environment Protection and Biodiversity Conservation Regulations 2000* should be integrated into the assessment requirements of the EP&A Act.

General information

1. The background of the action, including:
 - a. the title of the action;
 - b. the full name and postal address of the designated proponent;
 - c. a clear outline of the objective of the action;
 - d. the location of the action;
 - e. the background to the development of the action;
 - f. how the action relates to any other actions (of which the proponent should reasonably be aware) that have been, or are being, taken or that have been approved in the region affected by the action;
 - g. the current status of the action; and
 - h. the consequences of not proceeding with the action.

Description of the controlled action

2. A description of the action, including:
 - a. all the components of the action;
 - b. the precise location of any works to be undertaken, structures to be built or elements of the action that may have relevant impacts;
 - c. 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;
 - d. the timing and duration of the works to be undertaken; and
 - e. to the extent reasonably practicable, a description of any feasible alternatives to the controlled action that have been identified through the assessment, and their likely impact, including:
 - i. if relevant, the alternative of taking no action;
 - ii. a comparative description of the impacts of each alternative on the matters protected by the controlling provisions for the action;

- iii. sufficient detail to clarify why any alternative is preferred to another.

Description of the existing environment

3. A description of the existing environment of the proposal location and the surrounding areas that may be affected by the action, including but not limited to:
- surveys using accepted methodology for targeting listed threatened species, ecological communities and their respective habitat, including but not limited to OEHS's *Survey and assessment guidelines* (2009), available at: <http://www.environment.nsw.gov.au/threatenedspecies/surveymethodsfauna.htm> and the Department of Sustainability, Environment, Water, Populations and Communities (DSEWPaC) species-specific survey guidelines for nationally threatened species, available at: <http://www.environment.gov.au/cgi-bin/sprat/public/sprat.pl>
 - a description of the distribution and abundance of threatened species and ecological communities, as well as suitable habitat (including breeding, foraging, roosting habitat, habitat critical to the survival of threatened species) within the site and in surrounding areas that may be impacted by the proposal. Specifically, this must include but not be limited to the species at Attachment A;
 - the regional distribution and abundance of suitable and potential habitat for threatened species and ecological communities surrounding the site.

Description of the relevant impacts of the controlled action

4. An assessment of all relevant impacts¹ with reference to the *EPBC Act Policy Statement 1.1 Significant Impact Guidelines Matters of National Environmental Significance* (2009) that the controlled action has, will have or is likely to have on: relevant threatened species and/or threatened ecological communities listed under sections 18 and 18A of the EPBC Act, including but not limited to the box-gum woodland. Information must include:
- a description of the relevant impacts of the action on matters of national environmental significance;
 - a detailed assessment of the nature and extent of the likely short term and long term relevant impacts;
 - a statement whether any relevant impacts are likely to be unknown, unpredictable or irreversible;
 - analysis of the significance of the relevant impacts;
 - any technical data and other information used or needed to make a detailed assessment of the relevant impacts.
5. A description of the relevant impacts on the box-gum woodland should include an analysis of the vegetation condition on the site, as well as the methods by which this was determined. Direct and indirect impacts must be included. Cumulative and facilitative impacts should also be included. Please include impacts on the:
- extent of the box-gum woodland, including connectivity with other areas of the ecological community;
 - quality or integrity of the box-gum woodland including, but not limited to, assisting invasive species that are harmful to the ecological community to become established;
 - EPBC Act listed species in, or in any way dependent upon, the box-gum woodland;
 - composition of the box-gum woodland;
 - habitat present on site critical to the survival of the box-gum woodland²; and

¹ The term "relevant impact" is defined in section 82 of the EPBC Act.

² "habitat critical to the survival of a species or ecological community" refers to areas that are necessary:

- for activities such as foraging, breeding, roosting, or dispersal;
- for the long-term maintenance of the species or ecological community (including the maintenance of species essential to the survival of the species or ecological community, such as pollinators);
- to maintain genetic diversity and long term evolutionary development; or
- for the reintroduction of population or recovery of the species or ecological community.

- f. abiotic (non-living) factors (such as water, nutrients or soil) necessary for box-gum woodland survival, for example altering groundwater levels, soil disturbance or substantial alteration of surface water drainage patterns.

These impacts should be described for both the construction and operational phases of the controlled action.

This information should be provided with reference to the ecological community as it is defined and listed under the EPBC Act.

6. Where there is a potential habitat for EPBC Act listed species (Appendix A), surveys must be undertaken. These surveys must be timed appropriately and undertaken for a suitable period of time by a qualified person³. A subsequent description of the relevant impacts on such EPBC Act listed species should include, inter alia, direct, indirect, cumulative and facilitative impacts on the:
 - a. population of the species at the site;
 - b. area of occupancy of the species;
 - c. habitat critical to the survival of the species;
 - d. breeding cycle of the population; and
 - e. availability or quality of habitat for the species.

