

KIPT – Smith Bay EIS AGENCY: Commonwealth Department of the Environment and Energy

Guideline 1 - EPBC Act - Matters of National Environment Significance (MNES)	Does EIS adequately meet Guideline?	Agency comment
1.1 - Describe the background of the proposal including the title of the action, the full name and postal address of the designated proponent and a clear outline of the objective of the action	Y	
1.2 - Describe how the proposal relates to any other actions under the EPBC Act (that the proponent is reasonably aware) that have been, or are being, taken or that have been approved in the region.	Y	
1.3 - Describe the environment and management practices of the proposal site and the surrounding areas and other areas that may be affected by the proposal.	Y	
1.4 - Describe the scope, timing/effort (survey season/s) and methodology for studies or surveys used to provide information on the above listed species/communities/habitat at the site (and in areas that may be impacted by the proposal). Include details of: <ul style="list-style-type: none"> - best practice survey guidelines applied; and - how they are consistent with (or a justification for divergence from) published Australian Government guidelines and policy statements 	Y	
1.5 - Describe in detail all components of the proposal (including the background to the proposal, construction, operation and, if relevant, the decommissioning). Include the precise location of all works to be undertaken (including associated offsite works and infrastructure), structures to be built or elements of the proposal that may have impacts in the above listed MNES. Include details on how the works are to be undertaken and design parameters for those aspects of the structures or elements the proposal that may have relevant impacts.	Y	
1.6 - Describe all the relevant impacts the proposal may have on the above listed MNES, include impacts during the construction (e.g. noise, habitat clearing or modification), operation (e.g. potential vehicle/vessel strike during road/shipping transport of timber product) and (if relevant) decommissioning phases of the project. Include information on: <ul style="list-style-type: none"> - the nature and extent of the likely direct, indirect and consequential impacts (short-term and long-term) (refer to the Significant Impact Guidelines 1.1 – Matters of National Environmental Significance, Commonwealth of Australia, 2013) - whether any relevant impacts are likely to be unknown, unpredictable or irreversible - technical data and/or other information used to make a detailed assessment of the relevant impacts 	N	As noted previously the Department has concerns about the likely impacts of the proposed action on Southern Right Whales (particularly during the calving period). Noting this, the Department may require additional information or discussion on the complexities of vessel strike and the consequence of such an event on the species' recovery. In this context it is important to note that vessel disturbance to resting/nursing cow/calf pairs in near shore areas is also of concern and that facilitative impacts (e.g. additional third-party vessel movements – discussed further below) should be considered by the proponent.

