



EPBC Ref: 2011/6158

Mr David Kitto
Director
Mining and Industry Projects
NSW Department of Planning & Infrastructure
GPO Box 39
SYDNEY NSW 2001



Dear Mr Kitto

**Merit Review of Environmental Assessment
Cobbora Coal Project**

Thank you for your invitation to comment on the Environmental Assessment (EA) report for the Cobbora Coal Project proposal.

Please find the department's comments attached. This advice is provided on a without prejudice basis to assist in the environmental assessment of the proposed action and should not be used for any other purpose.

Please note that before an approval decision can be considered under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), further information is required about proposed offsets to compensate for the unavoidable impacts to matters of national environmental significance.

For the purpose of the EPBC Act, the adequacy of proposed offsets cannot be determined on NSW biobanking calculations alone. The proponent will need to ensure that the proposed offsets package is consistent with the new EPBC Act Environmental Offsets Policy (October 2012), which is available at:
<http://www.environment.gov.au/epbc/publications/environmental-offsets-policy.html>.

If you have any questions about the department's advice on the EA, please contact Melissa Masters on (02) 6274 2871 or email melissa.masters@environment.gov.au.

Yours sincerely

Mahani Taylor
Director, NSW Section
South-Eastern Australia Environment Assessments
19 November 2012





**Cobbora Coal Project
(EPBC 2011/6158)
Cobbora Holding Company Pty Ltd
Document Review Comments Sheet**

Reviewer: Department of Sustainability, Environment, Water, Population and Communities
Document Title: Environment Assessment – Cobbora Coal Project – September 2012
Date of Review: November 2012

General comments on the EA	Company Response
<p><i>Impacts on EPBC Act listed ecological communities</i> The EA and its attachments do not provide consistent hectare figures for impacts on EPBC Act listed ecological communities. For example, at B.1.5 (i.) (p. B.3) of Appendix B to the <i>Matters of National Environmental Significance report</i>, Appendix D to the <i>Terrestrial ecology report</i>, Appendix H, Volume 5 (MNES report) and p.17 of the <i>Agricultural Impact Assessment</i>, Appendix G, state that 14.1 ha of Box Gum Woodland (BGW) and 47.7 ha of Grey Box Woodland (GBW) will be removed from the study area. However, there are conflicting figures in other sections of the EA (e.g. Table 10.5, Part C, <i>Main report</i> pp. 264 – 265 and Table 6.1 in the MNES report). The department is working on the basis that the final proposed impact on these ECs is 12 ha of BGW and 54 ha of GBW, as stated in Table 6.1 of the MNES report. Please confirm if this is correct and update the EA accordingly. In addition, please provide an evidence-based discussion about why the extent of BGW, which was estimated to be approximately 360 ha in the referral, was only found to constitute approximately 12 ha in the EA.</p> <p><i>Derived native grasslands (relevant to EPBC Act listed BGW and GBW)</i> The EA provides little information about the existing quality of native grasslands as a result of prior land use. For example, to what extent have derived native grasslands been replaced with pastures, how (using what methods?) and where within the context of the study area? What were the climatic conditions during survey efforts for derived native grasslands – for example, had there been recent dry spells, drought or rain? Please clarify to what extent derived native grasslands persist within the study area, in what condition and where.</p> <p><i>Avoidance, mitigation and offsets</i> Measures to avoid, mitigate and offset impacts on EPBC Act listed species and ecological communities (ECs) must address each species or EC that is expected or likely to be significantly impacted by the proposed action.</p>	



References	Reviewer Comment	Company Response
Ecological communities: Appendix H – Terrestrial ecology assessment (including Appendix D – Matters of National Environmental Significance report)		
Sections 3.3.4 – 3.3.5	<p>Grassland surveys</p> <ul style="list-style-type: none"> ▪ Given that 1867 ha of woodland vegetation and 1640 ha of grasslands are proposed to be directly disturbed by the proposal, the department requests that the EA provide justification that the grassland survey effort (i.e. 10 plot surveys, 14 rapid plot assessments and 108 hrs of targeted flora searches) was sufficient to determine the extent of diversity within remnant patches of native grassland. Please provide a discussion about the known and likely extent of EPBC Act listed ECs within the study area in the form of derived native grasslands (also refer to comments on Sections 5.2.1 and 5.2.2). 	
Table 5.1	<ul style="list-style-type: none"> ▪ This Table should list Coolibah – Black Box Woodlands as an ecological community (EC) under the EPBC Act. 	
Section 5.2 and Section 4.3.1 (MNES report)	<p>Ecological communities</p> <ul style="list-style-type: none"> ▪ As per the EPBC Act assessment requirements, if an EC is not considered to be present (or is unlikely to be impacted), detailed information must be included in the EA to provide certainty that the EC is not present or will not be impacted. The EA must provide a discussion about all relevant ECs protected under the EPBC Act that have the potential to occur in the study area, including the results of survey findings and any potential impacts on those ECs. Therefore, please provide an assessment for the following ECs: <ul style="list-style-type: none"> i. Natural grasslands on basalt and fine-textured alluvial plains of northern NSW and southern QLD; ii. The Weeping Myall Woodlands; and iii. Coolibah – Black Box Woodlands of the Darling Riverine Plains and the Brigalow Belt South Bioregions (Coolibah – Black Box Woodlands). 	
Sections 5.2.1 and 5.2.2	<ul style="list-style-type: none"> ▪ To demonstrate that native grasslands on site do not meet the criteria for derived native grasslands associated with the EPBC Act listed BGW and GBW, the EA must provide evidence and reference/s to survey data. SEWPaC notes that summaries of baseline survey efforts have been provided, however actual survey results are also required. Please demonstrate how conclusions were reached based on survey findings about derived native grassland patch sizes and dominance/diversity of understorey species. 	



