

Submission on the draft Environmental Impact Statement

Winchelsea Mining Pty Ltd – Winchelsea Island Manganese Mine Project

This submission is made under Regulation 134 of the Environment Protection Regulations 2020

NT EPA reference number: EP 2021/004

Government authority: Australian Government Department of Climate Change, Energy, the Environment and Water (DCCEEW)

Summary: There is limited consideration of some key EPBC Act matters including:

- Whether or not there are likely to be residual significant impacts to EPBC Act-listed matters (including quantification of disturbed versus rehabilitated habitat over the project's timespan),
- Whether offsets are required, and if so, details of the offset program and evidence that it satisfies the expectations of the EPBC Act offsets policy,
- How EPBC Act versus NT-level offset requirements differ,
- Minor errors and contradictions in some of the presented information that should be clarified in the Supplement Report, and
- Whether turtle surveying was conducted appropriately.

Section of Referral	Theme or issue	Comment
Main report – section 1.1	ToR 2.2.1 requirement.	The direct and indirect disturbance footprints are not clearly articulated in the Executive Summary. DCCEEW recommends the Supplementary Report clearly states the total direct and indirect disturbance footprints (in hectares) and displays these areas in maps.
Main report – sections 1.2 & 1.3	ToR 2.2.3 requirement not fulfilled.	ToR requires proponent to outline social, economic and environmental costs. Only benefits have been described in draft EIS sections 1.2 and 1.3. Although it is apparent from the broader EIS that the proposal has potential social, economic and environmental impacts, these potentially adverse outcomes are not declared in sections 1.2 and 1.3. Although the draft EIS will not itself be revised following this feedback, the Supplement Report should note the potential adverse issues such as: <ul style="list-style-type: none"> • Reduced air quality from mining operations has the potential to including Mn accumulation and central nervous system and cognitive damage, • Loss of habitat to listed threatened species, and • Prolonged reliance on royalty income for local communities that may lead to further justification n for more mining after the proposed action's life of mine.
Main report – section 1.7	Error in cross-reference.	Project description cross-reference in the EIS in this table is to section 5, but it should be section 4 (because section 4 is for the mine closure). This could be acknowledged and clarified in the Supplement Report.
Main report – section 3	Error in cross-reference.	Table 1.7-1 refers to Section 3 in the draft EIS as responding to the requirements of the ToR 2.2.4 “Provide information on the statutory framework” but should instead refer to section 2.2 of the draft EIS.

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Main report – section 4.4.2	Rounding errors in total disturbance area.	<p>There appear to be some significant rounding errors because the sum total of the pit sizes specified in this section, which add to 287.3 ha whereas the stated nine-pit footprint elsewhere and in the accepted variation is 284.4 ha. Please review these figures and ensure they are accurate and consistent across the EIS. The relevant text is from states:</p> <p>“The largest extraction area is the main pit, known as the MMZ Pit 1, being approximately 201.1 ha in size and situated in the central south-eastern part of the island. The NEZ Pit 1, covering approximately 47.6 ha, is the second largest extraction location and is situated in the northern part of the Project area, centrally located on the island. The seven other extraction areas in order of size are: CNZ Pit (10.9 ha), CSZ Pit (6.9 ha), NEZ Pit 2 (5.2 ha), CMZ Pit 1 (4.9 ha), NWZ Pit (3.3 ha), MMZ Pit 2 (2.5 ha) and CMZ Pit 2 (4.9 ha) (Figure 4.4-1).”</p> <p>This could be acknowledged and clarified in the Supplement Report.</p>
Main report - section 4, Fig. 4.4-1	Figure legend error.	Grey colour in key indicates disturbance footprint, but this appears to be shown by black in the figure itself. This may be worth acknowledging and clarifying in the Supplement Report.
Main report – section 9.9.2.4	Further evidence requested.	<p>The following statement is not linked to, or obviously supported by, evidence showing that the area is in fact a low marine traffic location. Please provide evidence or further justification for this statement: “The area is currently a low marine traffic location and the wharf component of the Project is not expected to significantly increase vessel movements during operations or exacerbate interactions with marine fauna and or restrictions on other marine users”.</p> <p>Please elaborate further on the evidence for this claim in the Supplement Report.</p>
Main report – section 10 (and all tables of contents)	Typographic error.	Typographic error in table of contents and corresponding heading within the document “Matters of National Environmental <u>Significant</u> ”, which should be “ <u>Significance</u> ”.
Main report – section 10.2.2.2; Appendix FF	DCCEEW guidelines may not have been followed.	<p>The relevant ToR requirement states “Species protected under the EPBC Act and TPWC Act must be described subject to appropriate targeted surveys in consultation with Flora and Fauna Division of the Department of Environment, Parks and Water Security (DEPWS) and in consideration of the EPBC Act’s survey guidelines.”</p> <p>DCCEEW notes that reptile survey guidelines are not mentioned as being used, or justification as to why they were not used. Whether these guidelines have in effect been used, deliberately or coincidentally, should be stated. They are <i>Survey guidelines for Australia's threatened reptiles: Guidelines for detecting reptiles listed as threatened under the EPBC Act 2011</i>. These guidelines are not mentioned (including in the references list) in Appendix FF, the turtle survey, and the Recovery Plan is only listed in the references but is not discussed. The Supplement Report should make it clear if and how these documents were considered in the turtle survey design, execution and interpretation.</p>

