



1 November 2022

Dear Premier Palaszczuk and Deputy Premier Miles,

CC Environment Minister Scanlon, Resources Minister Stewart

As the Albanese Government is considering significant reform of the Federal *Environmental Protection and Biodiversity Conservation Act*, we are writing to draw your attention to the Queensland Government's thresholds for requiring Environmental Impact Statements (EIS) for new and expanding coal mines. We believe the Queensland Government's processes are not aligned with the current federal assessment process and will be further out of step with Environment Minister Plibersek's initiatives and reforms.

Our organisations are strongly concerned that DES has not been appropriately applying the required criteria in the EP Act in deciding whether an EIS is required for greenfield coal mines. Under the *Environmental Protection Act 1994* (Qld) (EP Act) and the *Guideline Criteria for Environmental Impact Statements for Resource Projects, Appendix B - EIS Triggers* (Guideline), there is a process and a discretion in deciding whether greenfield and expansion coal mine applications require an EIS.

From our analysis it appears that DES are not applying the standard criteria, and only applying one suggested Guideline threshold in deciding whether an EIS is required, being whether the mine will produce less than 2 million tonnes of coal per annum.

What's more, the Guideline is being applied such that a coal mine already producing 1.9 million tonnes per annum, that has not been required to undertake an EIS, could expand to double production to 3.8 million tonnes of coal per annum and still not be required to undertake an EIS.

This has meant that many applications for greenfield and expansion coal mines are not being required to undertake an EIS – which is a standard form of ensuring that all environmental impacts are properly assessed prior to deciding an application for a mine.

Currently, there are at least eight new coal mines or expansions to existing coal mines before the Department which do not require an EIS, yet which sit on floodplains and catchments of the Great Barrier Reef, impact threatened species and pose significant greenhouse gas emissions. All coal mines pose significant impacts on Queensland's natural environment, including particularly to water resources and through greenhouse gas emissions.

We are calling on your government to amend the EP Act and the *Environmental Protection Act 1994, Guideline Criteria for Environmental Impact Statements for Resource Projects, Appendix B - EIS Triggers (Guideline)*, to require that all coal mining projects, including greenfield and

expansion proposals, must produce an EIS. An EIS can be scaled to the size of the project, and will ensure that all relevant potential impacts are appropriately addressed, with transparency and accountability to the community ensuring it is made on the best available information.

Background

The Guideline has been made under the EP Act power for the chief executive to make guidelines about “how an administering authority complies with a regulatory requirement”.

Sections 143 and 228 of the EP Act describe the circumstances under which a resource activity must or may be assessed by EIS. The EP Act requires that the standard criteria must be considered when making this decision about whether to require an EIS. The Guideline then seeks to provide assistance to the decision makers in discharging that duty.

The Guideline expressly states that the triggers (or, EIS thresholds) at Appendix B should not be treated as the determining factor when making decisions about whether an EIS should be required. For example, page 3 of the Guideline states:

“...if no EIS triggers are met, this does not provide an exemption from having to prepare an EIS if the department considers other matters listed above are relevant, e.g. that there may be a significant environmental impact, or there is a high level of uncertainty about the possible impacts, or unacceptable cumulative impacts, or there is a high level of public interest in the proposal.”

Yet this is clearly not being applied by DES.

Currently, there are at least eight new coal mines or expansions to existing coal mines before the Department which do not require an EIS. Collectively, those eight projects represent approximately 1,866 million tonnes of CO₂ equivalent emissions across their life spans. Every tonne of CO₂ emitted into the atmosphere contributes to worsening the impacts of climate change and the combustion of coal is the single greatest contributor to global temperature increase. The impacts associated with those emissions fit squarely within the standard criteria considerations as to the public interest, intergenerational equity, conservation of biological diversity and ecological integrity, and the overarching object of the EP Act.

Further, these mines pose significant impacts to water resources and biodiversity. Some mine applications which recently were not required to undertake an EIS are being proposed across floodplains with no intention of backfilling, or next to significant river catchments that contain threatened species and flow to the Great Barrier Reef, and most involve significant tree clearing of habitat of threatened species and impacts to Aboriginal cultural heritage on the sites. Yet the public, and the government, have not had sufficient information in the application stage to understand what the impacts of these proposals are, and whether they are appropriate under the EP Act in providing for ecologically sustainable decisions.

Accordingly, a thorough assessment of coal projects should be available to decision makers to enable a complete weighing up of the benefits and disbenefits of a proposal, in the proper discharge of their statutory duty to exercise the decision-making power in a way that best achieves the object of the EP Act.

To correctly apply the EP Act framework, the starting point should be the statutory obligation to consider the standard criteria, and the Guideline provides discretion to depart from the triggers to do so.

