

APPENDIX
C



Regulatory Correspondence



**Planning****Major Projects Assessment****Mining & Industry Projects**

Contact: Colin Phillips

Phone: 02 9228 6483

Fax: 02 9228 6466

Email: colin.phillips@planning.nsw.gov.au

Mr Lance Muir
General Manager
Aston Resources
Maules Creek Coal Project
PO Box 56
BOGGABRI NSW 2382

Our Ref: 10/09747

Dear Mr Muir

**Maules Creek Coal Project (MP 10_0138)
Revised Director-General's Requirements**

I refer to the letter from Mr James Bailey of Hansen and Bailey dated 26 November 2010, regarding the Director-General's Requirements (DGRs) for the Maules Creek Coal Project (MP 10_0138). Thank you for informing the Department of the revised project description and correct proponent name.

Consequently, under section 75F(3) of the *Environmental Planning and Assessment Act 1979* that the previously issued DGRs for the Maules Creek Coal Project have been revised. A copy of the revised DGRs is attached for your information.

If you have any enquiries about these requirements, please contact Colin Phillips at the details listed above.

Yours sincerely

Howard Reed 6.12.10

A/Director**Mining and Industry Projects**As delegate for the Director-General

Director-General's Requirements

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

Application Number	MP 10_0138
Project	<p>The Maules Creek Coal Project, which includes:</p> <ul style="list-style-type: none"> • producing up to 13 million tonnes per annum (Mtpa) of coal for 21 years, using open cut methods; • constructing and operating additional facilities and infrastructure such as <ul style="list-style-type: none"> – workshops and administration facilities; – a Coal Handling and Preparation Plant (CHPP); – a rail spur, loop and rail connection to the Werris Creek to Mungindi Railway Line; – a Mine Access Road; and – and communications, electrical and water related infrastructure; • employment of up to approximately 470 operational employees; and • progressive rehabilitation of all disturbed areas.
Location	Therribri Road, Maules Creek (approximately 18 km north-east of Boggabri) in the Narrabri Shire Council LGA.
Proponent	Aston Coal 2 Pty Limited
Date of Issue	6 December 2010
General Requirements	<p>The Environmental Assessment of the project must include:</p> <ul style="list-style-type: none"> • an executive summary; • a detailed description of: <ul style="list-style-type: none"> – existing and approved mining operations/facilities, including any statutory approvals that apply to these operations/facilities; and – the existing environmental management and monitoring regime; – the existing, approved, and proposed mining operations in the vicinity of the site; • a detailed description of the project, including the: <ul style="list-style-type: none"> – need for the project; – alternatives considered including justification for the proposed mine plan; – likely staging of the project; – likely interactions between the project and existing, approved and proposed mining operations in the vicinity of the site; and – plans of any proposed building works; • a risk assessment of the potential environmental impacts of the project, identifying the key issues for further assessment; • a detailed assessment of the key issues specified below, and any other significant issues identified in the risk assessment (see above), which includes: <ul style="list-style-type: none"> – a description of the existing environment, using sufficient baseline data; – an assessment of the potential impacts of the project, <u>including any cumulative impacts</u>, taking into consideration any relevant guidelines, policies, plans and statutory provisions (see below); and – a description of the measures that would be implemented to avoid, minimise and if necessary, offset the potential impacts of the project, including detailed contingency plans for managing any significant risks to the environment; • a statement of commitments, outlining all the proposed environmental

