

Supplementary Director-General's Requirements

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

The delegate for the Commonwealth Minister for Sustainability, Environment, Water, Population and Communities has determined that the proposed action, to develop an open cut mineral sands mine and associated infrastructure near Hatfield NSW, a rail facility at Ivanhoe NSW, and to undertake upgrades to the roads between the mine and the rail facility, is a controlled action under section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act).

This action is likely to have a significant impact on migratory species, threatened species and ecological communities listed under the EPBC Act, the world heritage values of a declared World Heritage property, and the national heritage values of a National Heritage place.

The delegate has also determined that the project be assessed through an accredited assessment of Part 4 of the NSW *Environment Assessment and Planning Act 1979* (EP&A Act) - State Significant Development. In accordance with the accredited assessment process for this project, the assessment of the impacts of the action on the relevant matters of national environmental significance must be integrated into the assessment required for Part 4 of the EP&A Act.

The assessment must include enough information about the controlled action and its relevant impacts to allow the Commonwealth Minister for Sustainability, Environment, Water, Population and Communities, or his delegate, to make an informed decision about whether or not to approve the controlled action under the EPBC Act. To this end, provided below are the assessment requirements under the EPBC Act for input into the Director-General Requirements.

The following matters must be addressed in the assessment of the action:

Key Assessment requirements:

1. Impacts on threatened species and ecological communities listed under Sections 18 and 18A of the EPBC Act;
2. Impacts on migratory species listed under Section 20 and 20A of the EPBC Act;
3. Impacts on the world heritage values of a declared World Heritage property listed under Sections 12 and 15A of the EPBC Act;
4. Impacts on the national heritage values of a National Heritage place listed under section 15B and 15C of the EPBC Act;
5. Any relevant Commonwealth and State Government technical and policy guidelines;
6. Matters outlined in Schedule 4 of the *Environment Protection and Biodiversity Conservation Regulation 2000*, included in the requirements below; and
7. The requirements outlined below.

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 action

2. A description of the action, including:

- a. all the components of the action;
- b. the precise location of the preferred option for any works to be undertaken, structures to be built and 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. 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; and
 - iii. sufficient detail to make clear why any alternative is preferred to another.
- e. a description of long-term and short-term economic and social considerations regarding the project.

A description of the existing environment and relevant matters of national environmental significance

3. A description of the existing environment including:

Migratory species, threatened species and ecological communities

- a. a description of the nature, location and extent of all vegetation types occurring on the sites, immediately adjacent to the sites and in areas likely to be indirectly impacted by the action;
- b. a description and map of the nature, location and extent of likely suitable habitat, and known records for migratory species, threatened species and ecological communities (including breeding, foraging, roosting habitat, habitat critical to the survival of the relevant species and ecological communities, movement corridors and migration paths) within the sites and in surrounding areas that may be impacted by the proposal; and
- c. adequate surveys for relevant species, including detailed description of the methodology, timing, effort and results of all targeted surveys undertaken for all relevant matters, in accordance with any relevant guidelines and a description of any limitations and constraints of the surveys undertaken;

World Heritage and National Heritage values

- a. a description of the world heritage values and national heritage values of the Willandra Lakes Area;
- b. the research methodology to assess impacts to the values that has been used and if fieldwork has been undertaken, the process including: the dates the fieldwork was undertaken, the area covered, who did it and the methods employed;
- c. the identification of the relevant Indigenous people with rights or interests in the Willandra Lakes Area, and how these people were determined as the relevant Indigenous people; and
- d. a description of the consultation process undertaken to seek active involvement from the relevant Indigenous people with rights or interests. The Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC) strongly encourages the use of the *Ask First* principles and the principle of free prior informed consent when engaging with Indigenous communities.