However, of the current applications for a new coal mine or expansion to an existing coal mine before the Department which underwent, or are undergoing, the EIS process, all either satisfied a threshold in the Guideline or the proponent voluntarily undertook an EIS. This suggests that the EIS triggers are influential in decision-making. To avoid decisions which are inconsistent with

the EP Act, the Guideline and EP Act must be clarified to ensure that the EIS triggers do not lead decision makers in a direction that may be inconsistent with the standard criteria.

Regardless of the size of a planned coal mine a full EIS should be required, so that it is ensured, and the public has confidence that fulsome assessment and scrutiny of environmental impacts has been undertaken for these high impact projects.

A number of new coal mines in Queensland are currently being assessed. Despite the threats to significant environmental values, these proposals did not trigger the requirement for an EIS. Many of these propose to impact on the habitat of endangered animals like the koala and greater glider, and on endangered ecosystems like Brigalow forest - all of which are protection priorities for the Palaszczuk and Albanese governments. Without requiring these projects to produce an EIS, the full extent of the environmental threats and impacts posed by these projects will not be scrutinised in the most rigorous available assessment.

Case study: Magnetic South's proposed Gemini coal mine

In December 2019, the Department of Environment and Science made a decision to not require an EIS for the proposed Gemini Coal Project, 5km from the town of Dingo and 170 km west of Rockhampton.

The Gemini mine's planned coal extraction rate is 1.9 million tonnes per annum (mtpa), marginally below the QLD EIS threshold of 2mtpa.

The Gemini proposal sits adjacent to a number of National Parks, it borders Taunton National Park, created specifically to protect the endangered bridled nail-tailed Wallaby, a species thought to be extinct until its rediscovery near the site of the Gemini mine in 1973.

The Gemini mine is also planned to clear significant areas of native vegetation, which will impact on aquatic ecosystems and potential habitat for the endangered Fitzroy River turtle.

We believe the Queensland Department made an error in determining this project would not impact a watercourse and hence did not require an EIS.

We are requesting the QLD government review its decision not to require an EIS, and require the Gemini project to complete an EIS, for full consideration of the impacts of this project, including on endangered species in Queensland, some of which exist nowhere else beyond this specific region.

Case study: Isaac River coal mine

The Queensland Government did not require an EIS for Bowen Coking Coal's proposed Isaac River project and granted an Environmental Authority. But advice requested by the Federal Government from the Independent Expert Scientific Committee (IESC) found '*substantial shortcomings in the proponent's analysis... that currently prevent reliable assessment of the project's environmental impacts.*' The IESC raised further concerns about impacts on the Isaac River, on groundwater dependent ecosystems, and on koala and greater glider habitat.

The Queensland government has granted approvals to the project after assessing impacts through the Environmental Authority application process, not a full EIS. The IESC's statement that the shortcomings of the proponents' analysis 'prevents a reliable assessment of the project's environmental impacts' highlights the inadequacies of the Environmental Authority application process to rigorously assess environmental impacts. The IESC advice confirms that the proponent's analysis of environmental impacts, which the Queensland government approved, was inadequate.

Case study: Vitrinite's proposed Vulcan and Vulcan South coal project

In 2021, the Queensland Government granted a mining lease to Vitrinite for the Vulcan coal project to produce 1.95mtpa coal in the Bowen basin, without an EIS.

In 2022, Vitrinite is seeking a mining lease for the Vulcan South coal mine, where it plans to produce 1.95 mtpa of coal, again without an EIS.

To the Queensland government, Vitrinite presents these as two mines. On its website, the company presents them as a single project.

Vitrinite's Environmental Authority application says the Vulcan South mine will clear over 1000 hectares of habitat for the endangered koala and more than 70 hectares of habitat for the endangered greater glider.

Our organisations are concerned that the full extent of impacts on these iconic and endangered species, and other environmental values at risk from the planned mine, will not be appropriately assessed and scrutinised to the highest level through an EIS.

We are requesting the Queensland Government require an EIS assessment be undertaken for the Vulcan South project.

Broadly, Labor's stated policy is to consider each project and assess whether it stacks up environmentally, economically, and socially. To do this, coal projects in Queensland must be required to complete an Environmental Impact Statement that adequately covers these matters.

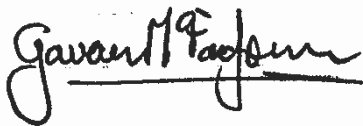
We call on your government to make the necessary amendments to the EP Act and the Guideline to achieve this.

There is a high level of public interest associated with any proposed new coal mine or expansion to an existing coal mine, as well as engagement of the principles of intergenerational equity and the conservation of biological diversity and ecological integrity.

The EP Act should be amended to require:

1. An EIS for all new coal projects; and
2. An updated EIS (or new EIS if one was not previously submitted) where an amendment to an environmental authority is sought for existing coal projects that increases coal production rates and/or extends the life of the mine.

Yours sincerely,



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