- how Indigenous stakeholders views of the proposals impacts to biodiversity and cultural heritage have been sought and considered		
1.7 - Identify and address cumulative impacts, where potential impacts are in addition to existing impacts of other activities (including known potential future expansions or developments by the proponent and other proponents in the region and vicinity).	N	Facilitative impacts (i.e. downstream impacts to protected matters that are facilitated by an action) are a relevant and important consideration for assessments under the EPBC Act. Impacts from additional ship movements (e.g. biofouling, vessel disturbance/strike etc.) facilitated by the proposed port have still not been discussed nor have estimates been provided on the expected volume of additional use. Additional information on these matters are likely to be required during the assessment of this action.
1.8 - Provide information (substantiated, specific and detailed descriptions) on proposed avoidance and mitigation measures, based upon best available practices, to avoid and manage the relevant impacts of the proposal on the above listed MNES. Include a description of the outcomes that the avoidance and mitigation measures will achieve and an assessment of the expected or predicted effectiveness of the avoidance and mitigation measures (including the scale and intensity of impacts of the proposal and the on-ground benefits to be gained through each of these measures).	N	<p>The timing of vehicle movements to avoid potential peak active times for echidnas (e.g. dawn/dusk during warmer weather or during the breeding season) has not been identified or discussed in the EIS as a potential mitigation strategy to reduce the risk of vehicle strike. Further discussions on these options may be beneficial.</p> <p>The EIS recommends that larger trucks be used to minimise the number of vehicle movements and that haulage speed limits be decreased to reduce the risk of vehicle strike, however, the EIS does not make firm commitments to these measures and thus it is unclear whether they will actually be adopted. This makes the assessment of vehicle strike risk to the echidna difficult. Additional clarification on this issue will likely be required.</p>
1.9 - Provide a consolidated list of mitigation measures proposed to be undertaken to prevent, minimise or compensate for the relevant impacts of the action, including mitigation measures proposed to be undertaken by State governments, local governments or the proponent.	Y	
1.10 - Provide information of any statutory or policy basis for, the mitigation measures.	Y	
1.11 - Provide a detailed outline of a plan for the continuing management, mitigation and monitoring of the impacts on the above listed MNES. Include provisions for any independent environmental auditing. Include the name of the agency responsible for endorsing or approving each mitigation measure of monitoring program	Y	
1.12 - Provide details of the likely residual impacts on the above listed MNES that are likely to occur after the proposed measures to avoid and mitigate all impacts are taken into account. Include reasons as to why the avoidance or mitigation of impacts is not reasonably achieved and identify the significant residual impacts on the above listed MNES. If residual impacts are likely, include details of the proposed offset package to be implemented and an analysis of how the proposed offset meets the requirements of the Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy (2012).	Y	<p>The Department is supportive of the proposed offset strategy but notes that additional clarification on the following will be required to fully assess the likely conservation benefits of additional funding to the feral cat eradication program:</p> <ul style="list-style-type: none"> • further detail on baseline data collection for vehicle strike fatalities along the proposed haulage routes • details on the monitoring regimes to be implemented to track vehicle strike • goals, budgeting arrangement and tracking mechanism to ensure that the proposed offset strategy is delivering a conservation gain for the species' impacted by the proposed action • timeframes for the implementation of these offset measures noting that the Department's Offset Policy requires that compensatory measures to be implemented in advance of any impact
1.13 - Describe how the proposal is consistent with any relevant EPBC Act guidelines, recovery plans, management plans, threat abatement plans, Marine Bioregional Plans and conservation advice for the above listed MNES (species and communities).	Y	
1.14 - Provide information on feasible alternatives to the proposal including:	Y	

<ul style="list-style-type: none"> - taking no action - a comparative description of the impacts of each alternative on the above listed MNES - sufficient detail to make clear why any alternative is preferred to another (short, medium and long-term advantages and dis-advantages of each alternative are to be discussed) 		
<p>1.15 - Provide details on the current status of the proposal and the consequences of not proceeding with the proposal.</p>	Y	
<p>1.16 - Describe any consultation about the action, including any consultation that has already taken place, proposed consultation about relevant impacts of the action and – if there has been consultation about the proposed action – any documented response to, or result of, the consultation. Identify any affected parties, including a statement mentioning any communities that may be affected and describing their views.</p>	Y	
<p>1.17 - Provide an overall conclusion as to the environmental acceptability of the proposal on each of the above listed MNES, including:</p> <ul style="list-style-type: none"> - discussion on the considerations with the requirements of the EPBC Act (including the objects of the Act, the principles of ecological sustainable development and the precautionary principle) - reasons justifying undertaking the proposal in the manner proposed, including the acceptability of the avoidance and mitigation measures; and - if relevant, a discussion of residual impacts and any offsets and compensatory measures proposed or required, and the relative degree of acceptability. Include the reasons why residual impacts are not avoidable. 	Y	<p>However, the Department again notes that the EIS and OEMP makes a number of suggestions for actions that will be undertaken to mitigate or manage project impacts (e.g. using large vehicle to reduce vehicle movements), however, neither document makes a firm commitment as to whether these actions will actually be undertaken.</p> <p>Note: Management plans must use terms such as ‘will’ and ‘must’ when committing to management actions, instead of ‘where possible’, ‘as required’, ‘should’ or ‘may’. The Department will consider the terms used when assessing the proposed management measures within the management plan and may require further assurance in relation to measures which reduce potential impacts to EPBC Act listed species.</p>
<p>1.18 - Provide further detail on the social and economic costs and/or benefits of undertaking the proposed action, including basis for any estimations of costs and/or benefits, potential employment opportunities expected to be generated at each phase of the proposed action and details of any public and stakeholder consultation activities, including the outcomes.</p>	Y	
<p>1.19 - Provide an environmental record of the person(s) proposing to take the action. Include details of any proceedings under a Commonwealth, State or Territory law for the protection of the environment of the conservation and sustainable use of natural resources against: the person proposing to take the action; and if the person proposing to take the action is a corporation – details of the corporation’s environmental policy and planning framework.</p>	Y	