Australian Government
Department of the Environment

EPBC Ref: 2011/6029

Rebecca Sommer
Project Officer
NSW Department of Planning and Infrastructure
GPO Box 39
Sydney 2001

Dear Ms Sommer

Thank you for your invitation to provide comments on the Response to Submissions and Preferred Project Report (PPR) for the Terminal 4 Coal Export Terminal Project (T4 Project) in relation to matters listed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Please find our comments at Attachment A.

I note that the Department provided comments on a previous, draft version of the PPR on 8 March 2013. These comments detailed our concerns around the magnitude of proposed impacts and the inadequacy of offsets for matters of national environmental significance (MNES). The current PPR does not include any additional avoidance or mitigation measures for MNES and, therefore, our concerns regarding the magnitude of impacts remain.

Moving forward and as you are aware, the Department has had discussions directly with Port Waratah Coal Services (PWCS) who have agreed to provide some additional information on the likely efficacy of proposed mitigation measures for the Green and Golden Bell Frog (GGBF), which may yet demonstrate a reduced impact on this species.

PWCS has provided additional information on the proposed offsets for the GGBF and Australasian Bittern, both in the PPR and separately to the Department. This has enabled a more comprehensive assessment of the adequacy of offsets for these species. Further, PWCS has agreed to undertake additional surveys for migratory shorebirds in the T4 Project area, to increase certainty around the extent of the impacts on these species and to provide benchmarks for assessing the adequacy of the proposed Tomago offset.

Notwithstanding the above, the Department's previous and serious concerns regarding the impacts on MNES and the adequacy of offsets remain. Details relating to these concerns are provided at Attachment A.

If you wish to discuss any of the matters raised in this submission, please do not hesitate to contact me by email at mahani.taylor@environment.gov.au or by telephone on (02) 6274 1428.

Yours sincerely

Mahani Taylor
Director
New South Wales Assessments Section
28 November 2013

Comments on Terminal 4 Coal Export Terminal Project EPBC 2011/6029 (T4 Project) Response to Submissions and Preferred Project Report

1. Green and Golden Bell Frog

- The magnitude of the proposed impact on the Green and Golden Bell Frog (GGBF) is highly significant. The GGBF is listed as a vulnerable species under the EPBC Act. The Kooragang Island population is the largest population remaining in the Hunter region and one of the largest known populations of the species. Impacts to the GGBF would include permanent removal of the most important known area of breeding habitat for this population, from which frogs disperse to ephemeral wetlands across Kooragang/Ash Island. Other connected breeding and foraging habitat would also be permanently removed. Impacts from the T4 Project are likely to substantially reduce the size and ongoing viability of the GGBF population on Kooragang Island.

- The Department has consistently requested that PWCS seek to further reduce the impacts of the proposal on the GGBF.

- In addition, the GGBF is a critical ecosystem component of the Hunter Estuary Wetlands Ramsar site. The likely reduction in the size, extent, connectivity and breeding and dispersal capability of the GGBF population could threaten its continued occurrence in the Ramsar site, which could result in a breach of the Limits of Acceptable Change for the wetland. It is noted that the proponent has argued that the GGBF does not occur in the Ramsar site; however, they have not provided any evidence to support this.

- The proposed GGBF habitat corridor appears to have the potential to partly mitigate the loss of GGBF habitat from other parts of the T4 site and provide connectivity between known GGBF habitat which would otherwise be fragmented by the project. The design of the corridor should be further refined using the best available information in GGBF habitat creation to ensure that it provides the maximum possible benefit to a residual GGBF population. It is noted that this measure is proposed as a dispersal corridor only and not to provide breeding habitat.

- The proposed Brundee offset for the GGBF does not adequately offset the impacts of the proposal on the GGBF when assessed using the Department's Offsets Assessment Guide. The primary reasons for this are the high quality of the GGBF habitat at the impact site and the relatively low risk of loss of the GGBF habitat at the offset site. A reduction in impacts and/or additional offsets would be required to reach consistency with the Department's Environmental Offsets Policy.

2. Migratory shorebirds

- The currently proposed project will result in highly significant impacts on migratory shorebirds by removing habitat and having indirect impacts on two significant wetlands – Deep Pond and Swan Pond. It is noted that the preferred project proposes a greater impact on shorebird habitat than that originally proposed in the Environmental Assessment (EA) – due to the construction of the dredge return water channel within Swan Pond.

- Migratory shorebirds are a critical ecosystem component of the Hunter Estuary Wetlands Ramsar site. The proposal has the potential to contribute both to the decline in numbers of migratory shorebirds and the number of shorebird species that occur in the Ramsar wetland.

- The proposed wetland habitat creation at Tomago appears to have the potential to adequately compensate for the loss of shorebird habitat from the impact site. However, the habitat will need to be created and demonstrated to adequately offset the impacts of the proposal prior to the impact occurring to be acceptable as an offset.

3. Australasian Bittern

- The EA states that the proposal would have a significant impact on a "geographically distinct regional population" of the Australasian Bittern, which is listed as an endangered species under the EPBC Act.

- The proposed offsets do not adequately compensate for the loss of habitat for the Australasian Bittern when assessed using the Department's Offsets Assessment Guide. A reduction in impacts or additional offsets will be required to adequately offset the stated impacts of the proposal on this species.

- Given that the population being impacted is geographically distinct, it would be most appropriate if any additional offsets were located within the area occupied by the population.

- In addition, the Australasian Bittern is a critical ecosystem component of the Hunter Estuary Wetlands Ramsar site and is integral to the values of the wetland, since its nationally endangered status assisted the estuary in meeting the criteria for Ramsar listing.

4. Hunter Estuary Wetlands Ramsar site

- As noted above, the GGBF, Australasian Bittern and migratory shorebirds are all critical ecosystem components of the Hunter Estuary Wetlands Ramsar site, as described in the Ecological Character Description (ECD) for the wetland. The ECD of the Ramsar site identifies Limits of Acceptable Change (LAC) which, if exceeded, indicate unacceptable change to the ecological character of the wetland.

- Based on the information provided in the assessment documents, the proposal has the potential to exceed or contribute to an existing breach of the LAC for the GGBF and migratory shorebirds for the reasons detailed above.

- Impacts to a Ramsar wetland can only be offset by measures which provide compensatory benefits directly to the Ramsar wetland.

- The proposed Tomago offset for migratory species could be an acceptable offset for impacts on the ecological character of the Ramsar wetland due to its location in the Hunter estuary, if it was shown to compensate for the loss of migratory shorebird habitat prior to the impact occurring.

- The proposed GGBF offset at Brundee would not be an acceptable offset for any breach of the LAC for this species. The retention of a viable GGBF population on Kooragang Island, with connectivity to the breeding habitat in the Ramsar site, would be needed to ensure the LAC for this species was not permanently exceeded.