

Attachment A – preliminary documentation requirements

Preliminary documentation – specified information requirements

Mount Gilead Stage 2 Residential Development, NSW (EPBC 2019/8587)

On 24 February 2020, the proposed action was determined to be a controlled action for the purposes of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The controlling provisions for the action are:

- Listed threatened species and communities (s18 & s18A)

At the same time, it was determined that your proposed action will be assessed on preliminary documentation. This document sets out the specified information required by the Minister under section 95A of the EPBC Act for the assessment of the impacts of the proposed action (the 'preliminary documentation').

It is important that you read this document carefully and make sure that you understand it. If you have not followed the guidance in this document, your draft preliminary documentation will be rejected. Please contact the Assessment Officer (Caitlin Coward – phone (02) 6274 2548 or e-mail Caitlin.Coward@awe.gov.au) as early as possible if you have any questions or concerns.

Format and style

It is important to the integrity of the assessment process that your preliminary documentation, consisting of a main document and any number of indexed appendices, is presented in a way that is intelligible to the general public, who may not be familiar with the history of your proposed action or with the technical aspects of its assessment. You should:

- present your documentation in a standard format, noting that it will be published in hardcopy (e.g. A4 / A3 hardcopies) and electronic formats (e.g. PDF or MSWord files)
- include all key claims, findings, proposals and undertakings in the main document
- use maps and / or diagrams where appropriate to support textual information
- present all maps and diagrams at an appropriate size and scale
- explain (or avoid) technical jargon and acronyms
- reference all supporting documentation (including websites) clearly and consistently
- publish key supporting documents (e.g. survey data, technical reports) as appendices
- ensure that other supporting documents (e.g. academic studies, regulatory standards) are publicly accessible, with electronic links provided where possible

Content

Your preliminary documentation must include all the information provided in your referral documentation (updated or corrected as necessary), as well as the additional information requested in this document. It may be useful to include the original referral itself as an appendix.

Your preliminary documentation should enable the Minister (or delegate) and any other interested stakeholders to understand the impacts of the proposed action. Variables, assumptions and uncertainties must be clearly identified.

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Your preliminary documentation must refer to all relevant standards, policies and other guidance material published by the Department. Any instances where published guidance is not followed must be justified. Where no Commonwealth standards exist, state government and / or industry standards may be useful.

Names, roles and qualifications (where relevant) of all persons involved in preparing the preliminary documentation must be provided.

If it is necessary to rely on any confidential material, you should consult the Department on the handling of that material before submitting your preliminary documentation for publication.

Description of the action

Your preliminary documentation must describe the location and nature of all activities associated with the proposed action. This must include:

- Precise location of any works to be undertaken, structures to be built or elements of the proposed action that may have relevant impacts.
- Timing and duration of works and timeframe for completion of all activities associated with the proposed action.
- Feasible alternatives to the proposed action or elements of the proposed action, and justification for the preferred option.
- Consultation about the proposed action that is planned or has been completed, including any documented results or response.
- Requirements for assessment and approval under state legislation, including any conditions that apply (or will apply) to the proposed action.
- How the action relates to any other action (of which the proponent is aware) that is being or will be taken in the region.

Controlling provision – listed threatened species and communities

Under this controlling provision, any listed threatened species or community is potentially relevant to the assessment. However, based on the information provided in your referral, and other available information, the Department is particularly interested in the species and communities tabulated below.

Relevant guidance material (including in particular survey guidelines, conservation advices, recovery plans, threat abatement plans and policy statements) is available through the Department's [Species Profile and Threats \(SPRAT\)](#) database. It is your responsibility to ensure that you have identified the relevant documents.

The preliminary documentation must contain a description of flora and fauna habitats on the subject site and identify terrestrial and aquatic habitat characteristics including vegetation type and any features such as tall open woodland, alluvial woodland, riparian corridors and gullies, hollow-bearing trees, leaf litter, rocky and bedrock outcrops, high order stream features, native grassland, and sandstone features.

