



Office of
Environment
& Heritage

Your reference: PA 08_0101 & PA 08_0102
Our reference: DOC12/41339; LIC08/100-06
Contact: Robert Gibson, 4908 6851

Ms Felicity Greenway
Mining Projects
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Ms Greenway

RE: INTEGRA OPEN CUT AND UNDERGROUND COAL PROJECTS 75W MODIFICATION (PA 08_0101 AND PA 08_0102 MOD 2)

Reference is made to your letter of 21 September 2012 to the Office of Environment and Heritage (OEH) inviting comment on the proposed modification of the Integra Underground and Open Cut Coal Projects, PA 08_0101 and PA 08_0102 respectively. OEH received a copy of the associated Environmental Assessment (EA) on 3 October 2012 which describes the modifications are being sought in this instance under Section 75W of the *Environmental Planning and Assessment Act 1979*.

OEH understands that the proposed modifications include the proposed extension of the timeframe to establish the long-term security of the biodiversity offset strategy for both projects, and the likely replacement of at least some of the currently agreed offset land onsite, with an offset package generated as part of OEH's Upper Hunter Strategic Assessment (UHSA). The EA does not specify what form or where any offset prepared under the UHSA would take, or when it would be provided, and these are for offsets for projects that have already been approved and are currently underway.

The original consent for PA 08_01010 and PA 08_0102 was issued by the Department of Planning & Infrastructure (DP&I) on 26 November 2010 in which an appropriate biodiversity offset package was to have been secured by 31 December 2011. This deadline was not met. On 26 November 2011 Integra Coal Operations Pty Limited applied to DP&I to modify the existing consent for both projects, including extending the deadline for the securing of the biodiversity offset package. On 18 March 2012 DP&I issued a new consent to proponent for MOD 1. Conditions 42 and 43 of Schedule 3 of this consent specified that the required offset package was to be secured by 30 September 2012. However, OEH is aware that DP&I recently granted an extension for completion of these tasks by September 2014, and that this extension was granted due to Integra's involvement in the UHSA.

OEH acknowledges that the proponent has recently identified a significant coal resource under parts of the Northern, Western and Supplementary Offsets which they are interested in mining. It is not clear why the proponent was not aware of this resource when discussions began with OEH in 2008 in regard to biodiversity offsets required for the expansions to operations that have happened since at the Integra Mine Complex.

The current package of biodiversity offsets for the Integra Mine Complex have been prepared under OEH's 'Principles for the Use of Biodiversity Offsets in NSW' in which Principle 8 states that 'Legal commitments to the offset actions should be entered into prior to the commencement of works under approval'. As described above, the proponent has not met negotiated deadlines for securing the offset package for the

last two consents issued for PA 08_0101 and PA 08_0102, and is now considering applying to mine some of the agreed biodiversity offset area. As per OEH's earlier correspondence (such as the letter DOC11/50903 signed on 29 November 2011), OEH does not support the extension of time to secure biodiversity offsets, nor does OEH support the mining of biodiversity offsets.

The UHSA is being designed to provide biodiversity offsets required by future mining projects. As specified in the 'Upper Hunter Strategic Assessment Interim Policy: Projects requiring approval prior to completion of the strategic assessment' by DP&I (October 2012). In this instance both the Integra Underground and Integra Open Cut Projects have already been assessed, granted consent and commenced, and thus do not appear to be eligible to be considered under this interim policy or the UHSA. However, future mine projects in the Integra Mine Complex may be able to use the UHSA for the provision of their biodiversity offsets. At this stage it appears that the offset fund for the UHSA is unlikely to commence until late in 2014, or even some time in early 2015. This is another reason to avoid linking the provision of offsets for an already-commenced project with the UHSA.

If DP&I does not wish to take OEH's advice into consideration in this instance then OEH suggests that any modification to the biodiversity offsets for this proposal are done within the context of existing OEH offsetting policy; that is OEH's 'principles for the use of biodiversity offsets in NSW' or the 'NSW OEH interim policy on assessing and offsetting biodiversity impacts of part 3A, State significant development (SSD) and State significant infrastructure (SSI) projects (OEH, 2011)'.

In addition, OEH also notes that Consent Condition 41 in Schedule 3 of the MOD 1 consent makes reference to the figure in Appendix 8 as being a map with a conceptual outline of the offset strategy for the Integra Open Cut and Integra Underground Operations. However, Appendix 8 is a map titled 'Area for Further Archaeological Investigation' and does not show the biodiversity offset required for this project. Instead, Appendix 9 presents three maps that show some of the details of the offset package; the first is labelled 'Figure A. Conceptual Final Landform and Offsets', the second is labelled 'Figure 3.2 Vegetation Communities' (of the Bridgman Offset) and the third is labelled 'Figure 3.9. Conceptual Extended South Pit and Open Cut Project Area Rehabilitated Final Landform'. OEH notes that none of the maps in Appendix 9, or elsewhere in the consent show the Martin's Creek Offset.

OEH therefore recommends that the proponent provides DP&I with an updated map showing all of the currently agreed offset areas (such as Figure 2.1 in the EA for this proposed modification). OEH also recommends that any new consent issued for this project correctly links the maps in the consent to the consent related consent condition to remove ambiguity. This would allow the wording of the consent to better match the intent of the consent, and thus enable the consent to be enforceable.

In conclusion, OEH does not support any extension of time in securing the agreed offset package for the Integra Mine Complex; the mining of biodiversity offset land, or the offsetting of existing offsets. These actions do not produce the required certainty with regards to offsetting impacts on biodiversity. If DP&I decide to support this proposal, then OEH suggests that for this project, the offsets are not compatible with the Upper Hunter Strategic Assessment, which may not proceed, and instead recommends that the biodiversity offsets are managed in accordance with OEH policy.

If you have any questions concerning this advice, please contact Dr Robert Gibson, Regional Biodiversity Conservation Officer, on 4908 6851.

Yours sincerely



22 OCT 2012

RICHARD BATH
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Conservation and Regulation, North East