



DOC18/763325

Mr Stephen O'Donoghue
Team Leader - Resource and Energy Assessments
Department of Planning & Environment
stephen.odonoghue@environment.nsw.gov.au

Dear Steve

Boggabri Coal Mine Modification 7 - Security Arrangements

I refer to your email dated 8 October 2018 seeking comments from the Office of Environment and Heritage (OEH) on the Environmental Assessment (EA) for the Boggabri Coal Mine Modification 7.

The proponent's current biodiversity offset obligations are detailed in the Biodiversity Offset Strategy in Schedule 3 Condition 43 of the project approval. These offsets must be secured in accordance with Schedule 3 Condition 47.

The proposed modification seeks to modify the approval conditions relating to the long-term security of the offsets. OEH notes that the security mechanisms currently available relate to a conservation agreement or agreements pursuant to section 69B of the *National Parks and Wildlife Act 1974*.

The proposed amended wording (in underlined text) of Condition 47(a) in Section 4.3.3 of the EA states

"For the areas included in Table 15 as owned, under option or committed by the proponent, the long-term security shall be provided by a form of binding agreement acceptable to the Secretary that records the obligations assumed by the Proponent under the conditions of this approval in relation to these offset areas. These agreements must be registered by December 2019 unless otherwise agreed by the Secretary after consultation with Chief Executive of OEH. The agreements must remain in force in perpetuity.

The proponent has proposed an additional change which is not under lined, that being to change the date by which agreements were to be registered from December 2014 to December 2019. This amendment requires agreement from the Secretary after consultation with Chief Executive of OEH.

This wording does not define the mechanisms available and it would require further negotiation between the proponent and the Secretary to determine which mechanism/s would be "acceptable".

OEH recommends that the condition is revised to clearly state the offset mechanisms available. It is recommended these mechanisms include (in no particular order):

1. A biodiversity stewardship agreement pursuant to Part 5 Division 2 of the *Biodiversity Conservation Act 2016* (BC Act)
2. A conservation agreement pursuant to Part 5 Division 3 of the BC Act
3. Transfer of land to National Parks estate under the *National Parks & Wildlife Act 1974*.

OEH provides its in principle agreement to the registering of one or more of the above agreements by December 2019.

Should you require further information regarding issues that are the responsibility of the OEH please contact Renee Shepherd on 02 6883 5355 or renee.shepherd@environment.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. Christie', is positioned above the printed name.

PETER CHRISTIE
Director, North West
Conservation and Regional Delivery

17 October 2018

Contact officer: RENEE SHEPHERD
02 6883 5355