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| Species / communities for which further information is required |
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| The Department considers the following species and communities are likely to be significantly impacted by the proposed action. Detailed information is required on the relevant impacts, proposed management and mitigation measures, and proposed offsetting measures for each of these species and communities: |
| Species / community |
| Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest – Critically Endangered |
| Shale Sandstone Transition Forest of the Sydney Basin Bioregion – Critically Endangered |
| Rufous Pomaderris (<i>Pomaderris brunnea</i>) – Vulnerable |
| Koala (<i>Phascolarctos cinereus</i>) (combined populations of Qld, NSW and the ACT) – Vulnerable |
| Swift Parrot (<i>Lathamus discolor</i>) – Critically Endangered |
| Grey-headed Flying-fox (<i>Pteropus poliocephalus</i>) – Vulnerable |
| Large-eared Pied Bat (<i>Chalinolobus dwyeri</i>) – Vulnerable |

| Additional species / communities to be addressed |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The Department considers that the following species are potentially significantly impacted by the proposed action, but a determination could not be made based on the referral information. Further information is required on the likelihood of occurrence, assessment of relevant impacts against the significant impact criteria, proposed avoidance and mitigation measures, and if applicable, proposed offset measures |
| Broad-headed Snake (<i>Holocephalus bungaroides</i>) – Vulnerable |
| Brush-tailed Rock-wallaby (<i>Petrogale penicillate</i>) – Vulnerable |
| Golden Sun Moth (<i>Synemon plana</i>) – Critically Endangered |
| Greater Glider (<i>Petauroides volans</i>) – Vulnerable |
| Littlejohn's Tree Frog (<i>Litoria littlejohni</i>) – Vulnerable |
| Magenta Lilly Pilly (<i>Syzgium paniculatum</i>) – Vulnerable |
| New Holland Mouse (<i>Pseudomys novaehollandiae</i>) – Vulnerable |
| Spot-tailed Quoll (<i>Dasyurus maculatus</i>) – Endangered |

While all relevant species must be addressed, the Department understands that it is appropriate to address different matters at different levels of detail and that some matters can best be addressed in thematic groups. Please contact the Department during the preparation of your draft PD if you are unsure about significant impacts or the level of information required for each species and community.

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The following information must be detailed in relation to each of the above listed species:

Occurrence

The PD must identify any occurrence of the above species or community and their habitats at the site of the proposed action, including the location of known records, the extent and condition of suitable habitat, whether the area contains an important population of the species, or habitat critical to the survival of the species or community. Maps displaying this information must be provided.

Occurrence should be informed by field surveys (or desktop analysis where appropriate) completed by suitably qualified experts in accordance with EPBC survey guidelines, endorsed state methodology, or scientific literature. Survey methodology must be described, including justification of how the methodology meets surveys guidelines or is otherwise appropriate to detect the species or community on the subject site. The results of surveys must be appended to the preliminary documentation.

Consideration must be given to occupancy trends relating to season and time of day. Longer term trends including climate change may also be relevant. In relation to habitat for listed threatened species, the type of habitat (e.g. foraging, breeding, dispersal etc.) must also be considered.

Impacts

The PD must include a description of all relevant impacts of the action, including the nature and extent of the likely short term and long-term impacts, in relation to the specific needs and characteristics of the above listed threatened species and communities. The Department has identified the following types of impacts as being particularly relevant to your proposed action:

| Expected impacts of the proposed action |
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| Direct removal of species, communities, and habitats associated with clearing for the development of residential lots and construction of associated infrastructure. Habitat loss and fragmentation is a key threatening process to Spot-tailed Quoll. |
| Ongoing edge effects on retained communities or species habitat arising from adjacent suburban activities, including but not limited to noise and light disturbance, roadkill, trampling, littering, weed invasion, predation by pets, and altered fire regime and hydrology. |
| Increased predation by domestic (dogs and cats) and feral animals (foxes) over the longer terms, associated with increase of residents in the area due to the proposed action that may result in higher mortality of threatened species. Predation by European red fox and wild dogs is a key threatening process to Brush-tailed Rock-wallaby and Spot-tailed Quoll. Predation by feral cats is a key threatening process to Swift Parrot. |
| Indirect impacts associated with construction activities, such as spread of weed propagules and contaminated runoff that may reduce the quality and condition of communities and species habitats. |
| Increase of cars in the proposed action area may result in higher mortality of threatened species that cross roads as part of their territory or home range. This a particular threat to the Koala. |
| Habitat loss and displacement may result in an increased spread of disease. This is a main threat to the Koala population within the proposed action area, as they are chlamydia free and may contract the disease if relocated or forced out of their original habitat. Contraction of chytrid fungus is a key threatening process to Littlejohn's Tree Frog. |

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Consideration must also be given to cumulative impacts of the proposed action when considered in conjunction with concurrent and expected future developments. Note that cumulative impacts may include interactive and / or compounding impacts as well as additive impacts.

