



**Australian Government**

**Department of Sustainability, Environment, Water, Population and Communities**

## Referral of proposed action

### What is a referral?

The *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) provides for the protection of the environment, especially matters of national environmental significance (NES). Under the EPBC Act, a person must not take an action that has, will have, or is likely to have a significant impact on any of the matters of NES without approval from the Australian Government Environment Minister or the Minister's delegate. (Further references to 'the Minister' in this form include references to the Minister's delegate.) To obtain approval from the Environment Minister, a proposed action should be referred. The purpose of a referral is to obtain a decision on whether your proposed action will need formal assessment and approval under the EPBC Act.

Your referral will be the principal basis for the Minister's decision as to whether approval is necessary and, if so, the type of assessment that will be undertaken. These decisions are made within 20 business days, provided that sufficient information is provided in the referral.

### Who can make a referral?

Referrals may be made by or on behalf of a person proposing to take an action, the Commonwealth or a Commonwealth agency, a state or territory government, or agency, provided that the relevant government or agency has administrative responsibilities relating to the action.

### When do I need to make a referral?

A referral must be made for actions that are likely to have a significant impact on the following matters protected by Part 3 of the EPBC Act:

- World Heritage properties (sections 12 and 15A)
- National Heritage places (sections 15B and 15C)
- Wetlands of international importance (sections 16 and 17B)
- Listed threatened species and communities (sections 18 and 18A)
- Listed migratory species (sections 20 and 20A)
- Protection of the environment from nuclear actions (sections 21 and 22A)
- Commonwealth marine environment (sections 23 and 24A)
- Great Barrier Reef Marine Park (sections 24B and 24C)
- The environment, if the action involves Commonwealth land (sections 26 and 27A), including:
  - actions that are likely to have a significant impact on the environment of Commonwealth land (even if taken outside Commonwealth land);
  - actions taken on Commonwealth land that may have a significant impact on the environment generally;
- The environment, if the action is taken by the Commonwealth (section 28)
- Commonwealth Heritage places outside the Australian jurisdiction (sections 27B and 27C)

You may still make a referral if you believe your action is not going to have a significant impact, or if you are unsure. This will provide a greater level of certainty that Commonwealth assessment requirements have been met.

To help you decide whether or not your proposed action requires approval (and therefore, if you should make a referral), the following guidance is available from:

- the Policy Statement titled Significant Impact Guidelines 1.1 – Matters of National Environmental Significance. Additional sectoral guidelines are also available.
- the Policy Statement titled Significant Impact Guidelines 1.2 - Actions on, or impacting upon, Commonwealth land, and actions by Commonwealth agencies.
- the interactive map tool (enter a location to obtain a report on what matters of NES may occur in that location).

#### **Can I refer part of a larger action?**

In certain circumstances, the Minister may not accept a referral for an action that is a component of a larger action and may request the person proposing to take the action to refer the larger action for consideration under the EPBC Act (Section 74A, EPBC Act). If you wish to make a referral for a staged or component referral, read 'Fact Sheet 6 Staged Developments/Split Referrals' and contact the Referral Business Entry Point (1800 803 772).

#### **Do I need a permit?**

Some activities may also require a permit under other sections of the EPBC Act or another law of the Commonwealth. Information is available on the Department's web site.

#### **Is your action in the Great Barrier Reef Marine Park?**

If your action is in the Great Barrier Reef Marine Park it may require permission under the *Great Barrier Reef Marine Park Act 1975* (GBRMP Act). If a permission is required, referral of the action under the EPBC Act is deemed to be an application under the GBRMP Act (see section 37AB, GBRMP Act). This referral will be forwarded to the Great Barrier Reef Marine Park Authority (the Authority) for the Authority to commence its permit processes as required under the Great Barrier Reef Marine Park Regulations 1983. If a permission is not required under the GBRMP Act, no approval under the EPBC Act is required (see section 43, EPBC Act). The Authority can provide advice on relevant permission requirements applying to activities in the Marine Park.

The Authority is responsible for assessing applications for permissions under the GBRMP Act, GBRMP Regulations and Zoning Plan. Where assessment and approval is also required under the EPBC Act, a single integrated assessment for the purposes of both Acts will apply in most cases. Further information on environmental approval requirements applying to actions in the Great Barrier Reef Marine Park is available from <http://www.gbrmpa.gov.au/> or by contacting GBRMPA's Environmental Assessment and Management Section on (07) 4750 0700.

The Authority may require a permit application assessment fee to be paid in relation to the assessment of applications for permissions required under the GBRMP Act, even if the permission is made as a referral under the EPBC Act. Further information on this is available from the Authority:

Great Barrier Reef Marine Park Authority

2-68 Flinders Street PO Box 1379

Townsville QLD 4810

AUSTRALIA

Phone: + 61 7 4750 0700

Fax: + 61 7 4772 6093

[www.gbrmpa.gov.au](http://www.gbrmpa.gov.au)

#### **What information do I need to provide?**

Completing all parts of this form will ensure that you submit the required information and will also assist the Department to process your referral efficiently.

You can complete your referral by entering your information into this Word file.

#### **Instructions**

Instructions are provided in green text throughout the form.

### **Attachments/supporting information**

The referral form should contain sufficient information to provide an adequate basis for a decision on the likely impacts of the proposed action. You should also provide supporting documentation, such as environmental reports or surveys, as attachments.

Coloured maps, figures or photographs to help explain the project and its location should also be submitted with your referral. Aerial photographs, in particular, can provide a useful perspective and context. Figures should be good quality as they may be scanned and viewed electronically as black and white documents. Maps should be of a scale that clearly shows the location of the proposed action and any environmental aspects of interest.

**Please ensure any attachments are below two megabytes (2mb) as they will be published on the Department's website for public comment. To minimise file size, enclose maps and figures as separate files if necessary. If unsure, contact the Referral Business Entry Point for advice. Attachments larger than two megabytes (2mb) may delay processing of your referral.**

**Note: the Minister may decide not to publish information that the Minister is satisfied is commercial-in-confidence.**

### **How do I submit a referral?**

Referrals may be submitted by mail, fax or email.

#### **Mail to:**

Referral Business Entry Point  
Environment Assessment Branch  
Department of Sustainability, Environment, Water, Population and Communities  
GPO Box 787  
CANBERRA ACT 2601

- If submitting via mail, electronic copies of documentation (on CD/DVD or by email) are appreciated.

#### **Fax to: 02 6274 1789**

- Faxed documents must be of sufficiently clear quality to be scanned into electronic format.
- Address the fax to the mailing address, and clearly mark it as a 'Referral under the EPBC Act'.
- Follow up with a mailed hardcopy including copies of any attachments or supporting reports.

#### **Email to: [epbc.referrals@environment.gov.au](mailto:epbc.referrals@environment.gov.au)**

- Clearly mark the email as a 'Referral under the EPBC Act'.
- Attach the referral as a Microsoft Word file and, if possible, a PDF file.
- Follow up with a mailed hardcopy including copies of any attachments or supporting reports.

### **What happens next?**

Following receipt of a valid referral (containing all required information) you will be advised of the next steps in the process, and the referral and attachments will be published on the Department's web site for public comment.

The Department will write to you within 20 business days to advise you of the outcome of your referral and whether or not formal assessment and approval under the EPBC Act is required. There are a number of possible decisions regarding your referral:

#### **The proposed action is NOT LIKELY to have a significant impact and does NOT NEED approval**

No further consideration is required under the environmental assessment provisions of the EPBC Act and the action can proceed (subject to any other Commonwealth, state or local government requirements).

**The proposed action is NOT LIKELY to have a significant impact IF undertaken in a particular manner**

The action can proceed if undertaken in a particular manner (subject to any other Commonwealth, state or local government requirements). The particular manner in which you must carry out the action will be identified as part of the final decision. You must report your compliance with the particular manner to the Department.

**The proposed action is LIKELY to have a significant impact and does NEED approval**

If the action is likely to have a significant impact a decision will be made that it is a *controlled action*. The particular matters upon which the action may have a significant impact (such as World Heritage values or threatened species) are known as the *controlling provisions*.

The controlled action is subject to a public assessment process before a final decision can be made about whether to approve it. The assessment approach will usually be decided at the same time as the controlled action decision. (Further information about the levels of assessment and basis for deciding the approach are available on the Department's web site.)

**The proposed action would have UNACCEPTABLE impacts and CANNOT proceed**

The Minister may decide, on the basis of the information in the referral, that a referred action would have clearly unacceptable impacts on a protected matter and cannot proceed.