Threatened species: Appendix H – Terrestrial ecology assessment (including Appendix D – Matters of National Environmental Significance report)

<p>MNES report 6.0</p>	<p>Based on the information provided in the EA, the department considers that the following EPBC Act listed species are likely to be significantly impacted by the proposed action. Therefore, the proposed offset strategy must address impacts on these species, unless it can be clearly demonstrated that these species will not be significantly impacted by the loss or degradation of suitable breeding and/or foraging habitat.</p>	
<p>Table B.6</p>	<p>Spotted-tailed Quoll</p> <ul style="list-style-type: none"> ▪ The Spotted-tailed Quoll (STQ) is listed as endangered under the EPBC Act, rather than vulnerable. Please correct this in the EA. ▪ Based on the proposed removal of 1027 ha of suitable denning and foraging habitat for the STQ within the study area, SEWPaC considers that a significant impact on this endangered species is likely. Please provide information about: <ul style="list-style-type: none"> i. any additional local and regional records of the species; ii. the results of any additional surveys or assessments within the study area; iii. how many hectares of suitable foraging and denning habitat would be impacted and retained within the study area? iv. the regional context of STQ populations, habitat and connectivity. 	
<p>Table B.4</p>	<p>Swift Parrot and Regent Honeyeater</p> <ul style="list-style-type: none"> ▪ SEWPaC considers that the removal of 1,102 ha of potential foraging habitat for the Swift Parrot and Regent Honeyeater is likely to have a significant impact on these endangered species. Please provide information about: <ul style="list-style-type: none"> i. any local and regional records of the species; ii. the results of any additional surveys or assessments within the study area; iii. the proximity to potential or known breeding habitat for these species; and iv. how many hectares of <u>mature</u> foraging habitat is proposed to be retained within the study area. 	



<p>Table B.5</p>	<p>Australasian Bittern</p> <ul style="list-style-type: none">▪ SEWPaC considers that the loss of 9 ha of potential breeding and foraging habitat is likely to have a significant impact on the endangered Australasian Bittern. Please provide information about:<ul style="list-style-type: none">i. any local and regional records of the species;ii. the results of any additional surveys or assessments within the study area;iii. the quality of existing habitat for the species within the study area;iv. the proximity to any known breeding populations and/or critical habitat;v. measures proposed to avoid and mitigate impacts on the species, and measures proposed to offset any unavoidable residual impacts.	
<p>MNES report Table 4.4</p>	<p>Superb Parrot</p> <ul style="list-style-type: none">▪ Given that the breeding range of the Superb Parrot is mostly in the South Western Slopes of NSW, SEWPaC considers that the removal of 1,867 ha of suitable foraging habitat in the region is likely have a significant impact on this vulnerable species. Please provide a discussion about:<ul style="list-style-type: none">i. the regional importance of foraging habitat for the Superb Parrot in the study area (e.g. how far is the foraging habitat from known breeding areas for the species, what regional habitat corridors provide breeding and foraging habitat for the species and how will they be impacted by the proposal, how much suitable foraging habitat will be retained in the vicinity of the proposed action etc); andii. potential impacts on the species from the proposed removal of 1,867 ha of suitable foraging habitat and potential fragmentation of habitat corridors.	
<p>Table A.1 and Section 4.3.2</p>	<p><i>Philothea ericifolia</i></p> <ul style="list-style-type: none">▪ The EA must provide a discussion about potential impacts on the EPBC Act listed vulnerable <i>Philothea ericifolia</i>, which has a high likelihood of occurring within suitable habitat in the study area. This must include information about the adequacy of survey efforts, whether any further surveys are required, and if the species was found in the study area, whether it would constitute an important population. As per the EPBC Act assessment requirements, if a species is not considered to be present (or is unlikely to be impacted), detailed information must be included in the EA to support the conclusions.	



Biodiversity Offsets: (Appendix H, Appendix D – Matters of National Environmental Significance report)

<p>MNES report Section 6.4 and Section 7</p> <p>Biodiversity Offsets: Section 6.4 and Section 7 (MNES report)</p>	<ul style="list-style-type: none">▪ Offsets provided under the EPBC Act must be consistent with the new Commonwealth EPBC Act Environmental Offsets Policy (October 2012).▪ Please provide an assessment of how proposed biodiversity offset/s for the Cobbora Coal Project proposal will be consistent with the EPBC Act Environmental Offsets Policy and Offsets assessment guide. These tools are available at: http://www.environment.gov.au/epbc/publications/environmental-offsets-policy.html▪ Information about proposed offsets must include details of:<ul style="list-style-type: none">i. the size of all proposed offset site/s in hectares;ii. a map of the proposed offset area/s;iii. the quality of proposed offset site/s, including consideration of site condition, site context and species stocking rates (as described in the EPBC Act Environmental Offsets Policy);iv. the current status/risks/threats to MNES on the proposed offset site/s (e.g. how is the land currently being used? What is the current risk that MNES on site will be lost in the future? Any imminent proposals for development / change of land use? Any current trends in relation to site degradation?)v. the timeframe in which offset/s will be secured;vi. the timeframe in which offset/s will be managed;vii. how the proposed offset site/s will be managed, including how offset site quality will be maintained or improved. Please include information about how each site will be monitored in the long-term (to ensure the management aims will be achieved), detailed thresholds that will prompt corrective actions, and what those actions will be. Describe the type of management activities proposed as they relate to the relevant threats (e.g. weed control, fencing, hydrological regimes etc) and the timeframes for these management activities.viii. the expected future status/risks/threats to the MNES in the event offset/s are secured and managed as intended;ix. the estimated funds required to acquire and manage the proposed offset site/s; andx. the contingencies in place, should the proposed offset/s be unable to be secured.	
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