

## **Guidelines for preparing Environment Impact Statement relevant to the EPBC Act for proposals being assessed under the NSW Bilateral.**

### **WESTERN SLOPES PIPELINE, NSW (EPBC 2017/7894)**

#### *Introduction*

1. These guidelines provide information on assessment requirements in relation to matters of national environmental significance (MNES) in accordance with the *New South Wales Bilateral Agreement relating to environmental assessment (February 2015)*. To meet requirements, the project must be assessed in the manner specified in Schedule 1 to that agreement including that the assessment documentation contains:
  - i. An assessment of all impacts that the action is likely to have on each matter protected by a provision of Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).
  - ii. Enough information about the proposal and its relevant impacts to allow the Commonwealth Minister to make an informed decision on whether or not to approve.
  - iii. Information addressing the matters outlined in Schedule 4 of the *Environment Protection and Biodiversity Conservation Regulations (2000)*.
2. In the circumstance that a proposal has been determined to be a 'controlled action' requiring full assessment, the decision will identify which MNES protected under the EPBC Act have triggered for assessment. These are called the controlling provisions. Proponents are only required to provide an assessment of protected matters under the controlling provisions that have been triggered. Following is the full list of possible controlling provisions:
  - World Heritage Properties (sections 12 and 12A)
  - National Heritage Places (sections 15B and 15C)
  - wetlands of international importance (sections 16 and 17B)
  - listed threatened species and communities (sections 18 and 18A)
  - listed migratory species (sections 20 and 20A)
  - protection of the environment from nuclear actions (sections 21 and 22)
  - A water resource, in relation to coal seam gas development and large coal mining development (sections 24D and 24E)
  - Commonwealth marine areas (sections 23 and 24A) (for actions outside the Commonwealth marine area that may impact the environment in the Commonwealth marine area)
  - The environment on Commonwealth land (for actions outside Commonwealth Land that may impact on the environment on Commonwealth Land).
3. The proponent must consider each of the protected matters under the triggered controlling provisions that may be significantly impacted by the development. The proponent will be informed in the assessment requirements issued by the Department of Planning and Environment, which protected matters i.e. species and communities, World Heritage values etc, are considered likely to be significantly impacted. Note that this may not be a complete list and it is the responsibility of the proponent to undertake an analysis of the significance of the relevant impacts and ensure all protected matters that are likely to be significantly impacted are assessed for the Commonwealth Minister's consideration.

### *Relevant Regulations*

4. Assessment documentation prepared for the purposes of approval under the EPBC Act must, in addition to providing sufficient information for a decision, address the matters outlined in Schedule 4 of the *Environment Protection and Biodiversity Conservation Regulations 2000 (Cth)*. The following includes requirements that have been identified as additional to the requirements prescribed in Schedule 2 of the NSW *Environmental Planning and Assessment Regulations 2000*. Proponents are advised to check that requirements in Schedule 4 of the EPBC Regulations have been appropriately addressed. [http://www.austlii.edu.au/au/legis/cth/consol\\_reg/epabcr2000697/](http://www.austlii.edu.au/au/legis/cth/consol_reg/epabcr2000697/)

### **General Requirements**

#### *Project Description*

5. The title of the action, background to the development of the action and current status.
6. The precise location and description of all works to be undertaken, structures to be built or elements of the action (including the final pipeline alignment, above-ground infrastructure and facilities, and access tracks) that may have impacts on MNES.
7. The footprint of all works, structures and elements of the action must be identified by co-ordinates and/or map(s) at an appropriate scale.
8. How the action relates to any other actions that have been, or are being taken in the region affected by the action.
9. 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 on MNES.

#### *Impacts*

10. The EIS must include a description of the environment and land uses within the pipeline alignment (i.e. 30m wide easement/right-of-way) and study area (i.e. 10km wide buffer around pipeline alignment as per referral boundary), and other surrounding areas that may be affected by the action.
11. The EIS must include an assessment of the relevant impacts of the action on the matters protected by the controlling provisions. Impacts during the construction, operational and the decommissioning phases of the project must be addressed, including:
  - i. a description and detailed assessment of the nature and extent of the likely direct, indirect and consequential impacts, including short term and long term relevant impacts;
  - ii. a statement whether any relevant impacts are likely to be unknown, unpredictable or irreversible;
  - iii. analysis of the significance of the relevant impacts; and
  - iv. any technical data and other information used or needed to make a detailed assessment of the relevant impacts.
12. The EIS must identify each EPBC-listed threatened species and community likely to be significantly impacted by the action.
13. For each of the EPBC-listed threatened species and communities likely to be significantly impacted by the action, the EIS must provide a separate:
  - i. description of the habitat (including suitable breeding habitat, suitable foraging habitat, important populations and habitat critical for survival), with consideration of, and reference to, any relevant Commonwealth guidelines and policy statements including listing advice, conservation advice and recovery plans;

