

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
CC: environment.compliance@dcceew.gov.au

23 October 2024

Dear Minister Plibersek,

RE: Vulcan North Bulk Sample Project – potential illegal clearing of threatened species habitat

Thank you for your correspondence of 10 October 2024 (through Graeme Grosse, Compliance and Enforcement Branch) in relation to concerns we raised on 8 August 2024¹ about Vitrinite's clearing of threatened species habitat for their Vulcan South Coal project (EPBC 2023/09708) without appropriate *Environment Protection and Biodiversity Conservation Act* referral or approval (MC24-016407).

While Environmental Advocacy in Central Queensland (EnvA) is appreciative that the Department of Climate Change, Energy, the Environment and Water (DCCEEW) has commenced an investigation into our allegation that Vitrinite Pty Ltd has illegally cleared threatened species habitat, we are concerned that it took ten weeks to receive a response and that the coal mining activity is continuing. Despite our efforts in following up on this matter with you and the Compliance and Enforcement branch of DCCEEW in an email sent on 28 August 2024, it appears that the only way that conservation groups can be heard is to make public our concerns through media². Our previous concerns and facts are relevant to this additional correspondence.

We ask that you, as our Environment Minister you use your powers under Section 475 of the EPBC Act to seek an urgent injunction from the Federal Court to halt works at the Vulcan South coal mine until the investigation into whether the clearing was illegal under the EPBC Act is completed.

We also bring to your attention that:

- operations are continuing at the mine site which has resulted in the loss of significant areas of threatened species habitat, and
- vegetation has been cleared that was identified in the documentation you are considering for the Vulcan South coal mine to be conserved as an avoidance and mitigation measure for the conservation of important koala and greater glider habitat.

These matters are further detailed below.

¹ [EnvA correspondence to the Federal Environment Minister and DCCEEW](#)

² [ABC News story published 4 October 2024](#)



Vitrinite continuing coal mining work at Vulcan South coal mine

Drone footage of the Vulcan North Bulk Sample Project site within the proposed Vulcan South coal mine taken on 15 October 2024 clearly shows that coal mining work is continuing, despite that work not being referred or approved under the EPBC Act.

The footage shows extensive excavation is continuing and a significant number of vehicles and heavy machinery are active at the bulk sampling pit.

We share two images taken on 15 October 2024 that were provided to us below. EnvA understands that a more comprehensive inclusion of all footage and photos of the clearing and mining activities will be provided by other conservation groups concerned about the impacts of this “illegal” clearing at the proposed Vulcan South coal mine is having on Central Queensland’s threatened species and ecosystems.



EnvA is extremely concerned that Vitrinite is continuing to conduct potentially illegal activity on the site of the Vulcan South coal mine while the department conducts its investigation.

Allowing potentially unlawful work to continue while an investigation is underway sends a message that the department does not take compliance with the EPBC Act seriously.

Section 475 of the EPBC Act³ clearly identifies the Minister's powers to apply to the Federal Court for an injunction to halt an activity which maybe in contradiction of the EPBC Act. We ask that you use your power in this respect and not rely on the community to take on the responsibility for addressing legislated environmental protection.

EnvA is aware of the significant public interest in this matter and the lack of action taken by both the Queensland and Federal governments in addressing the environmental issues raised by conservation groups. Decisive action in applying for an injunction on the ongoing activities while the investigation runs its course would be publicly welcomed and strongly supported by conservation organisations.

Clearing of koala and greater glider habitat that is to be protected as 'avoidance and mitigation'

Vitrinite's Public Environment Report (PER) released for consultation for their proposed Vulcan South coal mine states their proposal is to avoid koala and greater glider habitat on the tributary of Plumtree Creek and excluded land between the north and main pit from the disturbance footprint. However, the haul road associated with the 'bulk sample project' has cleared this habitat and is currently being used by heavy vehicles.

The haul road crosses two tributaries and passes within what appears to be a very close distance to Vitrinite's sightings of koalas and greater gliders in an area they mapped as high-quality habitat for these species.

There are a series of maps within the Queensland Government's Environmental Authority (EA)⁴ which clearly demonstrate that the Vulcan North Bulk Sample Project will have significant impacts on a diversity of listed species and communities. In relation to the haul road, the Figure A.1 within the EA shows that the haul road (green line) crosses the tributaries that Vitrinite's PER document claims it will avoid and not disturb.

While we have not sought legal advice at this stage, it appears that Vitrinite may have provided false and misleading information in their PER documents in claims they will not clear threatened species habitat in this area as an avoidance and mitigation measure. We believe that this may be a further offence under s489 of the EPBC Act⁵.

In conclusion, EnvA requests that you:

- Use your powers under Section 475 of the EPBC Act to seek an urgent injunction from the Federal Court to halt works at the Vulcan South coal mine until your investigations have concluded,
- Investigate any potential offences Vitrinite may have committed in clearing koala and greater glider habitat for the haul road in an area that is identified in as an area for protection as an avoidance and mitigation measure in the PER documentation for the Vulcan South coal project,
- Take into account the history of environmental breaches by Vitrinite when making a decision on the suitability of this proponent to conduct their proposed Vulcan South Coal mine activities which will have significant impacts on threatened species and communities, and

³ https://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/epabca1999588/s475.html

⁴ [Environmental authority EPPR03277115](#)

⁵ https://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/epabca1999588/s489.html

- Take appropriate action against Vitrinite for any confirmed breaches of the EPBC relating to the commencement of an action without referral and/or approval.

We would also appreciate an update on the investigation and advice on any action you intend to take to prevent further destruction of threatened species habitat.

Thank you in anticipation for your urgent attention to this matter.

Kind regards,

A handwritten signature in blue ink, appearing to read 'Coral Rowston', with a stylized flourish at the end.

Dr Coral Rowston
Director
Environmental Advocacy in Central Queensland Inc.