



Mr David Mooney  
Senior Planner  
Department of Planning and Infrastructure  
GPO Box 39  
SYDNEY NSW 2001

Dear Mr Mooney

**Wambo Mine  
Montrose Water Storage Modification11  
Environmental Assessment Review**

I refer to your email of 5 July 2012 regarding the Wambo Coal Pty Limited application to modify the development approved for the Wambo Mine which involves the construction and operation of a 1,500mega litre water storage dam. NSW Trade & Investment, Regional Infrastructure & Services, Division of Resources & Energy (DRE) has reviewed the *Montrose Water Storage Modification Environmental Assessment* (EA) dated June 2012 and provides the following comments which are directed at specific areas of DRE responsibility for this proposal.

The EA discusses two options in relation to the management or further use of the Montrose Water Storage dam once the South Wambo Dam has been re-established and is operational. These options are:

- (a) to retain the dam for future landholder use, indicating potential utilisation for agricultural purposes; or
- (b) decommissioning and rehabilitation of the site.

As detailed in the EA, the South Wambo Dam is proposed to be re-established and recommence operations as a water storage dam upon completion of the North Wambo Underground Mine (Longwall 8) workings.

Section 3.1 of the EA makes reference to a total net increase in site water storage after the re-establishment of the South Wambo Dam which indicates that the intention is for the Montrose Water Storage Dam to remain operational as part of the site water management system. The EA also states that additional site storage capacity is required due to controlled releases under the Hunter River Salinity Scheme being less frequent than predicted. DRE considers that this may be in conflict with Section 3.7 that makes reference to the dam remaining in place (if not decommissioned and rehabilitated) for the purposes of agricultural activities.

Based on the post use options discussed in the EA, DRE supports the decommissioning and rehabilitation of the Montrose Water Storage site once the South Wambo Dam recommences operation.

If Wambo Coal Pty Ltd proposes to maintain and utilise the Montrose Water Storage as part of the sites water management system, additional approvals may be required. Additionally amendments may be required to the Mining Operations Plan (MOP), security deposit currently held by the DRE and other management plans for the site.

The proposed final use of the Montrose Water Storage site is unclear and therefore should be clarified.

DRE has assessed the proposal as a mining purpose dam and is of the view that the Montrose Water Storage should be decommissioned and rehabilitated once the South Wambo Dam recommences operation.

### **MINING TITLES**

DRE requires that all mining and mining purpose activities are contained within mining leases held by the proponent for this project.

The majority of the proposed Montrose Water Storage area appears to be within Mining Lease (ML) 1594 which extends from the surface to 15 metres. Underlying ML1594 is Coal Lease (CL) 397. Both ML1594 and CL397 are held by the Proponent.

There is an area outside ML1594 which appears to have parts of the water storage walls, and includes the "Maximum Inundation Area" and the "Upcatchment Diversion" to which the proponent has no surface coal title. CL397 underlies this area from 15 metres below the surface. A mining title is required from the surface to 15 metres below the surface if the proposed dam is for mining purposes. This would require Ministers Consent prior to lodging an application. DRE notes that the land is owned by Wambo.

Section 6 of the Mining Act states:

#### **6 Unauthorised carrying out of mining purposes**

(1) A person must not carry out a mining purpose specified for the purposes of this section except in accordance with an authorisation that is in force in respect of the land where the purpose is carried out.

Maximum penalty:

(a) 1,000 penalty units, in the case of an offence committed by a corporation, or

(b) 1,000 penalty units or imprisonment for 5 years, or both, in the case of an offence committed by a natural person,

and, in the case of a continuing offence, a further penalty of 50 penalty units for each day that the offence continues.

(2) The regulations may provide for the exemption, by order of the Minister, of a person or class of persons from the operation of this section with respect

to the carrying out of a particular mining purpose, or a class of mining purposes, that is specified for the purposes of this section.

(3) The mining purposes specified for the purposes of this section are the following mining related purposes:

- (a) the construction, maintenance or use of any reservoir, dam (including a tailings dam), drain or water race, other than any reservoir, dam, drain or water race principally used for purposes not connected with mining or any other activities regulated by or under an authorisation,
- (b) opal puddling,
- (c) the removal, stockpiling or depositing of overburden, ore or tailings to the extent that it is associated with mineral extraction or mine beneficiation.

Under 3 above, unless the area is for purposes not connected with mining or other activities, a mining lease for purposes will be required for this area.

### **REHABILITATION**

DRE recommends that the following conditions be incorporated into the planning approval, if granted:

#### **Rehabilitation Plan**

- The Proponent should prepare and implement a Rehabilitation Plan to the satisfaction of the Director General of NSW Trade & Investment, Regional Infrastructure & Services. The Rehabilitation Plan should:
  - be prepared in accordance with DRE NSW guidelines and in consultation with relevant agencies and stakeholders;
  - be submitted and approved by the Director General of NSW Trade & Investment, Regional Infrastructure & Services prior to the commencement of construction;
  - address all aspects of rehabilitation and mine closure, including final landuse assessment, rehabilitation objectives, domain objectives, completion criteria and rehabilitation monitoring.

DRE would be pleased to meet with the Proponent to assist in developing the above documents for their operation.

Should you have any enquires regarding this matter please contact Julie Moloney, Principal Adviser, Industry Coordination on (02) 4931 6549.

Yours sincerely

  
**William Hughes**  
**Acting Director**  
**Minerals Operations**