

To: The Hon Sussan Ley MP, Minister for the Environment, (for decision)

**Approval Decision Brief (Assessment Report) – Olive Downs Project Coal Mine and Access Road, 40 km south-east of Moranbah, Queensland (EPBC 2017/7867)**


**Timing:** As soon as possible – the statutory timeframe for making a final decision on whether or not to approve the proposed action was 4 December 2019.

**Recommendations:**

1. Consider the information in this brief and the proposed approval decision brief at Attachment A.  
**Considered / Please discuss**
2. Consider the responses to the invitation to comment on the proposed decision from the proponent, Queensland Government and relevant Commonwealth Ministers at Attachment B.  
**Considered / Please discuss**
3. Agree to approve, for each controlling provision, the proposed action as summarised in the table below.  
**Approved / Not approved**
4. Agree to attach the conditions of approval as set out in Attachment G.  
**Agreed / Not agreed**
5. If you agree to 3 and 4, accept the reasoning in the Departmental briefing package as the reasons for your decision.  
**Accepted / Not accepted**
6. Sign the notice of your decision at Attachment G.  
**Signed / Not signed**
7. Sign the letters at Attachment H advising the person proposing to take the action, and other relevant parties, of your final decision.  
**Signed / Not signed**
8. Approve the media release at Attachment J.  
*Please use MO media Release* **Approved / Not approved**

**Summary of recommendations on each controlling provision:**

Controlling provisions for the action	Recommendation	
	Approve	Refuse to Approve
Listed threatened species and communities (sections 18 and 18A)	Approve	
Listed migratory species (sections 20 and 20A)	Approve	

A water resource, in relation to coal seam gas development and large coal mining development (sections 24D and 24E)	Approve	
<div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;">  <p><b>The Hon Sussan Ley MP</b> <b>Minister for the Environment</b></p> <p><b>Comments:</b></p> </div> <div style="text-align: center;"> <p>14/5/20</p> <p><b>Date:</b></p> </div> </div>		

### Key Points

1. The purpose of this brief is for you to indicate whether or not you approve, subject to conditions of approval, a proposal by Pembroke Olive Downs Pty Ltd (the proponent) to construct and operate a 'greenfield' open-cut coal mine and access road to mine up to 20 million tonnes per annum of run-of-mine metallurgical coal and thermal coal by-product over an expected operational life of 79 years, near Moranbah in Queensland.
2. The proposed action is related to three other separate proposals made by the proponent, which make up the components of the 'Olive Downs Project':
  - a. Olive Downs Project Water Pipeline (EPBC 2017/7868): The final decision of approval, subject to conditions, was made on 14 April 2020.
  - b. Olive Downs Project Electricity Transmission Line (EPBC 2017/7869): The final decision of approval, subject to conditions, was made on 30 April 2020.
  - c. Olive Downs Project Rail Spur (EPBC 2017/7870): The final decision of approval, subject to conditions, was made on 14 April 2020.
3. The proposed action, along with the other three components, was assessed under the Bilateral Agreement with the Queensland Government by the Office of the Coordinator-General by environmental impact statement (EIS). The State evaluation report was provided to the Department on 14 May 2019 (Attachment A to Attachment A). The evaluation report includes recommendations for conditions to be imposed should the proposed action be approved under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).
4. The Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (IESC) has provided advice on the likely impacts of the proposed action on water resources. The IESC advice and the issues raised are discussed in the proposed approval decision brief (Attachment D and Attachment F to Attachment A).
5. In taking into account the precautionary principle, the Department has considered the Olive Downs Project in the context of matters of national environmental significance (MNES) that have been in the pathway of bushfire, in particular the EPBC-listed Koala (*Phascolarctos cinereus*) and Greater Glider (*Petauroides volans*).
6. The Department has worked closely with the proponent to prepare the conditions of approval at Attachment G. The proponent has indicated its agreement of these conditions on 8 May 2020 (Attachment C).

## Background

7. On 9 April 2020, your delegate proposed to approve the taking of the proposed action under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), subject to the proposed conditions of approval set out in the proposed approval decision brief (Attachment H to Attachment A).
8. Taking into consideration only the impacts of the mine site and access road component of the Olive Downs Project, your delegate considered the proposed action will result in a residual significant impact on the:
  - a. vulnerable Koala as a result of the clearance of 5,799 hectares (ha) of known habitat;
  - b. vulnerable Greater Glider as a result of the clearance of 5,637.5 ha of known habitat;
  - c. vulnerable Squatter Pigeon (Southern) (*Geophaps scripta scripta*) as a result of the clearance of 4,498.5 ha of known breeding habitat and 873 ha of known foraging habitat;
  - d. vulnerable Ornamental Snake (*Denisonia maculata*) as a result of the clearance of 7,753 ha of known important habitat;
  - e. endangered Brigalow (*Acacia harpophylla* dominant and co-dominant) threatened ecological community (Brigalow TEC) as a result of the clearance of 13 hectares of known Brigalow TEC; and
  - f. endangered Australian Painted Snipe (*Rostratula australis*) as a result of the clearance of 116 ha of breeding habitat, and the potential loss of 93.5 ha of breeding habitat from a reduction in wetland surface water catchments and potential groundwater drawdown.
9. The delegate considered the proposed action has the potential to result in a residual significant impact on water resources as a result of predicted future groundwater drawdown and a reduction in surface water catchments on groundwater-dependent ecosystems (GDEs) (i.e. terrestrial, aquatic and subterranean [Stygofauna]) within and adjacent to the project site.
10. The delegate considered the proposed action will not result in a residual significant impact on a listed migratory species because it is unlikely to:
  - a. substantially modify, destroy, or isolate, or introduce a harmful invasive species an area of important habitat for a migratory species; or
  - b. seriously disrupt the lifecycle of an ecologically significant proportion of the population of a migratory species.
11. As recommended in the proposed approval decision brief, your delegate wrote to the proponent, Queensland Department of Environment and Science (DES), Queensland Coordinator-General (CG) and relevant Commonwealth Ministers inviting comments on the proposed decision, as required under sections 131AA(1) and 131(1) of the EPBC Act.
12. In response to the invitation to comment on the proposed decision, the Department received comments from the Minister for Resources, Water and Northern Australia (Attachment B1), the proponent (Attachment B2), DES (Attachment B3), Department of Industry, Innovation and Science (Attachment B4), and Geoscience Australia (Attachment B5).
13. On 5 to 7 May 2020, the proponent provided revised comments on the proposed conditions of approval (Attachment C) based on changes to the offset stages and associated impacts on relevant listed threatened species and communities.