For each of the relevant impacts the PD must provide a statement on whether any relevant impacts are likely to be unknown, unpredictable or irreversible; an analysis of the significance of the relevant impacts; any technical data and other information used or needed to make a detailed assessment of the relevant impacts.

Avoidance and mitigation measures

The PD must include a description of all proposed avoidance, mitigation and management measures to address each of the identified impacts for the above mentioned listed threatened species and communities.

Proposed mitigation and management measures must be discussed in terms of their predicted effectiveness, their cost, and any statutory or policy basis for them. Note that in deciding whether to approve the proposed action, the Minister is required to consider whether (as far as possible) any condition is a cost-effective means for achieving its intended objective.

Management commitments by the person proposing to take the action must be clearly distinguished from recommendations or statements of best practice made by the author or other technical expert. It is preferable to provide a consolidated table of management commitments, including details on funding, roles and responsibilities and measurable performance criteria.

Any policies or mitigation measures proposed by state and/or local governments relevant to minimising the impacts of the action on protected matters should also be described. This includes but is not limited to the *National Light Pollution Guidelines for Wildlife*, which states that artificial light has the potential to impact threatened species through stalling their recovery, influencing and increasing behavioural and physiological changes, and indirectly through changes to food resources. These guidelines recommend using Best Practice Lighting Design and undertaking an Environmental Impact Assessment to determine the effects of artificial light on relevant listed species.

Koala Management Plan

Your preliminary documentation must provide details of the proposed Koala Management Plan, as part of a Construction Environmental Management Plan, for the proposed action. A draft version of the Koala Management Plan may be submitted with the PD. Note that the Action Management Plan must be consistent with the Department's Environmental Management Plan Guidelines.

The proposed mitigation measures to reduce impacts of the proposed action on the Koala must be discussed in terms of their consistency with state and local government policies for mitigation of impacts to Koalas, particularly in regard to the chlamydia-free Campbelltown population. Where the proposed Koala mitigation measures deviate from NSW Government policy, the PD should provide justification for the proposed approach and describe alternative mitigation measures that could be implemented to align with the state policy.

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Offsets

Significant residual impacts (i.e. after any avoidance and mitigation measures have been considered) on any listed threatened species or community must be offset in accordance with the Department's [EPBC Environmental Offsets Policy 2012 and offset assessment guide](#), or other endorsed offset framework (see separate heading below). If using the offset assessment guide, be sure to provide and clearly justify the scores entered in the tool.

If using an endorsed framework, the report detailing the outcomes (including credit report) prepared in accordance with the state requirements must be submitted with the PD.

The PD should describe the proposed Offset Strategy, outlining how the offsets will be achieved for each protected matter, demonstrating that the offset liability can be satisfied the mechanisms, and specifying the expected timeframe for legal security of the offsets. Offsets will generally need to be underway prior to commencement of the proposed action.

Fires

The Department will continue to progress assessments under the EPBC Act while considering impacts of the recent 2019-2020 bushfires on protected matters. While the proposed action area was not affected by the recent bushfires, and is not adjacent to burnt ground, the Department requests that you consider the recent bushfire impacts when assessing the impacts of your proposal. Therefore, your preliminary documentation should provide detailed information on the following:

- Identify the fire affected threatened species and ecological communities (or their habitats) occurring within the proposed action area. Note that the Department has published information on fire-affected species at <http://www.environment.gov.au/biodiversity/bushfire-recovery/research-and-resources>
- Location of the proposed action area in relation to fire-affected areas, any fire damage to the environment directly surrounding the proposed action area.
- The likely importance of the habitat within the proposed action area for fire-affected threatened species and communities, for example in terms of post-fire refuge, survival and recovery.
- As required, re-assess the impacts of the proposed action based on the above information.

Economic and social matters

Your preliminary documentation must provide information about the expected economic and social impacts of the proposed action. This should include, but not necessarily be limited to, the following:

- consideration of both costs (e.g. disruption to existing community infrastructure or environmental features) and benefits (e.g. increased housing or employment)
- consideration of different scales of impact where relevant (e.g. local, regional, and national)
- estimated capital value and ongoing economic value, using specific dollar or other numerical values where relevant.

Environmental history of the person proposing to take the action

Your preliminary documentation must provide 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 the person proposing to take the action (or if the person is a

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corporation, its executive officers, and if the person is a subsidiary of another corporation, the history of the parent body and its executive officers).

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

Relevant policies and other considerations

Various [policy statements](#) and other [publications](#) that may be relevant to your assessment can be found on the Department's website. Some key policies are summarised below.

