




## Planning & Environment

**Planning Services  
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Mr Ed O'Neil  
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Dear Mr O'Neil 

**Gunlake Quarry Extension Project  
(SSD 7090)(EPBC 2015/7557)**

As you are aware, it has been determined that the Gunlake Extension Project will impact on matters of national environmental significance (MNES), protected under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The Commonwealth has therefore provided assessment requirements for the project, which are attached to this letter. These requirements should be considered as a supplement to, and addressed in conjunction with, the Secretary's Environmental Assessment Requirements issued on 13 October 2015.

If you have any questions about this letter, please contact Margaret Kirton at the details listed above.

Yours sincerely



Howard Reed 2-11-15  
**Director**  
**Resource Assessments**  
as the Secretary's delegate



## DEPARTMENT OF THE ENVIRONMENT

**Gunlake Extension Project, Brayton NSW, (EPBC 2015/7557) – key issues from referral decision brief.**

### **BACKGROUND:**

#### **Description of the referral**

A referral was received on 4 September 2015. The action was referred by Gunlake Quarries Pty Ltd, which has stated its belief that the proposal is a controlled action for the purposes of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

#### **Description of the environment**

The proposed action will be undertaken in the Goulburn Mulwaree LGA in the Southern Tablelands of NSW. The referral documentation describes the site as being in a rural area where the predominant land uses are grazing, agriculture, forestry and quarrying. The project area and surrounds contain few areas of intact native vegetation, with most areas modified by historical agricultural use. The few remaining patches of remnant vegetation occur in drainage depressions and on hills in the project area. Large tracts of native vegetation also occur to the south of the quarry. Grasslands mainly comprise native pasture.

The vegetation on site is comprised of:

- Grassy Box Gum Woodland (8.4 ha);
- Grassy Box Gum Woodland Derived Native Grassland (7 ha);
- Red Stringybark Grassy Open Woodland (3.8 ha); and
- Red Stringybark Grassy Open Woodland Derived Native Grassland (34.9 ha).

There are two creeks systems at the quarry site. These are separated by the quarry extraction and processing areas. The first is Chapmans Creek an ephemeral watercourse located on the northern boundary of the project area. The second is an unnamed tributary of Chapmans Creek.

The project area is located at approximately 660 m Australian Height Datum (AHD). The topography of the land surrounding the quarry is undulating. The elevation ranges from approximately 636 metres AHD in the north to 680 metres AHD in the south.

### **KEY ISSUES:**

- The project proposes to remove approximately 15.4 ha of the critically endangered ecological community - White Box Yellow Box Blakely's Red Gum Grassy Woodland and Derived Native Grassland.
- The proposal will clear 8.4 ha of habitat critical to the survival of the critically endangered Regent Honeyeater (*Anthochaera phrygia*).

#### **Listed threatened species and communities**

The Department's Environment Reporting Tool (ERT) identifies a total of 28 listed threatened species and communities may occur within 3 km of the proposed action, including 3 listed threatened ecological communities and 25 listed threatened species. Based on the location and likely habitat present in the area of the proposed action, the Department considers that impacts potentially arise in relation to the following.

- White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland, ecological community – critically endangered; and

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- Regent Honeyeater (*Anthochaera phrygia*) – critically endangered.

#### White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland - critically endangered

The critically endangered White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland (Box Gum Woodland) ecological community is found on relatively fertile soils on the western slopes of the northern tablelands. Less than 1% of Box Gum Woodland remains in good condition and much occurs in small, fragmented and isolated patches. Only 0.1% remains in near-intact condition (SPRAT). The community is characterised by a species rich understorey of native tussock grasses, herbs and scattered shrubs, and the dominance, or prior dominance, of White Box (*Eucalyptus albens*), Yellow Box (*Eucalyptus melliodora*) or Blakely's Red Gum (*Eucalyptus blakelyi*) trees. Tree-cover is generally discontinuous and consists of widely-spaced trees of medium height in which the canopies are clearly separated.