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Main report - section 10.2.3, Table 10.2-3 (Reptiles section, p. 1008); Appendix FF	Limited consideration of turtle habitat types.	<p>This relates to the “Unlikely” conclusion in the “Assessment of Likelihood of Occurrence” for Loggerhead, Olive Ridley, Green, Leatherback, Flatback and Hawksbill turtles.</p> <p>Although it is concluded that these turtle species are “Unlikely” to occur, the field survey findings in Appendix FF only consider nesting habitat. In the Supplement Report, please provide further justification or evidence as to why these turtle species would not occur within the marine areas where marine infrastructure is being built, given that they have nearby nesting areas? For example, Table 10.2-5 states that "During marine turtle surveys, Flatback Turtle nests were observed on the western beaches of Winchelsea Island, with the nearest being located approximately 4 km north of the wharf".</p> <p>Secondly, Appendix FF explains that surveys occurred in 2018 (November), 2021 (October, December) and 2022 (July, August, October), and therefore they did not cover the peak nesting periods for the Olive Ridley and Green turtles, whose nests were found in lowest abundance (as defined in the <i>Recovery Plan for Marine Turtles in Australia 2017</i>). It should be explained (if so) why the chosen times were appropriate times of year for turtle surveying.</p> <p>The Supplement Report should directly address these issues.</p>
Main report – section 10.2.4 (and section 12 p. 1057 and section 14)	Potential contradictions and lack of clarity around residual impacts to EPBC matters.	<p>Section 10 notes that residual significant impacts to the Northern Masked Owl and Northern Quoll are possible, whereas they are unlikely for the Ghost Bat.</p> <p>Section 12 notes that offsets will be provided where mitigation measures are insufficient to prevent residual significant impacts. However, the information implies that only the NT offsets framework is being considered, which works on a landscape scale, rather than a species-specific scale. This section also implies that Groote Eylandt may be a site for offset work, but it is not declared definitively. In part of a contradiction, this tentative offset site would provide habitat for the Ghost Bat, Northern Quoll and Northern Masked Owl (p. 1057), even though section 10 notes residual significant impacts to the Ghost Bat are unlikely. It is unclear how EPBC Act offset requirements intend to be met, if they are required.</p> <p>Section 14 concludes that residual significant impacts to EPBC Act matters will not occur, but again states that offsets will be considered where mitigation measures cannot prevent residual significant impacts. Again, the draft EIS’s analysis lacks a definitive view on whether there will be a significant residual impact to any EPBC Act-listed matter.</p> <p>Subsequent correspondence and meetings between DCCEEW and the proponent have resulted in the proponent modelling habitat availability for the Ghost Bat, Northern Quoll and Northern Masked Owl, due to concurrent disturbance and rehabilitation. DCCEEW strongly suggests that the modelling assumptions, results and underpinning evidence (for assumptions) should be in the Supplement Report because they are needed to determine whether there will be residual significant impacts to these three species. In particular, evidence that supports the timeframes needed for disturbed areas to become functional habitat again will be of high importance.</p>
Main report – section 10	Mis-application of EPBC criteria.	<p>Vulnerable species significant impact criteria have been used on migratory and/or marine only species in Table 10.2-5 (marine mammals).</p> <p>The Green Turtle in Table 10.2-6 is noted as being migratory, but it is also listed as a vulnerable threatened species.</p>

