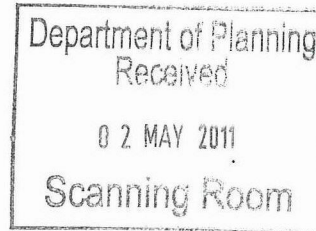


PCU022107

Your reference: DA98/01173 & DA118/698/22 – MOD 2
Our reference: DOC11/18056; LIC08/226
Contact: Robert Gibson (02) 4908 6851

Mr Paul Freeman
NSW Department of Planning
GPO Box 39
SYDNEY NSW 2011



28 APR 2011

Dear Mr Freeman

DONALDSON COAL MINE PROPOSED MODIFICATION TO DEVELOPMENT CONSENT

I refer to your letter of 8 April 2011 to the Office of Environment and Heritage (OEH) requesting comments on the proposal and any recommended conditions of approval.

OEH understands that the proposed modification involves extending the life of the mine to 2013, that the mine would remain generally consistent with its existing approvals and there would be no change to the scale, nature or consequential environmental impacts.

Threatened Species

OEH notes that the proposed footprint of the Western Pit falls within the consent area of the original consent of 14 October 1999 and that disturbance area will be reduced by approximately 3 hectares. OEH also notes that the Donaldson Bushland Conservation Area and the *Tetratheca juncea* Management Area have been established under the previous consent to compensate for the reduction in local biodiversity associated with this mine.

The imagery used in Enclosure 1 'Donaldson Coal Mine Open Pit Extent' (DCL-09-01 Wk Dwg 1098.dwg) indicates that the mining footprint may extend outside of the consent area, and within the Bushland Conservation Area. This area is mapped as containing Lower Hunter Spotted Gum Ironbark Forest, which is an endangered ecological community (EEC) under Schedule 1 of the *Threatened Species Conservation Act 1995*. If this is the case, any clearance of EEC vegetation, threatened species, or populations or their habitats outside the existing consent area will need to be offset. It may also represent a breach of consent conditions.

OEH provides some recommended conditions for any approval of this application at **Attachment A**.

The Department of Environment, Climate Change and Water is now known as the
Office of Environment and Heritage, Department of Premier and Cabinet

PO Box 488G, Newcastle NSW 2300
Ground Floor 117 Bull Street,
Newcastle West NSW 2302
Tel: (02) 4908 6800 Fax: (02) 4908 6810
ABN 30 841 387 271
www.environment.nsw.gov.au

Aboriginal Cultural Heritage

The modification proposes to decrease the area of disturbance by approximately 3 ha and therefore reduce the extent of vegetation clearance and potential impacts on Aboriginal cultural heritage. OEH notes that there are no additional impacts to Aboriginal cultural heritage proposed as a result of the proposal.

The proponent should be reminded of the importance of protecting Aboriginal cultural heritage and ensure that the provisions of the *National Parks and Wildlife Act 1974* (NPW Act) or not contravened. The NPW Act has recently been amended and the proponent should ensure that they are familiar with the new requirements as they relate to the development and any subsequent assessment processes. Further advice regarding Aboriginal cultural heritage can be found on OEH's web-site at: <http://www.environment.nsw.gov.au/cultureandheritage.htm>.

If you have any questions regarding OEH's recommended conditions, please phone Mr. Robert Gibson at this office on (02) 4908 6851.

Yours sincerely



KAREN MARLER
Head Regional Operations Unit - Hunter
Environment Protection and Regulation
Office of Environment and Heritage
Department of Premier and Cabinet

Enclosure: Attachment A-Recommended Conditions

Attachment A: Recommended Conditions of Approval

1. That the area no longer planned to be mined at the western end of the western open pit is incorporated into the Bushland Conservation Area and managed for conservation; and
2. Any clearing of threatened species, threatened populations, or their habitats, or EEC vegetation outside of the existing consent areas will need to be offset according to OEH's (2011) Principles for the use of Biodiversity offsets in NSW or through the full implementation of BioBanking (DECC 2009).

References:

DECC (2009) *BioBanking*. Department of Environment and Climate Change, Hurstville. <http://www.environment.nsw.gov.au/biobanking/index.htm> Updated 9 March 2011 [accessed 27 April 2011]

OEH (2011) *Principles for the use of Biodiversity offsets in NSW*. Office of Environment and Heritage, Sydney: <http://www.environment.nsw.gov.au/biocertification/offsets.htm> Updated 23 March 2011 [accessed 27 April 2011]