	<p>management and monitoring measures;</p> <ul style="list-style-type: none"> • a conclusion justifying the project on economic, social and environmental grounds, taking into consideration whether the project is consistent with the objects of the <i>Environmental Planning & Assessment Act 1979</i>; and • a signed statement from the author of the Environmental Assessment, certifying that the information contained within the document is neither false nor misleading.
Key Issues	<ul style="list-style-type: none"> • Biodiversity – including: <ul style="list-style-type: none"> – measures taken to avoid impacts on biodiversity; – accurate estimates of the proposed vegetation clearing; – a detailed assessment of the potential impacts of the project on any: <ul style="list-style-type: none"> ○ terrestrial or aquatic threatened species, populations, ecological communities or their habitats, including; <ul style="list-style-type: none"> – <i>White Box-Yellow Box - Blakely's Red Gum Grassy Woodland and Derived Native Grassland</i>; – <i>Regent Honeyeater</i>; and – <i>Swift Parrot</i>; ○ regionally significant remnant vegetation, or vegetation corridors; and – an offset strategy to ensure the project maintains or improves the biodiversity values of the region in the medium to long term (in accordance with NSW and Commonwealth policies); • Soil and Water – including: <ul style="list-style-type: none"> – detailed modelling of the potential surface and groundwater impacts of the project; – a detailed site water balance, including a description of the measures to be implemented to minimise water use on site; – a detailed assessment of the potential impacts of the project on: <ul style="list-style-type: none"> ○ the quality and quantity of both surface and ground water resources; ○ water users, both in the vicinity of and downstream of the project; ○ the riparian and ecological values of the watercourses both on site and downstream of the project; and ○ environmental flows; and – a detailed description of the proposed water management system for the project and water monitoring program. • Air Quality – including a quantitative assessment of the potential air quality impacts of the project; • Noise & Blasting – including a quantitative assessment of the potential: <ul style="list-style-type: none"> – construction, operational and transport impacts (noise modelling should be based on applicable meteorological and stability category temperature inversion conditions to be developed in consultation with DECCW); and – blasting impacts of the project on people, livestock and property; • Transport – including: <ul style="list-style-type: none"> – accurate predictions of the road and rail traffic of the project; – a detailed assessment of the potential impacts of this traffic on the capacity, efficiency, and safety of the road and rail networks; – a detailed assessment of the potential impacts on the road/rail crossings at Gunnedah, Breeza and Curlewis (with suitable consultation to be undertaken with Whitehaven Coal Limited); • Heritage – both Aboriginal and non-Aboriginal; • Greenhouse Gases – including: <ul style="list-style-type: none"> – a qualitative assessment of the potential scope 1, 2 and 3 greenhouse gas emissions of the project and identification of which emissions would be covered by the Commonwealth Government's proposed Carbon Pollution Reduction Scheme; – a qualitative assessment of the potential impacts of these emissions

	<p>on the environment; and</p> <ul style="list-style-type: none"> – an assessment of all reasonable and feasible measures that could be implemented on site to minimise the greenhouse gas emissions of the project and ensure it is energy efficient; <ul style="list-style-type: none"> • Visual; • Waste - including: <ul style="list-style-type: none"> – accurate estimates of the quantity and nature of the potential waste streams of the project, including tailings and coarse reject; and – a detailed description of the measures that would be implemented to minimise the production of waste on site, and ensure that any waste produced is appropriately handled and disposed of; • Hazards - including bushfires; • Rehabilitation - a detailed description of the proposed rehabilitation strategy for the project area having regard to the key principles in the strategic framework for mine closure (see relevant guidelines below), including: <ul style="list-style-type: none"> – rehabilitation objectives, methodology and proposed completion criteria; – nominated final land use, having regard to any relevant strategic land use planning or resource management plans or policies; and – the potential for integrating this strategy with any other offset strategies in the region; • Social & Economic - including: <ul style="list-style-type: none"> – an assessment of the potential impacts of the project on the local and regional community, paying particular attention to the demand it may generate for the provision of additional infrastructure and services; and – a detailed assessment of the costs and benefits of the project as a whole, and whether it would result in a net benefit for the NSW community.
References	The environmental assessment of the key issues listed above must take into account relevant guidelines, policies, and plans. While not exhaustive, the following attachment contains a list of some of the guidelines, policies, and plans that may be relevant to the environmental assessment of this project.
Consultation	<p>During the preparation of the Environmental Assessment, you should consult with the relevant local, State or Commonwealth Government authorities, service providers, community groups and affected landowners.</p> <p>In particular you must consult with:</p> <ul style="list-style-type: none"> • The Commonwealth Department of Environment, Water, Heritage and the Arts; • Department of Environment, Climate Change and Water, including the NSW Office of Water; • Industry and Investment NSW; • NSW Roads and Traffic Authority; • Australian Rail Track Corporation; • Country Rail Infrastructure Authority; • Narrabri Shire Council; • Gunnedah Shire Council; and • Namoi Catchment Management Authority. <p>The consultation process and the issues raised must be described in the Environmental Assessment.</p>
Deemed Refusal Period	90 days