**Compliance audits**

If a decision is made to approve a project, the Department may audit it at any time to ensure that it is completed in accordance with the approval decision or the information provided in the referral. If the project changes, such that the likelihood of significant impacts could vary, you should write to the Department to advise of the changes. If your project is in the Great Barrier Reef Marine Park and a decision is made to approve it, the Authority may also audit it. (See "*Is your action in the Great Barrier Reef Marine Park*," p.2, for more details).

**For more information**

- call the Department of Sustainability, Environment, Water, Populations and Communities Community Information Unit on 1800 803 772 or
- visit the web site [www.environment.gov.au/epbc](http://www.environment.gov.au/epbc)

All the information you need to make a referral, including documents referenced in this form, can be accessed from the above web site.

# Referral of proposed action

**Project title:** NRE No.1 Colliery (Preliminary Works)

## 1 Summary of proposed action

**NOTE:** You must also attach a map/plan(s) showing the location and approximate boundaries of the area in which the project is to occur. Maps in A4 size are preferred. You must also attach a map(s)/plan(s) showing the location and boundaries of the project area in respect to any features identified in 3.1 & 3.2, as well as the extent of any freehold, leasehold or other tenure identified in 3.3(i).

### 1.1 Short description

Use 2 or 3 sentences to uniquely identify the proposed action and its location.

Gujarat NRE Coking Coal Ltd (NRE) is seeking to upgrade surface facilities at NRE No. 1 Colliery in the Southern Coalfields of New South Wales (NSW) (the 'Action'). This action is located at Russell Vale, to the west of Bellambi, in the Illawarra region. A locality map is presented as *Figure 1*. The proposed action involves upgrades to surface infrastructure (see *Figure 2* and *Figure 3* respectively) at the Russell Vale site specifically involving the removal of Dam 6, which contains potential Green and Golden Bell Frog habitat, for the construction of the new Bellambi Gully Creek channel.

### 1.2 Latitude and longitude

Latitude and longitude details are used to accurately map the boundary of the proposed action. If these coordinates are inaccurate or insufficient it may delay the processing of your referral.

ID	Latitude	Longitude	ID	Latitude	Longitude
1	-34.358164	150.890654	19	-34.360903	150.8991
2	-34.358912	150.895225	20	-34.361139	150.899
3	-34.358517	150.895304	21	-34.361326	150.8991
4	-34.358581	150.895779	22	-34.361951	150.8991
5	-34.359046	150.895687	23	-34.362891	150.8989
6	-34.359022	150.895952	24	-34.362792	150.8981
7	-34.359051	150.896407	25	-34.36299	150.8981
8	-34.359249	150.897418	26	-34.362731	150.8959
9	-34.359398	150.897851	27	-34.363615	150.8957
10	-34.359517	150.8981	28	-34.363357	150.894
11	-34.359654	150.898322	29	-34.362871	150.8912
12	-34.359945	150.898631	30	-34.363344	150.8911
13	-34.360234	150.8989	31	-34.362849	150.8875
14	-34.360477	150.899149	32	-34.36455	150.8872
15	-34.360608	150.899333	33	-34.363948	150.8818
16	-34.360819	150.899282	34	-34.356614	150.8821
17	-34.360864	150.899273	35	-34.357711	150.8885
18	-34.360922	150.8992	36	-34.3578	150.8884

### 1.3 Locality and property description

Provide a brief physical description of the property on which the proposed action will take place and the project location (eg. proximity to major towns, or for off-shore projects, shortest distance to mainland).

The project area is located in the suburb of Russell Vale north of Wollongong. The Russell Vale site is located on the lower slopes and foothills of the Illawarra Escarpment and ranges in elevation from approximately 30m to 140m AHD. The Russell Vale site is bounded by the Princes Highway to the east, with residential areas of Russell Vale and Corrimal to the east and south respectively.

**1.4 Size of the development footprint or work area (hectares)** Approximately 94 ha.

1.5	<b>Street address of the site</b> NRE No.1 Colliery Corner Princes highway and Bellambi Lane Russell Vale NSW 2517		
1.6	<b>Lot description</b> Describe the lot numbers and title description, if known. The Russell Vale site makes up part of Consolidated Coal Lease (CCL) 745.		
1.7	<b>Local Government Area and Council contact (if known)</b> If the project is subject to local government planning approval, provide the name of the relevant council contact officer. The Russell vale site is located within the Wollongong local government area (LGA).		
1.8	<b>Time frame</b> Specify the time frame in which the action will be taken including the estimated start date of construction/operation. Once the necessary approvals are in place, construction will begin for surface infrastructure upgrades. It is estimated that upgrades will be completed within 12 months (i.e. by first quarter 2012).		
1.9	<b>Alternatives to proposed action</b> Were any feasible alternatives to taking the proposed action (including not taking the action) considered but are not proposed?		No
		✓	Yes, you must also complete section 2.2
1.10	<b>Alternative time frames etc</b> Does the proposed action include alternative time frames, locations or activities?	✗	No
			Yes, you must also complete Section 2.3. For each alternative, location, time frame, or activity identified, you must also complete details in Sections 1.2-1.9, 2.4-2.7 and 3.3 (where relevant).
1.11	<b>State assessment</b> Is the action subject to a state or territory environmental impact assessment?		No
		✓	Yes, you must also complete Section 2.5
1.12	<b>Component of larger action</b> Is the proposed action a component of a larger action?	✗	No (see section 2.7)
			Yes, provide details.
1.13	<b>Related actions/proposals</b> Is the proposed action related to other actions or proposals in the region (if known)?		No
		✓	Yes, the proposed action is Stage 1 of the major works proposal at NRE No. 1 Colliery.
1.14	<b>Australian Government funding</b> Has the person proposing to take the action received any Australian Government grant funding to undertake this project?	✗	No
			Yes, provide details:
1.15	<b>Great Barrier Reef Marine Park</b> Is the proposed action inside the Great Barrier Reef Marine Park?	✗	No
			Yes, you must also complete Section 3.1 (h), 3.2 (e)

## 2 Detailed description of proposed action

NOTE: It is important that the description is complete and includes all components and activities associated with the action. If certain related components are not intended to be included within the scope of the referral, this should be clearly explained in section 2.7.

### 2.1 Description of proposed action

This should be a detailed description outlining all activities and aspects of the proposed action and should reference figures and/or attachments, as appropriate.

Construction will occur at the NRE No.1 Colliery Russell Vale Site, associated with proposed upgrades to surface infrastructure as shown on *Figure 2* and *Figure 3*. These will include:

- the existing Bulli conveyer will be decommissioned upon completion of the Wonga Mains Driveage, in mid to late 2012;
- Balgownie belt and storage bin will be removed and a newly designed Wongawilli decline belt will be constructed on a similar alignment and location;
- a stack out conveyor will be constructed to deliver coal to the existing stockpile;
- new screening and sizing equipment will be constructed to manage coal being placed onto the stockpile;
- a temporary bund wall will be constructed south of the stockpile area to provide a barrier to prevent wet weather coal slumps from travelling into the surface drainage system;
- a new internal haul road will be developed, with access from the Colliery main access road to the stockpile area. The majority of the new internal haul route will be unsealed from the main access road and past the stockpile however, the last section of the road will be sealed; and
- the existing stormwater pipeline which directs clean water flowing in Bellambi Gully Creek underneath and past the current stockpiling and coal loading arrangements will be removed and replaced with a suitably designed and engineered open channel constructed on the southern side of the coal stockpile area. Construction of the channel will require earth works including the removal of Dam No.6.

The use of an open channel to control peak flows down Bellambi Gully Creek is an important environmental improvement that will have beneficial impacts on the management of clean storm water across the site and may provide further benefit to numerous residential properties downstream of the Russell Vale site. Dam 6 is required to be removed to ensure the stability of this channel and the surrounding slopes above.

Construction of conveyors and roads may require minor earthworks. This will be minimised by operating within the existing site footprint and locating new infrastructure adjacent to existing infrastructure wherever possible. Construction of the channel and works within the upper reaches of the existing channel will require the removal of less than 1ha of native vegetation. The removal of Dam 6, located south of the existing stockpile, will also be required. The removal of Dam 6 may potentially impact on matters of NES.

### 2.2 Alternatives to taking the proposed action

This should be a detailed description outlining any feasible alternatives to taking the proposed action (including not taking the action) that were considered but are not proposed (note, this is distinct from any *proposed* alternatives relating to location, time frames, or activities – see section 2.3).

The do-nothing option was considered as part of the Environmental Assessment, which was submitted to the NSW Department of Planning (DoP). Existing mine infrastructure does not have the capability of sustaining future operation of the colliery. Therefore, the surface facilities at the Russell Vale site require upgrading to cater for the proposed increase to production associated with the major expansion project.

