



EPBC Ref: 2013/6978

Mr Matthew Sprott
Senior Planning Officer
Department of Planning & Environment
23-33 Bridge Street
SYDNEY NSW 2000

Dear Mr Sprott

Comment on final Environmental Impact Statement for the Mt Owen Continued Operations Project

Thank you for your invitation to comment on the Mt Owen Continued Operations Project final Environmental Impact Statement, which was provided to the Department of the Environment (the Department) on 20 January 2015.

Please find attached to this letter the Department's comments in relation to the EIS and matters of National Environmental Significance (NES), as requested. The Department recommends that several matters are required to be addressed by the proponent in the Preferred Project Report and Response to Submission. These include:

- a response to and addressing the comments, issues, knowledge gaps and additional analysis requested by the IESC in its advice;
- a detailed description of the mitigation proposed as part of their EIS; and
- further information regarding the offsets proposed. Pending this information, further offsets are likely to be required and details of these should also be provided.

The Department's detailed comments are at Attachment A.

If you have any questions about these, please contact the project manager, Kyran Staunton, by e-mail: kyran.staunton@environment.gov.au, or by telephone: 02 6274 2526 and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely

Mark Hall
A/g Director
NSW & ACT Section
25 March 2015

Attachment A - DoE's comments on Mount Owen Continued Operations Project (EPBC 2013/6978)

1. Impacts

Threatened species and ecological communities

The Department considers that significant impacts are likely to occur for:

- the Spotted-tail Quoll;
- the Regent Honeyeater;
- the Swift Parrot; and
- the Koala - the proponent has identified that, using the Referral Guidelines, 163.7 hectares of habitat critical to its survival (a score higher than 5) will be cleared as part of the proposed action. According to the guidelines, such an impact at this scale is significant to the Koala.

In light of the information presented in the EIS, the Department does not consider that significant impacts are likely to occur regarding the Green and Golden Bell Frog and the New Holland mouse.

A water resource

The Department notes that the Independent Expert Scientific Committee (IESC) has provided advice to the decision maker regarding this project. The Department recommends that the proponent responds to and addresses comments, issues, knowledge gaps and additional analysis requested by the IESC in its advice, especially regarding Glennies and Main Creek. This information, which should be included as part of the proponent's PPR and RtS, is required to provide a sufficiently robust assessment of the likelihood, extent and significance of potential impacts on water resources resulting from the project. The proponent should also revise impact assessments provided in the EIS documentation to adequately quantify the extent of any impacts.

2. Mitigation Measures

The Department recommends that the proponent provides further information about proposed mitigation measures, as requested in the Department's adequacy review.

Throughout the EIS, the proponent draws heavily on the implementation of management plans that exist for current operations, including: the Landscape Management Plan, Flora and Fauna Management Plan, Erosion and Sediment Control Plan and the Water Management Plan. The proponent states that these plans will be revised and/or consolidated should the project be approved.

The Department requested, in our adequacy review, that a copy of these plans and justification of how they would be updated to address the impacts of the mine extension be included in the EIS. This has not been addressed. We are therefore unable to determine, from the EIS submitted, the effectiveness of the currently implemented management plans, how they would be updated to address the extension proposed and therefore the success of mitigation measures in reducing impacts to MNES from the proposed action. This concern is also raised by the IESC.

The Department recommends that the proponent provide the abovementioned management plans with clear descriptions of how actions will be updated to effectively avoid and mitigate impacts regarding MNES as part of the Response to Submissions. Mitigation measures must include objectives, performance measures, corrective actions and thresholds for corrective actions in accordance with SMART principles. This information is required prior to a decision being made on the proposal.

Regarding the Spotted-tail Quoll specifically, as stated in Appendix 11 of the EIS, the proposed action has the potential to create a substantial barrier for the species in accessing habitat areas in the southern portion of the project area, within the proposed disturbance area. This is inconsistent with this species' recovery plan objective of reducing the rate of loss and fragmentation of Spotted-tail Quoll habitat. Therefore, the Department recommends that Main Creek is revegetated as a mitigation measure for proposed impacts from this project. Additionally, as the revegetation of Bowmans Creek is already a requirement of mining actions associated with Liddell mine, the Department recommends that the revegetation of Stringybark Creek to link with Bowmans Creek to encourage movement of the Spotted-tail Quoll between refugia, should be further explored by the proponent.

Offsets

The Department has recently released a policy that endorses the FBA and the BioBanking methodology for EPBC Act Offset purposes. Where a project demonstrates compliance with these endorsed methodologies, the EPBC Act Offsets Policy would not need to be applied. The Department understands that this proposed project falls within the 'transitional period' of the new offsetting policy and that therefore the endorsed policies have not been applied in full. On this basis, the EPBC Act Offsets Policy still applies for this project.

Regarding the EPBC Act Offsets Policy, insufficient information is currently provided in the EIS to apply the Offsets Policy in full. This information was requested as part of the supplementary DGRs and the Department's adequacy review. In the absence of this information, the Department has run an indicative assessment based on the available information

Currently, the offsets proposed (Cross Creek Offset Site, Esparanga Offset Site and the Stringybark Creek Habitat Corridor Regeneration Strategy) meet approximately 75%, 34%, 28% and 110% of the EPBC Act Offset Policy requirements for the Spotted-tail Quoll, Regent Honeyeater, Swift Parrot and Koala, respectively. Further offsets are therefore likely to be required for a number of the species, and should be investigated as part of the Response to Submissions and Preferred Project Report.

Of note, the Department recommends that the proponent revise the vegetation types being proposed to offset impacts to the Central hunter Ironbark – Spotted Gum – Grey Box Forest. As these woodlands are up to 57 years old, the use of regenerating grassland habitats in the EPBC calculator to offset impacts to is not consistent with the "like for like" principal of the Policy. It is unlikely that the regeneration of this habitat will achieve a similar ecological benefit as that provided by the 57 year-old woodland in a period of 20 or 30 years, as is required by the EPBC Act Offsets Policy.

On-site mine site rehabilitation was also not considered as an offset measure in the Department's EPBC offset calculations due the time delay involved in rehabilitating a currently active mine site.

The final percentages output from the EPBC Act Offsets Policy are likely to increase marginally with greater confidence in results dependent on the proponent providing more information relating to the following matters:

- Risks of loss associated with the offset sites:
 - The Department requested in the adequacy review that the proponent provide more information regarding: the risk of damage, degradation or destruction to any proposed offset site(s) in the absence of any formal protection;
 - Information is required on the current and proposed tenure for the offset sites (e.g. conservation covenant or state conservation area). The specific mechanisms that will be used to secure these offsets need to be clearly outlined, as does any difference in mechanisms proposed between the two "offset" sites and the Stringybark regeneration strategy.
- Changes in quality in the offset sites:
 - The Department requested in the adequacy review that the proponent provide more information regarding the management proposed in the offset sites over a foreseeable time period and evidence for the likely degree of success of revegetation programs proposed in the offset areas;
 - information on the current management of the proposed offset sites
- Information demonstrating that the purchase and ongoing maintenance costs of offset areas will be adequately provided for.

Other minor differences between the EPBC calculations performed by the proponent and the Department's initial assessment include:

- the quality of the impact site for the Spotted-tail Quoll and Koala;
- the area of habitat utilised in the Cross Creek and Esparanga offsets by the Regent Honeyeater and Swift Parrot; and
- risks of loss with and without offsets and time until ecological benefit for offsets proposed for the Spotted-tail Quoll.

The Department would be happy to discuss these in further detail once the additional information requested above is provided, and the inputs into the EPBC Act Offsets Policy are reviewed.