Be sure to identify where Commonwealth definitions, methodologies and standards differ from those required or recommended by state government agencies. Ensuring that Commonwealth survey and identification requirements are incorporated into surveys at the earliest opportunity will reduce the likelihood of additional surveys being required. Ask your assessment officer if you are unsure.

Endorsed offsetting frameworks

In the interests of streamlining regulatory requirements for proponents, the Commonwealth has endorsed some state government policies, as reflected in the Department's [EPBC Act Condition-setting Policy 2016](#). These include the rules established under section 127B of the New South Wales *Threatened Species Conservation Act 1995* (the BioBanking scheme).

In 2017, the BioBanking scheme was effectively replaced by the new Biodiversity Assessment Method (BAM). Although the BAM has not been endorsed by the Commonwealth, offsetting outcomes achieved through the BAM will generally be accepted for the purposes of the EPBC Act, provided that they are 'like for like' in relation to listed threatened species / communities as defined for the purposes of the EPBC Act.

If you are proposing offsets developed using the BAM, you should append all relevant BAM documentation to your preliminary documentation – this would generally include a biodiversity development assessment report (BDAR) and possibly a biodiversity stewardship site assessment report (BSSAR).

Defining patches of a community

A patch is a discrete and mostly continuous area of an ecological community (or species habitat), as defined by the key diagnostics, but can include small-scale variations, gaps and disturbances that do not significantly alter the overall function of the patch. Permanent structures, such as roads and buildings, are typically excluded from a patch, although a patch may be considered continuous across or around them.

When it comes to defining a patch of an ecological community allowances are made for 'breaks' between areas that meet the key diagnostics (e.g. a narrow strip of other native vegetation along a watercourse). The size of break that can be included within a patch without altering its overall function varies for different ecological communities – further guidance on a specific community may be provided in a conservation advice, policy statement or similar.

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Variation in structure, quality or condition of vegetation across a patch of an ecological community does not necessarily mean it should be split into multiple patches. For example, woodland communities often incorporate areas of derived native grassland, which should generally be considered as part of the same patch. Average quality across the largest area that meets the key diagnostics should be used in determining the overall condition of the ecological community. Where the average condition falls below the minimum condition thresholds for a patch as a whole, the largest area or areas that meet minimum condition thresholds should be identified as the patch or patches of the nationally listed ecological community.

Buffer zones

A buffer zone is an area adjacent to a patch of an ecological community (or species habitat) that is important for protecting the integrity of the ecological community. The purpose of a buffer zone is to minimise the risk of indirect impact by physically separating the patch from direct impacts and by identifying it to land managers. For instance, a buffer zone will help protect the root zone of edge trees and other components of the ecological community from spray drift (fertiliser, pesticide or herbicide sprayed in adjacent land), weed invasion, polluted water runoff and other damage. The best buffer zones are typically comprised of native vegetation. A buffer zone is not part of the ecological community, so while having a buffer zone is strongly recommended, it is not protected as part of the ecological community and is not included in the calculation of the patch size.

The Department may not consider that a retained patch of an ecological community (or species habitat) has been effectively avoided if the design of a development does not include a buffer zone. In these cases, the Department will generally consider the outer edge of the patch to have been impacted or partially impacted, requiring an appropriate offset.

Outcomes based conditions

Outcomes-based conditions can provide approval holders with greater flexibility and autonomy while still holding them accountable for achieving sound environmental outcomes. The Department promotes the use of outcomes-based conditions where possible, in accordance with its [Outcomes-based Conditions Policy 2016](#).

However, outcomes-based conditions are generally only appropriate where the person proposing to take the action has a good environmental record and the baseline condition of a site is well understood and documented.

Please advise your Assessment Officer if you would like to pursue this approach. Your preliminary documentation would need to:

- thoroughly document the baseline condition of the relevant impacted matter(s)
- identify conservation objectives (outcomes) for the relevant impacted matters, preferably with reference to any applicable conservation advices, recovery plans and threat abatement plans
- outline how performance against specified objectives will be measured and reported.

Cumberland Plain Conservation Plan and the Western Sydney Strategic Assessment

In making a decision about the proposed action under Part 9 of the EPBC Act, the Department is required to consider any relevant information in a Strategic Assessment Report given to the Minister under an agreement under Part 10.

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Your preliminary documentation must include discussion of the relationship of the proposed action to the Cumberland Plain Conservation Plan (CPCP) and consider whether the proposed action is consistent with the outcomes and objectives of the CPCP.