Construction of the new Bellambi Gully Creek channel is a replacement of the existing pipeline system and will be an environmental improvement to the site. The existing system has limited capacity and a storm in 1998 caused overflow of water onto the ROM pad and mobilised coal onto adjacent private lands and lower sections of Bellambi Gully Creek. To prevent this reoccurring, it is proposed to remove the pipeline under the coal stockpile and replace it with a suitably designed and engineered open channel constructed on the southern side of the coal stockpile area which is also higher in elevation. The newly constructed open channel drainage system of Bellambi Gully Creek will ensure that all clean storm water bypasses the stockpile area in normal and extreme weather conditions.

### **2.3 Alternative locations, time frames or activities that form part of the referred action**

If you have identified that the proposed action includes alternative time frames, locations or activities (in section 1.10) you must complete this section. Describe any alternatives related to the physical location of the action, time frames within which the action is to be taken and alternative methods or activities for undertaking the action. For each alternative location, time frame or activity identified, you must also complete (where relevant) the details in sections 1.2-1.9, 2.4-2.7, 3.3 and 4. Please note, if the action that you propose to take is determined to be a controlled action, any alternative locations, time frames or activities that are identified here may be subject to environmental assessment and a decision on whether to approve the alternative.

NA

### **2.4 Context, planning framework and state/local government requirements**

Explain the context in which the action is proposed, including any relevant planning framework at the state and/or local government level (e.g. within scope of a management plan, planning initiative or policy framework). Describe any Commonwealth or state legislation or policies under which approvals are required or will be considered against.

#### **Context and framework**

The proposed action will occur in the Wollongong LGA in the Illawarra region of NSW. The action is recognised as a Major Project under the *State Environment Planning Policy (Major Development) 2005* and as such the intended assessment process for the action is pursuant to Part 3A Major Infrastructure and Other Projects of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Regulations. The project is not subject to local government planning approval, but requires Project Approval from the NSW Minister for Planning.

Pursuant to Part 3A of the EP&A Act, an Environmental Assessment (EA) has been undertaken which addresses the requirements of the Director General, DoP. The EA includes detailed field and desktop assessments of ecological condition, Aboriginal and historic heritage, water quality, acoustics and other environmental aspects of the area.

The EA assessed the potential environmental impacts that could be associated with the proposed action. The ecological field assessments for the EA have been undertaken according to the *Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities* (DECC 2004). The EA was submitted to the DoP on 11 June 2010 pursuant to Section 75F of the EP&A Act and is currently awaiting final determination.

#### **Relevant planning controls and legislation:**

##### *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)

The EPBC Act requires approval of the Commonwealth Minister for Department of Sustainability, Environment, Water, Population and Communities for actions that may have a significant impact on matters of NES. The potential impacts on Commonwealth listed items of NES have been considered in the significance assessment report (provided in *Attachment 1*) with appropriate referencing throughout this document.

*NSW Environmental Planning and Assessment Act 1979 (EP&A Act)*

Part 3A of the EP&A Act details the approval of major infrastructure and other significant 'projects'. It applies to: "... the carrying out of development that is declared under this section to be a project to which this Part applies:

- (a) by a State environmental planning policy, or
- (b) by order of the Minister published in the Gazette" (Section 75(b)).

*State Environmental Planning Policy Major Development (SEPP MD) 2005* defines certain developments that are major projects under Part 3A of the EP&A Act to be determined by the Minister for Planning. As the proposal is for the purpose of coal mining, it is a project to which Part 3A applies. The EA, which assesses the likely impact of a project on the environment, has been prepared in accordance with Section 75(F) of the EP&A Act.

*NSW Protection of Environment Operation Act 1997 (PEO Act)*

Section 48 of the PEO Act requires scheduled activities listed in Schedule 1 to hold a premises-based environment protection licence. The mine currently operates under EPL No. 12040. It is expected that the project will necessitate a revision of the existing license. A review of the existing licences will be completed to accommodate the proposal.

*NSW Threatened Species Conservation Act 1995 (TSC Act)*

Projects determined by a statutory authority of the NSW State Government, are required to be assessed in accordance with the EP&A Act, as amended by the TSC Act. The potential impacts to threatened species have been considered in accordance with the requirements of the TSC Act and the EP&A Act. The TSC Act is administered by the NSW Department of Environment, Climate Change and Water (DECCW).

*NSW Fisheries Management Act 1994 (FM Act)*

The FM Act establishes provisions for the identification, conservation and recovery of threatened fish, aquatic invertebrates and marine vegetation. The Act also covers the identification and management of key threatening processes which affect threatened species or could cause other species to become threatened

*NSW State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries)*

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) allows underground mining as an activity permitted with consent. The Policy includes specific matters for consideration including, provisions to assess compatibility of activities with adjacent land use (Clause 12), natural resource management and assessment of greenhouse gas emissions (Clause 14), optimising resource recovery (Clause 15), transport of materials (Clause 16), and rehabilitation (Clause 17).

*Wollongong Local Environmental Plan 2009*

Under the Wollongong Local Environmental Plan 2009 (WLEP 2009) the Russell Vale site is zoned RU1 Primary Production. Extractive industries are permissible within the RU1 – Primary Production zone subject to development consent.

## 2.5 Environmental impact assessments under Commonwealth, state or territory legislation

If you have identified that the proposed action will be or has been subject to a state or territory environmental impact statement (in section 1.11) you must complete this section. Describe any environmental assessment of the relevant impacts of the project that has been, is being, or will be carried out under state or territory legislation. Specify the type and nature of the assessment, the relevant legislation and the current status of any assessments or approvals. Where possible, provide contact details for the state/territory assessment contact officer.

Describe or summarise any public consultation undertaken, or to be undertaken, during the assessment. Attach copies of relevant assessment documentation and outcomes of public consultations (if available).

NRE contracted Environmental Resources Management Australia Pty Ltd (ERM) to undertake a comprehensive EA pursuant to Part 3A of the EP&A Act. The EA includes investigations into the likely impacts of the project on air quality, water quality, groundwater processes, Aboriginal and historical heritage, acoustics and ecology. The EA was submitted to the DoP on 11 June 2010 and is currently awaiting final determination.

An Ecological assessment of the NRE No.1 Colliery site at Russell Vale commenced in April 2010 which included a desktop analysis of the EPBC Act and NSW TSC Act threatened species databases. For the Russell Vale site, species known to occur exclusively on the escarpment were excluded from the assessment, as the Russell Vale site occurs on the coastal plain, and has different habitat types to those found on the escarpment, despite their proximity.

The Green and Golden Bell Frog (*Litoria aurea*) is listed as Endangered under the Threatened Species Conservation Act 1995 (TSC Act) and Vulnerable under the Environment Biodiversity and Conservation Act 1999 (EPBC Act). No other EPBC threatened flora or fauna are considered to have the potential to occur within the study area.

Initial assessment found potential habitat for the Green and Golden Bell Frog at Dam 6 and the grassy areas around dams and the artificial wetlands at the eastern end of the Russell Vale site. Initial surveys did not identify any Green and Golden Bell Frogs, however surveys were not conducted during optimal conditions and further surveys were undertaken.

Biosis Research Pty Ltd (Biosis) conducted additional surveys of Dam 6, and other dams (including Don's Dam, Roadside Dam, Stormwater Control Dam Wetland and Dam 5) within the Russell Vale site during May, September and November 2010 and January 2011. No Green and Golden Bell Frogs were identified at the site during these surveys. It is noted that with the exception of Dam 6, other on site dams will not be impacted by the proposed works. Results of the ecological assessments of the Russell Vale Site have been discussed further in *Attachment 1*.

## 2.6 Public consultation (including with Indigenous stakeholders)

Your referral must include a description of any public consultation that has been, or is being, undertaken. Where Indigenous stakeholders are likely to be affected by your proposed action, your referral should describe any consultations undertaken with Indigenous stakeholders. Identify the relevant stakeholders and the status of consultations at the time of the referral. Where appropriate include copies of documents recording the outcomes of any consultations.

### ***Community Consultation***

The community consultation strategy for the proposal was structured to provide open and transparent communication with the local community and key stakeholders throughout the environmental assessment process. In order to meet the information needs of different community groups, a range of consultation strategies were adopted. These included:

- a 1800 phone number staffed Monday to Friday throughout the Project. An email contact address was also established, where community members and stakeholders could write in raising their concerns;
- a series of newsletters distributed to the local area and to anyone registering interest in the project; and

- a series of community meetings and information sessions held in the local community hall and advertised through the newsletter and local press.

A summary of the community consultation for this proposal is provided in *Table 1*.