14. Except for the matters discussed in this brief and its attachments, the matters for consideration and factors to be taken into account in making your decision remain as set out in the proposed approval decision brief and its attachments (Attachment A).

Consultation on proposed decision of approval

15. The responses to the invitation to comment on the proposed decision of approval (Attachment B) have been considered in finalising the Department's recommended final decision of approval. The Department's considerations are discussed below and in detail at Attachment D.
16. On 16 April 2020, the Office of the Minister for Resources, Water and Northern Australia, on behalf of the Hon Keith Pitt MP, responded and advised there was no comment on the proposed decision.
17. On 16 April 2020, the proponent responded and raised concerns with several of the proposed conditions of approval, in particular the Ripstone Creek Diversion Program and the Koala and Greater Glider program in the Bowen Basin.

**Key comment 1: Ripstone Creek Diversion Program (proposed conditions 45 to 49)**

18. The proponent requested the Ripstone Creek Diversion Program (RCDP) be uncoupled from Stage 2 and be linked to the commencement of Pit ODS9 (Ripstone Creek Pit) which is separate to the main mine pits. The proponent also recommended proposed condition 45 require approval of the RCDP 15 years prior to the impacts occurring on the existing Ripstone Creek channel.

s. 47G(1)(a)

20. The Department agrees and recommends **changing** final condition 41 to require the proponent to submit a draft RCDP at least 15 years prior to the commencement of the permanent removal of a 2.1 kilometre section of existing Ripstone Creek channel, with associated Greater Glider habitat, (Ripstone Creek Diversion) and construction of a new diverted channel, with established Greater Glider habitat, which maintains habitat connectivity along Ripstone Creek.
21. The Department also recommends **changing** final condition 43 to require the proponent to not commence mining of the Ripstone Creek Pit until the RCDP has been approved in writing by the Minister (or delegate) and implemented.
22. Further, the Department recommends **changing** final condition 44 to require the proponent to not commence the Ripstone Creek Diversion (i.e. permanent removal of existing Ripstone Creek channel with associated Greater Glider habitat) until it demonstrates that the Ripstone Creek completion criteria (i.e. the outcome of maintaining Greater Glider habitat connectivity along Ripstone Creek) have been achieved.
23. The Department considers these changes appropriate as it will still require the proponent to implement the on-ground actions of the RCDP as quickly as possible after the commencement of the proposed action to ensure Greater Glider habitat connectivity is maintained by the time the Ripstone Creek Diversion commences.

**Key comment 2: Timing of submission of draft framework for the Koala and Greater Glider program (proposed condition 37)**

24. In its comment of 16 April 2020, the proponent requested a change to the timeframe for submitting a draft framework from 3 years prior to Stage 2 of the proposed action to 12 months. This is due to a recent change in timing for Stage 1 and Stage 2 and subsequent impacts on listed threatened species and communities ([Attachment B2](#)). The proponent considers the revised timing will allow it time to develop a robust framework.
25. The Department recommends **no change** to final condition 33 because the proponent no longer proposes this change based on its revised offset staging plan provided to the Department on 5 May 2020 (see paragraphs 55 to 60 below) ([Attachment C](#)).

**Key comment 3: Groundwater-dependent Ecosystem Management Plan (GDEMP) Implementation and Offsets – Stage 1, Stage 2 and Stage 3 (proposed condition 65)**

26. Proposed condition 65 required the approval holder to not commence the next stage of mining until it demonstrates, through an approved monitoring program and annual compliance reporting to the Department (final condition 72), that the approved offset completion criteria (i.e. a conservation gain as required by the *EPBC Act Environmental Offsets Policy* [2012]) are being achieved.
27. The proponent suggested removing this condition as it has the potential to significantly hold up the mining development despite a subsequent stage having no additional adverse impacts on groundwater-dependent ecosystems (GDEs). The proponent's view is that the condition also does not take into consideration the timeframe that might be required to locate, survey, secure and achieve completion criteria for an environmental offset for a GDE (i.e. terrestrial, aquatic and subterranean [Stygofauna]).
28. The Department notes the proponent's concerns and recommends **adding** "... or a timeframe otherwise agreed to in writing by the Minister." to final condition 59 to provide flexibility for potential unexpected issues or potential options in the future. However, the outcome of this condition is to ensure that implemented compensatory measures are achieving a conservation gain for the GDEs prior to the continuation of mining in the main Olive Downs South Domain pit (which is mined during Stages 1, 2 and 3).
29. In regards to timeframes to prepare an environmental offset, the Department notes the recommended conditions require the proponent to implement relevant GDE Offset Management Plan/s (final conditions 57a and 58) prior to final condition 59. Therefore, the Department considers all of the work required to prepare a suitable environmental offset in accordance with the principles of the *EPBC Act Environmental Offsets Policy* (2012) has already been undertaken.
30. Further, the approved GDEMP (final condition 49) requires the proponent to collect baseline data on all GDEs, implement 'fit-for-purpose' modelling, undertake site-specific assessments of moderate risk, high risk and/or very high risk GDEs, and analyse the results of the ongoing monitoring of all GDEs. As a result, the proponent should have been extensively aware, likely over a period of years, of the GDEs which have the most potential to become high risk and/or very high risk as a result of mining activities, and an environmental offset was potentially required.
31. The proponent also suggested a number of minor changes/comments on the proposed conditions to reduce duplication and improve clarity and consistency. The Department has considered the proposed minor changes/comments and have made changes to the

recommended conditions and definitions where appropriate for enforceability purposes, clarity, consistency and reduce duplication.

