

## ATTACHMENT A

### Commonwealth Department of Environment and Energy assessment requirements

#### Newcastle Gas Fired Power Station Project (EPBC 2019/8425) (SSI 9837)

##### **Introduction**

1. On 15 August 2019, a delegate of the Federal Minister for the Department of the Environment and Energy (DoEE) determined that the Newcastle Power Station Project was a controlled action under section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The EPBC Act controlling provisions for the proposed action are:
  - i. wetlands of international importance (Ramsar wetlands) (sections 16 and 17B).
2. The proposed action will be assessed using an accredited process for the purposes of the EPBC Act. The assessment documentation must include:
  - 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 EPBC Act;
  - ii. enough information about the proposal and its relevant impacts to allow the Federal Minister to make an informed decision on whether or not to approve; and
  - iii. information addressing the matters outlined in Schedule 4 of the *Environment Protection and Biodiversity Conservation Regulations 2000* (EPBC Regulations).
3. The proponent must undertake an assessment of all protected matters that may be impacted by the development under the controlling provisions identified in paragraph 1. The DoEE considers that the proposed action has the potential to significantly impact the following:
  - i. the physico-chemical status of the Hunter Estuary Wetlands Ramsar site; and
  - ii. the habitat or lifecycle of native species dependent on the Hunter Estuary Wetlands Ramsar site.
4. The proponent must consider each of the protected matters under the triggered controlling provisions that may be impacted by the action. 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 that all protected matters that are likely to be significantly impacted are assessed for the Commonwealth Minister's consideration.

##### **General Requirements**

###### *Relevant Regulations*

5. The Environmental Impact Statement (EIS) must address the matters outlined in Schedule 4 of the EPBC Regulations and the matters outlined below in relation to the controlling provisions.

###### *Project Description*

6. The title of the action, background of the action and current status.
7. The precise location and description of all works to be undertaken (including associated offsite works and infrastructure), structures to be built or elements of the action that may have impacts on Matters of National Environmental Significance (MNES).
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.

### *Existing environment*

10. The EIS must identify and describe the location, extent and ecological characteristic of the Ramsar wetland that may be impacted by all stages of the proposed action.
11. If surveys are undertaken to support analysis in the EIS, they must include the survey results, including details of the scope, timing and methodology for studies or surveys and how they are consistent with (or justification for divergence from) published Commonwealth guidelines and policy statements.
12. A description and quantification of habitat (including suitable breeding habitat, suitable foraging habitat, important populations and habitat critical for survival of species), with consideration of, and reference to, any relevant Commonwealth guidelines and policy statements including listing advices, conservation advices and recovery plans and threat abatement plans.
13. Maps displaying the above information in paragraphs 11 and 12, overlaid with the anticipated impacts from the proposed action.

### *Impacts*

14. The EIS must include an assessment of the relevant impacts<sup>1</sup> of the action on the matters protected by the controlling provisions, 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.

### *Avoidance, mitigation and offsetting*

15. For each of the relevant matters protected that are likely to be significantly impacted by the action, the EIS must provide information on proposed avoidance and mitigation measures to manage the relevant impacts of the action including:
  - i. a description, and an assessment of the expected or predicted effectiveness of the mitigation measures,
  - ii. any statutory policy basis for the mitigation measures;
  - iii. the cost of the 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.
16. 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.
17. For each of the relevant matters likely to be impacted by the action the EIS must provide reference to, and consideration of, relevant Commonwealth guidelines and policy statements including any:
  - i. management plan for Ramsar wetland; and
  - ii. any strategic assessment.

### ***Specific Risks***

Key risks from the Commonwealth perspective include:

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<sup>1</sup> Relevant impacts are those impacts likely to significantly impact on any matter protected under the EPBC Act.

- the risk of groundwater contamination from the site impacting on the Hunter Estuary Wetlands;
- the ground water connectivity to the Hunter Estuary Wetlands Ramsar site; and
- the likely impacts of the Hunter Estuary Wetlands Ramsar site if groundwater contamination occurs.

### **Key Issues**

#### **Hunter Estuary Wetlands**

18. Information is required to determine the extent of the potential surface water impacts on the downstream Hunter Estuary Wetlands Ramsar site, including but not limited to:
  - i. how stormwater will be treated, how much will be released into the environment and whether it will be monitored for contaminants;
  - ii. the extent of acid sulphate soil occurrence and how soils will be managed to avoid impacts to the Hunter Estuary Wetlands Ramsar site; and
  - iii. results from the proposed surface water impact assessment and groundwater technical study.
19. The EIS must include a description of the controls that will be put in place to manage the impacts of the groundwater and surface water contamination on the Hunter Estuary Wetlands Ramsar site and include an analysis of how effective each of the controls will be to ensure the ecological character of the Hunter Estuary Wetlands Ramsar site is maintained.
20. Further information is required to determine the extent of the impacts of the proposed action on:
  - i. habitat, such as saltmarsh and mangroves or native species such as Green and Golden Bell Frog or Migratory Shorebirds, that are dependent on the Hunter Estuary Wetlands Ramsar site, which could be impacted indirectly if water quality (through both groundwater and surface water contamination) is affected as a result of the proposed action; and
  - ii. wetland species indirectly impacted as a result of noise during construction or the ongoing operation of the power plant.
21. The EIS must include a description of the controls and measures that will be put in place to manage impacts from the proposed action of the habitat and lifecycles of the native species dependent on the Ramsar site.

#### **Other approvals and conditions**

22. 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.

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

23. 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**

24. 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.