Policies, Guidelines & Plans

Biodiversity	
	Draft Guidelines for Threatened Species Assessment under Part 3A of the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act) (DEC)
	NSW State Groundwater Dependent Ecosystem Policy (DLWC)
	Policy & Guidelines - Aquatic Habitat Management and Fish Conservation (NSW Fisheries)
	Policy & Guidelines - Fish Friendly Waterway Crossings (NSW Fisheries)
	State Environmental Planning Policy No. 44 – Koala Habitat Protection
Soil & Water	
<i>Soil</i>	Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites (ANZECC)
	Rural Land Capability Mapping (DLWC)
	Agricultural Land Classification (DPI)
<i>Surface Water</i>	National Water Quality Management Strategy: Australian Guidelines for Fresh and Marine Water Quality (ANZECC/ARMCANZ)
	National Water Quality Management Strategy: Australian Guidelines for Water Quality Monitoring and Reporting (ANZECC/ARMCANZ)
	National Water Quality Management Strategy: Guidelines for Sewerage Systems – Effluent Management (ARMCANZ/ANZECC)
	National Water Quality Management Strategy: Guidelines for Sewerage Systems – Use of Reclaimed Water (ARMCANZ/ANZECC)
	Using the ANZECC Guideline and Water Quality Objectives in NSW (DEC)
	State Water Management Outcomes Plan
	Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2003 (DECCW)
	NSW Government Water Quality and River Flow Objectives (DECC)
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	Managing Urban Stormwater: Source Control (DECC)
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	Floodplain Risk Management Guideline (DECC)
	A Rehabilitation Manual for Australian Streams (LWRRDC and CRCCH)
	Technical Guidelines: Bunding & Spill Management (DECC)
	Environmental Guidelines: Use of Effluent by Irrigation (DECC)
<i>Groundwater</i>	National Water Quality Management Strategy Guidelines for Groundwater Protection in Australia (ARMCANZ/ANZECC)
	NSW State Groundwater Policy Framework Document (DLWC, 1997)
	NSW State Groundwater Quality Protection Policy (DLWC, 1998)
	NSW State Groundwater Quantity Management Policy (DLWC, 1998)
	Murray-Darling Basin Groundwater Quality. Sampling Guidelines. Technical Report No 3 (MDBC)
	Murray-Darling Basin Commission. Groundwater Flow Modelling Guideline (Aquaterra Consulting Pty Ltd)
	Guidelines for the Assessment & Management of Groundwater Contamination (DECC, 2007)
Water Sharing Plan for the Upper and Lower Namoi Groundwater Sources (2003)	

Air Quality	
	Protection of the Environment Operations (Clean Air) Regulation 2002
	Approved Methods for the Modelling and Assessment of Air Pollutants in NSW (DEC)
	Approved Methods for the Sampling and Analysis of Air Pollutants in NSW (DEC)
Noise & Blasting	
	NSW Industrial Noise Policy (DECC)
	Environmental Noise Management – Assessing Vibration: a technical guide (DEC)
	Environmental Criteria for Road Traffic Noise (NSW EPA)
	Interim Guideline for the Assessment of Noise From Rail Infrastructure Projects (DECC)
	Technical basis for guidelines to minimise annoyance due to blasting overpressure and ground vibration (ANZEC)
	Interim Construction Noise Guideline (DECC)
	DIN 4150 Part 3 - Structural Vibration: effects of vibration on structures (ISO, 1999)
Traffic & Transport	
	Guide to Traffic Generating Development (RTA)
	Road Design Guide (RTA)
Heritage	
<i>Aboriginal</i>	Draft Guidelines for Aboriginal Cultural Heritage Assessment and Community Consultation (DoP and DEC)
	NSW Heritage Manual (NSW Heritage Office)
<i>Non-Aboriginal</i>	The Burra Charter (The Australia ICOMOS charter for places of cultural significance)
Greenhouse Gases	
	National Greenhouse Accounts Factors (Australian Department of Climate Change (DCC))
	Guidelines for Energy Savings Action Plans (DEUS)
Waste	
	Waste Classification Guidelines (DECC)
Hazards	
	State Environmental Planning Policy No. 33 – Hazardous and Offensive Development
	Applying SEPP 33 – Hazardous and Offensive Development Application Guidelines (DUAP)
	Hazardous Industry Planning Advisory Paper No. 6 – Guidelines for Hazard Analysis
Rehabilitation	
	Mine Rehabilitation – Leading Practice Sustainable Development Program for the Mining Industry (Commonwealth of Australia)
	Mine Closure and Completion – Leading Practice Sustainable Development Program for the Mining Industry (Commonwealth of Australia)
	Strategic Framework for Mine Closure (ANZMEC-MCA)
Social & Economic	
	Draft Economic Evaluation in Environmental Impact Assessment (DOP)
	Techniques for Effective Social Impact Assessment: A Practical Guide (Office of Social Policy, NSW Government Social Policy Directorate)

| Hansen Bailey |

ENVIRONMENTAL CONSULTANTS

26 November 2010

The Director-General
NSW Department of Planning
GPO Box 39
Sydney NSW 2001

Attention: Mr David Kitto

Dear David

**Maules Creek Coal Project (MPA 10_0138) – Comments on the Director-General's
Environmental Assessment Requirements**

We refer to the Director-General's Environmental Assessment Requirements (EARs) that were issued for Aston Coal 2 Pty Limited's Maules Creek Coal Project in correspondence dated 2 November 2010.

