

**GUIDELINES FOR THE CONTENT OF A DRAFT  
PUBLIC ENVIRONMENT REPORT**

**North Tuncurry Mixed Use Development, NSW  
(EPBC Reference: 2011/5954)**

*Environment Protection and Biodiversity Conservation Act  
1999*

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## PREAMBLE

Landcom and the Crown Lands Division of Department of Primary Industry propose to construct a mixed use development at the Lakes Way in North Tuncurry, New South Wales (NSW).

The proposed action was referred under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) on 10 May 2011. On 6 June 2011, a delegate for the Australian Government Minister for Sustainability, Environment, Water, Population and Communities (the Minister) determined that the proposed action requires approval under the EPBC Act.

The proposed action has the potential to have a significant impact on the following matter, which is protected under Part 3 of the EPBC Act:

- Listed threatened species and communities (sections 18 & 18A).

The delegate of the Minister also determined, on 6 June 2011, that the proposed activity be assessed by a Public Environment Report (PER).

Information about the action and its relevant impacts, as outlined below, is to be provided in the PER. This information should be sufficient to allow the Minister to make an informed decision on whether or not to approve, under Part 9 of the EPBC Act, the taking of the action for the purposes of each controlling provision.

## GENERAL ADVICE ON GUIDELINES

### **1 GENERAL CONTENT**

The PER should be a stand-alone document that primarily focuses on listed threatened species and ecological communities. It should contain sufficient information to avoid the need to search out previous or supplementary reports.

The PER should enable interested stakeholders and the Minister to understand the environmental consequences of the proposed development on matters of national environmental significance (NES). Information provided in the PER should be objective, clear, and succinct and where appropriate, be supported by maps, plans, diagrams or other descriptive detail. The body of the PER is to be written in a clear and concise style that is easily understood by the general reader. Technical jargon should be avoided wherever possible. Cross-referencing should be used to avoid unnecessary duplication of text.

Detailed technical information, studies or investigations necessary to support the main text should be included as appendices to the PER. It is recommended that any supporting documentation and studies, reports or literature, from which information has been extracted and which are not normally available to the public, be made available at appropriate locations during the period of public display of the PER. The proponent should also make the PER and supporting information available on the Internet.

If it is necessary to make use of material that is considered to be of a confidential nature, the Proponent should consult with Department of Sustainability, Environment, Water, Population and Communities (the Department) on the preferred presentation of that material, before submitting the draft PER to the Minister for approval for publication.

The level of analysis and detail in the PER should reflect the nature and extent of the expected and potential impacts on the environment. Any and all unknown variables or assumptions made in the assessment must be clearly stated and discussed. The extent to which the limitations, if any, of available information may influence the conclusions of the environmental assessment should be discussed.

The Proponent should ensure that the PER assesses compliance of the action with the principles of Ecologically Sustainable Development as set out in the EPBC Act, and the objects of the Act (refer to Attachment 1). A copy of Schedule 4 of the EPBC Regulations *Matters to be addressed by draft Public Environment Report and EIS*, is also enclosed at Attachment 2.

After receiving the Ministers approval to publish the report, the Proponent is required to make the draft PER available for a period of public comment. Specific instructions regarding publication requirements will be provided as part of the Minister's direction to publish.

## 2      **FORMAT AND STYLE**

The PER should comprise three elements, namely:

- an executive summary;
- the main text of the document; and
- appendices containing detailed, supporting technical information and other information that can be made publicly available.

The guidelines have been set out in a manner that may be adopted as the format for the PER. This format need not be followed where the required information can be more effectively presented in an alternative way. However, each of the elements must be addressed to meet the requirements of the EPBC Act and Regulations.

The PER should be written so that any conclusions reached can be independently assessed. To this end all sources must be appropriately referenced using the Harvard standard. The reference list should include the address of any Internet “web” pages used as data sources.

The main text of the PER should include a list of abbreviations, a glossary of terms and appendices containing:

- a copy of these guidelines;
- a list of persons and agencies consulted during the PER;
- contact details for the Proponent; and
- the names, qualifications and work done by all persons involved in preparing the PER.

High resolution maps, diagrams and other illustrative material should be included in the PER where appropriate. The PER should be produced on A4 size paper capable of being photocopied, with maps and diagrams on A4 or A3 size and in colour where possible.

The PER information and associated data must be provided in both hardcopy and electronic form to the Department. The proponent should consider the format and style of the document so that it is appropriate for publication on the Internet. The capacity of the website to store data and display the material may have some bearing on how the document is presented.

## SPECIFIC CONTENT

### **1 GENERAL INFORMATION**

This should provide the background and context 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(s) of the action;
- d) the location of the action;
- e) the background to the development of the proposal;
- 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 proposed action;
- h) legislative background for the proposal, including:
  - i. the matters of national environmental significance protected under Part 3 of the EPBC Act and any other requirements and approvals needed under the EPBC Act; and
  - ii. other relevant legislation, both Commonwealth and State;
- i) the consequences of not proceeding with the action.