32. On 28 April 2020, DES responded, outside of the statutory consultation period, and advised the proposed decision is consistent with the Queensland Environmental Authority (Attachment E to Attachment A). However, DES identified 4 key issues in relation to the proposed conditions of approval.

### **Key comment 1: Large-eared Pied Bat (*Chalinolobus dwyeri*) – Vulnerable**

33. DES noted there is no reference to the vulnerable Large-eared Pied Bat (*Chalinolobus dwyeri*) (also vulnerable under the Queensland *Nature Conservation Act 1992*) despite one 2015 record in the project site in the Queensland WildNet Database.
34. The Department notes DES' comment and recommends **no changes** to the final conditions. The record is not identified in the Commonwealth Species Profile and Threats (SPRAT) Database or the Queensland Government Atlas of Living Australia. These databases identify the nearest record of the species as approximately 160 kilometres to the south-east of the project site, with the majority of Queensland records located in south-east Queensland.
35. The proponent's EIS states the species was not detected during surveys on and adjacent to the project site, which were generally in accordance with Commonwealth survey guidelines. Surveys included echolocation surveys and harp trapping in suitable flyways. Multiple species of other bats were detected during these surveys.
36. The Commonwealth *National recovery plan for the large-eared pied bat* (*Chalinolobus dwyeri*) (2011) (LEPB Recovery Plan) (Attachment I) generally describes habitat critical to the survival of the species to be:
- diurnal roosts for shelter (e.g. disused mine shafts, caves, overhangs and abandoned Fairy Martin nests), specifically any maternity roosts (i.e. arch caves with dome roofs); and
  - sandstone cliffs and fertile wooded valley habitat within close proximity of each other.
37. The Department notes the above habitat is not present in the project site, which predominantly consists of agricultural grasslands dominated by Buffel Grass, wetlands and dry open woodlands/forests. More fertile riparian woodland is present along watercourses (e.g. Isaac River and Ripstone Creek) within and adjacent to the project site which have more reliable access to water.
38. Based on the site-specific information available to the Department, the Department is of the view that the proposed action is unlikely to have a residual significant impact on the vulnerable Large-eared Pied Bat. For these reasons, the Department is satisfied the approval of the proposed action, and recommended conditions of approval, are not inconsistent with the LEPB Recovery Plan.

### **Key comment 2: Avoidance, minimisation and mitigation measures**

39. DES noted it reviewed the information on the Department's EPBC Referral webpage and considered minimal information has been provided by the proponent on the total extent of impacts and scientifically robust avoidance, mitigation and management measures to enable the Department to approve impacts on MNES and require offsets.
40. The Department notes DES' comment and recommends **no changes** to the final conditions. The Department notes DES has made reference to the original referral (submitted in 2017) and variation to the action (agreed to in 2017) to inform this comment.

41. Since the submission of the referral, the proposed action has been assessed by EIS and the Department has formally requested further information for an approval decision from the proponent (section 132 of the EPBC Act). This information has informed the Department's recommendation to approve the proposed action under the EPBC Act, subject to conditions.
42. Discussion regarding relevant avoidance, mitigation and management measures, impacts and offset requirements is available in the Legal Considerations (Attachment F to Attachment A), including the:
- a. Coordinator-General's evaluation report which contains a high-level summary of the proponent's proposed avoidance, mitigation and management measures to address impacts on relevant listed threatened species and communities;
  - b. EIS and additional information provided by the proponent which contain commitments to a number of avoidance, mitigation and management measures (e.g. fauna spotter-catcher, sequential clearing, weed and pest animal management, etc.);
  - c. Queensland Environmental Authority, issued by DES in October 2019, which includes requirements for a Dust Management Plan, noise and blasting limits, and a Weed Management Plan; and
  - d. recommended conditions of approval which restrict clearance and grazing of the riparian zones of watercourses to promote habitat corridors, require enforced speed limits to minimise individual mortality, and installation of Koala-proof fencing and Koala poles to minimise individual mortality and maintain habitat connectivity.

### Key comment 3: Discrepancies in total extent of impacts

43. DES noted there are some discrepancies between the Coordinator-General's evaluation report (May 2019) (Attachment A to Attachment A) and the proposed conditions of approval in relation to the maximum impact limits for several listed threatened species.
44. The Department notes DES' comment and recommends **no changes** to the final conditions. The Department has derived the maximum clearance limits from the additional information provided by the proponent in November 2019. Further discussion on the discrepancies is available in the Legal Considerations (Attachment F to Attachment A).
45. However, the Department notes the proponent has requested changes to the maximum clearance limits due to revising the offset stages, and associated disturbance (see paragraphs 54 to 59 below) (Attachment C).

### Key comment 4: Timing of legal securing of environmental offsets

46. DES recommended the environmental offsets be legally secured for the duration of the impact (i.e. in perpetuity) opposed to for the duration of the approval.
47. The Department notes DES' comment and recommends **removing** proposed conditions 11, 20, 29 and 35 to improve clarity in the recommended conditions of approval. Final conditions 9, 17, 25 and 30 require the proponent to legally secure all offset sites within 2 years of the approval of the relevant environmental offsets.
48. The Department notes there is already a definition for "legally secure" in the recommended conditions of approval which is defined as "secure a legal agreement under Queensland legislation, in relation to a site, to provide enduring protection for the site against development incompatible with conservation". The Department considers this definition aligns with the *EPBC Act Environmental Offsets Policy* (2012).

