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Mr Brett McLennan
Director
EMGA Mitchell McLennan
Ground Floor Suite 01
20 Chandos Street
ST LEONARDS NSW 2065

Our ref: 10/14864

Dear Mr McLennan

Supplementary Director-General's Requirements for the Port Waratah Coal Services Terminal 4 (MP 10_0215)

I refer to the Director-General's requirements which were issued for the above project on 14 March 2011.

As you are aware, the project has been declared a Controlled Action under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* for likely impacts on wetlands of international importance, listed threatened species and communities and listed migratory species. The Department of Sustainability, Environment, Water, Population and Communities has advised that the project will be assessed through an accredited assessment. Accordingly, Port Waratah Coal Services is required to undertake an environmental impact assessment of the project to satisfy the requirements of both NSW and Commonwealth legislation.

To ensure that sufficient information is provided to enable an appropriate level of assessment of relevant matters of national environmental significance, the Director-General has issued supplementary requirements for the Environmental Assessment under section 75F(3) of the *Environmental Planning & Assessment Act 1979*. A copy of the supplementary requirements is attached.

You must ensure that the Environmental Assessment adequately addresses the Director-General's requirements issued on 14 March 2011 (including the clarification provided by the Department in its letter dated 17 May 2011 relating to the assessment of noise and vibration and traffic, transport and access issues), and the supplementary requirements attached to this letter.

Your contact officer for this proposal is Ms Rebecca Newman, who can be contacted on the above contact details. Please mark all correspondence regarding the proposal to the attention of the contact officer.

Yours sincerely

Glenn Snow
A/Director
Infrastructure Projects
as delegate for the Director-General

Supplementary Director-General's Requirements

Section 75F(3) of the *Environmental Planning and Assessment Act 1979*

On 5 August 2011, a referral decision was made by the Department of Sustainability, Environment, Water, Population and Communities that the Terminal 4 Coal Export Terminal Project, Kooragang Island, NSW (EPBC 2011/6029) is a controlled action and that the project will require assessment and approval under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) before it can proceed. The controlling provisions for this project are:

- Wetlands of international importance
- Listed threatened species and communities
- Listed migratory species

On 21 August 2011, the decision was made by the Department of Sustainability, Environment, Water, Population and Communities that this project will be assessed by accredited assessment under Part 3A of the *Environmental Planning & Assessment Act 1979* (EP&A Act).

The Director-General's requirements (DGRs) for the project issued on 14 March 2011 outline the requirements for an Environmental Assessment (EA) of the project. In addition to the DGRs of 14 March 2011, the following requirements must also be included in the EA to assess the project under the EPBC Act.

The assessment should include enough information about the controlled action and its relevant impacts to allow the Commonwealth Minister for Sustainability, Environment, Water, Population and Communities to make an informed decision as to whether or not to approve the controlled action under the EPBC Act.

These requirements are to be integrated into the assessment required for Part 3A of the EP&A Act. The following matters in the EPBC Act and schedule 4 of the *Environment Protection and Biodiversity Conservation Regulations 2000* should be considered.

Proponent

1. Please include the postal address of the designated proponent.

General requirements

2. The EA must include:
 - The title of the action;
 - The postal address of the designated Proponent;
 - The background to the development of the action;
 - Details as to 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; and
 - The consequences of not proceeding with the action.
3. The detailed description of the project must include:
 - The precise location of any works to be undertaken, structures to be built or elements of the action that may have relevant impacts;
 - How the works will be undertaken and design parameters for those aspects of the structures or elements of the action that may have relevant impacts;
 - Any other requirements for approval or conditions that apply, or that the proponent reasonably believes are likely to apply, to the proposed action; and

- To the extent reasonably practicable, any feasible alternatives to the action, including: (i) if relevant, the alternative to taking no action; (ii) a comparative description of the impacts of each alternative on the matters protected by the controlling provisions of EPBC 2011/6029 for the action; (iii) sufficient detail to make clear why any alternative is preferred to another.

Key assessment requirements

4. For *Soils and Contamination, Water Quality and Hydrological Impacts, Ecological Impacts and Noise and Vibration Impacts*, the EA must include:
 - A detailed assessment of the nature and extent of the likely short term and long term relevant impacts;
 - A statement whether any relevant impacts are likely to be unknown, unpredictable or irreversible;
 - Analysis of the significance of the relevant impacts;
 - A description, and an assessment of the expected or predicted effectiveness of, the mitigation measures and/or offsets to compensate for any habitat loss/fragmentation, disturbance to foraging and roosting behaviour or reductions in water quality and hydrological changes;
 - Any statutory or policy basis for the mitigation measures;
 - The cost of mitigation measures;
 - 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;
 - The name of the agency responsible for endorsing or approving each mitigation measure or monitoring program; and
 - A consolidated list of mitigation measures proposed to be undertaken to prevent, minimise or compensate for the relevant impacts of the action, including mitigation measures proposed to be taken by local governments or the proponent.

5. For *Water Quality and Hydrological Impact*, the EA must:
 - Assess impacts to the Hunter Estuary Wetland (HEW) Ramsar site and the green and golden bell frog (*Litoria aurea*) as a result of a reduction in water quality and hydrological changes;
 - Assess any potential impacts to groundwater recharge or discharge, and any consequences to the HEW Ramsar site;
 - Provide further information on surface water management, including run-off timing and volumes, water quality issues, and how turbidity caused by coal fines will be managed in site run-off;
 - Include a description and maps of all surface water and groundwater sources relevant to the project, and a delineation of their associated *National Water Quality Management Strategy* (NWQMS) environmental values. (NWQMS available at <http://www.environment.gov.au/water/policy-programs/nwqms>);
 - Include baseline data and information (or an undertaking to carry out the necessary investigations should the data not exist) on current water quality, including reference and test site data;
 - Discuss water quality issues, including planning, monitoring and management informed by the NWQMS; and
 - Include a comprehensive water quality risk management and monitoring plan for the project, including management triggers to detect potential issues in a timely manner and to avoid, minimise and ameliorate adverse impacts.

6. For *Ecological Impacts*, the EA must include:
- Ecological surveys must include, but are not limited to, targeted surveys to determine the presence, use or otherwise of the project area by migratory shorebirds, green and golden bell frog (*Litoria aurea*), knotweed (*Persicaria elatior*), grey-headed flying-fox (*Pteropus poliocephalus*) and Australasian bittern (*Botaurus poiciloptilus*); and
 - Discuss the management of increased shipping activity that may directly or indirectly arise as a result of the construction and operational activities of the project and outline appropriate mitigation measures to minimise the potential for cetacean ship strike.

Consultation requirements

7. The EA must include:
- Details of any consultation that has already taken place, and if there has been consultation about the proposed action – any documented response to, or result of, the consultation.

Other approvals and conditions

8. The EA must include:
- 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;
 - A statement identifying any additional approval that is required; and
 - 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

9. The EA must include:
- 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 person proposing to take the action; and (b) for an action for which a person has applied for a permit, the person making the application; and
 - If the person proposing to take the action is a corporation – details of the corporation's environmental policy and planning framework.

Information sources

10. For information given in the EA, the EA must state:
- The source of information;
 - How recent the information is;
 - How the reliability of the information was tested; and
 - What uncertainties (if any) are in the information.