The Project outline contained within the EARs states that the Project will require the "*employment of approximately to 400 operational employees*". This is consistent with the Preliminary Environmental Assessment (PEA) submitted with the Project Application on 12 August 2010. Since this time, Aston has conducted additional mine planning which has identified the future requirement for operational employment of up to 470 employees.

We would also like to highlight that the EARs refer to the proponent as "*Aston 2 Coal Pty Limited*" rather than "*Aston Coal 2 Pty Limited*" as stated in the Project Approval application.

Can you please re-issue the EARs accordingly. We look forward to you actioning this at your earliest possible convenience. Should you have any queries in relation to this letter, please contact myself on 02 6575 2000.

Yours faithfully

HANSEN BAILEY



James Bailey
Director

Cc: Lance Muir – Aston Resources Pty Limited

Hansen Bailey Pty Ltd (ABN 17 093 597 810)

BRISBANE

Phone: (07) 3226 0900 Fax: (07) 3226 0901

Address: Level 15, 215 Adelaide Street Brisbane Qld 4000 Postal: GPO Box 3285 Brisbane Qld 4001

HUNTER VALLEY

Phone: (02) 6575 2000 Fax: (02) 6575 2001

Address: 6/127-129 John Street Singleton NSW 2330 Postal: PO Box 473 Singleton NSW

**Planning**

Mr Lance Muir
Aston Coal 2 Pty Limited
Level 10, 10 Eagle Street
BRISBANE QLD 4000

**Major Projects Assessment
Mining & Industry**

Contact: Colin Phillips

Phone: 02 9228 6483

Fax: 02 9228 6466

Email: colin.phillips@planning.nsw.gov.au

Our Ref: 10/09747

Dear Mr Muir

**Maules Creek Coal Project (MP 10_0138)
Director-General's Requirements**

The Department has received your application for the Maules Creek Coal Project.

I have attached a copy of the Director-General's requirements for the project. These requirements have been prepared in consultation with the relevant agencies, based on the information you have provided to date. I have also attached a copy of the agencies' comments for your information.

Please note that the Director-General may alter these requirements at any time.

The Commonwealth Department of Environment, Water, Heritage and the Arts (DEWHA) has determined that the project will require approval under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The project has been declared a controlled action under the EPBC Act and the NSW approval process has been accredited for this project. As a result, DEWHA has provided input into the formation of the Director-General's Requirements.

As you are aware, there could be a significant expansion of coal mining development in the Boggabri region, focussed principally on the Leard State Forest. In addition to the Maules Creek Coal Project, the Department is aware of proposed expansions to the existing Tarrawong and Boggabri coal mines, and the coal exploration activities being undertaken in the Goonbri exploration licence area to the east of the Tarrawonga mine. If all of this development proceeds as planned, the Department estimates that this sub-region could be producing as much as 30 million tonnes of ROM coal a year in the medium to long term.

As you can appreciate, this could result in a range of cumulative impacts on the surrounding region.

The Department has already indicated that it expects Aston Resources to work closely with the other companies in the sub-region to ensure that these cumulative impacts are kept to a minimum and managed appropriately.

In this regard, the Department expects the EA to carry out a detailed assessment of the potential cumulative impacts of the project in conjunction with any existing, approved and/or proposed operations/projects in the vicinity of the site, but also some sensitivity analysis of this assessment to consider the potential worst case cumulative impact scenarios in the medium to long term.

I would appreciate it if you would contact the Department at least two weeks before you propose to submit your EA for the project. This will enable the Department to determine the:

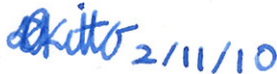
- applicable fee (see Division 1A, Part 15 of the Environmental Planning and Assessment Regulation 2000); and
- number of copies (hard-copy and CD-ROM) of the EA that will be required for exhibition purposes.

Once it receives the EA, the Department will review it in consultation with the relevant agencies to determine if it adequately addresses the Director-General's requirements, and may require you to revise it prior to public exhibition.

The Department is required to make all the relevant information associated with the project publicly available on its website. Consequently, I would appreciate it if you would ensure that all the documents you subsequently submit to the Department are in a suitable format for the web, and arrange for an electronic version of the EA to be hosted on a suitable website.

If you have any enquiries about these requirements, please contact Colin Phillips at the details listed above.