*Table 1 Summary of community consultation*

<b>Date</b>	<b>Consultation</b>	<b>Purpose</b>
April 2008	Newsletter 1	To outline key contact details (1800 number and email).
April 2008	Information Session 1	To provide an opportunity for the wider community to obtain information regarding the proposal. It also provided a forum for issues of concern to be raised directly with project team members. Representatives from both NRE and ERM were present to respond to questions. Community members were encouraged to register their interest to ensure that they received all future project information.
October 2008	Newsletter 2	To provide the wider community with an overview of the proposal and the environmental assessment process and ensure the community was kept up to date with the progress of the environmental assessment and project development. The newsletter also advertised the date, time and location for the project information session held at Corrimal Community Centre
October 2008	Information Session 2	To provide a greater understanding of the scope of the assessment and the steps required to gain approval. To provide an opportunity for community feedback
December 2008	Newsletter 3	To provide feedback on the previous information session held in October 2008.
March 2009	Newsletter 4	To update the community on the progress of the project and inform them on the next information session.
March 2009	Information Session 3	To keep the community informed of the project progress and provide an opportunity for community feedback
February 2010	Newsletter 5	To inform the local community of the up coming information session at which preliminary assessment results were to be presented.
March 2010	Information Session 4	To provide some feedback to the community on the assessment so far and provide an opportunity for community feedback.
May 2010	Information Session 5	To advise the community of NRE's latest plans and the proposal to divide the project into two stages, providing detail of Stage 1 Preliminary Works.
November 2010	Information Session 6	To inform the community of the submission of the project to the DoP, allow viewing of the completed EA, answer any questions and guide them through the submission process.

### ***Aboriginal Community Consultation***

The DECC '*Interim Community Consultation Requirements Guideline*' (DECC 2005) for Aboriginal consultation has been followed throughout this project. Letters requesting advice on Aboriginal organisations to consult, and any known heritage issues to be taken into consideration in the area, were emailed on 3 October 2008 to:

- DECCW;
- Registrar, *Aboriginal Land Rights Act 1983* (NSW);
- Illawarra Local Aboriginal Land Council (ILALC); and
- Wollongong City Council.

A local advertisement requesting local Aboriginal stakeholders interested in being consulted, was included in the Illawarra Mercury newspaper on 10 October 2008. Responses to the advertisement and advice on consultation suggested that five Aboriginal groups were interested in the assessment process. These included:

- Illawarra Local Aboriginal Land Council (ILALC);
- D'harawal Knowledge Holders (DKH);
- Northern Illawarra Aboriginal Collective (NIAC);
- Wodi Wodi Elders Corporation; and
- Kullila Welfare and Housing Aboriginal Corporation.

Fieldwork for the assessment at the Russell Vale site was undertaken in April 2010 and included representatives from Illawarra Local Aboriginal Land Council and D'harawal Knowledge Holders. Two local Aboriginal community representatives were present at all times during the Aboriginal archaeological field work. Copies of the draft final EA report were distributed to all registered Aboriginal groups and Wollongong Council's Indigenous Heritage Officer and Committee for comment and feedback on the content, assessment and recommendations.

#### **2.7 A staged development or component of a larger project**

If you have identified that the proposed action is a component of a larger action (in section 1.12) you must complete this section. Provide information about the larger action and details of any interdependency between the stages/components and the larger action. You may also provide justification as to why you believe it is reasonable for the referred action to be considered separately from the larger proposal (eg. the referred action is 'stand-alone' and viable in its own right, there are separate responsibilities for component actions or approvals have been split in a similar way at the state or local government levels).

NRE is seeking approval from the NSW State government under Part 3A of the NSW *Environmental Planning and Assessment Act, 1979* (EP&A Act) for the continuation of mining and environmental improvements at NRE No.1 Colliery in the Southern Coalfield. This project is Stage 1 ('Preliminary Works Project') and involves upgrades to surface infrastructure (see *Figure 2* and *Figure 3* respectively) at the Russell Vale site.

NRE is also seeking, via a separate application under Part 3A of the EP&A Act, to seek approval for Stage 2 ('Major Expansion'), being the expansion of its existing operations primarily longwall mining to the west of the Illawarra Escarpment (MP 09\_0013).

In December 2010, NRE submitted a referral for a proposed action pursuant to the EPBC Act. The action was described as an extension of subsurface longwall mining within two areas known as Wonga West and Wonga East, within the Colliery, (referred to in the above paragraphs as Stage 2 the Major Expansion project). This action was deemed 'controlled' in January 2011 and any further consideration/s will be in accordance with the bi-lateral agreement between the State and Commonwealth.

Stage 1 has been submitted to the DoP as a separate application following advice from the department and to guarantee the continuation of mining beyond December 2010, for an additional 3 years. NRE note the importance of undertaking environmental improvement works at the Russell Vale site, to better manage noise and surface water flows associated with the existing operations. The Projects are not contingent upon one another. The Preliminary Works project simply allows for the continuance and improved environmental performance of existing activities.

It should be noted that the Russell Vale site is geographically separate from the mining areas and the possibility of a major upgrade of surface facilities at the Russell Vale Site, including stockpile and

improvements to site drainage, were not canvassed as part of the December 2010 referral. Investigations associated with the surface works at the Russell Vale site have determined that the project has the potential to impact on the EPBC listed Green and Golden Bell frog as the site works include the removal of a dam (Dam 6) which is potential habitat for the species. As such a separate referral is being lodged for this component.

## 3 Description of environment & likely impacts

### 3.1 Matters of national environmental significance

Describe the affected area and the likely impacts of the proposal, emphasising the relevant matters protected by the EPBC Act. Refer to relevant maps as appropriate. The interactive map tool can help determine whether matters of national environmental significance or other matters protected by the EPBC Act are likely to occur in your area of interest.

Your assessment of likely impacts should refer to the following resources (available from the Department's web site):

- specific values of individual World Heritage properties and National Heritage places and the ecological character of Ramsar wetlands;
- profiles of relevant species/communities (where available), that will assist in the identification of whether there is likely to be a significant impact on them if the proposal proceeds;
- *Significant Impact Guidelines 1.1 – Matters of National Environmental Significance*; and
- associated sectoral and species policy statements available on the web site, as relevant.

**Note that even if your proposal will not be taken in a World Heritage area, Ramsar wetland, Commonwealth marine area, the Great Barrier Reef Marine Park or on Commonwealth land, it could still impact upon these areas (for example, through downstream impacts). Consideration of likely impacts should include both direct and indirect impacts.**

The EPBC Act Protected Matter Search Tool was used to provide a list of all matters of NES with the potential to occur within 10km, surrounding the study area. The results of this search are provided as *Attachment 2*. The information in this section relates to the results of the protected matters search, and the ecological assessments that have been undertaken by ERM and associated sub consultants within the project application area, as part of the Part 3A approval process.

#### 3.1 (a) World Heritage Properties

##### Description

There are no World Heritage Areas in the study area or in areas that might be directly or indirectly affected by the proposed action.

##### Nature and extent of likely impact

Address any impacts on the World Heritage values of any World Heritage property.

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#### 3.1 (b) National Heritage Places

##### Description

There are no National Heritage Places in the study area or in areas that might be directly or indirectly affected by the proposed action.

##### Nature and extent of likely impact

Address any impacts on the National Heritage values of any National Heritage place.

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#### 3.1 (c) Wetlands of International Importance (declared Ramsar wetlands)

## Description

There are no Wetlands of International Importance in the study area or in areas that might be directly or indirectly affected by the proposed action.

## Nature and extent of likely impact

Address any impacts on the ecological character of any Ramsar wetlands.

### 3.1 (d) Listed threatened species and ecological communities

#### Description

This section outlines the potential impacts of the proposed action to EPBC Act listed threatened species and endangered ecological communities (EEC's) detected in the Protected Matters Search, provided as *Attachment 2*.

#### Threatened Ecological Communities

There are no threatened ecological communities in the study area or in areas that might be directly or indirectly affected by the proposed action.

#### Threatened species

*Table 3.1* lists threatened species that were listed within the Protected Matters Search Tool, and provides consideration of whether they are likely to occur within the study area, based on previous ecological investigations (Umwelt 2004, Biosis 2010 and ERM 2010). Each of the species likely to occur in the study area, have been assessed for the nature and extent of likely impact in the following section.

