



EPBC Ref: 2011/6158

Stephen O'Donoghue
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Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Mr O'Donoghue

Cobbora Coal Project – Preferred Project Report and Response to Submissions

I write regarding the Preferred Project Report and Response to Submissions - February 2013 (the PRR) for the Cobbora Coal Project proposal (the proposal).

As you are aware, the Department of Sustainability, Environment, Water, Population and Communities (the department) has previously commented on the Environment Assessment (EA) for the Cobbora Coal Project proposal in July and November 2012. Those comments raised a number of concerns about the adequacy of the assessment documentation prepared to address the department's assessment requirements of 2 December 2011, concerning likely impacts on matters of national environmental significance (MNES). In particular, the department raised concerns about:

- the quality of information and lack of analysis applied to determine the extent of impacts on MNES;
- the need for the provision of measures to mitigate and offset impacts for each MNES likely to be impacted; and
- biodiversity offsets, which do not yet adequately address the Environmental Offsets Policy (Offsets Policy) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The department has now reviewed the PPR for the proposal and has outstanding concerns about the quality of information and analysis provided to determine the likely impacts to MNES. We are particularly concerned about the following issues, on which more detailed comments are provided in the attachment to this letter:

- The PPR fails to provide an adequate assessment of impacts on all MNES, such as (but not limited to) the Spotted-tailed Quoll (STQ) and woodland birds.
- The PPR does not provide adequate information about proposed measures to mitigate impacts on MNES.
- The PPR clearly states that the Updated Biodiversity Offset Strategy (the Strategy) does not meet the requirements of the EPBC Act Offsets Policy. In addition, the Strategy does not:
 - address all relevant MNES (such as threatened bat species, STQ and woodland birds); and
 - does not provide adequate detail about the offset proposal.

Given that concerns remain about the quality of the assessment documentation provided to date in accordance with requirements under the EPBC Act, the department may require further information and analysis before a recommendation can be made for a decision. The outstanding information requirements are described in the attachment to this letter.

The department's comments are provided in good faith to assist in achieving a robust decision in a timely manner. If you have any questions, please contact the project officer, Melissa Masters, by email to melissa.masters@environment.gov.au, or by telephone at (02) 6274 2871 and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mahani Taylor', with a stylized flourish at the end.

Mahani Taylor
Director
NSW Section
13 March 2013

Impacts on EPBC Act listed ecological communities

The department notes that inconsistencies remain concerning hectare figures for impacts on EPBC Act listed ecological communities (ECs). For example:

Table 9.2 (Vol 1, p.105) states that there will now be an impact on 18 ha of Box Gum Woodland (BGW) and 57 ha of Grey Box Woodland (GBW);

Table 9.7 (Vol 1, p.132) states that 12 ha of BGW and 54 ha of GBW will be impacted (although this is not clearly evident, as threatened ECs and species have not been clearly identified at Table 9.7);

The response to SEWPaC's submission regarding impacts on EPBC Act listed ECs (Vol 1, p.132) states that the total impact area is now 22 ha for BGW and 45 ha for GBW; and

Table 9.1 (Vol 1, p.103) states that the impact on BGW will be 13 ha and GBW 49 ha.

It is therefore still not clear what the proposed total impacts will be for EPBC Act listed ECs. Please amend the documentation to clearly state whether the proposed total impacts are 12, 13, 18 or 22 ha for BGW; and 45, 49, 54 or 57 ha for GBW.

Derived native grasslands (relevant to EPBC Act listed BGW and GBW)

The department is satisfied with the response to concerns raised about grassland surveys and potential impacts on derived native grasslands.

Other ecological communities

The department notes that potential impacts on *Natural grasslands on basalt and fine-textured alluvial plains of northern NSW and southern QLD, Weeping Myall Woodlands, and Coolibah – Black Box Woodlands of the Darling Riverine Plains and the Brigalow Belt South Bioregions*, have been addressed in the PPR.

Spotted-tailed Quoll – endangered

To determine the extent of likely impacts to the STQ from the proposed removal of 1,027 ha of suitable denning and foraging habitat, the department requested that the assessment documentation provide additional information and analysis about this species and its habitat at the proposal site and within the regional context. The department does not consider the brief assessment against the *EPBC Act Policy Statement 1.1 Significant Impact Guidelines: Matters of National Environmental Significance*, to be a comprehensive assessment of potential impacts on the Spotted-tailed Quoll (STQ). The assessment does not provide contextual information about habitat on-site in relation to broader habitat for the species in the region. Information provided at Section 4.3.6 of the EA that the STQ is 'known from Goonoo SCA and Goulbourn River NP' does not provide sufficient context about regional habitat connectivity or the importance of habitat for the species at the proposal site. The department also notes that concerns were raised by other parties in the submissions process about the adequacy of survey techniques for the STQ.

