



**Notification of
REFERRAL DECISION AND DESIGNATED PROPONENT – controlled action**

Bowden's Silver Project, 26km south-east of Mudgee, NSW (EPBC 2018/8372)

This decision is made under section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

proposed action To construct and operate an open cut silver mine, 26 km south-east of Mudgee, NSW and the development of a pipeline and associated infrastructure [See EPBC Act referral 2018/8372]

decision on proposed action The proposed action is a controlled action.
The project will require assessment and approval under the EPBC Act before it can proceed.

relevant controlling provisions • Listed threatened species and communities (sections 18 & 18A)

designated proponent Bowdens Silver Pty Limited
ACN 009250051

assessment approach The project will be assessed under the assessment bilateral agreement with NSW.

Decision-maker

Name and position Mike Smith
A/g Assistant Secretary
Assessments and Waste Branch

Signature

date of decision 5 April 2019



Mr Anthony McClure
Director
Bowdens Silver Pty Ltd
GPO Box 225
SYDNEY NSW 2000

Dear Mr McClure

Decision on referral

Bowden's Silver Project, 26km south-east of Mudgee, NSW

Thank you for submitting a referral under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). This is to advise you of my decision about the referral of the proposed action, to construct and operate an open cut silver mine 26 km south-east of Mudgee, NSW and the development of a pipeline and associated infrastructure.

As a delegate of the Minister for the Environment, I have decided under section 75 of the EPBC Act that the proposed action is a controlled action and, as such, it requires assessment and a decision about whether approval for it should be given under the EPBC Act.

Relevant Protected Matters

The information that I have considered indicates that the proposed action is likely to have a significant impact on the following matters protected by the EPBC Act:

- Listed threatened species and communities (sections 18 & 18A)

Based on the information available in the referral, the proposed action is likely to have a significant impact on the following matters of national environmental significance, but not limited to:

- White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland ecological community (Box Gum Woodland) identified as Critically Endangered under the EPBC Act. The proposed action involves the clearing of 148 ha of Box Gum Woodland.
- Koala (*Phascolarctos cinereus*) (combined populations of Qld, NSW and the ACT) identified as Vulnerable under the EPBC Act. The proposed action involves the clearing of approximately 402 ha of vegetation that potentially provides foraging habitat for this species.
- Regent Honeyeater (*Anthochaera phrygia*) identified as Critically Endangered under the EPBC Act. The proposed action involves the clearing of approximately 402 ha of vegetation that potentially provides foraging habitat for this species.

- Swift Parrot (*Lathamus discolor*) identified as Critically Endangered under the EPBC Act. The proposed action involves the clearing of approximately 402 ha of vegetation that potentially provides foraging habitat for this species.
- Spot-tailed Quoll, Spotted-tail Quoll, Tiger Quoll (southeastern mainland population) (*Dasyurus maculatus maculatus* (SE mainland population)) identified as Endangered under the EPBC Act. The proposed action involves the clearing of approximately 402 ha of vegetation that potentially provides foraging habitat for this species.

In addition without further detailed assessment of potential impacts, the Department considers that there is a real chance or possibility that project activities will significantly impact on the following:

- a leek-orchid (*Prasophyllum sp. Wybong* (C.Phelps ORG 5269)) identified as Critically Endangered under the EPBC Act (pipeline only)
- *Philothea ericifolia* identified as Vulnerable under the EPBC Act
- Tarengo Leek Orchid (*Prasophyllum petilum*) identified as Endangered under the EPBC Act
- Small Purple-pea (*Swainsona recta*) identified as Endangered under the EPBC Act
- *Euphrasia arguta* identified as Critically Endangered under the EPBC Act
- Booroolong Frog (*Litoria booroolongensis*) identified as Endangered under the EPBC Act
- Striped Legless Lizard (*Delma impar*) identified as Vulnerable under the EPBC Act
- Superb Parrot (*Polytelis swainsonii*) identified as Vulnerable under the EPBC Act
- Brush-tailed Rock Wallaby (*Petrogale penicillata*) identified as Vulnerable under the EPBC Act
- Grey-headed Flying-fox (*Pteropus poliocephalus*) identified as Vulnerable under the EPBC Act
- Pink-tailed Worm-lizard (*Aprasia parapulchella*) identified as Vulnerable under the EPBC Act
- Corben's Long-eared Bat (*Nyctophilus corbeni*) identified as Vulnerable under the EPBC Act
- Painted Honeyeater (*Grantiella picta*) identified as Vulnerable under the EPBC Act
- Large-eared Pied Bat (*Chalinolobus dwyeri*) identified as Vulnerable under the EPBC Act.

