

Supplementary Director-General's Requirements

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

A delegate for the Commonwealth Minister for the Environment, has determined that the **Austen (Hartley) Quarry Stage 2 Project (EPBC 2013/6967)** located adjacent to the Cocks River approximately 3.5 km south-southwest of the village of Hartley and 10 km south of the township of Lithgow, 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 following matters of National Environmental Significance:

- Listed threatened species and communities (s18 & 18A)

In particular, the proposed action is likely to cause a significant impact on the population of vulnerable listed Silver-leafed Mountain Gum (*Eucalyptus pulverulenta*).

The following matters must be addressed in the Environmental Assessment of the action.

Key Assessment requirements:

A significant impact is considered likely or possible for the population of this vulnerable species protected by the EPBC Act including, but not limited to:

- The loss of approximately 1,500 plants of *E. pulverulenta* from the existing surveyed population of 3,900 individuals within the boundary of the of the expected extraction area (of which 1,386 have been planted in rehabilitation areas).
- The loss of approximately 1,500 plants of *E. pulverulenta* for the total remaining ten natural populations of the species currently recorded in the Lithgow to Bathurst area with approximately 5,400 individuals (according to the Department's Species Profile and Threats Database [SPRAT]).
- A likely reduction in the reproduction and dispersal of this key source population.
- The possible loss of genetic diversity from this population.
- The possible long-term decrease in the size of an important population of the species; and
- The possible negative impact on habitat critical to the survival of the species.

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 (including coordinates) 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.

Short, medium and long-term advantages and disadvantages of the options should be discussed.

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 the species including but not limited to the Department of the Environment's, species-specific survey guidelines for nationally threatened species, available at: www.environment.gov.au/cgi-bin/sprat/public/sprat.pl;
 - b. a description of the distribution and abundance of this vulnerable species of *E. pulverulenta*.

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 (2013)* and species specific guidelines as relevant (available at: 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;
 - b. a detailed assessment of the nature and extent of the likely short term and long term relevant impacts;
 - c. a statement whether any relevant impacts are likely to be unknown, unpredictable or irreversible;
 - d. analysis of the significance of the relevant impacts;

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

- 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 surveys must be undertaken. These surveys must be timed appropriately and undertaken for a suitable period of time by a qualified person. 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; and
 - b. area of occupancy of the species.

Proposed safeguards, avoidance and mitigation measures

- 6. A description of feasible avoidance and 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. 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 the species;
 - c. any statutory or policy basis for the mitigation measures;
 - d. 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;
 - e. the name of the agency responsible for endorsing or approving each mitigation measure or monitoring program;
 - f. any changes to the action which prevent or minimise relevant impacts on listed threatened species and communities.
 - g. Other details, including cost of measures, if relevant.

Offsets

- 7. 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 will be required. Offsets should demonstrate consistency with the EPBC Act Environmental Offsets Policy (October 2012, or subsequent versions), available at www.environment.gov.au/epbc/publications/environmental-offsets-policy.html. Information requirements in relation to EPBC Act offset proposals are provided at Appendix A.

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

- 8. 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

- 9. 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

- 10. 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.
- 11. Details of the proponent's environmental policy and planning framework.

Information sources

- 12. 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

- 13. 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.
- 14. Identification of affected parties, including a statement mentioning any communities that may be affected and describing their views.

Appendix A

Information requirements for EPBC Act offset proposals

- Details in relation to the proposed offsets package, including:
 - o the location and size, in hectares, of any offset site(s);
 - o maps clearly showing for each offset site:
 - the relevant ecological features;
 - the landscape context; and
 - the cadastre boundary.
 - o the current tenure arrangements (including zoning and ownership) of any proposed offset sites;
 - o confirmed records of presence (or otherwise) of relevant protected matter(s) on the offset site(s); and
 - o 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.
- 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:
 - o 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;
 - o the time over which management actions will deliver any proposed improvement or maintenance of habitat quality for the relevant protected matter(s);
 - o 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.
 - o 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:
 - o acquisition and transfer of lands/property;
 - o implementation of all related management actions; and
 - o monitoring, reporting and auditing of offset performance.