

Supplementary Director-General's Requirements

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

A delegate for the Commonwealth Minister for Sustainability, Environment, Water, Population and Communities has determined the Wallarah 2 Coal Project (EPBC 2012/6388), involving the development and operation of the Wallarah 2 underground coal mine, 4.7 kilometres north-west of Wyong, 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 EPBC Act listed threatened species including Charmhaven Apple (*Angophora inopina*) and Black-eyed Susan (*Tetratheca juncea*); listed as vulnerable under the Act, and Spotted-tailed Quoll (*Dasyurus maculatus maculatus*) and Giant Barred Frog (*Mixophyes iteratus*), listed as endangered under the Act. Significant impacts are also considered possible for a number of other species protected by the EPBC Act including, but not limited to, those listed in Appendix A.

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 Sustainability, Environment, Water, Population and Communities 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 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.

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 EPBC listed threatened species and their respective habitat, including but not limited to OEH's *Survey and assessment guidelines* (2009), available at: <http://www.environment.nsw.gov.au/threatenedspecies/surveymethodsfauna.htm> and the Department of Sustainability, Environment, Water, Population and Communities (DSEWPoC) species-specific survey guidelines for nationally threatened species, available at: <http://www.environment.gov.au/cgi-bin/sprat/public/sprat.pl>
 - b. a description of the distribution and abundance of threatened species, as well as suitable habitat (including breeding, foraging, roosting habitat, habitat critical to the survival of threatened species) within the site and in surrounding areas that may be impacted by the proposal. Specifically, this must include but not be limited to the Charmhaven Apple (*Angophora inopina*), Black-eyed Susan (*Tetratheca juncea*), Spotted-tailed Quoll (*Dasyurus maculatus maculatus*) and Giant Barred Frog (*Mixophyes iteratus*);
 - c. the regional distribution and abundance of suitable and potential habitat for EPBC listed threatened species surrounding the site.

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* (2009) that the controlled action has, will have or is likely to have on: relevant threatened species and/or threatened ecological communities listed under sections 18 and 18A of the EPBC Act. This includes relevant impacts such as vegetation removal, ground subsidence and alteration of hydrological processes on species including but not limited to Charmhaven Apple (*Angophora inopina*), Black-eyed Susan (*Tetratheca juncea*), Spotted-tailed Quoll (*Dasyurus maculatus maculatus*) and Giant Barred Frog (*Mixophyes iteratus*). 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. A description of the relevant impacts on the Charmhaven Apple (*Angophora inopina*) should include an analysis of the current distribution on the site, as well as the methods by which this was determined. It should also include direct, indirect, cumulative and facilitative impacts on the:
- a. extent of the Charmhaven Apple population, including connectivity of the species on the site and surrounding areas (specify quantity or area covered by the species in hectares or number of individuals);
 - b. quality or integrity of the Charmhaven Apple population including, but not limited to impacts such as, vegetation removal, assisting invasive species that are harmful to the species to become established, causing regular mobilisation of fertilisers, herbicides or other chemicals or pollutants into the habitat that may kill or inhibit the growth of species, or alteration of vegetation communities resulting in increased competition or shading of the species;
 - c. abiotic (non-living) factors (such as water, nutrients or soil) necessary for the survival of the Charmhaven Apple, including, but not limited to impacts such as, soil disturbance, alteration of shading/light levels, altering groundwater levels, or substantial alteration of surface water drainage patterns.

These impacts should be described for both the construction and operational phases of the controlled action.

6. A description of the relevant impacts on the Giant Barred Frog (*Mixophyes iteratus*) should include an analysis of the current and potential habitat on the site, as well as the methods by which this was determined. It should also include direct, indirect, cumulative and facilitative impacts on the:
- a. extent of the Giant Barred Frog population, including connectivity with other populations;
 - b. quality or integrity of the Giant Barred Frog population;
 - c. abiotic (non-living) factors (such as water, nutrients or soil) necessary for the survival of the Giant Barred Frog, including, but not limited to impacts such as, ground subsidence, altering groundwater levels, water quality or substantial alteration of surface water drainage patterns.
 - i. impacts associated with ground subsidence and alteration to ground and surface hydrology should be ascertained through adequate assessment and modelling studies.

These impacts should be described for both the construction and operational phases of the controlled action.

Proposed safeguards and mitigation measures

7. A description of feasible 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. These 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 species, suitable habitat and ecological communities;
 - c. any statutory or policy basis for the mitigation measures;

- d. the cost of the mitigation measures;
- e. 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;
- f. the name of the agency responsible for endorsing or approving each mitigation measure or monitoring program;
- g. identification of mitigation measures proposed to be undertaken by State governments, local governments or the proponent;
- h. any changes to the action which prevent or minimise relevant impacts on listed threatened species and communities.

Offsets

8. Should any residual impact exist that cannot be mitigated it may be necessary for offset measures to be considered in order to ensure the protection of matters of national environmental significance in perpetuity. If required, the department may negotiate offsets with you during the assessment phase. Reference should be made to the department's draft policy statement, including any revisions to this statement, at :
<http://www.environment.gov.au/epbc/publications/draft-environmental-offsets.html>
 - 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

9. 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

10. 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

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

Information sources

13. 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

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

APPENDIX A

Threatened flora:

- Bynoe's Wattle (*Acacia bynoeana*) – Vulnerable
- Leafless Tongue Orchid (*Cryptostylis hunteriana*) – Vulnerable
- Small-flower Grevillea (*Grevillea parviflora*) – Vulnerable
- Biconvex Paperbark (*Melaleuca biconvex*) - Vulnerable

Threatened fauna:

- Australasian Bittern (*Botaurus poiciloptilus*) – Endangered
- Grey-headed Flying Fox (*Pteropus poliocephalus*) – Vulnerable
- Large-eared Pied Bat (*Chalinolobus dwyeri*) - Vulnerable
- Littlejohn's Tree Frog (*Litoria littlejohni*) – Vulnerable
- Stuttering Frog (*Mixophyes balbus*) – Vulnerable