Please note that this may not be a complete list and additional impacts may be identified during preparation of the environmental impact statement. In this regard, the

Department considers it the responsibility of the proponent to undertake an analysis of the significance of the relevant impacts and ensure that all protected matters that are likely to be significantly impacted are assessed for the Commonwealths Minister's consideration. Please note that this decision only relates to the potential for significant impacts on matters protected by a provision of Part 3 of the EPBC Act. A copy of the document recording this decision is attached.

Assessment

The NSW Government has advised the Department that the proposed action will be assessed in accordance with the *Bilateral agreement made (between New South Wales and the Commonwealth) under section 45 of the EPBC Act relating to environmental assessment*, specifically as a state significant development under Part 4 of the *Environmental Planning and Assessment Act 1979 (NSW)*.

The NSW Department of Planning and Environment (DPE) has been advised of this decision and from now on will manage the assessment of the action for the purposes of the EPBC Act.

Cost Recovery

Please note, under subsection 520(4A) of the EPBC Act and the *Environment Protection and Biodiversity Conservation Regulations 2000*, your assessment is subject to cost recovery. Please find attached a copy of the fee schedule for your proposal. Applicable fees are payable prior to each stage of the assessment process commencing. Please note that Stage 1 cost recovery fees will not be applicable to your assessment. Further details on cost recovery are available on the Department's website at: <http://www.environment.gov.au/epbc/cost-recovery>

If you disagree with the fee schedule provided, you may apply under section 514Y of the EPBC Act for reconsideration of the method used to work out the fee. The application for reconsideration must be made within 30 business days of the date of this letter and can only be made once for a fee. Further details regarding the reconsideration process can be found on the Department's website at: <http://www.environment.gov.au/protection/environment-assessments/assessment-and-approval-process/refer-proposed-action>

You may elect under section 132B of the EPBC Act to submit a management plan for approval at any time before the Minister makes an approval decision of the proposed action under section 133 of the EPBC Act. If an election is made under section 132B of the EPBC Act, cost recovery will apply to the approval of any action management plans you submit.

Cost recovery does not apply to the approval of action management plans where you do not elect to submit an action management plan for approval under section 132B of the EPBC Act and the approval of the action management plan does not arise from a variation to the approval conditions that you have requested. Where you vary an approval condition and it results in you being required to submit an action management plan for approval, cost recovery will apply to the approval of the action management plan.

Other information

Please also note that once a proposal to take an action has been referred under the EPBC Act, it is an offence under section 74AA to take the action while the decision making process is on-going (unless that action is specifically excluded from the referral or other exemptions apply). Persons convicted of an offence under this provision of the EPBC Act may be liable for a penalty of up to 500 penalty units. The EPBC Act is available on line at: <http://www.environment.gov.au/epbc/about/index.html>

The Department has recently published an *Environmental Impact Assessment Client Service Charter* (the Charter) which outlines the Department's commitments when undertaking environmental impact assessments under the EPBC Act. A copy of the Charter can be found at: <http://www.environment.gov.au/epbc/publications/index.html>.