- ii. details of the scope, timing and methodology for studies or surveys used and how they are consistent with (or justification for divergence from) published Australian Government guidelines and policy statements;
  - iii. for species, map(s) showing the location of previous and current records of the species and the location and extent of suitable habitat within the pipeline alignment and study area. The EIS must clearly define the vegetation types (PCTs/BVTs) and vegetation zones that provide suitable habitat for threatened species.
  - iv. for communities, map(s) showing the location and extent of the ecological community within the pipeline alignment and study area. The EIS must clearly define the vegetation types (PCTs/BVTs) and vegetation zones that are equivalent to EPBC-listed ecological communities.
  - v. description of the relevant impacts of the action having regard to the full national extent of the species or community's range;
  - vi. description of the specific proposed avoidance and mitigation measures to deal with relevant impacts of the action;
14. The EIS must address all EPBC-listed threatened species and communities that are known to occur, likely to occur or have potential to occur within the study area as identified in the referral form (section 2.4.1) and **Appendix 1**.
15. If the conclusion is made that the proposed action is unlikely to have a significant impact on a threatened species or ecological community, the EIS must provide evidence why they will not be significantly impacted in accordance with the *Matters of National Environmental Significance - Significant impact guidelines 1.1* (2013) EPBC Act.
16. The EIS should identify and address cumulative impacts, where potential project impacts are in addition to: (1) existing impacts of other activities; and (2) possible impacts from known potential future expansions or developments by the proponent and other proponents in the region (particularly, the Narrabri Gas Project).

*Avoidance, mitigation and offsetting*

17. The EIS must provide information on proposed avoidance and mitigation measures to manage the relevant impacts of the action. Where appropriate, each project phase (construction, operation, decommission) should be addressed separately, including:
- i. a description, and an assessment of the expected or predicted effectiveness of the mitigation measures,
  - ii. any statutory or policy basis for the mitigation measures, or available best-practice;
  - iii. the likely cost of the proposed mitigation measures;
  - iv. an outline of an environmental management plan that sets out the framework for continuing management, mitigation and monitoring programs for the relevant impacts of the action, including any provisions for independent environmental auditing;
  - v. the name of the agency responsible for endorsing or approving each mitigation measure or monitoring program.
18. The EIS must include any feasible alternatives to the action to the extent reasonably practicable, including a comparative description of the impacts of each alternative on threatened species and

communities, and sufficient detail to make clear why any alternative is preferred to another. The short, medium and long-term advantages and disadvantages of the options should be discussed.

19. The EIS must identify the significant residual adverse impacts likely to occur after the proposed activities to avoid and mitigate all impacts on EPBC protected matters are taken into account;
20. Where a significant residual adverse impact to a relevant protected matter is considered likely, the EIS must provide information on the proposed offset strategy, including discussion of the conservation benefit associated with the proposed offset strategy.
  - i. a description of any offsets proposed to address residual adverse significant impacts and how these offsets will be established.
  - ii. details of how the current published NSW Framework for Biodiversity Assessment (FBA) has been applied in accordance with the objects of the EPBC Act to offset significant residual adverse impacts;
  - iii. details of the offset package to compensate for significant residual impacts in accordance with the FBA and/or mapping and descriptions of the extent and condition of the relevant habitat and/or threatened communities occurring on proposed offset sites;
  - iv. if BBAM is used the EIS must include the credit report and a reference table for protected matters as set out at **Appendix 2**.

[Note: For the purposes of approval under the EPBC Act, it is a requirement that offsets directly contribute to the ongoing viability of the specific protected matter impacted by a proposed action and deliver an overall conservation outcome that improves or maintains the viability of the MNES i.e. 'like for like'. In applying the FBA, residual impacts on EPBC Act listed threatened ecological communities must be offset with Plant Community Type(s) (PCT) that are ascribed to the specific EPBC listed ecological community. PCTs from a different vegetation class will not generally be acceptable as offsets for EPBC listed communities.]

