

# Supplementary Director General's Requirements

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

A delegate for the Commonwealth Minister for the Environment has determined the Mt Owen Continued Coal Mining Operation Project, NSW (EPBC 2013/6978), involving the continuation of the existing Mt Owen Mine, approximately 20 kilometres north-west of Singleton 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 endangered Spotted-tailed Quoll, Swift Parrot and Regent Honeyeater. Significant impacts are also considered possible for a number of other species protected by the EPBC Act including, but not limited to, those listed in [Appendix A](#). The action is also likely to have a significant impact on a water resource, as defined under the EPBC Act.

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 the Environment 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, and
- 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:
  - a. surveys using accepted methodology for targeting listed threatened species, ecological communities and their respective habitat, including but not limited to OEH's *Survey and assessment guidelines* (2009), available at: <http://www.environment.nsw.gov.au/threatenedspecies/surveymethodsfauna.htm> and the Department of the Environment's species-specific survey guidelines for nationally threatened species, available at: <http://www.environment.gov.au/cgi-bin/sprat/public/sprat.pl>
  - b. 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 Appendix A.
  - c. the regional distribution and abundance of suitable and potential habitat for threatened species and ecological communities surrounding the site
  - d. a description of the important water resources within the site and in surrounding areas, including detailed information addressing the department's Water Resources Terms of Reference, currently in preparation, and
  - e. a description of water related assets that are dependent on any important water resources, including an estimation of the water requirements of those assets (i.e. regional water use).

### Description of the relevant impacts of the controlled action

4. An assessment of all relevant impacts<sup>1</sup> with reference to the *EPBC Act Policy Statement 1.1 Significant Impact Guidelines Matters of National Environmental Significance* (2009), *Draft significant impact guidelines: Coal seam gas and large coal mining developments – impacts on water resources* and species specific guidelines as relevant (available at: [www.environment.gov.au/epbc/guidelines-policies.html](http://www.environment.gov.au/epbc/guidelines-policies.html)) that the controlled action has, will have or is likely to have. Information must include:
  - a. a description of the relevant impacts of the action on matters of national environmental significance:
    - listed species and communities (including, but not limited to, those listed in Appendix A), and
    - water resources (...)
  - b. a detailed assessment of the nature and extent of the likely short term and long term relevant impacts

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<sup>1</sup> The term "relevant impact" is defined in section 82 of the EPBC Act. Note that the action has been found to be likely to have a significant impact on listed species and communities, under sections 18 and 18A of the EPBC Act, and water resources, under sections 24D and 24E of the Act.

- c. a statement whether any relevant impacts are likely to be unknown, unpredictable or irreversible
  - d. analysis of the significance of the relevant impacts, and
  - e. any technical data and other information used or needed to make a detailed assessment of the relevant impacts
5. 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 person<sup>2</sup>. 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.

6. Under sections 24D and 24E of the EPBC Act, a water resource in relation to coal seam gas and large coal mining development has been determined a controlling provision in relation to this project. The documentation provided must include information addressing all relevant impacts on water resources and water related values. The information must be consistent with the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development's *Information Guidelines for Proposals Relating to the Development of Coal Seam Gas and Large Coal Mines where there is a Significant Impact on Water Resources*. The Guidelines are available at: <http://www.environment.gov.au/coal-seam-gas-mining/pubs/iesc-information-guidelines.pdf>. The information must include:
- a detailed assessment of potential impacts (including cumulative impacts) on the quality and quantity of existing surface and ground water resources, including:
    - a. detailed modelling of potential groundwater impacts, including any potential impacts on alluvial aquifers
    - b. impacts on affected licensed water users and basic landholder rights
    - c. impacts on riparian, ecological, geo-morphological and hydrological values of watercourses, including environmental flows, and
    - d. a flood assessment including identification of any necessary flood impact mitigation measures
  - a detailed site water balance, including a description of site water demands, water disposal methods (inclusive of volume, salinity and frequency of any water discharges), water supply infrastructure and water storage structures
  - an assessment of proposed water discharge quantities and quality against receiving water quality and flow objectives
  - assessment of impacts of salinity from mining operations, including disposal and management of coal rejects and modified hydrogeology, a salinity budget and the evaluation of salt migration to surface and groundwater sources