49. On 4 May 2020, the Department of Industry, Innovation and Science (DIIS) responded, outside of the statutory consultation period, and advised it supported the approval of the proposed action as well as Geoscience Australia's comments to ensure robust environmental outcomes without introducing uncertainty or unnecessary regulatory burden.
50. On 4 May 2020, Geoscience Australia (GA) responded, outside of the statutory consultation period, and advised it has focussed on the conditions addressing the potential for impacts on groundwater resources, in particular to:
- a. ensure the conditions promote clarity, precision and accuracy in communicating the intent of the conditions to reduce the potential for misinterpretation or misunderstanding;
  - b. note the challenges in developing a GDE program, that is achievable and enforceable, which provides measurable parameters which can demonstrate a causal link between groundwater condition and GDE condition for each GDE in the area of interest; and
  - c. ensure the timeframe requirements in the conditions are feasible and enforceable to give sufficient time for useful analysis and reporting from the proponent to the Department.
51. The Department has considered GA's specific comments on the proposed conditions of approval and has recommended changes for clarity and consistency, and to ensure the recommended conditions are enforceable. In particular, the Department recommends:
- a. **separating** proposed condition 53 into two conditions to clearly specify the environmental outcome to be achieved (i.e. no adverse effect on the ecological values of GDEs as a result of water-related impacts) (final condition 48) and require the approval holder to submit the GDEMP for written approval of the Minister (final condition 49); and
  - b. **revising** the proposed definitions for "Adverse effect", "Limit/s" and "Performance indicator/s" for clarity and enforcement purposes.
52. GA also raised concerns with feasibility of preparing a Stage 4 GDE Offset Management Plan (GDEOMP) prior to the commencement of Stage 4.
53. The Department notes the proponent should be extensively aware (i.e. over a period of years) of the GDEs which have the most potential to become high risk and/or very high risk as a result of Stage 4 mining activities, mainly through:
- a. its experience from undertaking mining activities for Stages 1 to 3 (over approximately 30 years), noting that Stage 4 includes the continuation of mining in the main Olive Downs South Domain pit (also part of Stages 1 to 3) and the Willunga Domain pit (also part of Stage 3);
  - b. the requirements in the GDEMP to collect site-specific information on the ecological values of GDEs, undertake regular predictive 'fit-for-purpose' modelling (updated annually with site-specific data) and implementation of an ongoing monitoring program; and
  - c. the requirements of potential previous GDE Offset Management Plan/s in the event it was required for mining activities of previous stages.
54. The Department therefore recommends **no changes** to the final conditions.
55. On 4 to 7 May 2020, the proponent provided revised offset stages, revised maps, updated maximum clearance limits for listed threatened species and communities, and revised comments on the proposed conditions of approval (Attachment C). The proponent also advised that the disturbance associated with the Ripstone Creek Pit and Willunga Domain has now been scheduled for Stage 3 (Year 11 onwards).



56. Further, the proponent notes there has been a reduction in the maximum clearance limits for some listed threatened species due to the exclusion of habitat which has already been accounted for in the approved associated infrastructure corridors to this mine site and access road component. The proponent notes there has been a reduction of approximately:
- 29.99 ha of Greater Glider habitat;
  - 27.56 ha of Koala habitat;
  - 7 ha of Ornamental Snake important habitat;
  - 6.68 ha and 5.19 ha of Squatter Pigeon (Southern) foraging and breeding habitats respectively; and
  - 2 ha of Australian Painted Snipe breeding habitat.
57. The Department notes the proponent has further clarified, with supporting maps and calculations, that the reductions in the maximum clearance limits is due to some habitat from the water pipeline component being incorrectly included as habitat for this proposed action. Overall, Pembroke confirmed:
- The maximum clearance limit of 28 ha for Greater Glider habitat in the EPBC Act approval for the Olive Downs Project Water Pipeline (EPBC 2017/7868) is correct.
  - Some residual habitat (e.g. 1.99 ha of Greater Glider habitat) is due to the difference in the rounding of habitat calculations from the original offset stages and the revised offset stages.
58. Based on the site-specific information available to the Department, the information in the proposed approval decision brief ([Attachment A](#)), and noting the reduction in direct habitat clearance associated with this proposed action, the Department remains of the view that the proposed action will adversely affect habitat critical to the survival of the above listed threatened species and therefore is likely to have a residual significant impact on these species.
59. The Department notes the proponent has not provided any additional changes/comments to the proposed conditions to those provided on 16 April 2020 ([Attachment B2](#)).
60. Based on the revised offset stages, revised maps and updated maximum clearance limits, the Department recommends:
- replacing** Attachments H to K of the recommended final conditions to reflect the new offset stages and associated disturbance;
  - including** Attachment L into the recommended final conditions to clearly delineate the location, nature and extent of the Ripstone Creek Pit and Ripstone Creek Diversion for clarity and compliance purposes;
  - revising** the maximum clearance limit table for relevant listed threatened species and communities in final condition 2 to reflect the new disturbance footprints; and
  - revising** final conditions 4, 13 and 22 related to specific Greater Glider environmental offsets to reflect the revised Greater Glider maximum clearance areas for Stages 1 to 3.
61. The Department's Office of Compliance, Post Approvals Section and Post Approvals Strategies Section were also consulted on the proposed conditions of approval to ensure there is clarity,

consistency and no duplication, and the recommended final conditions are enforceable. The comments, and Queensland North Assessment Section's response, are at [Attachment E](#).

