

SUBMISSION: IMPACT OF THE MOUNT PLEASANT OPTIMISATION PROJECT ON THE LEGLESS LIZARD (DELMA VESCOLINEATA)

30 August 2022

Thank you for the opportunity to make a submission on the impact of the proposed Mt Pleasant coal expansion project (MPOP) on the recently-discovered Hunter Valley Delma (*Delma vescolineata*).

We understand that in a letter dated 12 August 2022, the Department wrote to the IPC, advising that:

'MACH Energy Australia Pty Ltd (MACH) [the applicant for the Project] has provided the Department with a research paper ... confirming that the Legless Lizard recorded at Mount Pleasant is not the Striped Legless Lizard (Delma impar) as previously thought, but is in fact a new species not previously identified. Importantly, this species is not yet listed as threatened under the Biodiversity Conservation Act 2016 (BC Act).'

Furthermore, we understand that on 11 July 2022 a team of scientists from [the Australian Museum](#) officially confirmed that Hunter Valley Delma (*Delma vescolineata*) - a legless lizard - represents a new species to science.

DPE's Biodiversity and Conservation Division says *D. vescolineata* is not currently listed as a threatened species under the Biodiversity Conservation Act 2016 (BC Act) – "*but likely soon will be*". BCD has also clarified that the species has been nominated for listing as a threatened species under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

Determination of the Mt Pleasant Optimisation Project will be the NSW IPC's most consequential new coal project decision since the Paris Agreement entered into force in 2016. In addition to the twin drivers of introduced species and habitat loss, we know that climate change threatens biodiversity. Approval of another 876 Mt CO₂-e from this Project, together with further habitat loss would only exacerbate these threats.

Biodiversity “is essential to the natural environment, and to human survival, wellbeing and economic prosperity”

The Australian Government’s ‘Australia State of the Environment 2021’ report reminds us why biodiversity is important:

“Biodiversity – the variability among living organisms, including within species, between species and of ecosystems – is essential to the natural environment, and to human survival, wellbeing and economic prosperity (Convention on Biological Diversity Article 2).”¹

Habitat loss is a key driver of the extinction of Australian terrestrial species

The ‘Australia State of the Environment 2021’ report found that the two pressures that have caused the most extinction of Australian terrestrial species since the beginning of colonisation are introduced species and habitat loss.”² We note that NSW DPE’s Assessment Report (AR) states that the project would disturb up to approximately:

- 475 hectares of native vegetation in the Additional Disturbance Area
- 230 hectares of Box Gum Woodland CEEC in the Additional Disturbance Area
- 90 hectares of Central Hunter Grey Box Ironbark EEC/CEEC in the Additional Disturbance Area.

Climate change is becoming a new driver for habitat change and species loss

The ‘Australia State of the Environment 2021’ report found that in the past decade, “climate change in the form of more severe drought, extreme weather events, fire and habitat modification is becoming a new driver for habitat change and species loss.”³

‘NSW State of the Environment 2021’ made the same observation as the national report:

“The number of species listed as threatened in NSW continues to rise. These species are at the greatest risk from threats including vegetation clearing, the spread of invasive species and the mounting impacts of climate change.”⁴

NSW IPC approval of the biggest coal mine expansion in NSW since the Paris Agreement would be fundamentally inconsistent with the GHG abatement required to mitigate the impacts of climate change on species loss

As the NSW EPA note: *“without substantial, concerted action, climate change poses a major threat to*

¹ Australia State of the Environment 2021, pg 54, <https://soe.dcceew.gov.au/sites/default/files/2022-07/soe2021-overview.pdf>

² Australia State of the Environment 2021, pg 56, <https://soe.dcceew.gov.au/sites/default/files/2022-07/soe2021-overview.pdf>

³ Australia State of the Environment 2021, pg 56, <https://soe.dcceew.gov.au/sites/default/files/2022-07/soe2021-overview.pdf>

⁴ NSW Environment Protection Authority, NSW State of the Environment 2021, pg 7

humanity and most living systems on Earth.”⁵ in her expert submission to your panel on this Project, Professor Sackett warned:

“Simply put, approving new coal mines or extensions to existing ones, such as the Mt Pleasant Optimisation Project, is not consistent with holding warming to 2°C, let alone warming well below 2°C.”