### **2 DESCRIPTION OF THE ACTION**

This should include, but is not limited to, comprehensive detail and informative map(s) of:

- a) all components of the proposed action, including actions to be undertaken during the preparation, construction and operation phases of the development;
- b) the precise location and area in hectares of all components of the action including proposed zoning, proposed allotments, any works to be undertaken, structures to be built and all other elements of the action that may have impacts on EPBC Act listed threatened species and ecological communities;
- c) the proposed timing and duration of the works to be undertaken;
- d) how the works are to be undertaken and design parameters for those aspects of structures or components of the action that may have relevant impacts;
- e) proposed public works such as entry and exit sites, roads, sewerage, powerlines etc., including locations and map(s);
- f) location, size, operation and maintenance plans proposed for waste (including chemical and hazardous waste) disposal; sediment and erosion control; sewage, wastewater and stormwater storage and treatment systems to be employed;

- g) the zoning and management plans for any open space, drainage areas and conservation areas, including map(s);
- h) full details of the standards being adopted in relation to conservation of ecosystems, stormwater discharge, energy, resource and transport efficiency and water conservation and reuse;
- i) consistency of the proposed action with relevant environmental guidance and policy (for example, the National Water Quality Management Strategy guidelines); and
- j) Identification and quantification of hazards and risks, including cumulative hazards and risks. For example, but not necessarily limited to, potential threats from flood, landslip and storm surge, air pollution, chemical spills, failure of treatment systems, heavy or prolonged rainfall.

### **3 FEASIBLE ALTERNATIVES**

Any feasible alternatives to the proposed action should be described to the extent reasonably practicable, including:

- a) if relevant, the alternative of taking no action;
- b) constraints and opportunities for alternative development footprints and uses;
- c) a comparative description of the impacts of each alternative on EPBC Act listed threatened species and ecological communities; and
- d) sufficient detail and supporting information to make clear why any alternative is preferred to another.

The short, medium and long-term advantages and disadvantages of each alternative should be discussed.

### **4 DESCRIPTION OF THE ENVIRONMENT**

A description of the environment of the proposed site and the surrounding areas that may be affected by the action must be provided, including but not limited to:

- a) a description (with maps) of the location, extent, distribution and species composition of vegetation on and surrounding the site;
- b) a description (with maps) of the geology, soil type/s and geomorphology of the site – supported by adequate data;
- c) a description (with maps) of the area, distribution and abundance of invasive species within and surrounding the project area;
- d) a description of the nature, location and extent of EPBC Act listed threatened species and ecological communities and suitable habitat likely to be present on and in the vicinity of the proposed action;

- e) targeted surveys for the presence, distribution and abundance of EPBC Act listed threatened species and ecological communities and/or their habitat (including maps), on and in the vicinity of the site of the proposed action (including, but not limited to the Tuncurry Midge Orchid (*Corunastylis littoralis*); the Leafless Tongue-Orchid (*Cryptostylis hunteriana*); the New Holland Mouse (*Pseudomys novaehollandiae*); and Dwarf Heath Casuarina (*Allocasuarina defungens*)). Surveys must also identify how the site is utilised by each species for breeding, foraging or other key life-cycle stages. Surveys must be conducted by suitably qualified individuals at an appropriate time of year and use appropriate methods (consistent with any relevant, available guidelines). A detailed description of the methodology(s) used, data of the survey results and map(s) must be provided;
- f) known records of EPBC Act listed threatened species and populations on and in the vicinity of the site for the proposed action. This must include, but not be limited to, information on known populations of Long-nosed Potoroo (*Potorous tridactylus tridactylus*) in the region and the identification of the nearest known roosting site for the Grey-headed Flying-fox (*Pteropus poliocephalus*) that is known to support populations of > 30 000 individuals or known to support a continuously occupied camp;
- g) a description of the national, regional and local distribution of EPBC Act listed threatened species, and the population size, distribution, abundance and dynamics of each species on and in the vicinity of the site of the proposed action.

## 5 RELEVANT IMPACTS

The PER must include a description of all the potential relevant impacts (e.g. direct, indirect and cumulative impacts) of the proposed action, including consequential impacts as defined by Section 527E of the EPBC Act, on the relevant matters of national environmental significance protected under Part 3 of the EPBC Act. These impacts must be quantified where possible.