*Table 3.1 – Threatened species listed in Protected Matters Search Tool*

Species	Status	Potential to occur?	Reason
<b>Birds</b>			
<i>Anthochaera phrygia</i> Regent Honeyeater	Endangered	No	No suitable habitat within the study area
<i>Diomedea exulans (sensu lato)</i> Wandering Albatross	Vulnerable	No	Marine Species
<i>Diomedea exulans amsterdamensis</i> Amsterdam Albatross	Endangered	No	Marine Species
<i>Diomedea exulans antipodensis</i> Antipodean Albatross	Vulnerable	No	Marine Species
<i>Diomedea exulans exulans</i> Tristan Albatross	Endangered	No	Marine Species
<i>Diomedea exulans gibsoni</i> Gibson's Albatross	Vulnerable	No	Marine Species
<i>Lathamus discolor</i> Swift Parrot	Endangered	No	Limited potential habitat
<i>Macronectes giganteus</i> Southern Giant-Petrel	Endangered	No	Marine Species
<i>Macronectes halli</i> Northern Giant-Petrel	Vulnerable	No	Marine Species
<i>Neophema chrysogaster</i> Orange-bellied Parrot	Critically Endangered	No	No suitable habitat within the study area
<i>Pterodroma leucoptera leucoptera</i> Gould's Petrel	Endangered	No	Marine Species

<i>Pterodroma neglecta neglecta</i> Kermadec Petrel (western)	Vulnerable	No	Marine Species
<i>Rostratula australis</i> Australian Painted Snipe	Vulnerable	No	No suitable habitat within the study area
<i>Thalassarche bulleri</i> Buller's Albatross	Vulnerable	No	Marine Species.
<i>Thalassarche cauta cauta</i> Shy Albatross	Vulnerable	No	Marine Species.
<i>Thalassarche cauta salvini</i> Salvin's Albatross	Vulnerable	No	Marine Species.
<i>Thalassarche cauta steadi</i> White-capped Albatross	Vulnerable	No	Marine Species.
<i>Thalassarche melanophris</i> Black-browed Albatross	Vulnerable	No	Marine Species.
<i>Thalassarche melanophris impavida</i> Campbell Albatross	Vulnerable	No	Marine Species.
<b>Fish</b>			
<i>Maccullochella macquariensis</i> Trout Cod	Endangered	No	No suitable habitat within the study area
<i>Macquaria australasica</i> Macquarie Perch	Endangered	No	No suitable habitat within the study area
<i>Prototroctes maraena</i> Australian Grayling	Vulnerable	No	No suitable habitat within the study area
<b>Frogs</b>			
<i>Heleioporus australiacus</i> Giant Burrowing Frog	Vulnerable	No	No suitable habitat within the study area
<i>Litoria aurea</i> Green and Golden Bell Frog	Vulnerable	Yes	Potential habitat
<i>Litoria littlejohni</i> Littlejohn's Tree Frog	Vulnerable	No	No suitable habitat within the study area
<i>Mixophyes balbus</i> Stuttering Frog	Vulnerable	No	No suitable habitat within the study area
<b>Mammals</b>			
<i>Balaenoptera musculus</i> Blue Whale	Endangered	No	Marine Species.
<i>Chalinolobus dwyeri</i> Large-eared Pied Bat	Vulnerable	No	No suitable habitat within the study area
<i>Dasyurus maculatus maculatus</i> Spotted-tail Quoll (south eastern mainland population)	Endangered	No	No suitable habitat within the study area
<i>Eubalaena australis</i> Southern Right Whale	Endangered	No	Marine Species.
<i>Isodon obesulus obesulus</i> Southern Brown Bandicoot	Endangered	No	No suitable habitat within the study area
<i>Megaptera novaeangliae</i> Humpback Whale	Vulnerable	No	Marine Species.
<i>Potorous tridactylus tridactylus</i> Long-nosed Potoroo (SE mainland)	Vulnerable	No	No suitable habitat within the study area
<i>Pseudomys novaehollandiae</i> New Holland Mouse	Vulnerable	No	No suitable habitat within the study area
<i>Pteropus poliocephalus</i> Grey-headed Flying-fox	Vulnerable	No	No suitable habitat within the study area

<b>Reptiles</b>			
<i>Caretta caretta</i> Loggerhead Turtle	Endangered	No	Marine Species
<i>Chelonia mydas</i> Green Turtle	Vulnerable	No	Marine Species
<i>Dermochelys coriacea</i> Leathery Turtle	Endangered	No	Marine Species
<i>Eretmochelys imbricata</i> Hawksbill Turtle	Vulnerable	No	Marine Species
<i>Hoplocephalus bungaroides</i> Broad-headed Snake	Vulnerable	No	No suitable habitat within the study area
<i>Natator depressus</i> Flatback Turtle	Vulnerable	No	Marine Species.
<b>Sharks</b>			
<i>Carcharias taurus</i> Grey Nurse Shark(east coast population)	Critically Endangered	No	Marine Species.
<i>Carcharodon carcharias</i> Great White Shark	Vulnerable	No	Marine Species.
<i>Pristis zijsron</i> Green Sawfish	Vulnerable	No	Marine Species.
<i>Rhincodon typus</i> Whale Shark	Vulnerable	No	Marine Species.
<b>Plants</b>			
<i>Caladenia tessellate</i> Thick-lipped Spider-orchid	Vulnerable	No	No suitable habitat within the study area
<i>Cryptostylis hunteriana</i> Leafless Tongue-orchid	Vulnerable	No	No suitable habitat within the study area
<i>Cynanchum elegans</i> White-flowered Wax Plant	Vulnerable	No	No suitable habitat within the study area
<i>Daphnandra johnsii</i> a tree	Endangered	No	No suitable habitat within the study area
<i>Melaleuca biconvexa</i> Biconvex Paperbark	Vulnerable	No	Not identified in the study area
<i>Melaleuca deanei</i> Deane's Melaleuca	Vulnerable	No	No suitable habitat within the study area
<i>Pterostylis gibbosa</i> Illawarra Greenhood, Rufa Greenhood, Pouched Greenhood	Endangered	No	A small stand of Moist Box Foothills Red Gum Forest occurs within the Study Area, however, it is highly degraded.
<i>Pterostylis saxicola</i> Sydney Plains Greenhood	Vulnerable	No	No suitable habitat within the study area
<i>Pultenaea aristata</i>	Vulnerable	No	No suitable habitat within the study area
<i>Thelymitra</i> sp. <i>Kangaloon</i> (D.L.Jones 18108) Kangaloon Sun-orchid	Endangered	No	No suitable habitat within the study area

### Nature and extent of likely impact

Address any impacts on the members of any listed threatened species (except a conservation dependent species) or any threatened ecological community, or their habitat.

ERM identified potential habitat at the Russell Vale site for the Green and Golden Bell Frog (*Litoria aurea*) during preparation of the EA for the proposed development. Recommendations were made for further surveys to be conducted to confirm the presence of the species on site. This species has previously been recorded 650 metres (m) west of Dam 6 at the Pit top dam and other localities not on the site (refer *Figure 5*).

Further investigations were undertaken by Biosis (2010a, 2010b and 2011) to identify whether Dam 6 does support the Green and Golden Bell Frog or not. Over 2010 - 2011 a total of 13 survey nights were undertaken at Dam 6, with seven survey nights in conditions ideal for the detection of the Green and Golden Bell Frog. Despite ideal conditions immediately before and during the surveys, and confirmation of the species calling at the Port Kembla Heritage Park reference site each night prior to the January surveys, no records of the Green and Golden Bell Frog at Dam 6 have been recorded or documented.

Although Dam 6 provides potential habitat for the Green and Golden Bell Frog including an unshaded, still waterbody containing emergent vegetation and grassy banks, the dam does not provide floating aquatic vegetation which is crucial for breeding males when emitting their calls. In addition, the aquatic vegetation cover of emergent reeds including Cumbungi is very high (80% during January surveys). The high coverage of emergent reeds limits the breeding habitat value. In contrast, the Port Kembla reference site, which contains floating vegetation, is known to support large populations of the species.

The assessments concluded that, given the Green and Golden Bell Frog has not been detected at Dam 6 and there are limitations to the quality of the breeding habitat, the proposed action is not likely to have a significant impact on the Green and Golden Bell Frog and no further assessments are required under the EPBC Act.

### 3.1 (e) Listed migratory species

#### Description

This section outlines the potential impacts of the proposed action to EPBC Act listed migratory species detected in the Protected Matters Search, provided as *Attachment 2*.