21. Any significant residual impacts not addressed by the FBA may need to be addressed in accordance with the Environment Protection and Biodiversity Conservation Act 1999 Environmental Offset Policy. <http://www.environment.gov.au/epbc/publications/epbc-act-environmental-offsets-policy>.
22. For each of the relevant matters likely to be significantly impacted by the action, the EIS must provide reference to, and consideration of, relevant Commonwealth guidelines and policy statements including any:
  - i. conservation advice or recovery plan for the species or community,
  - ii. relevant threat abatement plan for a process that threatens the species or community
  - iii. strategic assessment (i.e. strategic assessment of some NSW road and traffic management works)

[Note: the relevant guidelines and policy statements for each species and community are available from the Department of the Environment Species Profiles and Threats Database.

<http://www.environment.gov.au/cgi-bin/sprat/public/sprat.pl>]

### **Other approvals and conditions**

23. Information in relation to any other approvals or conditions required must include the information prescribed in Schedule 4 Clause 5 (a) (b) (c) and (d) of the EPBC Regulations 2000.

### **Other information**

24. The EIS must contain details of any consultation about the action that has already taken place, and any documented response to, or result of, the consultation.
25. The EIS must contain details of the projected economic costs and benefits of the project, including the basis for their estimation through cost/benefit analysis or similar studies.
26. The EIS must include a discussion on how consideration has been given to the objects of the EPBC Act, the principles of ecologically sustainable development, and the precautionary principle.

### **Environmental Record of person proposing to take the action**

27. Information in relation to the environmental record of a person proposing to take the action must include details as prescribed in Schedule 4 Clause 6 of the EPBC Regulations 2000.

### **Information Sources**

28. For information given in an EIS, the EIS must state the source of the information, how recent the information is, how the reliability of the information was tested; and what uncertainties (if any) are in the information.

### **REFERENCES**

- *Environment Protection and Biodiversity Conservation Act 1999* - section 51-55, section 96A(3)(a)(b), 101A(3)(a)(b), section 136, section 527E
- *Environment Protection and Biodiversity Conservation Regulations 2000 Schedule 4*
- NSW Assessment Bilateral Agreement (2015) - Item 18.1, Item 18.5, Schedule 1
- *Matters of National Environmental Significance - Significant impact guidelines 1.1* (2013) EPBC Act
- *Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy* October 2012

**RELEVANT THREATENED SPECIES AND ECOLOGICAL COMMUNITIES**

The controlled action is considered likely to have a significant impact on the following listed threatened species and ecological communities:

- Brigalow (*Acacia harpophylla* dominant and co-dominant) – endangered
- Weeping Myall Woodlands – endangered
- Coolibah - Black Box Woodlands of the Darling Riverine Plains and the Brigalow Belt South Regions – endangered
- Grey Box (*Eucalyptus microcarpa*) Grassy Woodlands and Derived Native Grasslands of South-eastern Australia – endangered

The controlled action is considered to potentially have a significant impact on the following listed threatened species and ecological communities:

- Australasian Bittern (*Botaurus poiciloptilus*) – critically endangered
- Australian Painted Snipe (*Rostratula australis*) – endangered
- Painted Honeyeater (*Grantiella picta*) – vulnerable
- Mallefowl (*Leipoa ocellata*) – vulnerable
- Red-lored Whistler (*Pachycephala rufogularis*) – vulnerable
- Superb Parrot (*Polytelis swainsonii*) – vulnerable
- Corben's Long-eared Bat (*Nyctophilus corbeni*) – vulnerable
- Koala (*Phascolarctos cinereus*) combined populations of Qld, NSW and ACT – vulnerable
- Pilliga Mouse (*Pseudomys pilligaensis*) – vulnerable
- Five-clawed Worm-skink (*Anomalopus mackayi*) – vulnerable
- Trout Cod (*Maccullochella macquariensis*) – endangered
- Murray Cod (*Maccullochella peelii*) – vulnerable
- *Acacia curranii* (Curly-bark Wattle) – vulnerable
- *Androcalva procumbens* – vulnerable
- *Austrostipa metatoris* – vulnerable
- *Dicanthium setosum* (Bluegrass) – vulnerable
- *Eriocaulon australasicum* (Austral Pipewort) – endangered
- *Lepidium aschersonii* (Spiny Peppergrass) – vulnerable
- *Swainsona murrayana* (Slender Darling-pea) – vulnerable
- *Tylophora linearis* – endangered

TABLE 1: BBAM CREDIT REPORT / PROTECTED MATTERS REFERENCE TABLE

| EPBC species or community | Extent of impact (ha or individuals) | PCTs | Credits Required |
|---------------------------|--------------------------------------|------|------------------|
|                           |                                      |      |                  |
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