For each listed threatened species and ecological community likely to occur in the vicinity of the action, or be impacted by the action, the assessment of impacts must include (but must not be limited to):

- a) a detailed description and assessment of the nature and extent of potential short, medium and long-term impacts on listed threatened species and ecological communities - including impacts before, during and after construction and operation. This must include but not be limited to an assessment of:
  - direct mortality or clearing of a species and/or habitat that will result from the action;
  - fragmentation of a population, community, or habitat, including impacts to movement/migration corridors (for fauna) or activity and habitat connectivity, on and in the vicinity of the site for the proposed action;
  - direct or indirect disruption to breeding, foraging or other key life-cycle stages;



- indirect impacts likely to result to threatened species and ecological communities and their habitat;
  - increased activity and disturbance, including (but not limited to) noise, artificial lighting, barriers, the introduction and spread of exotic species or disease, and other forms of pollution;
  - alterations to tidal flows, surface and groundwater hydrology and runoff, on the site, adjacent to the site and up- and down-stream of the site;
  - potential impacts to water quality of surrounding waterways/waterbodies, from stormwater runoff, wastewater, sewage etc.;
  - alterations to land use, point and diffuse sources of nutrients, sediments, toxicants and contaminants on and from the site of the proposed action; and
  - potential impacts related to the disturbance or runoff of Acid Sulfate Soils from earthworks and construction, determined in accordance with relevant and available guidelines.
- b) an analysis of the significance of the impacts on EPBC Act listed threatened species and ecological communities on a local, regional and national scale;
- c) a statement of whether any impacts are likely to be unknown, unpredictable or irreversible;
- d) any technical data and other information used or needed to make a detailed assessment of the impacts of the proposal on matters of NES; and
- e) expected positive and negative social and economic impacts of the proposal.

## **6 PROPOSED SAFEGUARDS, MITIGATION MEASURES AND OFFSETS**

The PER must provide information on mitigation measures, with a particular focus on matters protected under Part 3 of the EPBC Act. Specific measures intended to avoid or minimise relevant impacts must be provided and substantiated, based on best available practices, and must include the following elements:

- a) a consolidated list of mitigation measures that will be undertaken by the proponent
- b) for each mitigation measure, detail of:
- i. which impact it addresses for which EPBC Act listed threatened species and ecological communities;
  - ii. assessment of the expected or predicted effectiveness of the measure – including proposed management and zoning for relevant mitigation measures such as conservation areas. Supporting evidence should be provided where available;

- iii. detail of parties responsible for implementation and where relevant, for ongoing funding and maintenance;
  - iv. any statutory or policy basis for the mitigation measures; and
  - v. the anticipated cost of the mitigation measures.
- c) A detailed Environmental Management Plan (EMP) that sets out the framework for short- and long-term mitigation, monitoring, and ongoing management of the relevant impacts of the action, including any provisions for independent environmental auditing.

The EMP needs to address the construction, operation and monitoring phases separately. For each potential impact, the EMP must state the environmental objectives, performance criteria, monitoring, reporting, corrective action, responsibility and timing for implementation. The EMP needs to provide sufficient detail to be auditable and to be used as an operational document. The EMP may be comprised of a number of documents but must include an overarching plan.

The EMP should include a comprehensive water quality risk management and monitoring plan that is informed by the National Water Quality Management Strategy and other relevant policy and guidance available. The EMP may also include an Erosion and Sedimentation Management Plan, Acid Sulfate Soil Management Plan, Stormwater and Wastewater Management Plan, Wildlife Impact Management Plan, Vegetation and Rehabilitation Management Plan, or a Monitoring Program.

The EMP should also describe contingencies for events such as heavy or prolonged rainfall, failure of treatment systems, climate change etc. and planning to mitigate the consequences of events that may occur together to manage the cumulative risk to matters of NES.

The EMP should make reference to scientific literature and other relevant guidance or best-practice standards documented and available. A reference list should be included in the EMP.

- d) the name of the agency responsible for endorsing or approving each mitigation measure or monitoring program.
- e) In the event that impacts cannot be avoided or mitigated, the PER must describe any offset/s proposed to compensate for residual impacts, for relevant EPBC Act listed threatened species and ecological communities, including:
- a description of the proposed offset measure/s, such as how, when and where the offset will be delivered and managed;
  - detail of how the offset/s compensate for the impact on each relevant EPBC Act listed threatened species and ecological communities resulting from the action;

- a description of how the offset/s will ensure the protection, conservation and management of the relevant EPBC Act listed threatened species and ecological communities, in perpetuity;
- description of how the offset/s are consistent with relevant Commonwealth policies or advice on offsets under the EPBC Act;
- the cost (financial and other) of the offset/s.

## **7 OTHER APPROVALS AND CONDITIONS**

Information must be provided on any approval, conditions, permit or certificate requirements that apply, or that the proponent reasonably believes are likely to apply, to the proposed action including:

- a) details of any planning scheme (local, State or Commonwealth), plan or policy under any planning system that is relevant to 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 or requirements that apply to the action;
- c) a statement identifying any additional approvals that are required; and
- d) a description of the monitoring, enforcement and review procedures that apply, or are proposed to apply, to the action.