*Table 3.2 – Migratory species detected in Protected Matters Search Tool (does not include marine species)*

Species	Status	Potential to occur?	Reason
<b>Birds</b>			
<i>Apus pacificus</i> Fork-tailed Swift	Migratory	Yes	May fly over study area
<i>Calonectris leucomelas</i> Streaked Shearwater	Migratory	No	Marine Species
<i>Sterna albifrons</i> Little Tern	Migratory	No	Coastal species
<i>Haliaeetus leucogaster</i> White-bellied Sea-Eagle	Migratory	No	Marine Species
<i>Hirundapus caudacutus</i> White-throated Needletail	Migratory	Yes	May fly over study area
<i>Merops ornatus</i> Rainbow Bee-eater	Migratory	No	No suitable habitat
<i>Monarcha melanopsis</i> Black-faced Monarch	Migratory	No	No suitable habitat
<i>Myiagra cyanoleuca</i>	Migratory	No	No suitable habitat

Satin Flycatcher <i>Rhipidura rufifrons</i> Rufous Fantail	Migratory	No	No suitable habitat
<i>Xanthomyza phrygia</i> Regent Honeyeater	Migratory	No	Habitat in study area not suitable, well outside of known population centres
<i>Ardea alba</i> Great Egret	Migratory	No	No suitable habitat
<i>Ardea ibis</i> Cattle Egret	Migratory	No	No suitable habitat
<i>Arenaria interpres</i> Ruddy Turnstone	Migratory	No	No suitable habitat
<i>Calidris alba</i> Sanderling	Migratory	No	No suitable habitat
<i>Calidris canutus</i> Red Knot, Knot	Migratory	No	No suitable habitat
<i>Charadrius bicinctus</i> Double-banded Plover	Migratory	No	No suitable habitat
<i>Gallinago hardwickii</i> Latham's Snipe	Migratory	No	No suitable habitat
<i>Limosa lapponica</i> Bar-tailed Godwit	Migratory	No	No suitable habitat

#### Nature and extent of likely impact

Address any impacts on the members of any listed migratory species, or their habitat.

The *Significant Impact Guidelines on matter of NES under the EPBC Act* (DECC 2000) states that an action having, will have, or is likely to have a significant impact on a migratory species if it does, will, or is likely to:

- substantially modify (including by fragmenting, altering fire regimes, altering nutrient cycles or altering hydrological cycles), destroy or isolate an area of *important habitat* of the migratory species, or
- result in invasive species that are harmful to the migratory species becoming established in an area of *important habitat* of the migratory species, or
- seriously disrupt the lifecycle (breeding, feeding, migration or resting behaviour) of an *ecologically significant proportion* of the population of the species.

Migratory species have the potential to forage within the dams and wetlands at the Russell Vale site. However, the proposed action is not predicted to have a significant impact on any species listed as migratory under the EPBC Act.

#### 3.1 (f) Commonwealth marine area

(If the action is in the Commonwealth marine area, complete 3.2(c) instead. This section is for actions taken outside the Commonwealth marine area that may have impacts on that area.)

**Description**

There are no Commonwealth marine areas in the study area or in areas that might be directly or indirectly affected by the proposed action.

**Nature and extent of likely impact**

Address any impacts on any part of the environment in the Commonwealth marine area.

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**3.1 (g) Commonwealth land**

(If the action is on Commonwealth land, complete 3.2(d) instead. This section is for actions taken outside Commonwealth land that may have impacts on that land.)

**Description**

If the action will affect Commonwealth land also describe the more general environment. The Policy Statement titled *Significant Impact Guidelines 1.2 - Actions on, or impacting upon, Commonwealth land, and actions by Commonwealth agencies* provides further details on the type of information needed. If applicable, identify any potential impacts from actions taken outside the Australian jurisdiction on the environment in a Commonwealth Heritage Place overseas.

There is no Commonwealth Land at the Russell Vale site.

**Nature and extent of likely impact**

Address any impacts on any part of the environment in the Commonwealth land. Your assessment of impacts should refer to the *Significant Impact Guidelines 1.2 - Actions on, or impacting upon, Commonwealth land, and actions by Commonwealth agencies* and specifically address impacts on:

- ecosystems and their constituent parts, including people and communities;
- natural and physical resources;
- the qualities and characteristics of locations, places and areas;
- the heritage values of places; and
- the social, economic and cultural aspects of the above things.

The proposed action is not expected to impact upon Commonwealth land.

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### 3.1 (h) The Great Barrier Reef Marine Park

#### Description

The proposed action will not impact on the Great Barrier Reef Marine Park.

#### Nature and extent of likely impact

Address any impacts on any part of the environment of the Great Barrier Reef Marine Park.

Note: If your action occurs in the Great Barrier Reef Marine Park you may also require permission under the *Great Barrier Reef Marine Park Act 1975* (GBRMP Act). If so, section 37AB of the GBRMP Act provides that your referral under the EPBC Act is deemed to be an application under the GBRMP Act and Regulations for necessary permissions and a single integrated process will generally apply. Further information is available at [www.gbrmpa.gov.au](http://www.gbrmpa.gov.au)

### 3.2 Nuclear actions, actions taken by the Commonwealth (or Commonwealth agency), actions taken in a Commonwealth marine area, actions taken on Commonwealth land, or actions taken in the Great Barrier Reef Marine Park

You must describe the nature and extent of likely impacts (both direct & indirect) on the whole environment if your project:

- is a nuclear action;
- will be taken by the Commonwealth or a Commonwealth agency;
- will be taken in a Commonwealth marine area;
- will be taken on Commonwealth land; or
- will be taken in the Great Barrier Reef marine Park.

Your assessment of impacts should refer to the *Significant Impact Guidelines 1.2 - Actions on, or impacting upon, Commonwealth land, and actions by Commonwealth agencies* and specifically address impacts on:

- ecosystems and their constituent parts, including people and communities;
- natural and physical resources;
- the qualities and characteristics of locations, places and areas;
- the heritage values of places; and
- the social, economic and cultural aspects of the above things.

3.2 (a)	Is the proposed action a nuclear action?	*	No
			Yes (provide details below)

If yes, nature & extent of likely impact on the whole environment

3.2 (b)	Is the proposed action to be taken by the Commonwealth or a Commonwealth agency?	*	No
			Yes (provide details below)

If yes, nature & extent of likely impact on the whole environment

3.2 (c)	Is the proposed action to be taken in a Commonwealth marine area?	*	No
			Yes (provide details below)

If yes, nature & extent of likely impact on the whole environment (in addition to 3.1(h))

3.2 (d)	Is the proposed action to be taken on Commonwealth land?	*	No
			Yes (provide details below)

If yes, nature & extent of likely impact on the whole environment (in addition to 3.1(i))

3.2 (e)	Is the proposed action to be taken in the Great Barrier Reef Marine Park?	*	No
			Yes (provide details below)

If yes, nature & extent of likely impact on the whole environment (in addition to 3.1(j))

### 3.3 Other important features of the environment

Provide a description of the project area and the affected area, including information about the following features (where relevant to the project area and/or affected area, and to the extent not otherwise addressed above). If at Section 2.3 you identified any alternative locations, time frames or activities for your proposed action, you must complete each of the details below (where relevant) for each alternative identified.

#### 3.3 (a) Flora and fauna

Potential habitat for the Green and Golden Bell Frog, listed under the EPBC Act was recorded within the Russell Vale site. No other EPBC threatened species are likely to use the site or rely on the site for resources, although it is likely some migratory species (protected under the EPBC Act) would forage within the dams.

Surveys for the Green and Golden Bell Frog undertaken by Biosis Research in 2010 and 2011, did not detect the species (refer to attachment 1).

#### 3.3 (b) Hydrology, including water flows

The existing water management system at the Russell Vale site broadly includes:

- potable water – which is supplied by connection to the Sydney Water reticulated water supply;
- mine water – which is dewatered from mine workings and reused on site. Excess mine water is collected with stormwater, processed through the existing onsite treatment system and the excess is discharged in accordance with EPL 12040; and
- stormwater – clean water is diverted around the site, while dirty water is treated and reused on site with surplus treated on site and discharged (with mine water) to Bellambi Gully Creek accordance with EPL 12040.

Bellambi Gully Creek currently flows through the site via an underground pipe below the existing ROM coal stockpile. Bellambi Gully Creek flows from the Russell Vale site east, under the Princes Highway, past several industrial and residential premises, under the Northern Distributor, through residential streets, under the railway line, through the Holy Spirit High School grounds and then into the ocean at Bellambi Beach, approximately 850m north of and in a separate catchment to the Lagoon adjacent to Bellambi Beach. The stream length is approximately 3km from the discharge point to Bellambi Beach and comprises either culverts under main transport structures and roads, or a disturbed creek bed, through urban areas.

The flow through Bellambi Gully Creek is highly variable. The low lying area east of the Princes Highway is cleared of natural vegetation. The catchment is small and the gully reacts quickly to rain, rising rapidly and falling to a trickle for extended periods.

#### 3.3 (c) Soil and Vegetation characteristics

The escarpment slopes and steep side slopes of the valley areas within the elevated parts of the Russell Vale site are generally formed by talus, colluviums and residual soils. These slopes have also been modified significantly by filling and excavations, particularly above the central valley area uphill

of the coal stockpile site. The Russell Vale site is a disturbed site with native vegetation restricted to the perimeters along the creek line, and within the dams.