#### *Proposed action area*

The 15.4 ha of Box Gum Woodland in the proposed action area is comprised of approximately 8.4 ha of woodland vegetation and approximately 7 ha of derived native grassland. The referral documentation describes it as, a highly fragmented, open woodland with a canopy to 25 m in height, a low layer of juvenile eucalypts up to 10 m tall and a groundcover comprised of grasses and forbs. The most common canopy species at this site includes Yellow Box and Blakely's Red Gum.

#### *Potential impacts*

Clearing is a key threat to this ecological community, therefore the proposed removal of 15.4 ha is likely to have a significant impact on its survival. In addition, there are likely to be indirect impacts to any remaining ecological community on the development site and in the surrounding area include edge effects, weed proliferation and topsoil erosion.

The referral documentation has some inconsistencies in regard to the amount of Box Gum Woodland on the site, which would require clarification prior to making a conclusion on the subsequent impact area. Further clarification of the adequacy of surveys, methods of classification and inconsistencies in the document should be sought during the assessment.

#### *Avoidance and mitigation measures*

The referral documentation states that there are no feasible ways to carry out the action and avoid Box Gum Woodland on the site. A Landscape Management Plan exists for the current quarry, which the referral documentation states will be updated prior to commencement of the extension project. The Landscape Management Plan will outline management and mitigation measures to help reduce the potential impacts from weed invasion and dust deposition. The referral documentation states that an offset strategy is currently being prepared for this ecological community.

#### *Conclusion*

Based on the above information and in accordance with the *Significant Impact Guidelines 1.1 – Matters of National Environmental Significance*, the Department considers that the proposed action is likely to have a significant impact on the species since there is a real chance or possibility that it will: reduce the area of occupancy; cause a substantial reduction in the quality or integrity of an occurrence of an ecological community; and interfere with the recovery of an ecological community.

#### Regent Honeyeater (*Anthochaera phrygia*) - critically endangered

The Regent Honeyeater is endemic to mainland south-east Australia. It has a patchy distribution which extends from south-east Queensland, through New South Wales and the Australian Capital Territory, to central Victoria. However, it is highly mobile, occurring only irregularly in most sites, and in variable numbers, often with long periods with few observation anywhere. It is most commonly associated with box-ironbark eucalypt woodland and dry sclerophyll forest, but also inhabits riparian vegetation and lowland coastal forest. The national population of Regent Honeyeaters has declined to between 350-400 mature individuals. The decline of the Regent Honeyeater is due mainly to the loss, fragmentation and degradation of the species' habitat.

Most areas of habitat are utilised intermittently and critical habitat is of utmost importance during its period of use. Clearing and fragmentation of Box Gum Woodland is likely to be of greatest significance to the species as it diminishes its capacity to move across the landscape and reduces resources for breeding birds.

#### *Proposed action area*

The proposed action involves clearing 8.4 ha of Box Gum Woodland. According to the Recovery Plan (1999) for the Regent Honeyeater, the species is reliant on nectar from a few key eucalyptus species, including White Box (*E. albens*) and Yellow Box (*E. melliodora*). Stands of these *Eucalyptus* species that grow on fertile soils on gently sloping foothills and plains appear to be critical to the survival of the species. This includes remnant paddock trees and small patches of woodland in farmland.

#### *Potential impacts*

The conservation advice for the species lists clearing, fragmentation and degradation of habitat as the key threat to the Regent Honeyeater. Removal of 8.4 ha of Box Gum Woodland constitutes a significant loss of suitable foraging habitat.

#### *Avoidance and mitigation measures*

There are no avoidance or mitigation measures proposed for this species.

#### *Conclusion*

Based on the EPBC Act Policy Statement 1.1 Significant Impact Guidelines – Matters of National Environmental Significance and the Approved Conservation Advice for *Anthochaera phrygia* (Regent Honeyeater), the Department considers the proposed action is likely to have a significant impact since there is a real chance or possibility that it will adversely affect habitat critical to the survival of the species.