Biodiversity offsets

MACH says it is prepared to volunteer a new Consent Condition that would require MACH to provide biodiversity offsets for the new species of legless lizard (*Delma vescolineata*) should it be listed under the BC Act in the 12 months following determination of the Project. BCD - however - say that because “*little is known about the species and its conservation needs*”, land based offsets may “*not be sufficient to mitigate impacts.*”

In regard to the Applicant’s pledge to retire the applicable biodiversity credits in accordance with the Biodiversity Offsets Scheme of the BC Act, we would like to draw the Commission’s attention to a new report, published today by the Audit Office of NSW: ‘[Effectiveness of the Biodiversity Offsets Scheme](#)’. In summary, this review found (*our emphasis in bold*):

*“The Department of Planning and Environment (DPE) has not effectively designed core elements of the NSW Biodiversity Offsets Scheme. DPE did not establish a clear strategy to develop the biodiversity credit market or determine whether the Scheme’s operation and outcomes are consistent with the purposes of the Biodiversity Conservation Act 2016. The effectiveness of the Scheme’s implementation by DPE and the Biodiversity Conservation Trust (BCT) has been limited. A market-based approach to biodiversity offsetting is central to the Scheme’s operation but credit supply is lacking and poorly matched to growing demand: this includes a potential undersupply of in-demand credits for numerous endangered species. **Key concerns around the Scheme’s integrity, transparency, and sustainability are also yet to be fully resolved.** As such, **there is a risk that biodiversity gains made through the Scheme will not be sufficient to offset losses resulting from the impacts of development, and that DPE will not be able to assess the Scheme’s overall effectiveness.**”*

Recommendations

1. **Refuse consent** for the Mt Pleasant Optimisation Project. In addition to disturbing habitat at a time when little is known about this species, this mine expansion will exacerbate climate change. As Australia State of the Environment 2021 notes, climate change “is becoming a new driver for habitat change and species loss”.
2. **Refuse consent** for the Mt Pleasant Optimisation Project unless NSW DPE can demonstrate that any biodiversity gain made through the NSW Biodiversity Offsets Scheme will be sufficient to offset losses resulting from the impacts of the MPOP. We are alarmed by today’s

⁵ NSW Environment Protection Authority, NSW State of the Environment 2021, pg 43

finding by the Audit Office of NSW that DPE *“has not effectively designed core elements of the NSW Biodiversity Offsets Scheme”* and that *“key concerns around the Scheme’s integrity, transparency, and sustainability”* are yet to be *“fully resolved”*. The Hunter Valley Delma’s fate should not be entrusted to this Scheme until its integrity and efficacy has been independently verified.

3. If the NSW IPC has already decided to approve this development, **no additional mining that disturbs Hunter Valley Delma habitat should be allowed before the effective conservation of this species is understood**. This would require a new condition of consent which says that no construction is allowed on the project until independent surveys have been conducted of the distribution of the species for at least two years across the site, detailed research has been completed on habitat preferences, lifecycle and likely impacts from mine disturbance to the species, and at least two years of surveys have been conducted in proposed offset sites to ascertain whether it occurs there or not.

N.B. Mach Energy has acknowledged the Zootaxa paper’s position that *“further surveys and more information on the abundance and distribution is required to inform the conservation status of the species”*. DPE’s Biodiversity and Conservation Division agrees with this position, stating in the correspondence that *“little is known about the species and its conservation needs such that land based offsets may not be sufficient to mitigate impacts. Based on the information available to date it is apparent that further surveys and research are needed to effectively manage and protect the species in the wild.”*