

**STATEMENT OF REASONS FOR DECISION ON NOT CONTROLLED ACTION UNDER THE  
ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999**

I, MARK FLANIGAN, Assistant Secretary, Policy and Compliance Branch, Approvals and Wildlife Division, Department of the Environment and Heritage, a delegate of the Minister for the Environment and Heritage for the purposes of section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), provide the following statement of reasons for my decision of 10 May 2005 that the proposed action by QCoal Pty Ltd to develop the Sonoma Coal Project near Collinsville, central Queensland (EPBC 2005/2080), is not a controlled action under the EPBC Act.

**Legislation**

1. Section 68 of the EPBC Act provides:
  - (1) A person proposing to take an action that the person thinks may be or is a controlled action must refer the proposal to the Minister for the Minister's decision whether or not the action is a controlled action.
  - (2) A person proposing to take an action that the person thinks is not a controlled action may refer the proposal to the Minister for the Minister's decision whether or not the action is a controlled action.
  
2. Section 74 of the EPBC Act relevantly provides:
  - (1) As soon as practicable after receiving a referral of a proposal to take an action, the Minister (the Environment Minister) must:
    - (a) inform any other Minister whom the Environment Minister believes has administrative responsibilities relating to the proposal; and
    - (b) invite each other Minister informed to give the Environment Minister within 10 business days information that relates to the proposed action and is relevant to deciding whether or not the proposed action is a controlled action.
  - (2) As soon as practicable after receiving, from the person proposing to take an action or from a Commonwealth agency, a referral of a proposal to take an action in a State or self-governing Territory, the Environment Minister must:
    - (a) inform the appropriate Minister of the State or Territory; and
    - (b) invite the Minister to give the Environment Minister comments within 10 business days on whether the proposed action is a controlled action; if the Environment Minister thinks the action may have an impact on a matter protected by a provision of Division 1 of Part 3 (about matters of national environmental significance).
  - (3) As soon as practicable after receiving a referral of a proposal to take an action, the Environment Minister must cause to be published on the Internet:
    - (a) the referral; and
    - (b) an invitation for anyone to give the Minister comments within 10 business days (measured in Canberra) on whether the action is a controlled action.
  
3. Section 75 of the EPBC Act provides:
  - (1) The Minister must decide:
    - (a) whether the action that is the subject of a proposal referred to the Minister is a controlled action; and
    - (b) which provisions of Part 3 (if any) are controlling provisions for the action.
  - (1A) In making a decision under subsection (1) about the action, the Minister must consider the comments (if any) received:
    - (a) in response to the invitation (if any) under subsection 74(3) for anyone to give the Minister comments on whether the action is a controlled action; and

- (b) within the period specified in the invitation.
- (2) If, when the Minister makes a decision under subsection (1), it is relevant for the Minister to consider the impacts of an action:
- (a) the Minister must consider all adverse impacts (if any) the action:
- (i) has or will have; or
- (ii) is likely to have;
- on the matter protected by each provision of Part 3; and
- (b) must not consider any beneficial impacts the action:
- (i) has or will have; or
- (ii) is likely to have;
- on the matter protected by each provision of Part 3.

### **Background**

4. The proposed action was referred under section 68 of the EPBC Act by McCollum Environmental Management Services Pty Ltd, on behalf of QCoal Pty Ltd (person proposing to take the action), and was received by the Department on 13 April 2005. The referral indicated that, in the view of QCoal Pty Ltd, the proposed action is not a controlled action.
5. The proposed action involves development of the Sonoma Coal project, an open cut coal mine, with associated coal handling facilities. The action is located within the Sonoma-1, Sonoma-2 and Belmore-1 mining lease areas adjacent to the Bowen Development Road about 7 kilometres south of Collinsville in central Queensland.
6. According to the referral documentation, up to about 1100 hectares will be required for the mine and infrastructure over the estimated 15 year mine life. Works will include clearing of vegetation, haul and access roads, coal stockpiles, sedimentation and spoil disposal facilities, rehabilitation of vegetation and flood control levees alongside Coral Creek to prevent ingress of floodwaters to pit operations.
7. In accordance with subsection 74(2) of the EPBC Act, the Queensland Minister for the Environment was informed of the referral in a letter dated 14 April 2005 and was invited to provide comment on whether the proposed action is a controlled action. No comments were received.
8. In accordance with subsection 74(3) of the EPBC Act, the referral, together with an invitation for public comment, was published on the Department's web site on 14 April 2005 for 10 days public comment.
9. Public comment was received from the Proserpine/Whitsunday Branch of the Wildlife Preservation Society of Queensland. The Society considered that the proposal should be a controlled action because of potential significant impacts on the Squatter Pigeon (Southern) (*Geophaps scripta scripta*) and Black Ironbox (*Eucalyptus raveretiana*), listed threatened species in the vulnerable category under the EPBC Act, and on the listed ecological community *Brigalow* (*Acacia harpophylla* dominant and co-dominant). The submission also considered that significant impacts will occur on listed migratory species occurring in, or dependent upon, the nearby Bowen River and on the world heritage values of the Great Barrier Reef World Heritage Area (GBRWHA).
10. On 10 May 2005 I decided that the proposed action is not a controlled action.

