RDOC24/39470
16 April 2024

Jack Turner
Department of Planning, Housing and Infrastructure
Jack.Turner@planning.nsw.gov.au
Via: Major Projects Portal

ADVICE RESPONSE: Moolarben OC3 Extension Project

Stage: Advice on Amendment Report

Development Application: SSD-33083358

Dear Jack

I refer to your correspondence dated 19 March 2024 inviting the Department of Regional NSW – Mining, Exploration & Geoscience (MEG) to provide comments on the Moolarben OC3 Extension Project (the Project) submitted by Yancoal - Moolarben Coal Operations Pty Ltd (the Proponent).

## Resource and Economic Assessment Review

MEG has reviewed the information supplied in relation to the abovementioned Project and provides the following advice:

MEG estimates around $343 Million in total royalties will be payable over the proposed life of the project ($243 in net present value terms); based on the following;

- Reduction in total permitted extraction from 9Mtpa (Million tonnes per annum) to 8.5 Mtpa of ROM coal, however the total ROM production will reduce by an average of approximately 3Mtpa over the life of the Project.
- the NSW Government's announced changes to royalty rates, we expect that the royalty rate of 10.8 per cent for open cut mines will apply over the life of the Project.
- the NPV calculations are based on a discount rate of 7 per cent and 2022-23 as the base year.

Economic benefits include:

- The project is expected to deliver $190 million in Net Present Value (NPV) terms to NSW.
- Capital expenditure of $120 million in NPV terms and contribution to Gross State Product of around $217 million in NPV terms and flow on effects in NSW of around $52 million in NPV terms, are expected.

- The Project will not provide additional employment. The Project will maintain employment of Moolarben Coal Complex's existing employees.

Application of section 380AA of the *Mining Act 1992* (the Act) – restrictions on planning applications for coal mining and titles required to undertake mining.

Section 380AA states:

*(1)* *An application for development consent, or for the modification of a development consent, to mine for coal cannot be made or determined unless (at the time it is made or* determined) the applicant is the holder of an authority that is in force in respect of coal and the land where mining for coal is proposed to be carried out, or the applicant has the written consent of the holder of such an authority to make the application.

*(2)* For that purpose, an authority in respect of coal need not be in force in respect of the whole of the land to which the application for development consent relates but must be in force for the land where mining for coal is proposed.

Based on current title information, MEG advises that the Proponent holds the appropriate titles as required for planning applications for coal as relating to the Project and satisfies the requirements of section 380AA.

The requirement for a mining authority and royalty liability

*The requirement for a mining lease*
As coal is a prescribed mineral under the Act, the Proponent is required to hold appropriate mining titles allowing for mineral extraction, such as a mining lease, to undertake mining.

*Royalty liability*
The holder of a mining lease is also liable to pay a royalty for both publicly and privately-owned minerals (refer to section 282-285 of the Act).

*Biodiversity offset assessment*
MEG requests that the Proponent consider potential resource sterilisation should any future biodiversity offset areas be considered. The Proponent must consult with MEG and any holders of existing mining or exploration authorities that could be potentially affected by the proposed creation of any such biodiversity offsets before they are created. This will ensure there is no consequent reduction in access to prospective land for mineral exploration or potential for the sterilisation of mineral resources.

Summary of Review

MEG considers that should the Project be approved, efficient and optimised resource outcomes can be achieved and are projected to provide an appropriate return to the state.

If the Project does not proceed the economic benefits outlined above will not be realised.

MEG requests that it be provided with an opportunity to review the draft conditions of approval before finalisation and any granting of development consent.

Please refer to NSW Resources Regulator advice Attachment A.

For further advice on this matter, please contact Elisa Paull, A/Senior Advisory Officer, Industry Advisory & Mining Concierge unit - Industry Development branch on 02 4063 6860 or mining.concierge@regional.nsw.gov.au.

Sincerely

Giselle Carney
A/Manager Industry Advisory & Mining Concierge
Industry Development
Department of Regional NSW – Mining, Exploration & Geoscience

for

Tony Linnane
Executive Director Strategy, Performance & Industry Development
Department of Regional NSW – Mining, Exploration & Geoscience

Attachment A

**Resources Regulator**
Department of Regional NSW

Monday, 15 April 2024

Jack Turner
Department of Planning, Housing and Infrastructure
Jack.Turner@planning.nsw.gov.au

Via: Major Projects Portal

---

Dear Jack,

I refer to the Moolarben OC3 Extension Project submitted to the Resources Regulator on 20 March 2024 (SSD-33083358). The Resources Regulator has reviewed the request and has no specific comments on the Amendment Report.

It should be noted that the Final Landform and Rehabilitation Plan (FLRP) and Rehabilitation Objectives Statement (ROBJ) submitted by Yancoal to the Resources Regulator in accordance with Schedule 8A of the Mining Regulation has been placed on hold pending clarification as to the vegetation community types to be achieved and as to whether the rehabilitation contributes the credits as part of the Biodiversity Offset Strategy. It is therefore the expectation of the Regulator that these matters need to be clarified in the development consent to enable the assessment of the FLRP and ROBJ in accordance with Schedule 8A of the Mining Regulation.

*REGULATORY REQUIREMENTS IF APPROVED*
The proponent will be required to comply with rehabilitation requirements under the mining authorisation(s) when undertaking works associated with the proposal.

The Resources Regulator may undertake assessments of the mine operators' proposed mining activities under the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* and Regulation as well as other WHS regulatory obligations.

---

*BACKGROUND*
The Mining Act Inspectorate within the Resources Regulator undertake risk-based compliance and enforcement activities in relation to obligations under the *Mining Act 1992*. This includes undertaking assessment and compliance activities in relation to mine rehabilitation activities and determination of security deposits. To ensure consistency, the Regulator requests the opportunity to review a copy of the draft development consent prior to any approval of the project.

The Mine Safety Inspectorate within the Resources Regulator is responsible for ensuring the mine operators' compliance with the Work Health and Safety (WHS) legislation, in particular the effective management of risks associated with the principal hazards as specified in the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014.

*CONTACT*
Should you require any further information or clarification, please contact the Regulator on

1300 814 609 (Press Option 2 then Option 5) or email nswresourcesregulator@service-now.com.

Yours sincerely,

**Matthew Newton**

Principal Inspector Environment & Rehabilitation

Resources Regulator