#### *Other listed species*

On the basis of all the information available to the Department (including the ERT, which suggests the presence of the following species or communities in the area of the proposal), and without further detailed assessment of potential impacts, the Department considers that there is a real chance or possibility that project activities will significantly impact on the following:

- Natural Temperate Grassland of the Southern Tablelands of NSW and the Australian Capital Territory – endangered. The referral documentation outlines that the EPBC listed ecological community cannot be present as it only occurs on land up to 600 m in elevation. This conclusion is inconsistent with the Commonwealth listing advice which states that the community can occur between 560 metres in central and northern parts of its distribution and 1200 metres in the south. Therefore there is potential that the derived native grassland areas of the site might satisfy the definition of the community and further information is required to determine the potential for significant impacts.

- Pink-tailed Worm-lizard (*Aprasia parapulchella*) and Striped Legless Lizard (*Delma impar*) – both listed as vulnerable. The referral documentation states that the site surveys found no records of any listed threatened reptiles, however there was insufficient detail provided to determine whether the survey method was appropriate for these cryptic species. As there is potential habitat on site for both species, further information is required to determine the potential for significant impacts.

On the basis of all the information available to the Department and without further detailed assessment of the potential impacts, the Department considers that there is a possibility that project activities may have an impact on the abovementioned species. If you agree to determine the action a controlled action, the Department will seek further information regarding the potential for impacts to these species.

**PROTECTED MATTERS THAT ARE NOT CONTROLLING PROVISIONS:**

|   |  |
|---|--|
| <b>Migratory Species</b>  | The Department's ERT states that 11 migratory species may occur within the proposed development area. Based on information in the referral, the Department considers that the site is unlikely to support an ecologically significant proportion of a species or important habitat. Therefore a significant impact is not considered likely. |
| <b>Ramsar Wetlands</b>  | ERT did not identify any Ramsar listed wetland of international importance within or adjacent to the proposed action area, therefore this controlling provision does not apply.  |
| <b>World Heritage properties</b>  | The ERT did not identify any World Heritage properties located within or adjacent to the proposed action area, therefore this controlling provision does not apply.  |
| <b>National Heritage places</b>   | The ERT did not identify any National Heritage places located within or adjacent to the proposed action area, therefore this controlling provision does not apply.   |
| <b>Commonwealth marine environment</b>  | The proposed action does not occur in the vicinity of a Commonwealth marine environment therefore this controlling provision does not apply.   |
| <b>Commonwealth action</b>  | The referring party is not a Commonwealth agency, therefore this controlling provision does not apply.   |
| <b>Commonwealth land</b>  | The proposed action is not being undertaken on Commonwealth land therefore this controlling provision does not apply.  |
| <b>Nuclear action</b>   | The proposed action does not meet the definition of a nuclear action as defined in the EPBC Act therefore this controlling provision does not apply.   |
| <b>Great Barrier Reef Marine Park</b>   | The proposed action is located in NSW, therefore this controlling provision does not apply.  |
| <b>Commonwealth Heritage places overseas</b>  | The proposed action is not located overseas, therefore this controlling provision does not apply.  |
| <b>A water resource, in relation to coal seam gas development and large coal mining development</b> | The proposed action is not a coal seam gas or a large coal mining development, therefore this controlling provision does not apply.  |

**Guidelines for preparing Assessment Documentation relevant to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)**

**Gunlake Extension Project (EPBC 2015/7557)**

1. On 15 October 2015 it was determined that the Gunlake Extension Project will impact upon the following matters of national environmental significance (MNES) protected under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act):
  - **threatened species and communities.**
2. The project will be assessed in accordance with the NSW Assessment Bilateral Agreement (2015). These guidelines do not stand alone but are a supplement to the Secretary's Environmental Assessment Requirements issued on 3 July 2015 and must be addressed in conjunction with these requirements. The Guidelines are intended to ensure there is sufficient information in the assessment report relevant to MNES such that the Commonwealth decision-maker may make a determination on whether or not to approve the action.
3. The proponent must undertake an assessment of all the protected matters that may be impacted by the development under the controlling provision identified in Item 1. A list of protected matters that the Department of the Environment considered likely to be significantly impacted is provided at Attachment A to these Guidelines. Note that this may not be a complete list and it is the responsibility of the proponent to ensure any protected matters under this controlling provision, likely to be significantly impacted, are assessed for the Commonwealth decision-maker's consideration.

