

The Coordinator-General
C/ Project Manager – Peak Downs Continuation project
Project Evaluation and Facilitation
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Dear Coordinator-General

RE: Peak Downs Continuation Project – Draft Terms of Reference

Thank you for the opportunity to make this submission in response to Draft Terms of Reference **(ToR)** for BM Alliance Coal Operations Pty Ltd's **(the Proponent)** Peak Downs Continuation project **(the Project)**.

Environmental Advocacy in Central Queensland (**EnvA**) is a Central Queensland association concerned about the risks associated with coal mining, coal seam gas and climate change.

EnvA believes that opening new or expanding existing coal and gas projects:

- is contrary to meeting Australia's emission targets and Queensland's emission targets,
- is likely to result in irreparable damage to our local landscape and result in stranded assets,
- will put our local community at further risk of extreme weather such as increasing the intensity and frequency of storms, floods, droughts and bushfires,
- will damage our significant coastal resources including our beaches and the Great Barrier Reef through storm surge and increased coral bleaching events,
- will further degrade wildlife habitats of state and national significance through both habitat loss and climate change, and
- rarely take into consideration the views of Traditional Owners and local communities who are concerned about protecting their land from fossil fuel development.

The Peak Downs Continuation project

The proposed Project is the expansion of the Peak Downs metallurgical coal mine located within the Bowen Basin, approximately 30 km south-east of Moranbah and 40 km north-west of Dysart.

The project area spans approximately 4,062 hectares, with a disturbance footprint to be determined in the detailed mine planning and impact assessment.

The Project would enable the Peak Downs Mine to continue to produce up to 18 million tonnes per annum (Mtpa) of product (metallurgical) coal for up to approximately 93 years.



The Project would include, although not be limited to, the following primary components and activities:

- open cut mining (dragline and truck and shovel methods) of run-of-mine (ROM) coal from the Moranbah Coal Measures in ML 70411, ML 1885 and part of ML 1775;
- realignment of Peak Downs Mine Road and associated rail level crossing;
- various infrastructure relocations to facilitate the mining extensions, including a section of the Moranbah 132 kilovolt (kV) No.2 Transmission Line, Ergon Single Line Earth Return, a 132 kV substation feeder, and the Eungella Water Pipeline Southern Extension;
- progressive development of watercourse diversions (diversion of Ripstone Creek and relocation of the low-flow Ripstone Creek and Boomerang Creek diversions) and levees;
- controlled release of mine affected water in accordance with the conditions of EA EPML00318213 and/or beneficial industrial re-use;
- construction and operation of new ancillary infrastructure in support of mining;
- construction and operation of additional mine access roads to access the Project mining areas;
- ongoing exploration activities; and
- other associated infrastructure, plant, equipment and activities.

The Project has been gazetted as a coordinated project under the *State Development and Public Works Organisation Act 1971* (Qld) (**SDPWO**). The Project is also a controlled action under the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**) which will be assessed through the accredited assessment under section 87(4) of the SDPWO Act. The relevant Matters of National Environmental Significance (controlling actions) are:

- listed threatened species and communities (EPBC Act, sections 18 and 18A), and
- a water resource, in relation to coal seam gas development and large coal mining development (sections 24D and 24E).

The ToR for an environmental impact statement (**EIS**) were released for public consultation on 12 May 2022. The draft ToR sets out the matters BMA must address when preparing the EIS.

EnvA's comments on the draft TOR

EnvA is strongly opposed to the Project and recommends that you exercise your powers under s 27AF(1) of the *State Development and Public Works Organisation Act 1971* (Qld) (**SDPWO Act**) and cancel the coordinated project declaration. Given the significant climate impacts of this Project, it is not in the public interest¹ nor does it secure the proper planning, preparation, execution and coordination of the development and environmental coordination for the State of Queensland.²

In any event, we provide comment on the draft terms of reference to ensure that the impacts of the Peak Downs Mine Continuation are properly assessed including the environmental effects³, limits on human rights⁴ and the cultural heritage of First Nations Peoples⁵.

¹ *State Development and Public Works Organisation Act 1971* (Qld) (**SDPWO Act**) s 27AF(1)(c).

² SDPWO Act s 10(2); *Waratah Coal Pty Ltd v Coordinator-General, Department of State Development, Infrastructure and Planning* [2014] QSC 036 [12].

³ SDPWO Act s 25.

⁴ *Human Rights Act 2019* (Qld) s 58(1) (**HR Act**).

⁵ *Cultural Heritage Act 2003* (Qld).

Matters of National Environmental Significance

Background

As the Project is a controlled action under the EPBC Act and will be assessed by accredited assessment under the SDPWO Act, the EIS will contain a stand-alone chapter addressing the cumulative impacts of the Project on listed threatened species and communities (EPBC Act sections 18 & 18A) and water resources (EPBC Act sections 24D & 24E).

EnvA is very concerned about the cumulative impacts of land clearing and the impacts of climate change due to the establishment or expansion of coal mines on threatened species and ecosystems. We have investigated and made comments on many new or expanding coal mines in the Central Queensland and the vast majority have a similar list of species and ecosystems. Some of these species (i.e. koala and greater glider) are declining significantly to the extent that they have recently been reclassified from vulnerable to endangered in Queensland.