Yours sincerely



David Kitto
Director
Mining and Industry
As delegate for the Director-General

Director-General's Requirements

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

Application Number	MP 10_0138
Project	<p>The Maules Creek Coal Project, which includes:</p> <ul style="list-style-type: none"> • producing up to 13 million tonnes per annum (Mtpa) of coal for 21 years, using open cut methods; • constructing and operating additional facilities and infrastructure such as <ul style="list-style-type: none"> – workshops and administration facilities; – a Coal Handling and Preparation Plant (CHPP); – a rail spur, loop and rail connection to the Werris Creek to Mungindi Railway Line; – a Mine Access Road; and – and communications, electrical and water related infrastructure; • employment of approximately to 400 operational employees; and • progressive rehabilitation of all disturbed areas.
Location	Therribri Road, Maules Creek (approximately 18 km north-east of Boggabri) in the Narrabri Shire Council LGA.
Proponent	Aston 2 Coal Pty Limited
Date of Issue	2 November 2010
General Requirements	<p>The Environmental Assessment of the project must include:</p> <ul style="list-style-type: none"> • an executive summary; • a detailed description of: <ul style="list-style-type: none"> – existing and approved mining operations/facilities, including any statutory approvals that apply to these operations/facilities; and – the existing environmental management and monitoring regime; – the existing, approved, and proposed mining operations in the vicinity of the site; • a detailed description of the project, including the: <ul style="list-style-type: none"> – need for the project; – alternatives considered including justification for the proposed mine plan; – likely staging of the project; – likely interactions between the project and existing, approved and proposed mining operations in the vicinity of the site; and – plans of any proposed building works; • a risk assessment of the potential environmental impacts of the project, identifying the key issues for further assessment; • a detailed assessment of the key issues specified below, and any other significant issues identified in the risk assessment (see above), which includes: <ul style="list-style-type: none"> – a description of the existing environment, using sufficient baseline data; – an assessment of the potential impacts of the project, <u>including any cumulative impacts</u>, taking into consideration any relevant guidelines, policies, plans and statutory provisions (see below); and – a description of the measures that would be implemented to avoid, minimise and if necessary, offset the potential impacts of the project, including detailed contingency plans for managing any significant risks to the environment; • a statement of commitments, outlining all the proposed environmental

	<p>management and monitoring measures;</p> <ul style="list-style-type: none"> • a conclusion justifying the project on economic, social and environmental grounds, taking into consideration whether the project is consistent with the objects of the <i>Environmental Planning & Assessment Act 1979</i>; and • a signed statement from the author of the Environmental Assessment, certifying that the information contained within the document is neither false nor misleading.
<p>Key Issues</p>	<ul style="list-style-type: none"> • Biodiversity – including: <ul style="list-style-type: none"> – measures taken to avoid impacts on biodiversity; – accurate estimates of the proposed vegetation clearing; – a detailed assessment of the potential impacts of the project on any: <ul style="list-style-type: none"> ○ terrestrial or aquatic threatened species, populations, ecological communities or their habitats, including: <ul style="list-style-type: none"> – <i>White Box-Yellow Box - Blakely's Red Gum Grassy Woodland and Derived Native Grassland</i>; – <i>Regent Honeyeater</i>; and – <i>Swift Parrot</i>; ○ regionally significant remnant vegetation, or vegetation corridors; and – an offset strategy to ensure the project maintains or improves the biodiversity values of the region in the medium to long term (in accordance with NSW and Commonwealth policies); • Soil and Water – including: <ul style="list-style-type: none"> – detailed modelling of the potential surface and groundwater impacts of the project; – a detailed site water balance, including a description of the measures to be implemented to minimise water use on site; – a detailed assessment of the potential impacts of the project on: <ul style="list-style-type: none"> ○ the quality and quantity of both surface and ground water resources; ○ water users, both in the vicinity of and downstream of the project; ○ the riparian and ecological values of the watercourses both on site and downstream of the project; and ○ environmental flows; and – a detailed description of the proposed water management system for the project and water monitoring program. • Air Quality – including a quantitative assessment of the potential air quality impacts of the project; • Noise & Blasting – including a quantitative assessment of the potential: <ul style="list-style-type: none"> – construction, operational and transport impacts (noise modelling should be based on applicable meteorological and stability category temperature inversion conditions to be developed in consultation with DECCW); and – blasting impacts of the project on people, livestock and property; • Transport – including: <ul style="list-style-type: none"> – accurate predictions of the road and rail traffic of the project; – a detailed assessment of the potential impacts of this traffic on the capacity, efficiency, and safety of the road and rail networks; – a detailed assessment of the potential impacts on the road/rail crossings at Gunnedah, Breeza and Curlewis (with suitable consultation to be undertaken with Whitehaven Coal Limited); • Heritage – both Aboriginal and non-Aboriginal; • Greenhouse Gases – including: <ul style="list-style-type: none"> – a qualitative assessment of the potential scope 1, 2 and 3 greenhouse gas emissions of the project and identification of which emissions would be covered by the Commonwealth Government's proposed Carbon Pollution Reduction Scheme; – a qualitative assessment of the potential impacts of these emissions