If an endangered ecological community or threatened species listed at Appendix A is not believed to be present on the proposed site, detailed information must be included in the Environmental Impact Assessment to demonstrate that this community will not be impacted.

Proposed safeguards and mitigation measures

7. A description of feasible mitigation measures, changes to the action or procedures, which have been proposed by the proponent or suggested in public submissions, and which are intended to prevent or minimise relevant impacts. Information must include:
 - a. a description of the mitigation measures that will be undertaken to prevent or minimise the relevant impacts of the action. These mitigation measures should be justified and based on best available practices;
 - b. an assessment of the expected or predicted effectiveness of the mitigation measures including the effect on abundance and condition of species, suitable habitat and ecological communities;
 - c. any statutory or policy basis for the mitigation measures;
 - d. the cost of the mitigation measures;
 - e. an environmental management plan that sets out the framework for continuing management, mitigation and monitoring programs (including any relevant thresholds for corrective actions) for the relevant impacts of the action. Include the person or agency responsible for implementing these programs and the effectiveness of all mitigation measures, including any provisions for independent environmental auditing;
 - f. the name of the agency responsible for endorsing or approving each mitigation measure or monitoring program;
 - g. identification of mitigation measures proposed to be undertaken by State governments, local governments or the proponent;
 - h. any changes to the action which prevent or minimise relevant impacts on listed threatened species and communities.

Offsets

8. Should any residual impact exist that cannot be mitigated it may be necessary for offset measures to be considered in order to ensure the protection of matters of national environmental significance in

Such habitat may be, but is not limited to: habitat identified in a recovery plan for the species or ecological community as habitat critical for that species or ecological community; and/or habitat listed on the register of Critical Habitat maintained by the Minister under the EPBC Act.

³Where available, species-specific survey guidelines can be obtained on the department's *Species Profile and Threats Database*: <http://www.environment.gov.au/cgi-bin/sprat/public/sprat.pl>

perpetuity. If required, the department may negotiate offsets with you during the assessment phase. Reference should be made to the department's draft policy statement, including any revisions to this statement, at : <http://www.environment.gov.au/epbc/publications/draft-environmental-offsets.html>

- a. the description of any offset package should include how the offset compensates for the residual impacts, when the offset will be delivered and how the offset will be managed;
- b. an assessment of the impact of the offsets on other matters of environmental, economic, or social significance; and
- c. analysis of cost, both financial and other, related to offsets.

Other approvals and conditions

9. Any other requirements for approval or conditions that apply, or that the proponent reasonably believes are likely to apply, to the proposed action. Information must include:
 - a. details of any local or State government planning scheme, or plan or policy under any local or State government planning system that deals with the proposed action, including:
 - i. what environmental assessment of the proposed action has been, or is being, carried out under the scheme, plan or policy; and
 - ii. how the scheme provides for the prevention, minimisation and management of any relevant impacts;
 - b. a description of any approval that has been obtained from a State, Territory or Commonwealth agency or authority (other than an approval under the EPBC Act), including any conditions that apply to the action;
 - c. a statement identifying any additional approval that is required;
 - d. a description of the monitoring, enforcement and review procedures that apply, or are proposed to apply, to the action.

Economic and social matters

10. A description of the short-term and long-term social and economic implications and/or impacts of the project.

Environmental record of person proposing to take the action

11. Details of any proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources against:
 - a. the proponent; and
 - b. for an action for which a person has applied for a permit, the person making the application.
12. Details of the proponent's environmental policy and planning framework.

Information sources

13. For information given in an environment assessment, the draft must state:
 - a. the source of the information;
 - b. how recent the information is;
 - c. how the reliability of the information was tested; and
 - d. what uncertainties (if any) are in the information.

Consultation

14. Any consultation about the action, including:
 - a. any consultation that has already taken place;
 - b. proposed consultation about relevant impacts of the action;
 - c. if there has been consultation about the proposed action — any documented response to, or result of, the consultation.

15. Identification of affected parties, including a statement mentioning any communities that may be affected and describing their views.

Appendix A

Threatened Ecological Communities

- White box - yellow box - Blakely's red gum grassy woodland and derived native grassland (box-gum woodland, critically endangered)

Threatened Flora

- *Digitaria porrecta* (finger panic grass; endangered)
- *Prasophyllum* sp. *Wybong* (critically endangered)

Threatened Fauna

- *Lathamus discolor* (Swift Parrot)
- *Dasyurus maculatus maculatus* (spotted-tail quoll, endangered)
- *Pteropus poliocephalis* (Grey-headed Flying-fox)
- *Anthochaera phrygia* (regent honeyeater, endangered, migratory)
- *Nyctophilus corbeni* (South-eastern Long-eared Bat)
- *Chalinolobus dwyeri* (Large-eared Pied Bat)