**General Requirements**

The EIS must address the following issues:

4. 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).
5. an assessment of the likely impacts of the development on each EPBC Act-listed species and/or ecological community where there is likely to be a significant impact from the proposed development.

**Key Issues – Biodiversity**

6. The EIS must address the following issues in relation to Biodiversity including:
  - identification of all EPBC Act listed threatened species and communities likely to be located in the project area or in the vicinity; and
  - identification of all EPBC Act listed threatened species and communities likely to be significantly impacted by the development in accordance with the *Matters of National Environmental Significance - Significant Impact Guidelines 1.1 Environment Protection and Biodiversity Conservation Act 1999* (Significant Impact Guidelines).
7. For each of the relevant EPBC Act listed threatened species and communities likely to be significantly impacted by the development the EIS must provide:

- a description of the environment (including identification and mapping of suitable breeding habitat, suitable foraging habitat, important populations and habitat critical for survival), with consideration of, and reference to, any relevant Commonwealth guidelines and policy statements including listing advice, conservation advice and recovery plans;
- details of the scope, timing and methodology for studies or surveys used and how they are consistent with (or justification for divergence from) published Australian Government guidelines and policy statements; and
- specifically:
  - i. detailed mapping identifying the extent and quality of the EPBC Act listed critically endangered White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grasslands in accordance with the EPBC Act listing criteria and policy statement for that community for both the impact site and proposed offset site. [Note further guidance for mapping this EPBC Act listed community is provided at Attachment B].

### *Impacts*

8. For each of the relevant EPBC Act listed threatened species and communities likely to be significantly impacted by the development the EIS must provide a description of the impacts of the action having regard to the full national extent of the species or community's range including:
  - a detailed assessment of the extent, nature and consequence of the likely direct, indirect and consequential impacts – refer to the Significant Impact Guidelines for guidance on the various types of impact that need to be considered;
  - a statement whether any relevant impacts are likely to be unknown, unpredictable or irreversible; and
  - a description of any likely cumulative impacts, where potential project impacts are in addition to existing impacts of other activities (including known potential future expansions or developments by the proponent and other proponents in the region and vicinity).

### *Avoidance and mitigation*

9. For each of the relevant EPBC Act listed threatened species and communities likely to be significantly impacted by the development the EIS must provide information on proposed avoidance and mitigation measures to manage the relevant impacts of the action including:
  - a description of proposed avoidance and mitigation measures to deal with relevant impacts of the action;
  - assessment of the expected or predicted effectiveness of the mitigation measures, and
  - a description of the outcomes that the avoidance and mitigation measures will achieve.
10. For each of the relevant EPBC Act listed threatened species and communities likely to be significantly impacted by the development the EIS must provide reference to, and consideration of relevant Commonwealth guidelines and policy statements including conservation advice, recovery plans, threat abatement plans and wildlife conservation plans.

[Note: the relevant guidelines and policy statements for threatened species and communities are available from the Department of the Environment Species Profiles and Threats Database.  
<http://www.environment.gov.au/cgi-bin/sprat/public/sprat.pl>]

### *Residual impacts and offsets*

11. For each of the relevant EPBC Act listed threatened species and communities likely to be significantly impacted by the development the EIS must provide:

- identification of significant residual adverse impacts likely to occur after the proposed activities to avoid and mitigate all impacts is taken into account.
- details of how the current published NSW Framework for Biodiversity Assessment (FBA) has been applied in accordance with the objects of the EPBC Act to offset significant residual adverse impacts.
- details of the offset package to compensate for significant residual impacts including details of the credit profiles required to offset the development in accordance with the FBA and/or mapping and descriptions of the extent and condition of the relevant habitat and/or threatened communities occurring on proposed offset sites.

[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 i.e. 'like for like'. In applying the FBA, 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.]

12. Any significant residual impacts not addressed by the FBA may need to be addressed in accordance with the *Environment Protection and Biodiversity Conservation Act 1999 Environmental Offset Policy*. <http://www.environment.gov.au/epbc/publications/epbc-act-environmental-offsets-policy>. [Note if the EPBC Act Environmental Offset Policy is used to calculate proposed offsets for a threatened species or community you may wish to seek further advice from the Department of Planning and Environment.]