	<p>on the environment; and</p> <ul style="list-style-type: none"> – an assessment of all reasonable and feasible measures that could be implemented on site to minimise the greenhouse gas emissions of the project and ensure it is energy efficient; <ul style="list-style-type: none"> • Visual; • Waste - including: <ul style="list-style-type: none"> – accurate estimates of the quantity and nature of the potential waste streams of the project, including tailings and coarse reject; and – a detailed description of the measures that would be implemented to minimise the production of waste on site, and ensure that any waste produced is appropriately handled and disposed of; • Hazards - including bushfires; • Rehabilitation - a detailed description of the proposed rehabilitation strategy for the project area having regard to the key principles in the strategic framework for mine closure (see relevant guidelines below), including: <ul style="list-style-type: none"> – rehabilitation objectives, methodology and proposed completion criteria; – nominated final land use, having regard to any relevant strategic land use planning or resource management plans or policies; and – the potential for integrating this strategy with any other offset strategies in the region; • Social & Economic - including: <ul style="list-style-type: none"> – an assessment of the potential impacts of the project on the local and regional community, paying particular attention to the demand it may generate for the provision of additional infrastructure and services; and – a detailed assessment of the costs and benefits of the project as a whole, and whether it would result in a net benefit for the NSW community.
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Policies, Guidelines & Plans

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Air Quality	
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	Applying SEPP 33 – Hazardous and Offensive Development Application Guidelines (DUAP)
	Hazardous Industry Planning Advisory Paper No. 6 – Guidelines for Hazard Analysis
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	Mine Rehabilitation – Leading Practice Sustainable Development Program for the Mining Industry (Commonwealth of Australia)
	Mine Closure and Completion – Leading Practice Sustainable Development Program for the Mining Industry (Commonwealth of Australia)
	Strategic Framework for Mine Closure (ANZMEC-MCA)
Social & Economic	
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	Techniques for Effective Social Impact Assessment: A Practical Guide (Office of Social Policy, NSW Government Social Policy Directorate)



Australian Government

Department of the Environment, Water, Heritage and the Arts

Mr Lance Muir
 General manager- Maules Creek
 Aston Coal 2 Pty Limited
 Level 10, AMP Place
 10 Eagle Street
 Brisbane QLD 4001

Date: 9 August 2010
 EPBC Ref: 2010/5566
 EPBC contact: Terri-Ann English
 6274 1765
 Terri.english@environment.gov.au

Dear Mr Muir

Decision on referral Maules Creek Coal Project, Boggabri, NSW (EPBC 2010/5566)

This proposed action, to construct and operate an open cut mine approximately 18km north-east of the township of Boggabri, has now been considered under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The information provided to date indicates that the proposed project is likely to result in loss of a significant proportion of the remaining critically endangered White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland ecological community. The Department has significant concerns surrounding the proposed action and its potential impacts.

However we have decided that the proposed action is a controlled action and, as such, requires assessment and approval by the Minister for Environment Protection, Heritage and the Arts before it can proceed.

It appears that the proposed action is likely to have a significant impact on the following matters protected by the EPBC Act:

- Listed threatened species and communities (sections 18 & 18A)
- Listed migratory species (sections 20 and 20A)

For example, based on the information available in the referral, the proposed action is likely to have a significant impact because:

- it involves the clearing of 423ha of critically endangered White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland ecological community)
- it involves the removal of 423 ha of foraging habitat for the migratory and endangered, Regent Honeyeater (*Anthochaera phrygia*) and Swift Parrot (*Lathamus dicolor*)

Please note that this decision only relates to the potential for significant impact on the specific matters protected by the Australian Government under Chapter 4 of the EPBC Act.

At this stage, a decision has not been made on the approach that must be used to assess the project. You should expect to receive further advice on this issue within ten days.

I have also written to the following parties to advise them of this decision:

Environmental Consultant	Cumberland Ecology Pty Ltd
State authority	NSW Department of Planning

If you have any questions about the referral process or this decision, please contact the EPBC project manager and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely

Ms Fiona Beynon
A/g Assistant Secretary
Environment Assessment Branch

**Australian Government****Department of the Environment, Water, Heritage and the Arts**

Mr David Robertson
Director
Cumberland Ecology Pty Ltd
PO Box 2474
CARLINGFORD COURT

Date: 9 August 2010
EPBC Ref: 2010/5566
EPBC contact: Terri-Ann English
6274 1765
Terri.english@environment.gov.au

Dear Mr Robertson

Decision on referral**Maules Creek Coal Project, Boggabri, NSW (EPBC 2010/5566)**

This proposed action, to construct and operate an open cut mine approximately 18km north-east of the township of Boggabri, has now been considered under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

We have decided that the proposed action is a controlled action and, as such, requires assessment and approval by the Minister for Environment Protection, Heritage and the Arts before it can proceed.