### **3.3 (d) Outstanding natural features**

The predominant landscape feature within the area is the Illawarra Escarpment that rises abruptly from a little above sea level to 440 m AHD approximately 4 km west of Bellambi. The escarpment extends along the coastline and is a distinctive natural feature of the Illawarra region. The escarpment will not be impacted by the Project.

### **3.3 (e) Remnant native vegetation**

The Russell Vale site is a disturbed site with native vegetation restricted to the perimeters, along the creek line, and within the dams. The majority of the vegetation within the Russell Vale site consists of dry sclerophyll forest and Acacia scrub (NPWS 2003) with weeds recorded along the creek lines.

### **3.3 (f) Gradient (or depth range if action is to be taken in a marine area)**

The Russell Vale site is located on the lower slopes and foothills of the Illawarra Escarpment. Elevation across the site ranges from 40m to approximately 140m AHD.

### **3.3 (g) Current state of the environment**

Include information about the extent of erosion, whether the area is infested with weeds or feral animals and whether the area is covered by native vegetation or crops.

### **3.3 (h) Commonwealth Heritage Places or other places recognised as having heritage values**

There are no items Commonwealth Heritage Places at the Russell Vale site. The site is listed as South Bulli Colliery on Schedule 5 of the Wollongong LEP 2009 as an item of environmental heritage. The proposal is not expected to impact on this heritage item.

### **3.3 (i) Indigenous heritage values**

A search of the DECCW Aboriginal Heritage Information Management System (AIHMS) database identified no Aboriginal sites within the Russell Vale site. A field survey was undertaken in conjunction with the Aboriginal community to assess the areas to be disturbed by the proposed facility upgrades and the area of the original Bellambi Gully Creek.

There were no Aboriginal archaeological sites recorded during the field survey, possibly due to the level of past land disturbance. There were no areas of archaeological potential identified and the Aboriginal community did not express any concern that the proposed works will impact on cultural or spiritual sites.

### **3.3 (j) Other important or unique values of the environment**

Describe any other key features of the environment affected by, or in proximity to the proposed action (for example, any national parks, conservation reserves, wetlands of national significance etc).

No other unique values occur within the study area.

### **3.3 (k) Tenure of the action area (eg freehold, leasehold)**

The Russell Vale site which houses administration buildings and infrastructure is part freehold title and part leasehold title within Consolidated Coal Lease (CCL) 745.

### **3.3 (l) Existing land/marine uses of area**

The land adjacent to Russell Vale site has been a mining lease since 1887. Other land uses within the study area include public roads, unmanned transmission line infrastructure and un-manned radio-broadcasting towers.

### **3.3 (m) Any proposed land/marine uses of area**

No change in land use is proposed, other than this current proposal.

## 4 Measures to avoid or reduce impacts

Note: If you have identified alternatives in relation to location, time frames or activities for the proposed action at Section 2.3 you will need to complete this section in relation to each of the alternatives identified.

Provide a description of measures that will be implemented to avoid, reduce, manage or offset any relevant impacts of the action. Include, if appropriate, any relevant reports or technical advice relating to the feasibility and effectiveness of the proposed measures.

For any measures intended to avoid or mitigate significant impacts on matters protected under the EPBC Act, specify:

- what the measure is,
- how the measure is expected to be effective, and
- the time frame or workplan for the measure.

Examples of relevant measures to avoid or reduce impacts may include the timing of works, avoidance of important habitat, specific design measures, or adoption of specific work practices.

Provide information about the level of commitment by the person proposing to take the action to implement the proposed mitigation measures. For example, if the measures are preliminary suggestions only that have not been fully researched, or are dependent on a third party's agreement (e.g. council or landowner), you should state that, that is the case.

Note, the Australian Government Environment Minister may decide that a proposed action is not likely to have significant impacts on a protected matter, as long as the action is taken in a particular manner (section 77A of the EPBC Act). The particular manner of taking the action may avoid or reduce certain impacts, in such a way that those impacts will not be 'significant'. More detail is provided on the Department's web site.

For the Minister to make such a decision (under section 77A), the proposed measures to avoid or reduce impacts must:

- clearly form part of the referred action (eg be identified in the referral and fall within the responsibility of the person proposing to take the action),
- be must be clear, unambiguous, and provide certainty in relation to reducing or avoiding impacts on the matters protected, and
- must be realistic and practical in terms of reporting, auditing and enforcement.

More general commitments (eg preparation of management plans or monitoring) and measures aimed at providing environmental offsets, compensation or off-site benefits CANNOT be taken into account in making the initial decision about whether the proposal is likely to have a significant impact on a matter protected under the EPBC Act. (But those commitments may be relevant at the later assessment and approval stages, including the appropriate level of assessment, if your proposal proceeds to these stages).

The realignment of Bellambi Gully Creek into an open channel from the existing pipeline will require up-slope bank stabilisation and removal of Dam 6. Consequently, there can be no avoidance of impacts to Dam 6, without compromising the stability of the bank above the channel. The location of the channel is restricted by existing infrastructure within the site, as well as the location of the natural creekline.

Investigations were undertaken by Biosis (2010a, 2010b and 2011) over 2010 - 2011 did not detect the Green and Golden Bell Frog at Dam 6. Although Dam 6 provides potential habitat for the Green and Golden Bell Frog, it does not provide floating aquatic vegetation which is crucial for breeding males when emitting their calls. The high coverage of emergent reeds also limits the habitat value.

The assessments concluded that, given the Green and Golden Bell Frog has not been detected at Dam 6 and there are limitations to the quality of the breeding habitat, the proposed action is not likely to have a significant impact on the Green and Golden Bell Frog and no further assessments are required under the EPBC Act

## 5 Conclusion on the likelihood of significant impacts

Identify whether or not you believe the action is a controlled action (ie. whether you think that significant impacts on the matters protected under Part 3 of the EPBC Act are likely) and the reasons why.

### 5.1 Do you THINK your proposed action is a controlled action?

- |                                     |                           |
|-------------------------------------|---------------------------|
| <input checked="" type="checkbox"/> | No, complete section 5.2  |
| <input type="checkbox"/>            | Yes, complete section 5.3 |

### 5.2 Proposed action IS NOT a controlled action.

Specify the key reasons why you think the proposed action is NOT LIKELY to have significant impacts on a matter protected under the EPBC Act.

The proposed action is not considered to be a controlled action for the following key reasons:

- within the study area, potential habitat exists for only one matter of NES, being the Green and Golden Bell Frog;
- the potential Green and Golden Bell Frog habitat has limited value as it does not provide floating aquatic vegetation which is crucial for breeding males when emitting their calls and the high coverage of emergent reeds also limits the breeding habitat value;
- despite extensive surveys during optimal times, no evidence of the species was found;
- no matters of NES are predicted to be significantly impacted by the action;

### 5.3 Proposed action IS a controlled action

Type 'x' in the box for the matter(s) protected under the EPBC Act that you think are likely to be significantly impacted. (The 'sections' identified below are the relevant sections of the EPBC Act.)

#### Matters likely to be impacted

<input type="checkbox"/>	World Heritage values (sections 12 and 15A)
<input type="checkbox"/>	National Heritage places (sections 15B and 15C)
<input type="checkbox"/>	Wetlands of international importance (sections 16 and 17B)
<input type="checkbox"/>	Listed threatened species and communities (sections 18 and 18A)
<input type="checkbox"/>	Listed migratory species (sections 20 and 20A)
<input type="checkbox"/>	Protection of the environment from nuclear actions (sections 21 and 22A)
<input type="checkbox"/>	Commonwealth marine environment (sections 23 and 24A)
<input type="checkbox"/>	Great Barrier Reef Marine Park (sections 24B and 24C)
<input type="checkbox"/>	Protection of the environment from actions involving Commonwealth land (sections 26 and 27A)
<input type="checkbox"/>	Protection of the environment from Commonwealth actions (section 28)
<input type="checkbox"/>	Commonwealth Heritage places overseas (sections 27B and 27C)

Specify the key reasons why you think the proposed action is likely to have a significant adverse impact on the matters identified above.

## 6 Environmental record of the responsible party

NOTE: If a decision is made that a proposal needs approval under the EPBC Act, the Environment Minister will also decide the assessment approach. The EPBC Regulations provide for the environmental history of the party proposing to take the action to be taken into account when deciding the assessment approach.