<sup>2</sup> Where 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>

- assessment of groundwater impacts against the minimal impact considerations in the *NSW Aquifer Interference Policy*
- identification of any licensing requirements or other approvals under the *Water Act 1912* and/or *Water Management Act 2000*
- demonstration that water for the construction and operation of the development can be obtained from an appropriately authorised and reliable supply in accordance with the operating rules of any relevant Water Sharing Plan (WSP)
- a description of the measures proposed to ensure the development can operate in accordance with the requirements of any relevant WSP or water source embargo
- a detailed description of the proposed water management system (including sewage), water monitoring program and measures to mitigate surface and groundwater impacts, and
- information on how the project will comply with the Hunter River Salinity Trading Scheme

### **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 on matters of national environmental significance. 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, and
  - h. any changes to the action which prevent or minimise relevant impacts on listed threatened species and communities

### **Offsets**

8. Where impacts cannot be avoided or mitigated, an offset package to compensate for any predicted or potential residual significant impacts on matters of national environmental significance. Offsets should demonstrate consistency with the Commonwealth EPBC Act Environmental Offsets Policy (October 2012, or subsequent versions), available at: [www.environment.gov.au/epbc/publications/environmental-offsets-policy.html](http://www.environment.gov.au/epbc/publications/environmental-offsets-policy.html). The department's information requirements in relation to EPBC Act offset proposals is provided at Appendix B. Information must include:

- 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, and
  - 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, and

- 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 a description of their views.



## **Appendix A**

### **Threatened Fauna**

- *Dasyurus maculatus maculatus* (Spotted-tailed Quoll, endangered)
- *Lathamus discolor* (Swift Parrot, endangered, migratory)
- *Anthochaera phrygia* (Regent Honeyeater, endangered, migratory)
- *Phascolarctos cinereus* (Koala, vulnerable)
- *Litoria aurea* (Green and Golden Bell Frog, vulnerable)
- *Chalinolobus dwyeri* (Large-eared Pied Bat, vulnerable)

## **Appendix B**

### **Information requirements for EPBC Act offset proposals**

- Details in relation to the proposed offsets package, including:
  - the location and size, in hectares, of any offset site(s)
  - maps clearly showing for each offset site:
    - the relevant ecological features
    - the landscape context, and
    - the cadastre boundary
  - the current tenure arrangements (including zoning and ownership) of any proposed offset sites
  - confirmed records of presence (or otherwise) of relevant protected matter(s) on the offset site(s), and
  - detailed information regarding the presence and quality of habitat for relevant protected matter(s) on the offset site. The quality of habitat should be assessed in a manner consistent with the approach outlined in the document titled *How to use the offset assessment guide* available at:  
[www.environment.gov.au/epbc/publications/environmental-offsets-policy.html](http://www.environment.gov.au/epbc/publications/environmental-offsets-policy.html).
- Provide information and justification regarding how the offsets package will deliver a conservation outcome that will maintain or improve the viability of the protected matter(s) consistent with the *EPBC Act environmental offsets policy* (October 2012) including:
  - management actions that will be undertaken that improve or maintain the quality of the proposed offset site(s) for the relevant protected matter(s). Management actions must be clearly described, planned and resourced as to justify any proposed improvements in quality for the protected matter(s) over time
  - the time over which management actions will deliver any proposed improvement or maintenance of habitat quality for the relevant protected matter(s)
  - the risk of damage, degradation or destruction to any proposed offset site(s) in the absence of any formal protection and/or management over a foreseeable time period (20 years). Such risk assessments may be based on:
    - presence of pending development applications, mining leases or other activities on or near the proposed offset site(s) that indicate development intent
    - average risk of loss for similar sites, and
    - presence and strength of formal protection mechanisms currently in place, and
  - the legal mechanism(s) that are proposed to protect offset site(s) into the future and avert any risk of damage, degradation or destruction
- Provide information regarding how the proposed offsets package is additional to what is already required, as determined by law or planning regulations, agreed to under other schemes or programs or required under an existing duty-of-care
- The overall cost of the proposed offsets package; including costs associated with, but not limited to:
  - acquisition and transfer of lands/property



- implementation of all related management actions, and
- monitoring, reporting and auditing of offset performance