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EMAIL TRANSMISSION

TO: Rose-Anne Hawkeswood EMAIL: roseanne.hawkeswood@planning.nsw.gov.au

ORGANISATION: Department of Planning and Environment DATE: 15 October 2015

COPY: Jono Thompson REFERENCE: 659
Bruce Anderson
Dean Fredericksen

NO. OF PAGES (including attachments):

SUBJECT: 659_Hera Mine MOD3 – Commentary on Agency Comments

Confidential Please Reply For Follow-up Urgent For your information

MESSAGE:

Greetings Rose-Anne

Thank you for providing the correspondence from DRE, DPI-Water and OEH in relation to the Hera MOD3 *Response to Submissions*. The purpose of this email is to provide you with a brief response to that correspondence. Text drawn from the agency correspondence is presented in italics and the Proponent's response is presented in normal text.

Division of Resources and Energy

The Division considers that its submissions have been responded to satisfactorily and has no objections to the proposal.

Noted. No response required

DPI-Water

DPI Water advises the trigger levels for WB4, WB7, WB15, WB18 and Harland bore requires revision upward to consider the distance from the nearest production bore and the water levels. A trigger level of 75 mbgl at WB18 to implement the Action and Response Plan would not mitigate impacts, as based on existing water levels in WB18 a drawdown of more than 2m (AI Policy Level 2 impact criteria) to neighbouring stock and domestic bore GW017386 would have already occurred. Consideration of viable make good provisions for trigger level exceedances is also required due to the proposal of deepening bores being unlikely to increase yields.

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Recommendation

A condition of consent be included which requires the proponent to update the Water Management Plan in consultation with DPI Water. This is to include revision of water management infrastructure, in addition to altered monitoring and mitigating requirements.

The Proponent notes that Condition 5(5) of PA 10_0191 requires that the Water Management Plan be reviewed and, if required, revised following granting of a modification. In addition, Condition 3(25) requires that the Plan be prepared in consultation with NSW Office of Water (now DPI-Water). As requested, the Proponent will consult with DPI-Water when revising the Water Management Plan to establish appropriate water level triggers.

Office of Environment and Heritage

1. Aurelia Metal Ltd has been previously advised that a BioBanking Agreement is not able to be implemented over a Western Lands lease.

It remains uncertain who provided this advice. OEH would like to confirm that a BioBanking Agreement can be established over a Western Lands Lease with approval of the Department of Primary Industries – Lands.

2. Aurelia Metals Ltd is of the understanding that “BioBanking Agreements require very substantial capital to establish the trust to operate the offset”.

OEH has previously (in an e-mail of 31 July 2015, copied to Paul Freeman of the Department of Planning & Environment (DP&E)) provided clarification that:

- The Total Fund Deposit (TFD) is not staged year by year, i.e. the proponent does not have to pay into the fund each year. The proponent funds the management of the site annually, i.e. implementing the management actions set out in the agreement. There is no requirement for a yearly deposit into the fund.
- The TFD would not necessarily be triggered at the end of mine life. The TFD would only be triggered if the company were to sell ‘Chelsea’. Until that point, the company has only to continue funding their management of the site annually.

The Proponent acknowledges receipt of the email of 31 July 2015, however, it notes that the critical aspects of the mechanism described by Office of Environment and Heritage is that the Proponent is required to “own” the land and that the requirement for a TFD is only triggered if the Proponent chooses to “sell” the land. However, as the “Chelsea” property is held under a Western Lands Lease the Proponent does not own the land and the land may pass out of its control through a mechanism other than sale, including cancelling or surrendering of the Lease. These are issues that have yet to be adequately addressed.

Notwithstanding the above, the Proponent would be pleased to secure the biodiversity offset through a BioBanking agreement provided that that approach is permissible, that it is the most efficient mechanism to secure the offset and that a suitable arrangement between OEH, Crown Lands and the Proponent can be reached. As a result, the Proponent will consult with both agencies in the coming months with a view to securing the offset in a timely manner.

In regards the quantum of the proposed biodiversity offset, OEH is of the view that this will be determined as part of the BioBanking process.

The Proponent acknowledges the identified mechanism for determining the quantum of the biodiversity offset and anticipates that the BioBanking Assessment Methodology will be used to determine the quantum whatever mechanism is used to secure the offset.

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I trust that this provides the Department with sufficient information to complete its Assessment Report and determine the application under delegation from the Minister. Please do not hesitate to contact me should you require further information.

Regards

Mitchell Bland
Principal Environmental Consultant

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