		Yes	No
6.1	<p><b>Does the party taking the action have a satisfactory record of responsible environmental management?</b></p> <p><b>Provide details</b>                      Apart from a non-compliance in 2008 that was reported by the Company in accordance with DECCW Licence #12040, for dust deposition monitoring data that was not available in the month of November 2008 (due to vandalism), the Company has a satisfactory record of responsible environmental management. There have been no matters relating to the EPBC Act.</p>	✓	
6.2	<p><b>Has either (a) the party proposing to take the action, or (b) if a permit has been applied for in relation to the action, the person making the application - ever been subject to any proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources?</b></p> <p><b>If yes, provide details</b></p>		x
6.3	<p><b>If the party taking the action is a corporation, will the action be taken in accordance with the corporation's environmental policy and planning framework?</b></p> <p><b>If yes, provide details of environmental policy and planning framework</b>                      The Company Environmental Policy covers environmental management in a general sense. The Mining Operations Plan for the NRE No.1 Colliery outlines the environmental management protocols for operation of the mine.</p>	✓	
6.4	<p><b>Has the party taking the action previously referred an action under the EPBC Act, or been responsible for undertaking an action referred under the EPBC Act?</b></p> <p><b>Provide name of proposal and EPBC reference number (if known)</b></p> <p>Gujarat NRE Minerals Ltd – Longwall Mining at NRE No.1 Colliery Project, Russell Vale, NSW (EPBC 2010/5786)</p>	✓	

## 7 Information sources and attachments

(For the information provided above)

### 7.1 References

- List the references used in preparing the referral.
- Highlight documents that are available to the public, including web references if relevant.

Biosis Research (2010) *Targeted Green and Golden Bell Frog (Litoria aurea) Surveys: NRE No. 1 Colliery*. Prepared for Gujarat NRE Coking Coal limited.

Department of Environment and Conservation (2000) *Administrative Guidelines for determining whether an action has, will have, or is likely to have a significant impact on a matter of national environmental significance under the Environment Protection and Biodiversity Conservation Act 1999*.

Department of Environment and Climate Change NSW (2004) *Threatened biodiversity survey and assessment: guidelines for developments and activities*, Working draft.

Environmental Resources Management Pty Ltd (2010) *NRE No.1 Colliery Preliminary Works Environmental Assessment*. Prepared for Gujarat NRE Coking Coal limited.

National Parks and Wildlife Service NSW (NPWS) (2003) *The Native Vegetation of the Woronora, O'Hares and Metropolitan Catchments*, Central Conservation Programs and Planning Division.

### 7.2 Reliability and date of information

For information in section 3 specify:

- source of the information;
- how recent the information is;
- how the reliability of the information was tested; and
- any uncertainties in the information.

The information provided in Section 3 has been collected from the reference materials identified in Section 7.1. Additional information regarding threatened species records and habitat condition was gathered during field surveys and desktop assessments undertaken by ERM and associated sub-consultants in 2009, 2010 and 2011. All information is provided in the most up to date and accurate form as was possible at the time of writing.

### 7.3 Attachments

Indicate the documents you have attached. All attachments must be less than two megabytes (2mb) so they can be published on the Department's website. Attachments larger than two megabytes (2mb) may delay the processing of your referral.

	✓ attached	Title of attachment(s)
<b>You must attach</b> figures, maps or aerial photographs showing the project locality (section 1)	✓	<i>Figure 1</i>
figures, maps or aerial photographs showing the location of the project in respect to any matters of national environmental significance or important features of the environments (section 3)	✓	<i>Figure 5</i>

<b>If relevant, attach</b>	copies of any state or local government approvals and consent conditions (section 2.5)		<i>N/A</i>
	copies of any completed assessments to meet state or local government approvals and outcomes of public consultations, if available (section 2.6)	✓	<i>Attachment 1</i>
	copies of any flora and fauna investigations and surveys (section 3)	✓	<i>Attachment 1</i>
	technical reports relevant to the assessment of impacts on protected matters that support the arguments and conclusions in the referral (section 3 and 4)	✓	<i>Attachment 1</i>
	report(s) on any public consultations undertaken, including with Indigenous stakeholders (section 3)	✓	<i>Attachment 1</i>

### Figures

- Figure 1      Locality Map
- Figure 2      Existing Infrastructure Layout at Russell Vale Site
- Figure 3      Proposed Infrastructure Upgrades at Russell Vale Site
- Figure 4      Latitude and Longitude co-ordinates of the study area
- Figure 5      Location of previous Green and Golden Bell Frog Location within the locality

### Attachments

- Attachment 1 – Russell Vale Surface Works Matters of National Environmental Significance Assessment
- Attachment 2 – EPBC Act Protected Matter Search

## 8 Contacts, signatures and declarations

NOTE: Providing false or misleading information is an offence punishable on conviction by imprisonment and fine (s 489, EPBC Act).

Under the EPBC Act a referral can only be made by:

- the person proposing to take the action (which can include a person acting on their behalf); or
- a Commonwealth, state or territory government, or agency that is aware of a proposal by a person to take an action, and that has administrative responsibilities relating to the action<sup>1</sup>.

### Project title:

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#### 8.1 Person proposing to take action

This is the individual, government agency or company that will be principally responsible for, or who will carry out, the proposed action.

If the proposed action will be taken under a contract or other arrangement, this is:

- the person for whose benefit the action will be taken; or
- the person who procured the contract or other arrangement and who will have principal control and responsibility for the taking of the proposed action.

If the proposed action requires a permit under the Great Barrier Reef Marine Park Act<sup>2</sup>, this is the person requiring the grant of a GBRMP permission.

The Minister may also request relevant additional information from this person.

If further assessment and approval for the action is required, any approval which may be granted will be issued to the person proposing to take the action. This person will be responsible for complying with any conditions attached to the approval.

If the Minister decides that further assessment and approval is required, the Minister must designate a person as a proponent of the action. The proponent is responsible for meeting the requirements of the EPBC Act during the assessment process. The proponent will generally be the person proposing to take the action<sup>3</sup>.

Name	Chris Harvey
Title	Head of Technical Services
Organisation	Gujarat NRE Coking Coal Ltd
ACN / ABN (if applicable)	28 111 244 896
Postal address	Corner Bellambi Lane and Princes Highway Russell Vale, NSW 2517 Australia
Telephone	+61 (02) 4223 6805
Email	charvey@gujaratnre.com.au
Declaration	I declare that the information contained in this form is, to my knowledge, true and not misleading. I agree to be the proponent for this action.
Signature	
Date	21/3/2011

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<sup>1</sup> If the proposed action is to be taken by a Commonwealth, state or territory government or agency, section 8.1 of this form should be completed. However, if the government or agency is aware of, and has administrative responsibilities relating to, a proposed action that is to be taken by another person which has not otherwise been referred, please contact the Referrals Business Entry Point (1800 803 772) to obtain an alternative contacts, signatures and declarations page.

<sup>2</sup> If your referred action, or a component of it, is to be taken in the Great Barrier Reef Marine Park the Minister is required to provide a copy of your referral to the Great Barrier Reef Marine Park Authority (GBRMPA) (see section 73A, EPBC Act). For information about how the GBRMPA may use your information, see [http://www.gbrmpa.gov.au/privacy/privacy\\_notice\\_for\\_permits](http://www.gbrmpa.gov.au/privacy/privacy_notice_for_permits).

<sup>3</sup> If a person other than the person proposing to take action is to be nominated as the proponent, please contact the Referrals Business Entry Point (1800 803 772) to obtain an alternative contacts, signatures and declarations page.

**8.2 Person preparing the referral information (if different from 8.1)**

Individual or organisation who has prepared the information contained in this referral form.

Name Christine Allen  
Title Project Manager  
Organisation Environmental Resources Management (ERM)  
ACN / ABN (if applicable) 12 002 773 248  
Postal address Locked Bag 24, Broadway NSW 2007  
Telephone 02 8584 8811  
Email [christine.allen@erm.com](mailto:christine.allen@erm.com)  
Declaration I declare that the information contained in this form is, to my knowledge, true and not misleading.

Signature 

Date 22 March 2011

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## REFERRAL CHECKLIST

**NOTE:** This checklist is to help ensure that all the relevant referral information has been provided. It is not a part of the referral form and does not need to be sent to the Department.

### HAVE YOU:

- ✓ Completed all required sections of the referral form?
- ✓ Included accurate coordinates (to allow the location of the proposed action to be mapped)?
- ✓ Provided a map showing the location and approximate boundaries of the project area?
- ✓ Provided a map/plan showing the location of the action in relation to any matters of NES?
- ✓ Provided complete contact details and signed the form?
- ✓ Provided copies of any documents referenced in the referral form?
- ✓ Ensured that all attachments are less than two megabytes (2mb)?
- ✓ Sent the referral to the Department (electronic and hard copy preferred)?