While the draft TOR requires that cumulative impacts for a range of matters including Matters of National Environmental Significance (**MNES**), EnvA is concerned that there is no specific guidance on the methodology for measuring cumulative impacts or assessment of the significance of the cumulative impacts. The recent release of the State of the Environment Report and the bold aim of the Australian Government to prevent any further extinctions in the [Threatened Species Action Plan 2022-2032](#) will require all new coal and gas projects to better assess and document direct, cumulative and indirect impacts on threatened species and communities.

There is [substantial evidence](#) that climate change is a significant threat to an overwhelming number of listed threatened species and communities. The Project with a yield of up to 18 million tonnes per annum of product coal for approximately 93 years resulting in at least **4 billion tonnes of greenhouse gas emissions** over the life of the mine.⁶

The EIS must describe and assess all relevant impacts (impact is defined in [s527E of the EPBC Act](#)) including the impacts of climate change from the Projects emissions on all identified threatened species and communities. This should also be incorporated in the assessment of the cumulative impacts of habitat loss on these species and communities.

Recommendations

1. That Appendix 1 – MNES listed threatened species and communities (sections 18 and 18A) be updated to include all MNES threatened species and communities threatened by climate change as identified in the database available at <https://livingwonders.org.au/search-the-evidence/>.
2. That the impacts of accelerated climate change on threatened species and communities are integrated into the assessment of cumulative impacts.
3. That further direction in measuring and assessing cumulative impacts are incorporated into the ToR (based on expert scientific advice).

Decarbonisation Plan requirements

Background

EnvA is concerned about the listed requirements for a decarbonisation plan, particularly:

- 15.222(b) which provides the opportunity for measures to reduce emissions from other projects or across other tenures held by the proponent in Queensland to be used to show how the projects cumulatively contribute to Queensland and Australia's published emissions targets, and
- 15.222(d) (ii and v) which provide for other carbon offsetting for emissions which can't be reduced (including but not limited to carbon offset vegetation management).

⁶ Determined using an estimate of total product volume of coal x 2.4.

The Proponent should not be allowed to rely on its other operations to offset emissions from this mine. The decarbonisation plan should be required to set out exactly which measures the Proponent will take to reduce the emissions impact of the mine, and how big a reduction those measures are expected to lead to.

The use of carbon offsets is considered by EnvA to be ‘greenwashing’ when it relates to the fossil fuel industry and do not effectively replace the need to reduce emissions. Decarbonisation plans that use offsets cannot replace needed emissions reductions and fossil fuel phase-outs which are required if Australia and Queensland are to meet their already very low emissions targets.

Recommendations

Given that the Department of Environment and Science have not finalised the Industry Decarbonisation Plan Policy, and may differ from the Queensland Resources Industry Development Plan, EnvA recommends:

1. That clauses 15.213(b), 15.213(d) (ii) and 15.213(d) (v) are removed from the final TOR.

Cultural heritage assessment

First Nations Peoples are the primary custodians and knowledge holders of their cultural heritage. The principles of free, prior and informed consent and self-determination must be at the core of any assessment of the impact of the Project on cultural heritage.

To that end, it is imperative that all First Nations People whose cultural heritage may be impacted by the Project are included the assessment of cultural heritage impacts. It must be recognised that some relevant First Nations People are not recognised in the Native Title system, but may have cultural interests that will be directly or indirectly impacted by the Project (i.e. song-lines or totem animals).

Impacts on cultural heritage are not limited to the physical landscape or restricted solely to ‘sacred sites’ and any assessment of impacts on cultural heritage must also include impacts on cultural knowledge, beliefs and practices.

Recommendations

1. That section 15.194 be amended to “Identify the Traditional Owners and other First Nations Peoples with cultural heritage interests or who may be affected by the project”.

Human rights

Background

To fulfil your obligations under the Human Rights Act you must conduct your own enquiries, especially with respect to facts and circumstances relevant to human rights contained in any future EIS prepared by BMA Coal. At present, there is only one reference to human rights in the draft TOR contained in a footnote.

We are of the view that you would be benefitted by the BMA Coal identifying the human rights engaged and limited by their Project. But we caution that the Human Rights Act imposes an independent duty on you to fulfill human rights obligations when exercising your functions under the SDPWO Act. Inquiries should also be made into BHP’s human rights record.⁷

⁷ ABC News, *BHP, Glencore, Anglo American face OECD investigation over environmental damage and human rights abuses at Colombian coal mine* (Jan 2021) <<https://www.abc.net.au/news/2021-01-19/cerrejon-coal-mine-colombia-in-environment-rights-abuse-probe/13069168>>, The Sydney Morning Herald, *BHP-backed coal mine in Colombia rocked by human rights claim* (June 2020) <<https://www.smh.com.au/business/companies/bhp-backed-coal-mine-in-colombia-rocked-by-human-rights-claim-20200617-p553n5.html>>; Vanessa Zhou, *BHP-owned mine faces human rights allegations involving UN* (June 2020) <<https://www.australianmining.com.au/bhp-owned-mine-faces-human-rights-allegations-involving-un/>>.

Recommendations

1. We recommend that Human Rights be included in section 14 of the TOR with the following minimum terms:
 - a. identify and describe any human rights likely to be impacted by the Project; and
 - b. describe the potential limitations of human rights arising as a consequence of the construction, operation, and decommissioning of the Project.
2. We also recommend inserting a new TOR at 9.2(g) that requires all of the entities and directors involved in BMA Coal to set out their environmental and human rights record, nationally and internationally.

Thank you again for the opportunity to make comment on the Draft Terms of Reference for the Peak Downs Continuation Project.

Kind regards



Dr Coral Rowston

Director

Environmental Advocacy in Central Queensland