### Conclusion

62. On 30 April 2020, the Department discussed several recommended changes from the proposed conditions of approval with the proponent, including:
- a. submission of a draft RCDP at least 15 years prior to the commencement of the Ripstone Creek Diversion;
  - b. decoupling the Ripstone Creek Diversion from Stage 2 and link to the commencement of mining of the Ripstone Creek Pit;
  - c. linking the commencement of the Ripstone Creek Diversion (i.e. vegetation clearance and construction activities) to the achievement of the Ripstone Creek completion criteria; and
  - d. timing of the submission of a draft framework for the Koala and Greater Glider program to remain at 3 years prior to the commencement of Stage 2 rather than the 12 month timeframe requested by the proponent.
63. The proponent agreed with the recommended changes at paragraph 62 on 1 May 2020.
64. On 7 May 2020, the Department provided the draft final conditions of approval to the proponent to ensure any recommended changes to the proposed conditions do not have unintentional business implications for the proponent. On 8 May 2020, the proponent indicated its agreement with the recommended conditions of approval ([Attachment C](#)).
65. Relevant comments have been addressed in the track-changed approval decision notice at [Attachment F](#) and in the approval decision notice for your signature at [Attachment G](#).
66. The Department considers the recommended changes from the proposed conditions of approval do not reduce the level of protection afforded to relevant MNES
67. The Department recommends advising the person proposing to take the action, Queensland CG, Queensland DES, Commonwealth Minister for Agriculture, Drought and Emergency Management, and Commonwealth Minister for Resources, Water and Northern Australia of your decision. Letters for your signature are at [Attachment H](#).
68. The signed approval decision notice will be made publicly available on the Department's website in consultation with your office.

Andrew McNee  
Assistant Secretary  
Assessments and Governance Branch  
Ph: 02 6274 2694  
Mob: [s. 47F\(1\)](#)

[s. 22\(1\)\(a\)\(ii\)](#)  
Director  
Queensland North Assessments Section  
[s. 22\(1\)\(a\)\(ii\)](#)

12 May 2020

**ATTACHMENTS**

- A: Proposed approval decision brief (dated 9 April 2020)
- B: Responses to invitation to comment on the proposed decision
  - B1: Minister for Resources, Water and Northern Australia response (dated 16 April 2020)
  - B2: Pembroke response (dated 16 April 2020)
  - B3: DES response (dated 28 April 2020)
  - B4: Department of Industry, Innovation and Science response (dated 4 May 2020)
  - B5: GA response (dated 4 May 2020)
- C: Additional information provided by Pembroke on the proposed decision (dated May 2020)
- D: Detailed summary of the Department's response to comments on proposed decision
- E: Response to Departmental comments on proposed conditions of approval
  - E1: Office of Compliance response
  - E2: Post Approval Strategies Section response
  - E3: Post Approvals Section response
- F: Notice of decision – track-changes
- G: Notice of decision – FOR SIGNATURE
- H: Letters to the person proposing to take the action, Queensland Government and relevant Commonwealth Ministers – FOR SIGNATURE
- I: *National recovery plan for the large-eared pied bat* *Chalinolobus dwyeri* (2011)
- J: Media release

**DEPARTMENT OF AGRICULTURE, WATER AND THE ENVIRONMENT**

To: Andrew McNee, Assistant Secretary, Assessments and Governance Branch, (for decision)

**Proposed Approval Decision Brief (Assessment Report) – Olive Downs Project Coal Mine and Access Road, 40 km south-east of Moranbah, Queensland (EPBC 2017/7867)**

**Timing:** As soon as practicable – the statutory timeframe for making a decision on whether or not to approve the proposed action was 4 December 2019.

**Recommendations:**

1. Consider all of your obligations under the EPBC Act, the State evaluation report (Attachment A), the Environmental Impact Statement (Attachment B), the further information requested by the Department (Attachment C), and the Independent Expert Scientific Committee advice at Attachment D.  
Considered / ~~Please discuss~~
2. Agree that the recommended decision at Attachment H, and summarised in the table below, reflects your proposed decision.  
Agreed / ~~Not agreed~~
3. Agree with the Department’s recommendation that you have enough information to make an informed decision under section 133 of the EPBC Act.  
Agreed / ~~Not agreed~~
4. Agree to the proposed conditions of approval as set out in Attachment H.  
Agreed / ~~Not agreed~~
5. Sign the letters at Attachment I to consult with the proponent, relevant Commonwealth Ministers and the Queensland Government on your proposed decision.  
Signed / ~~Not signed~~
6. Agree to **not publish** the proposed decision on the internet for public comment.  
Agreed / ~~Not agreed~~

**Summary of recommendations on each controlling provision:**

Controlling provisions for the action	Recommendation	
	<u>Approve</u>	<del>Refuse to Approve</del>
Listed threatened species and communities (sections 18 & 18A)	<u>Approve</u>	
Listed migratory species (sections 20 & 20A)	<u>Approve</u>	
Water resource/trigger (sections 24D & s24E)	<u>Approve</u>	

s. 47F(1)