## **8 CONSULTATION**

Information on the consultation processes related to the action, including:

- a) any consultation that has already taken place and the documented responses or results of that consultation;
- b) any documented response to, or result of, the consultation;
- c) any consultation proposed before or during the proposed action, about the relevant impacts of the action, including:
  - i. the methodology and proposed consultation process;
  - ii. the identification of affected parties, including any communities;
  - iii. a description of the adequacy of the consultation process;
- d) a description of the views expressed by the consulted parties; and

- e) identification of affected parties, including a statement mentioning any communities that may be affected and describing their views.

It should be noted that the EPBC Act provides for a mandatory public consultation process following the submission of the draft PER to the Department.

## **9 INFORMATION SOURCES PROVIDED IN THE PER**

Information utilised in the preparation of the PER must be suitably referenced, including:

- 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.

## **10 ENVIRONMENTAL RECORD OF PERSON(S) PROPOSING TO TAKE THE ACTION**

The PER must document 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.

If the person proposing to take the action is a corporation, also include details of the corporation's environmental policy and planning framework.

## **11 CONCLUSION**

An overall conclusion as to the environmental acceptability of the proposal should be provided, including discussion on consistency with principles of Ecologically Sustainable Development and the objects and requirements of the EPBC Act. Reasons supporting the undertaking the proposal in the manner proposed should also be outlined.

Measures proposed or required by way of offset for any unavoidable impacts on NES matters, and the relative degree of compensation, should be highlighted.

## **ATTACHMENT 1**

### **THE OBJECTS AND PRINCIPLES OF THE ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999**

#### **SECTIONS 3 AND 3A**

### **3 Objects of the Act**

- (a) to provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance;
- (b) to promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources;
- (c) to promote the conservation of biodiversity;
- (d) to promote a co-operative approach to the protection and management of the environment involving governments, the community, land-holders and indigenous peoples;
- (e) to assist in the co-operative implementation of Australia's international environmental responsibilities;
- (f) to recognise the role of indigenous people in the conservation and ecologically sustainable use of Australia's biodiversity; and
- (g) to promote the use of indigenous peoples' knowledge of biodiversity with the involvement of, and in co-operation with, the owners of the knowledge.

### **3A Principles of Ecologically Sustainable Development**

The following principles are principles of ecologically sustainable development.

- (a) Decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations.
- (b) If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.
- (c) The principle of inter-generational equity – that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.
- (d) The conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making.

(e) Improved valuation, pricing and incentive mechanisms should be promoted.

## ATTACHMENT 2

### MATTERS THAT MUST BE ADDRESSED IN A PUBLIC ENVIRONMENT REPORT

#### (SCHEDULE 4 OF THE EPBC ACT REGULATIONS 2000)

#### **1 General information**

1.01 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;
- (h) the consequences of not proceeding with the action.

#### **2 Description**

2.01 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) relevant impacts of the action;
- (e) proposed safeguards and mitigation measures to deal with relevant impacts of the action;
- (f) any other requirements for approval or conditions that apply, or that the proponent reasonably believes are likely to apply, to the proposed action;
- (g) to the extent reasonably practicable, any feasible alternatives to the action, 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 make clear why any alternative is preferred to another;

- (h) any consultation about the action, including:
  - (i) any consultation that has already taken place;
  - (ii) proposed consultation about relevant impacts of the action;
  - (iii) if there has been consultation about the proposed action — any documented response to, or result of, the consultation;
- (i) identification of affected parties, including a statement mentioning any communities that may be affected and describing their views.

### **3 Relevant impacts**

3.01 Information given under paragraph 2.01 (d) must include:

- (a) a description of the relevant impacts of the action;
- (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;
- (e) any technical data and other information used or needed to make a detailed assessment of the relevant impacts.

### **4 Proposed safeguards and mitigation measures**

4.01 Information given under paragraph 2.01 (e) must include:

- (a) a description, and an assessment of the expected or predicted effectiveness of, the mitigation measures;
- (b) any statutory or policy basis for the mitigation measures;
- (c) the cost of the mitigation measures;
- (d) 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;
- (e) the name of the agency responsible for endorsing or approving each mitigation measure or monitoring program;
- (f) 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 State governments, local governments or the proponent.



## **5 Other approvals and conditions**

5.01 Information given under paragraph 2.01 (f) 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;
  - (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 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.

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

6.01 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.

6.02 If the person proposing to take the action is a corporation — details of the corporation's environmental policy and planning framework.

## **7 Information sources**

7.01 For information given in a draft public environment report or environmental impact statement, the draft must state:

- (a) the source of the information; and
- (b) how recent the information is; and
- (c) how the reliability of the information was tested; and
- (d) what uncertainties (if any) are in the information.