It appears that the proposed action is likely to have a significant impact on the following matters protected by the EPBC Act:

- Listed threatened species and communities (sections 18 & 18A)
- Listed migratory species (sections 20 and 20A)

For example, based on the information available in the referral, the proposed action is likely to have a significant impact because:

- it involves the clearing of 423ha of critically endangered White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland ecological community)
- it involves the removal of 423 ha of foraging habitat for the migratory and endangered, Regent Honeyeater (*Anthochaera phrygia*) and Swift Parrot (*Lathamus dicolor*)

Please note that this decision only relates to the potential for significant impact on the specific matters protected by the Australian Government under Chapter 4 of the EPBC Act.

If you have any questions about the referral process or this decision, please contact the EPBC project manager and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely

A handwritten signature in blue ink that reads "Fiona Beynon".

Ms Fiona Beynon
A/g Assistant Secretary
Environment Assessment Branch



Australian Government

Department of the Environment, Water, Heritage and the Arts

Notification of REFERRAL DECISION AND DESIGNATED PROPONENT – controlled action

Maules Creek Coal project, Boggabri NSW (2010/5566)

This decision is made under section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

proposed action The proposed action is for the operation and construction of a coal mine (open cut) and associated infrastructure approximately 18km north-east of the township of Boggabri and as described in the referral received under the EPBC Act on 9 July 2010.

decision on proposed action The proposed action is a controlled action.
The project will require assessment and approval under the EPBC Act before it can proceed.

relevant controlling provisions

- Listed threatened species and communities (sections 18 & 18A)
- Listed migratory species (sections 20 & 20A)

designated proponent Aston Coal 2 Pty Ltd (ABN 14 139 472 567)

assessment approach To be advised.

Decision-maker

name and position Fiona Beynon
a/g Assistant Secretary
Environment Assessment Branch

signature

date of decision 9 August 2010

**Australian Government****Department of the Environment, Water, Heritage and the Arts**

Mr Lance Muir
General manager- Maules Creek
Aston Coal 2 Pty Limited
Level 10, AMP Place
10 Eagle Street
Brisbane QLD 4001

Date: 6 August 2010
EPBC Ref: 2010/5566
EPBC contact: Terri-Ann English
6274 1765
Terri.english@environment.gov.au

Dear Mr Muir

**Request for additional information
Maules Creek Coal Project, Boggabri, NSW (2010/5566)**

Thank you for submitting a referral under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) concerning the above proposed action.

Our initial examination of your referral indicates that there is insufficient information to allow us to make an assessment approach decision if the referral was determined to be a controlled action.

We are writing to ask you to provide further information as follows:

- The assessment approach that will be used by New South Wales to assess the project

In any correspondence with the Department please quote the title of the action and EPBC reference, as shown on the beginning of this letter. You can send information to us:

by letter Mining Section
 Environment Assessment Branch
 Department of the Environment, Water, Heritage and the Arts
 GPO Box 787
 CANBERRA ACT 2601

by email terri.english@environment.gov.au
by fax 02 6274 1765

Please note that the timing for us to make an assessment approach decision, if your referral is determined to be a controlled action stops on the date of this letter and restarts once we have received satisfactory information. However, the timing for us to make a decision on whether your referral is a controlled action does not stop on this date and you should expect to receive advice by 9 August 2010.

If you have any questions about the process please contact the EPBC project manager and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely

A handwritten signature in cursive script that reads "Fiona Beynon".

Ms Fiona Beynon
A/g Assistant Secretary
Environment Assessment Branch

**Australian Government****Department of the Environment, Water, Heritage and the Arts****Notification of
DECISION ON ASSESSMENT APPROACH****Maules Creek Coal project, Boggabri NSW (2010/5566)**

This decision is made under Section 87 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Proposed action**proposed action**

The proposed action is for the operation and construction of a coal mine (open cut) and associated infrastructure approximately 18km north-east of the township of Boggabri and as described in the referral received under the EPBC Act on 9 July 2010.

Decision on assessment approach**assessment approach**

The project will be assessed by an accreditation of Part 3A of the *NSW Environmental Planning and Assessment Act 1979*.