**Andrew McNee**  
**Assistant Secretary**  
**Assessments and Governance Branch**

Date: *9 April 2020*

**Comments:****Key Points**

1. The purpose of this brief is for you to indicate whether or not you propose to approve, subject to proposed conditions of approval, a proposal by Pembroke Olive Downs Pty Ltd (the proponent) to construct and operate of a 'greenfield' open-cut coal mine and access road to mine up to 20 million tonnes per annum (Mtpa) of run-of-mine (ROM) metallurgical coal over an expected operational life of 79 years, near Moranbah in Queensland.
2. In the legal considerations at Attachment F, the Department recommends that you approve the proposed action under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) subject to the proposed conditions of approval at Attachment H.
3. The Department has worked closely with the proponent to prepare the proposed conditions of approval at Attachment H, which the proponent has broadly agreed to in-principle.
4. The proposed action is related to three other separate proposals made by the proponent, which make up the components of the 'Olive Downs Project':
  - a. Olive Downs Project Water Pipeline (EPBC 2017/7868): A proposed decision of approval, subject to proposed conditions of approval, was made on 24 February 2020.
  - b. Olive Downs Project Electricity Transmission Line (EPBC 2017/7869): A proposed decision of approval, subject to proposed conditions of approval, was made on 12 March 2020.
  - c. Olive Downs Project Rail Spur (EPBC 2017/7870): A proposed decision of approval, subject to proposed conditions of approval, was made on 18 March 2020.
5. The proposed action, along with the other three components, were assessed under the Bilateral Agreement with the Queensland Government by the Office of the Coordinator-General by environmental impact statement (EIS). The State evaluation report was provided to the Department on 14 May 2019. The evaluation report includes recommendations for conditions to be imposed should the proposed action be approved under the EPBC Act.
6. Taking into consideration only the impacts of the mine site and access road component of the Olive Downs Project, the proposed action will result in a residual significant impact on:
  - a. vulnerable Koala (*Phascolarctos cinereus*) as a result of the clearance of 5,799 hectares (ha) of known habitat;
  - b. vulnerable Greater Glider (*Petauroides volans*) as a result of the clearance of 5,637.5 ha of known habitat;
  - c. vulnerable Squatter Pigeon (Southern) (*Geophaps scripta scripta*) as a result of the clearance of 4,498.5 ha of known breeding habitat and 873 ha of known foraging habitat;
  - d. vulnerable Ornamental Snake (*Denisonia maculata*) as a result of the clearance of 7,753 ha of known important habitat;
  - e. Endangered Brigalow (*Acacia harpophylla* dominant and co-dominant) threatened ecological community (Brigalow TEC) as a result of the clearance of 13 hectares of known Brigalow TEC; and

- f. endangered Australian Painted Snipe (*Rostratula australis*) as a result of the clearance of 116 ha of breeding habitat, and the potential loss of 93.5 ha of breeding habitat from a reduction in wetland catchments and potential groundwater drawdown.
7. In taking into account the precautionary principle, the Department has considered the Olive Downs Project in the context of matters of national environmental significance (MNES) that have been in the pathway of bushfire, in particular the Koala and Greater Glider.
8. The proposed action has the potential to result in a residual significant impact on water resources as a result of predicted future groundwater drawdown and a reduction in surface water catchments on groundwater-dependent ecosystems (GDEs) (i.e. terrestrial, aquatic and subterranean [Stygofauna]) within and adjacent to the project site
9. The proposed action will not result in a residual significant impact on a listed migratory species because it is unlikely to:
  - a. substantially modify, destroy, or isolate, or introduce a harmful invasive species an area of important habitat for a migratory species; or
  - b. seriously disrupt the lifecycle of an ecologically significant proportion of the population of a migratory species.
10. The proposed action and related proposals are estimated by the proponent to require investment of \$1 billion. The proponent estimates the Olive Downs Project will contribute \$10.1 billion to the gross state product of Queensland by 2050, and will result in an annual average of 500 construction jobs and 1,000 operational jobs over its 79 year life.

### Background

11. The proposed action will target the Leichhardt and Vermont Seams of the Rangal Coal Measures (Permian) in the Olive Downs South and Willunga domains. The proponent anticipates mining a total of 612 Mt of ROM coal and produce a total of 459 Mt of product coal over the life of the proposed action.
12. The approximate footprint of the project area is 25,300 hectares (ha), of which 16,300 ha will be disturbed for staged mining activities. The proposed action will also involve:
  - a. construction of a 3.5 km access road from Annandale Road to the Mine Infrastructure Area (MIA) in the Olive Downs South Domain;
  - b. construction of a 14 km overland conveyor over the Isaac River to connect to the Willunga Domain to the MIA in the Olive Downs South Domain;
  - c. a 2.14 kilometre creek diversion of the ephemeral Ripstone Creek;
  - d. temporary flood levees for both the Olive Downs South and Willunga domains, and a permanent highwall emplacement in the Olive Downs South Domain of up to 400 m wide and 25 m high; and
  - e. two final voids in the Olive Downs South Domain and one final void in the Willunga Domain.
13. On 20 June 2019, a delegate agreed to stop the approval decision clock to request further information to inform the decision as to whether or not to approve the proposed action under section 132 of the EPBC Act. Further information was required to inform the assessment of impacts on, and mitigation measures proposed for, listed threatened species and communities, listed migratory species, and water resources.
14. On 1 October 2019, the Queensland Government issued an Environmental Authority (EA) for the Olive Downs Project (Attachment E) which includes requirements for progressive

rehabilitation, weed and pest management, groundwater and surface water monitoring and management, and the construction of the Ripstone Creek diversion.

15. On 29 November 2019, the proponent submitted the requested information to the Department which re-started the statutory approval decision clock.

#### Considerations relating to decision-making under Part 9 of the EPBC Act

16. The Department has set out below a brief summary of the requirements under the EPBC Act that relate to your proposed decision about whether or not to approve the taking of the action. The legal considerations at Attachment F addresses each of these considerations in turn at paragraph 17 onwards.
17. Section 136(5) of the EPBC Act provides that, in deciding whether to approve the taking of an action, and what conditions to attach to an approval, you must not consider any matters that you are not required or permitted to consider.

#### Mandatory considerations

18. In making the proposed decision on whether or not to approve the proposed action, and what conditions to attach (if any), you are required to consider:
- a. matters relevant to matters protected by the controlling provisions for the proposed action; and
  - b. economic and social matters.