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		<p>The EPBC Act Policy Statement Significant Impact Guidelines 1.1 state that for migratory species that the listed threatened species significant impact criteria apply wherever a species is dually listed as threatened and migratory. The species listed in Table 10.2-7 include species that are listed under both the migratory and threatened species provisions, which should have been acknowledged in the text on page 1033 or 1034.</p>
Main report – section 12	Different offset requirements at NT and federal level.	<p>The draft EIS does not clearly distinguish between the different offset-setting requirements under NT and federal environmental approval processes. For example, as noted above, NT offsets work on a landscape basis with like-for-like habitats provided where impacts occur. Under the federal EPBC Act, the offset requirements are species-specific. Furthermore, the <i>EPBC Act environmental offsets policy 2012</i> requires that suitable offsets must be in proportion to the level of statutory protection that applies to the protected matter. There should be some acknowledgement of these differences in the Supplement Report.</p> <p>In relation to the statement “Biodiversity offset plans should describe how these thresholds will be achieved or provide robust justification for alternative threat reduction targets.”:</p> <ul style="list-style-type: none"> Alternative thresholds have not been provided. The <i>EPBC Act environmental offsets policy 2012</i> requires that the offsets should be proportionate to the size and the scale of the impact. The proponent has not justified how an alternative threat reduction target would be able to fulfill the offset policy in the case that a change to the area and/or habitat quality scoring requirements.
Main report – section 12	Offsets.	<p>This section states that “Indicative thresholds for effective threat management within different biomes have been developed and these are described in Schedule 2 (DEPWS, 2022b).” Therefore, it has not been demonstrated that the requirements under the <i>EPBC Act environmental offsets policy 2012</i> have been satisfied for relevant protected matter.</p> <p>Furthermore, p. 1057 notes that “The objective of most offsets will be to deliver an improvement in habitat condition within the offset area”, but it has not been demonstrated that such activities would deliver a sufficient benefit to EPBC Act-listed protected matters, such as the Northern Masked Owl and Northern Quoll, in accordance with the <i>EPBC Act environmental offsets policy 2012</i>. The Supplement Report should directly address these issues.</p>
Main report – section 12	Averted loss – offsets.	<p>It should be noted that any offsets that provide an averted loss on Groote Eylandt or elsewhere would need to provide robust evidence to demonstrate that future habitat loss will occur.</p> <p>Secondly, any such habitat degradation on Groote Eylandt or elsewhere that occurs from anthropogenic activities would be subject to EPBC Act protection, and therefore the averted loss should be zero, because any impacts from these activities would themselves need to be offset. This is noted in the public guidance on DCCEEW’s website available here: https://www.dcceew.gov.au/environment/epbc/approvals/offsets/guidance/offsets-assessment-guide. Information on this page states that “Risk of loss does not include... loss that requires an assessment and offset under any legislation”, which includes the EPBC Act.</p> <p>The Supplement Report should explain how any proposed offsets meet the requirements of the <i>EPBC Act environmental offsets policy 2012</i>.</p>

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Main report – section 12	Masked Owl offsets.	<p>The draft EIS states the potential for offsets to attend to the residual significant impacts of habitat clearance: “In addition to the direct offsetting, Winchelsea Mining is investigating an added compensatory measure involving a Northern Masked Owl research program inclusive of the known pair on Winchelsea Island and a pair in the northern portion of Groote Eylandt”.</p> <p>DCCEEW notes that funding research is an indirect offset, and should only contribute to 10% of offset package per the <i>EPBC Act environmental offsets policy 2012</i>. If indirect offsets make up more than 10% of total offset package it will require justification for how that have a greater benefit to the protected matter than a direct offset.</p>
Main report – section 12	Monitoring programs.	<p>The ToR requires monitoring and reporting (Tables 5 and 6) to “Substantiate proposed monitoring activities with consideration of best practice standards and advice from relevant government authorities”.</p> <p>However, the draft EIS has not provided:</p> <ul style="list-style-type: none"> • Justification for population recovery following mine site rehabilitation in the form of a population monitoring plan or habitat quality monitoring plan, and • Details of monitoring timing, location, habitat and population quality scores or thresholds that would allow for adequate monitoring. <p>Please consider these information gaps in the Supplement Report to ensure they are sufficiently addressed.</p>
Main report – section 14	Monitoring and residual impacts.	<p>The draft EIS provides a terrestrial ecosystem residual risk assessment (Table 13.2-1) that states: “The application of mitigation measures reduced the risk profile such that...residual terrestrial ecological risks associated with the Project have a low probability of occurrence and in the unlikely event that they do occur, are predicted to have either a negligible or local impact on the environmental values for terrestrial ecology.”</p> <p>Although mitigation measures have been identified as mine site rehabilitation, the proponent has not provided details of restoration timing, location, habitat and population quality scores or thresholds that would allow for adequate monitoring or determination of whether residual significant impacts are likely to occur to EPBC Act-listed matters.</p> <p>The Supplement Report should directly address this outstanding information gap.</p>