The EA states that the STQ has been recorded within the proposal area and that potential latrine and den sites are present in rocky outcrops and overhangs, however does not quantify the potential denning habitat on site. As the EA does not clearly demonstrate that the STQ will not be significantly impacted by the proposal, the department considers that a significant impact on this species is likely. Therefore, measures to mitigate and offset impacts on the STQ are required to meet the objectives of the EPBC Act.

Swift Parrot – endangered

To determine the extent of potential impacts to the Swift Parrot from the proposed removal of approximately 1,100 ha of foraging habitat, the department requested that the assessment documentation provide further information about the likely presence or absence of the species at the proposal site based on local and regional records of the species and the proximity to breeding habitat for the species. This assessment has not been provided.

As there is suitable foraging habitat for the species in the proposal area, and because a comprehensive assessment of potential impacts has not been provided to clearly demonstrate that the Swift Parrot will not be significantly impacted by the proposal, the department considers that significant impacts are likely. Therefore, measures to mitigate and offset impacts on the Swift Parrot are required to meet the objectives of the EPBC Act.

Regent Honeyeater – endangered

To determine the extent of potential impacts to the Regent Honeyeater from the proposed removal of approximately 1,100 ha of foraging habitat, the department requested that the assessment documentation provide further information about the likely presence or absence of the species at the proposal site based on local and regional records of the species and the proximity to breeding habitat for the species.

The PPR states that although the Regent Honeyeater was not recorded in the study area, it has been recorded in proximity to the study area. In addition, there are breeding records within close proximity of Dubbo, and suitable foraging habitat is present within the proposal area. Therefore, the department considers that the species is likely to utilise foraging habitat at the proposal site, and significant impacts are likely. Therefore, measures to mitigate and offset impacts on the Regent Honeyeater are required to meet the objectives of the EPBC Act.

Australasian Bittern – endangered

There are inconsistencies in the arguments presented in the Environmental Assessment (EA) and PPR for this species. The EA states that the proposal would remove potential breeding habitat (two large dams) for the Australasian Bittern, however the PPR states that no suitable breeding habitat occurs within the proposal area. Despite this, the department accepts the conclusion that the proposal is not expected to result in a significant impact to the Australasian Bittern, primarily because potential breeding and foraging habitat (farm dams and grassland) in the area is not likely to represent critical habitat for the species. However, habitat in the area is considered likely to be utilised for foraging and dispersal. Therefore, measures proposed to mitigate potential impacts on the species are required to be addressed in further detail.

Superb Parrot – vulnerable

To determine the extent of likely impacts to the Superb Parrot from the proposed removal of 1,867 ha of foraging habitat, the department requested that the assessment provide an analysis of the regional importance of foraging habitat at the proposal site, including information about regional habitat corridors and retention of foraging habitat on-site. However, although the PPR states that breeding habitat for the species is 'some 150 km from the PAA', there is little discussion about the regional context or importance of foraging habitat at the site.

As the Superb Parrot has been recorded at the proposal site, and it is acknowledged in the PPR that 'individuals observed in the Project area are likely to have been moving through to breeding areas', the department considers that the area is likely to provide important foraging and dispersal habitat for the species. Therefore, a significant impact is considered likely, and suitable offsets for this species must be provided, noting that the proposed removal of suitable foraging (woodland) habitat has been revised to 1,960 ha (PPR, Vol 1, p.100).

Philothea ericifolia

The department is satisfied with the response in the PPR for this matter.

Large-eared Pied Bat and South-Eastern Long-eared Bat

There are inconsistent figures in the PPR concerning the amount of habitat to be impacted for these species. For example, Table 9.4 (Vol 1, p.107) states that 1,500 ha of foraging and 16.7 km of cliff line (roosting and potential breeding) habitat for the Large-eared Pied Bat would be impacted by the proposal. However, Table 9.7 (Vol 1, p.135) indicates that 1,400 ha of foraging and 16 km of cliff line habitat would be impacted. There is also disparity in the Tables about whether 1,400 or 1,500 ha of foraging and breeding habitat would be impacted for the South-Eastern Long-eared Bat. In addition, Table 9.7 does not clearly identify the threatened species and communities proposed to be impacted. Therefore, the department is working on the basis that 1,500 ha of woodland habitat, and 16.7 km of cliff line habitat is proposed to be impacted.

Avoidance, mitigation and offsets

The assessment documentation provided to date does not clearly outline direct and indirect impacts on MNES; nor does it provide sufficient detail about proposed measures to mitigate and offset likely impacts. For example, little detail has been provided about proposed mitigation and offsets for listed threatened species and communities. It is understood that mitigation measures are proposed to be addressed via a Biodiversity Management Plan, however the proposed plan and measures are yet to be provided to the department for comment. This information is critical to inform the assessment.

Any residual impacts of the proposal, which cannot be avoided or mitigated, must be compensated for in accordance with the EPBC Act Environmental Offsets Policy (October 2012). Please refer to SEWPaC's comments on the EA (November 2012) for more detail about biodiversity offset information requirements under the EPBC Act.