#### Factors to be taken into account

19. You must take into account:
- a. the factors set out in section 136 of the EPBC Act, the principles of ecologically sustainable development (section 3A and section 136(2)(a)), the precautionary principle (section 3A(b) and section 391(1)) (paragraphs 147 to 177 of Attachment F) and any relevant bioregional plan (section 176);
  - b. the evaluation report, being the assessment report relating to the proposed action (section 136(2)(b)) (Attachment A);
  - c. any other information on the relevant impacts of the action (section 136(2)(e)) (paragraphs 179 to 187 of Attachment F);
  - d. any relevant comments that are received in accordance with invitations under sections 131, 131AA or 131A (136(2)(f) and 131AA(6)) – invitations to comment will be given after you indicate your proposed decision and any comments received will be addressed in the final decision brief (paragraphs 31 and 32 below);
  - e. any relevant advice obtained by the Minister from the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development in accordance with section 131AB of the EPBC Act (section 136(2)(fa)) (Attachment D); and
  - f. In considering those matters, you are required to:
    - i. not to act inconsistently with the Biodiversity Convention, the Apia Convention, CITES or a recovery plan or threat abatement plan in deciding whether or not to approve the taking of an action for the purposes of sections 18 and 18A (section 139); and

- ii. not to act inconsistently with the Bonn Convention, CAMBA, JAMBA or ROKAMBA in deciding whether or not to approve the taking of an action for the purposes of sections 20 and 20A (section 140).
20. A detailed analysis of your mandatory considerations is set out in the legal considerations at Attachment F.
21. The Department considers, and recommends that you agree, that you have enough information to make an informed decision on whether or not to make a proposed decision to approve the taking of the action for the purposes of each of the controlling provisions.
22. The Department's detailed analysis of the likely impacts to protected matters is set out in the legal considerations at Attachment F.
23. The Department recommends that you approve the proposed action under sections 130(1) and 133 of the EPBC Act subject to the proposed conditions of approval at Attachment H. The recommended proposed conditions of approval include requirements for:
- a. Maximum clearance limits for relevant listed threatened species and ecological community.
  - b. Implement an approved Ripstone Creek Diversion Program to maintain Greater Glider habitat connectivity along Ripstone Creek despite the construction of the permanent Ripstone Creek Diversion and not commence the Ripstone Creek Diversion until habitat connectivity is demonstrated to the Minister's satisfaction.
  - c. Staged environmental offsets in accordance with the principles of the *EPBC Act Environmental Offsets Policy (2012)*, with offsets requiring to be approved by the Minister prior to the commencement each stage of the action.
  - d. Providing a financial contribution (\$100,000/year for 10 years) to a program for the better protection and long-term conservation of the Koala and Greater Glider, in particular to target research activities in the Bowen Basin, including to:
    - i. revegetate, rehabilitate and restore key riparian habitat along watercourses in the Bowen Basin to create habitat and maintain habitat connectivity for both species in parallel to coal mine development;
    - ii. implement translocation programs; and
    - iii. estimate population densities and carrying capacities of both species.
  - e. The implementation of a MNES Management Plan to ensure the proponent avoids, mitigates and manages impacts of the proposed action on relevant listed threatened species and communities. The proponent must not commence the action until the MNES Management Plan is approved by the Minister.
  - f. Implement an approved GDE Management Plan (GDEMP) to ensure there is no adverse effects on the ecological values of GDEs (i.e. terrestrial, aquatic and subterranean [Stygofauna]) from water-related impacts as a result of mining activities. The proponent will be required to provide environmental offsets in accordance with the principles of the *EPBC Act Environmental Offsets Policy (2012)* if there are adverse effects on the ecological values of GDEs as a result of the proposed action.
24. Therefore, based on the information available to the Department, the measures proposed by the proponent to avoid, mitigate and manage impacts, assuming compliance with the conditions imposed under the Queensland EA, and assuming compliance with the proposed conditions of approval, the Department concludes the proposed action will not have an



unacceptable impact on listed threatened species and communities, listed migratory species or a water resource.

25. This conclusion was reached by having regard to the likely impact of the proposed action for the purposes of each controlling provision and the relevant social and economic considerations under section 136 of the EPBC Act.

#### Public submissions on assessment documents

26. A total of 37 public submissions were received on the draft EIS, including 9 from State or local government agencies, 15 from private individuals, and 12 from organisations including mining companies and consultants. The Department provided comments on the draft EIS on 11 October 2018. A total of 24 submissions were in support of the proposed action.

27. The submissions raised the following key issues for the entire Olive Downs Project:

- rehabilitation of mining areas in accordance with the Queensland *Mined Land Rehabilitation Policy* (2019);
- potential impacts on the quality and quantity of groundwater resources, including wetlands, groundwater-dependent ecosystems and cumulative hydrological impacts;
- potential impacts on the quality and quantity of surface water resources, including the Isaac River, wetlands and listed threatened species habitat;
- impacts to EPBC Act listed species, including the quantification of significant residual impacts and the adequacy of the proposed offset strategy;
- measures to avoid and mitigate impacts on groundwater and surface water resources, including contamination of groundwater and sediment management;
- contaminant, waste and landfill management;
- impacts of project traffic on the local road network;
- social impacts associated with increased pressure on local infrastructure and noise, vibration, and air emission impacts; and
- two mining companies with neighbouring mines raised concerns around project impacts including land tenure conflicts and cumulative impacts such as impacts on flood behaviour.

28. The proponent responded to the matters raised in submissions in the amended EIS (AEIS) (Attachment B2). The Department considers that issues raised relevant to MNES have been addressed in the AEIS and the additional information provided to the Department, and have been considered during the assessment of the proposed action and the other separate components of the Olive Downs Project (where relevant).

#### Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (IESC)

29. On 9 October 2018, the IESC provided advice on the likely impacts of the proposed action on water resources (Attachment D). The IESC considered the key potential impacts of the proposed action were:

- a. loss of 120 ha of wetlands through direct removal, including removal or modification of seven wetlands in the project area;
- b. increased erosion potential and reduced floodplain habitat from constriction of the floodplain as a result of placement of two final voids on the (existing) floodplain;

- c. impacts on the flow regime and water quality of the Isaac River from untreated discharges and groundwater drawdown;
  - d. impacts to groundwater-dependent wetlands and terrestrial vegetation from groundwater drawdown;
  - e. removal of aquatic and riparian habitat (40-60 metres wide) at three places along the Isaac River, disrupting movement corridors for State and Commonwealth listed species (e.g. Greater Glider [*Petauroides volans*] and other biota);
  - f. loss of habitat connectivity, and potentially downstream impacts to water quality, during and for some time after the diversion of Ripstone Creek;
  - g. impacts to groundwater users from lowered water levels; and
  - h. cumulative impacts on surface water, groundwater and terrestrial and aquatic ecosystems from mining in the region.
30. The issues raised by the IESC have been considered during the assessment of the proposed action and are discussed in the legal considerations at Attachment F.

#### Consultation on your proposed decision

31. Before you make your decision on whether or not to approve the proposed action, you are required under sections 131(1) and 131AA(1) of the EPBC Act to:
- a. inform the proponent and any other Commonwealth Minister(s) whom you believe has administrative responsibilities relating to the proposed action, of the decision that you propose to make; and
  - b. invite the proponent and the Commonwealth Minister(s) to comment on your proposed decision within 10 business days.
32. You are required to consult with the proponent on your proposed decision. The Department recommends you inform and invite comment from the Commonwealth Minister for Resources, Water and Northern Australia, Commonwealth Minister for Agriculture, Drought and Emergency Management, Queensland Department of Environment and Science, and the Queensland Coordinator-General. Letters for your signature are at Attachment I.
33. The Department does not recommend that public comment be sought on the proposed decision under section 131A of the EPBC Act. The public has already been provided with the opportunity to comment on the proposed action on whether the proposed action was a controlled action under section 75 of the EPBC Act, and the draft EIS has also been the subject of an invitation to comment. The Department considers that publishing your proposed decision for further public comment is unlikely to provide views or information that have not already been thoroughly considered.

#### Consultation

34. On 6 March 2020, the Department discussed the impacts of the proposed action on the Greater Glider with a Greater Glider expert. The Department also discussed the types of:
- a. Measures which the proponent can implement in the project site to avoid, mitigate and manage impacts, including restricting clearance and removing stock grazing in the riparian zones, implementing 100 m buffers around the riparian zones and installing Greater Glider ropes across fragmented habitat.
  - b. Activities which the proponent can implement in the proposed offset areas to achieve a greater conservation outcome, including targeting revegetation and rehabilitation of

riparian zones to promote habitat connectivity, and remove stock grazing from riparian zones to promote faster natural regeneration.

35. On 26 March 2020, the Department discussed the draft proposed conditions of approval with the proponent, including providing the rationale for each draft proposed condition and seeking feedback from the proponent.
36. On 29 March 2020, the Department provided a detailed summary of the discussion on the draft proposed conditions of approval to the proponent, who advised that it wished to work through several of the draft proposed conditions prior to you making a proposed decision on whether or not to approve the proposed action.
37. On 3 April 2020, the Department discussed the revised draft proposed conditions with the proponent, in particular the proponent's revised comments (dated 1 April 2020). At the conclusion of the meeting, the proponent provided broad in-principle support of the draft proposed conditions.
38. The Department has considered the proponent's comments on the draft proposed conditions of approval, noting the proponent will have an opportunity to provide formal comments on the proposed condition of approval during the statutory 10 business day consultation period after the proposed decision is made.
39. The Department's Office of Compliance advised that there is no indication that Pembroke Olive Downs Pty Ltd has an adverse environmental history.
40. The Department's Protected Species and Communities Branch (PSCB) has been consulted to ensure all approved conversation advices, recovery plans and threat abatement plans relevant to the proposed action have been considered and included in the proposed decision briefing package.
41. The Queensland Assessments North Section has consulted PSCB's 'EPBC Act Species and Ecological Communities Weekly Report' (dated 3 April 2020) and is anticipating no changes to these statutory documents (Attachment G) in the coming six weeks.
42. The Department's Office of Compliance, Post Approval Section and Post Approval Strategy Section will be consulted in preparing the final conditions of approval.

s. 47F(1)

Declan O'Connor-Cox  
Acting Assistant Secretary  
Environment Approvals Division  
Ph: s. 22(1)(a)(ii)

s. 22(1)(a)(ii)  
Queensland Assessments North Section  
s. 22(1)(a)(ii)

9 April 2020

**ATTACHMENTS**

- A: Queensland Coordinator-General's Evaluation Report (received by the Department on 14 May 2019)
- B: Assessment Documentation
  - B1: Draft EIS (dated 27 July 2018)
  - B2: Amended EIS (dated 21 March 2019)
- C: Additional information requested by the Department (dated 29 November 2019)
  - C1: Summary of response to information request (dated 10 September 2019)
  - C2: Impact Assessment (dated 10 September 2019)
  - C3: Draft Biodiversity Offset Strategy (dated 10 September 2019)
  - C4: Environmental Offsets (dated 21 November 2019)
  - C5: Water Assessment (dated 10 September 2019)
  - C6: Proponent's response to Department's additional comments on the Water Assessment (dated 29 November 2019)
- D: IESC Advice (dated 9 October 2018)
- E: Queensland Environmental Authority (issued 1 October 2019)
- F: Legal considerations
- G: Statutory Document Report (dated 30 March 2020)
- H: Proposed approval decision – NOT FOR SIGNATURE
- I: Letters to proponent and other relevant parties – FOR SIGNATURE
- J: Commonwealth Listing Advice for *Phascolarctos cinereus* (Koala) (2012)