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

13. The information provided must include 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 the person proposing to take the action; and for an action for which a person has applied for a permit, the person making the application.

14. If the person proposing to take the action is a corporation, details of the corporation's environmental policy and planning framework must also be included.

### **REFERENCES**

1. *Environment Protect and Biodiversity Conservation Act 1999* - section 51-55, section 96A(3)(a)(b), 101A(3)(a)(b), section 136, section 527E
2. NSW Assessment Bilateral Agreement (2015) - Item 18.1, Item 18.5, Schedule 1
3. *Matters of National Environmental Significance - Significant impact guidelines 1.1* (2013) EPBC Act
4. *Environment Protect and Biodiversity Conservation Act 1999 Environmental Offsets Policy* October 2012

## Attachment A

The Department's Environment Reporting Tool (ERT) identifies a total of 28 listed threatened species and communities may occur within 3 km of the proposed action, including 3 listed threatened ecological communities and 25 listed threatened species. Based on the location and likely habitat present in the area of the proposed action, the Department considers that impacts potentially arise in relation to the following.

- White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland, ecological community – critically endangered; and
- Regent Honeyeater (*Anthochaera phrygia*) – critically endangered.

The Department of the Environment considers there is some risk that there may be significant impacts on the following matters:

- Natural Temperate Grassland of the Southern Tablelands of NSW and the Australian Capital Territory – endangered;
- Pink-tailed Worm-lizard (*Aprasia parapulchella*) - vulnerable; and
- Striped Legless Lizard (*Delma impar*) – vulnerable.

## General Guidance on defining EPBC Act listed Box Gum Woodland

The EPBC Act listed *White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland* must be defined and mapped in accordance with the:

- *Advice to the Minister for the Environment and Heritage from the Threatened Species Scientific Committee (Listing Advice) (May 2006)*; and
- *EPBC Act Policy Statement on White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland*.

These documents are available at:

<http://www.environment.gov.au/cgi-bin/sprat/public/publicshowcommunity.pl?id=43>

Box Gum Woodland occurs as a **native understorey** with an **overstorey of eucalypts** and/or just as a **native understorey** where trees have been cleared.

1. In order to determine the extent of the Box Gum Woodland on a site, the **overstorey** and **understorey** across the whole of the project area must be assessed for the potential occurrence of the listed community.
2. A patch of Box Gum Woodland is a continuous area of predominantly **native understorey** (at least 50% of the perennial ground cover is made up of native species) that:
  - contains, or previously contained, White Box, Yellow Box or Blakely's Red Gum overstorey species;
  - contains somewhere in the patch, more than 12 native, non-grass species, and at least one important species;
  - does not include areas of other ecological communities such as woodlands dominated by other species.

Patches are not limited to those areas of higher floral diversity (i.e. where 12 or more native, non-grass species occur). Any native understorey that is continuous with those diverse areas, and not attributed to another ecological community, is considered to be part of the one patch and therefore listed Box Gum Woodland.

3. The patch is the larger of:
  - an area that contains five or more trees in which no tree is greater than 75 m from another tree, or
  - the area over which the understorey is predominantly native.

As understorey patches only need to be at a scale of 0.1 ha or greater, the landscape must be assessed at this scale.

If applying the NSW Framework for Biodiversity Assessment (FBA) you must include in the native vegetation extent map (FBA 4.1.14 and 5.1), and any derived native grasslands with predominantly native vegetation cover (greater than 50%), to ensure potential listed Box Gum Woodland is not inadvertently excluded at this stage of the process.

The whole area mapped as native vegetation extent must be assessed for patches of EPBC-listed Box Gum Woodland. It is advisable to identify potential areas of EPBC-listed Box Gum Woodland prior to identifying and mapping plant community types (PCTs) and vegetation zones.

To assist the regulators in verifying mapping, proponents must provide the data used to determine the presence/absence of Box Gum Woodland.