Person authorised to make decision**name and position**

Mary Colreavy
Assistant Secretary
Environment Assessment Branch

signature

A handwritten signature in black ink, appearing to read 'M Colreavy', written over a horizontal line.

date of decision

13 August 2010

**Australian Government****Department of the Environment, Water, Heritage and the Arts**

Mr Lance Muir
General manger- Maules Creek
Aston Coal 2 Pty Limited
Level 10, AMP Place
10 Eagle Street
Brisbane QLD 4001

Date: 13 August 2010
EPBC Ref: 2010/5566
EPBC contact: Terri-Ann English
6274 1765
Terri.english@environment.gov.au

Dear Mr Muir

**Decision on assessment approach
Maules Creek Coal Project, Boggabri, NSW (EPBC 2010/5566)**

On 9 August 2010 it was decided that your proposed action to construct and operate an open cut mine approximately 18km north-east of the township of Boggabri, required assessment and approval under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

I have now decided that the proposed action will need to be assessed through accredited assessment under Part 3a of the NSW *Environmental Planning and Assessment Act 1979*.

This will ensure a more streamlined approach, as only one environmental assessment is required to be submitted to both the state and commonwealth governments.

A copy of the document recording this decision is enclosed.

I have also written to the New South Wales Department of Planning to advise them of this decision.

You should contact New South Wales Department of Planning, to determine the specific requirements under the Part 3a assessment process.

If you have any questions about the assessment process or this decision, please contact the EPBC project manager and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mary Colreavy'.

Mary Colreavy
Assistant Secretary
Environment Assessment Branch

Hansen Bailey

ENVIRONMENTAL CONSULTANTS

20 January 2011

The Minister for Planning
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Ref: 986 - 110113 DoP Maules Section 75B Ltr.docx

Attention: Mr David Kitto

Dear David,

Maules Creek Coal Project

The proposed Maules Creek Coal Project (Application Number: 10_0138) incorporates a 21 year open cut coal mining operation and associated surface infrastructure generally within its current mining authorities and proposes to extract coal at up to 13 Million tonnes per annum Run of Mine coal from a resource of approximately 240 Million tonnes.

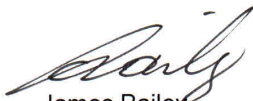
Section 75B(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) defines development that is declared to be a Project to which Part 3A of the EP&A Act applies and includes development listed "(a) by a State Environmental Planning Policy".

Clause 6(1)(a) of the *State Environmental Planning Policy (Major Developments) 2005* (SEPP Major Developments) identifies development that, in the opinion of the Minister, is development "that is described in Schedule 1 or 2" and is declared to be a project to which Part 3A applies. Schedule 1, Clause 5(1)(a) of the SEPP Major Developments includes: "(1) Development for the purpose of mining that: (a) is coal or mineral sands mining".

We would appreciate it if you could please provide us written confirmation that pursuant to Clause 6(1) of SEPP Major Developments, the Minister has formed the opinion that the Maules Creek Coal Project is one to which Part 3A of the EP&A Act applies.

Should you have any queries in relation to this letter, please contact me on 02 6575 2000.

Yours faithfully

HANSEN BAILEY

James Bailey
Director

Hansen Bailey Pty Ltd (ABN 17 093 597 810)

BRISBANE

Phone: (07) 3226 0900 Fax: (07) 3226 0901

Address: Level 15, 215 Adelaide Street Brisbane Qld 4000 Postal: GPO Box 3285 Brisbane Qld 4001

HUNTER VALLEY

Phone: (02) 6575 2000 Fax: (02) 6575 2001

Address: 6/127-129 John Street Singleton NSW 2330 Postal: PO Box 473 Singleton NSW



Planning

Mining & Industry

Phone: (02) 9228 6483

Fax: (02) 9228 6466

Email: colin.phillips@planning.nsw.gov.au

Level 3 Room 306

23-33 Bridge Street

GPO Box 39

SYDNEY NSW 2001

Mr James Bailey
Director
Hansen Bailey
PO Box 473
SINGLETON NSW 2330


Dear Mr Bailey,

I refer to your letter, dated 20 January 2011, requesting confirmation that the Minister has formed the opinion that the Maules Creek Coal Project is one to which Part 3A of the EP&A Act applies.

I can advise that on 2 November 2010, Mr David Kitto, delegate of the Director General, formed the opinion that the Maules Creek Coal Mining Project is development of a kind that is described in Schedule 1 of the *State Environmental Planning Policy (Major Development) 2005*, pursuant to Clause 6(1) of that policy.

The Maules Creek Coal Project is therefore declared to be a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* applies for the purpose of section 75B of that Act.

Yours sincerely,


Colin Phillips
Senior Planner
Mining

