

Hon Tanya Plibersek MP  
Minister for the Environment and Water  
c/- Department of Climate Change, Energy, the Environment and Water

By email: Minister.Plibersek@dcceew.gov.au

8 August 2024

Dear Minister,

**RE: Vulcan North Bulk Sample Project – not assessed under the EPBC Act**

1. 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.
2. We are writing to you regarding Queensland Coking Coal Pty Ltd (trading as Vitrinite Pty Ltd)'s (**the Proponent**) unauthorised clearing of land. We are concerned that:
  - a) The Proponent has cleared land in an area that is currently being assessed under the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)* (EPBC 2023/9708); and
  - b) The Proponent's clearing relates to actions that have not been referred under the EPBC Act and which directly impacts on Matters of National Environmental Significance (**MNES**).
3. In the above circumstances, we request that you:
  - a) investigate the contravention and take appropriate enforcement action under the EPBC Act; and
  - b) take the Proponent's history of breaching environmental laws into account when assessing EPBC 2022/09361 and EPBC 2023/09708 under section 136(4) of the EPBC Act.

**Background to Project**

4. The Proponent has referred various components of the Vulcan Coal Mine Complex through the following four separate applications under the EPBC Act:
  - a) Vulcan Bulk Sample Project (EPBC 2019/8504).

The previous Environment Minister determined that this was not a controlled action.
  - b) Vulcan Complex Project (EPBC 2020/8676).

This was determined to be a controlled action to be assessed by Preliminary Documentation, which was approved by the previous Environment Minister with conditions and offset requirements in 2022.



- c) Vulcan Coal Mine – Matilda Pit and Ancillary Infrastructure (EPBC 2022/09361).

This has been determined to be a controlled action to be assessed on Preliminary Documentation. A decision on this project has not yet been made.

- d) Vulcan South Coal Mine (EPBC 2023/09708).

This has been determined to be a controlled action to be assessed by Public Environment Report. A decision on this project has not yet been made.

5. The Queensland Department of Environment, Science and Innovation (**DESI**) has granted Environmental Authorities under the *Environment Protection Act 1994 (EP Act)* for the four projects listed above.

#### **Additional Project Component - EPPR03277115**

6. We recently became aware of a fifth component of the Vulcan Coal Mine Complex, which relates to a large bulk sampling project located on EPC 1233 (**bulk sampling project**).
7. We understand that this project is situated within the proposed Vulcan South Coal Mine project area (referral EPBC 2023/09708) which is currently under assessment. The bulk sampling project was not identified in the referral and does not appear to have been previously referred for assessment under the EPBC Act.
8. DESI issued the enclosed amended Environmental Authority EPPR03277115<sup>1</sup> for the bulk sampling project on 22 March 2024. We first became aware of the EA when DESI issued the enclosed Directions Notice<sup>2</sup> to the Proponent on 17 June 2024. The Directions Notice broadly provides that the Proponent has conducted unauthorised clearing on EPC 1233 and is required to remedy the breach, which could include by amending the EA to include the unauthorised disturbance area.

#### **Breach of EPBC Act**

9. We note that the area cleared for the bulk sampling project lies within the proposed Vulcan South project area. The supporting information provided by the Proponent in referring the Vulcan South project for assessment under the EPBC Act indicated that this area supports MNES.
10. We believe that the Proponent has breached the EPBC Act because:
- a) It has not referred the bulk sampling project for assessment under the EPBC Act; or
  - b) In the alternative, it has breached s74AA of the EPBC Act by conducting activities in relation to an area that is subject to referral EPBC 2023/9708 and has not been approved.
11. We request that you investigate the clearing of the approximately 67 ha associated with the bulk sampling project and the take appropriate enforcement under the EPBC Act.
12. We are also concerned that DESI has informed the Proponent that it can remedy the breach by seeking an amended EA to cover the illegally cleared area. This does not address the clearing of land and impacts on MNES under the EPBC Act.

#### **Environmental Record of Proponent**

13. We note that you are yet to make a decision in relation to EPBC 2022/09361 and EPBC 2023/09708. We request that you take the Proponent's environmental history of ongoing and significant breaches of environmental approvals into account when deciding whether or not to approve EPBC 2022/09361 and EPBC 2023/09708 under section 136(4) of the EPBC Act.

14. The Proponent has a history of breaching the conditions of environmental approvals and acting (in relation to above contravention) acting without environmental approval. In addition to the above contravention, on 22 March 2024, DESI issued the Proponent with the enclosed Environment Protection Order<sup>3</sup> (**EPO**) in relation to the repeated release of contaminated water from the Vulcan Complex mine between November 2022 and March 2023 and inappropriate water monitoring and drainage infrastructure.
15. As it appears from DESI's Directions Notice, the Proponent's conduct may be ongoing if it continues to conduct activities purportedly under the EA issued by DESI without any EPBC Act approval. As such, we seek your assurance that:
- a) the Department is making inquiries into the matter and will take appropriate enforcement action; and
  - b) the Proponent has referred the bulk sampling project for assessment under the EPBC Act and will not continue its activities unless it receives approval under the EPBC Act for the relevant activities.

Kind regards,



Dr Coral Rowston  
Director  
Environmental Advocacy in Central Queensland Inc.

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**Enclosures:**

- 1. Environmental Authority EPPR03277115 for the bulk sampling project dated 22 March 2024
- 2. Directions Notice dated 17 June 2024
- 3. Environment Protection Order dated 22 March 2024 (original EPO was issued on 22 January 2024, but was repealed and replaced with the enclosed EPO after the Proponent requested additional time to address the matters raised)