If you have any questions about the referral process or this decision, please contact the project manager, Kathy Colgan by email to kathy.colgan@environment.gov.au or telephone 02 6274 1503 and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely



Mike Smith
Acting Assistant Secretary
Assessments and Waste Branch

5 April 2019



Australian Government

Department of the Environment and Energy

EPBC Act Cost Recovery - Fee Schedule

EPBC No: 2018-8372

Date of Fee Schedule: March 27, 2019

Project title: Bowden's Silver Mine

Assessment method: Bilateral Agreement / Accredited Assessment Process

Fee Schedule

STAGE FEES	Base fee	PART A Complexity costs (A-L, P)	PART B Complexity costs (MNO)	Total
Stage 1	\$3,961	\$8,049	\$0	\$12,010
Stage 2	\$3,655	\$12,744	\$0	\$16,399
Stage 3	\$2,175	\$13,415	\$52,423 (Estimate)	\$68,013 (Estimate)
Stage 4	\$8,355	\$32,867	\$52,423 (Estimate)	\$93,646 (Estimate)
TOTAL PROJECT COST	\$18,146	\$67,077	\$104,847 (Estimate)	\$190,070 (Estimate)

Notes:

- For assessments by environmental impact statement - If standard guidelines are used under Section 101A(2)(a) of the EPBC Act, the Stage 1 fee will not be applicable.
- For assessments by public environmental report - If standard guidelines are used under Section 96B of the EPBC Act, the Stage 1 fee will not be applicable.
- If no further information is requested under section 95A of the EPBC Act, the Stage 1 and 2 fees will not be applicable.
- The Department advises applicants of the maximum liability for Part B complexity fees at the time of the assessment approach decision, based on the information provided in the referral documentation. Applicants have the opportunity to reduce the Part B complexity fees during the assessment process by improving the quality of information provided to the Department during Stage 2 of the assessment. These Part B complexity fees are confirmed when all the assessment documentation is provided in Stage 2, and are not payable until Stages 3 and 4 of the assessment.

Fee Breakdown

		COMPLEXITY FEE	
CONTROLLING PROVISIONS			
Part A Fees	A Listed threatened species and ecological communities	Very High	\$48,931
	B Listed migratory species	None	\$0
	C Wetlands of international importance	None	\$0
	D Environment of the Commonwealth marine area	None	\$0
	E World heritage properties	None	\$0
	F National heritage places	None	\$0
	G Nuclear actions	None	\$0
	H Great Barrier Reef Marine Park	None	\$0
	I Water Resources	None	\$0
	J Commonwealth Land/Commonwealth Agency/Commonwealth Heritage Places Overseas	None	\$0
NUMBER OF PROJECT COMPONENTS			
	K Number of project components	Moderate	\$18,146
COORDINATION WITH OTHER LEGISLATION			
	L Coordination with other legislation	Low	\$0
ADEQUACY OF INFORMATION AND CLARITY OF PROJECT SCOPE			
Part B Fees: estimate (to be confirmed prior to Stage 3)	M Site surveys/Knowledge of environment	High	\$34,949
	N Management measures (including mitigation and offsets)	High	\$34,949
	O Project scope	High	\$34,949
EXCEPTIONAL CIRCUMSTANCES			
Exceptional circumstances	P Exceptional circumstances	False	\$0
TOTAL COMPLEXITY FEES (Estimate)			\$171,924
BASE FEE			\$18,146
TOTAL FEE (Estimate)			\$190,070

Potential fees for contingent and post-approval activities (if required)

The Department will notify you if a contingent activity fee is applicable due to an additional statutory step being required under the *Environment Protection and Biodiversity Conservation Act 1999*.

Post-approval fees

Evaluation of new Action Management Plan (per management plan) (\$2,690)

Contingent Fees

Request additional information for referral or assessment approach decision (\$1,701)

Variation to the proposed action (\$1,353)

Reconsideration of the controlled action or assessment approach decision at the applicant's request (\$6,577)

Request additional information for approval decision (assessment on referral information, preliminary documentation or bilateral/accredited assessment) (\$1,701)

Request additional information for approval decision (assessment by environmental impact statement or public environment report) (\$7,476)

Variation of conditions (\$2,690)

Variation of an action management plan under conditions of approval (\$2,690)

Administrative variation of an action management plan under conditions of approval (\$710)

Transfer of approval to new approval holder (\$1,967)

Extension to approval expiry date (\$2,690)