An assessment of the relevant impacts of the action

4. An assessment of the relevant impacts of the action including:

- a. a detailed description and assessment of the nature and extent of all relevant impacts, including direct, indirect and facilitated impacts that the action will have or is likely to have on:
 - i. threatened species and ecological communities listed under sections 18 and 18A of the EPBC Act;
 - ii. migratory species listed under sections 20 and 20A of the EPBC Act.
 - iii. the world heritage values of a declared World Heritage property listed under Sections 12 and 15A of the EPBC Act; and
 - iv. the national heritage values of a National Heritage place listed under section 15B and 15C of the EPBC Act.
- b. whether any relevant impacts are likely to be unknown, unpredictable or irreversible;
- c. any technical data and other information used or needed to make a detailed assessment of the relevant impacts, including but not limited, to consultation with the relevant Indigenous people with rights or interests, and the results and conclusions of the groundwater modelling undertaken for the proposed Atlas-Campaspe mine as they relate to relevant matters of national environmental significance;
- d. a description of the consultation process undertaken to seek active involvement from the relevant Indigenous people with rights or interests. The department strongly encourages the use of the *Ask First* principles and the principle of free prior informed consent when engaging with Indigenous communities;
- e. if relevant Indigenous people with rights or interests have been involved in a particular study, have asserted a particular view or, have provided information that has influenced the findings of the assessment, please attach a letter from those people confirming that they understand what has been written in your report and agree that this is an accurate reflection of their view and/or involvement; and
- f. evidence that any advice has been taken into consideration. If you decide not to follow advice given in the interests of the protection of Indigenous heritage values a robust justification must be provided.

Please note, DSEWPaC's consideration of impacts to relevant Indigenous world and national heritage values will be guided by the *Ask First* principle that Indigenous people are the primary informants on the value of their heritage and how it is best preserved.

Proposed safeguards, mitigation and offset measures

5. A description of changes to the action and feasible mitigation measures, that are intended to avoid, minimise or compensate for relevant impacts, including:

- a. a description of how the action has been designed to avoid impacts to migratory species, threatened species and ecological communities, world and national heritage values;
- b. a consolidated list of mitigation measures proposed to be undertaken to prevent or minimise the relevant impacts of the action, before, during and after construction, during operation, decommissioning and rehabilitation;
- c. for proposed avoidance and mitigation measures relevant to Indigenous heritage values, evidence of consultation with relevant Indigenous people with rights or interest;
- d. a description, and an assessment of the expected or predicted effectiveness of, the mitigation measures, including a justification of the location and design of mitigation measures to be implemented to ensure their effectiveness. This analysis should be based on best available knowledge and baseline data for the relevant areas;
- e. a description of the objectives of the mitigation measures, thresholds for corrective actions, and the corrective actions to be implemented should these thresholds be exceeded;
- f. any statutory or policy basis for the mitigation measures;
- g. details of environmental management plans that set out the framework for continuing management, mitigation and monitoring programs for the relevant impacts of the action, including the person or agency responsible for implementing these programs and provisions for independent environmental auditing;
- h. the name of the agency responsible for endorsing or approving each mitigation measure or monitoring program;
- i. in the event that impacts cannot be avoided or mitigated, a description of any offsets to compensate for any predicted or potential residual impacts on migratory species, threatened species and ecological communities. This should be in accordance with the DSEWPac's Offsets Policy and include:
 - i. an assessment of how any proposed offset compensates for the residual impacts on migratory species, threatened species and ecological communities likely to remain following avoidance and mitigation measures to be implemented;
 - ii. the location of any proposed offset;
 - iii. the timing of the delivery of any offset; and
 - iv. how the offset will be secured and managed in perpetuity.

Other approvals and conditions

- 6. 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; and
 - d. a description of the monitoring, enforcement and review procedures that apply, or are proposed to apply, to the action.

Environmental record of person proposing to take the action

- 7. A description of the environmental record of the person proposing to take the action, including:

- a. 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:
 - i. the person proposing to take the action; and
 - ii. for an action for which a person has applied for a permit, the person making the application.
- b. If the person proposing to take the action is a corporation — details of the corporation's environmental policy and planning framework.

Information sources

8. For information given in the environment assessment, the assessment 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

9. A description of any consultation undertaken during the assessment, including:

- a. any consultation about the action, including:
 - i. any consultation that has already taken place;
 - ii. proposed consultation about relevant impacts of the action; and
 - iii. if there has been consultation about the proposed action — any documented response to, or result of, the consultation.
- b. identification of affected parties, including a statement mentioning any communities that may be affected and describing their views; and
- c. methodology and results of consultation with the relevant Indigenous people with rights or interests (as discussed above in sections 3, 4 and 5).

Economic and Social Matters

10. The economic and social impacts of the action, both positive and negative, must be analysed. This analysis must include:

- a. details of any public consultation activities undertaken, and their outcomes;
- b. projected economic costs and benefits of the project, including the basis for their estimation through cost/benefit analysis or similar studies; and
- c. employment opportunities expected to be generated by the project (including construction and operational phases).