### **Evidence or other material on which my findings were based**

11. The evidence or other material upon which my findings were based are listed below:
- a brief from the Department, dated 6 May 2005, including the following:
    - referral for the proposed action and associated figures and maps;
    - *Fauna and flora of the proposed Sonoma coal mining lease near Collinsville, Central Queensland*, Central Queensland University, October 2004;

- addendum to the referral, dated 27 April 2005, provided by McCollum Environmental Management Service on behalf of QCoal Pty Ltd;
- comments on the referral provided by the Proserpine/Whitsunday Branch of the Wildlife Preservation Society of Queensland; and
- advice from the Department relating to the potential impacts of the proposed action on matters protected under the EPBC Act.

### **Findings on material questions of fact and reasons for my decision**

12. I found that there is no likelihood of the proposed action having a significant impact on a matter protected by any provision of Part 3 of the EPBC Act other than, potentially, sections 18 and 18A (Listed threatened species and ecological communities), and sections 20 and 20A (Listed migratory species).
13. I formed the view that significant impacts on the heritage values of the Great Barrier Reef World Heritage Area are not likely given the nature and location of the proposed action. In this respect, I found that the mine area is drained by Coral Creek which discharges into the Bowen River some 25 kilometres to the west, and hence into the ocean near Bowen (a river distance of over 100 kilometres). I considered that the nature of any indirect impacts on world heritage values associated with the referred action are speculative.
14. I found that the proposed action occurs within the mapped distribution of the listed endangered ecological community *Brigalow (Acacia harpophylla dominant and co-dominant)*. I found that fragments of remnant Brigalow are present throughout the proposed action area and that about 58 hectares of Brigalow vegetation will be cleared.
15. I found that the Brigalow vegetation to be cleared is generally of low quality comprising mainly *Lysiphyllum hookeri* and *Terminalia oblongata* with very little *Acacia harpophylla* (generally shrubs at 1 to 2 metres tall). I found that most of the Brigalow vegetation is likely to be regrowth of less than 15 years old based on flora and fauna investigations. I found that the majority of vegetation to be cleared is not likely to be representative of the listed Brigalow ecological community given its relatively recent regrowth characteristics. In these circumstances, I found that clearing of the estimated 58 hectares of Brigalow vegetation is not likely to have a significant impact on the listed *Brigalow* community (*Acacia harpophylla dominant and co-dominant*).
16. I found that Brigalow provides potential habitat for a number of listed species, but that none of these species are likely to be present or to be otherwise affected by the proposed action apart from, potentially, the listed vulnerable Squatter Pigeon (Southern) and Brigalow Scaly-foot (*Paradelma orientalis*). I also found that the listed vulnerable Black Ironbox occurs in the riparian zone of Coral Creek on the site.
17. I found that the Squatter Pigeon is a relatively sedentary species and prefers sites with a short grassy understorey of eucalypt woodland near permanent water. I found that this species is known to occur within the proposed action site and was recorded in areas of Brigalow vegetation and at a cattle watering hole during site flora and fauna surveys. I found that the Squatter Pigeon is likely to be locally abundant in the region and that the proposed action will not result in the loss of significant areas of potential habitat likely to be utilised by this species. Similarly, I found that works are not likely to affect the regional dispersal and movement of this species. I therefore found that a significant impact on this species is not likely.
18. I found that, although not recorded during flora and fauna surveys, suitable habitat occurs within the site of the proposed action for the Brigalow Scaly-foot and that this species may be present. However, I found that, based on the information available, an important population is not likely to present on the site and that the proposed action will not result in the loss of significant areas of habitat for this species such that a significant impact will occur or is likely.

19. I found that riparian vegetation along Coral Creek where the listed Black Ironbox is known to occur will not be cleared or disturbed as part of the proposed action, and that an environmental buffer zone will be retained between mine development areas and this riparian vegetation. I found that a significant impact on Black Ironbox is not likely.
20. I found that a number of listed migratory species may occasionally occur within, or overfly, the site of the proposed action. I found that the site does not contain habitat likely to be important in supporting an important population of any listed migratory species and that the proposed action is therefore not likely to have a significant impact on listed migratory species. I found that the proposed action is not likely to have a significant impact on listed marine species that may occur in downstream reaches of the Bowen River given the distance from the mine site and in the absence of regular surface water discharges as a consequence of the mining operations.
21. I took account of the precautionary principle and public comments made by the Proserpine/Whitsunday Branch of the Wildlife Preservation Society of Queensland in making my decision on whether the proposed action is a controlled action.
22. In light of my findings set out above, I decided on 10 May 2005 that the proposed action is not a controlled action.



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MARK FLANIGAN

21 / 6 / 2005