



Mr Joe Fittell  
Planning and Assessment Division  
NSW Department of Planning and Environment

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Dear Mr Fittell

I refer to the Environment Protection Authority's (EPA) letter of 6 March 2023 commenting on environmental impact statement (EIS) for Hunter Valley Operations (HVO) North Open Cut Coal Continuation Project (SSD-11826681) and HVO South Open Cut Coal Continuation Project (SSD-11826621). The EPA now provides further comment in relation to the Noise Impact Assessment of the proposal.

The EPA understands the proposal is for:

- The continuation of HVO North from 2025 to 2050
- The continuation of HVO South from 2030 to 2045
- The annual extraction rate will remain the same at 22 Million tonnes per annum (Mtpa) of Run of Mine (ROM) coal at HVO North
- A reduction in the approved maximum extraction ROM capacity for HVO South from 20 to 18 Mtpa.
- Infrastructure upgrades and changes including the realignment of part of Lemington Rd, the relocation of transmission and telecommunication lines, the construction of a new product stockpile and train loading bin and an extension of the existing coal stockpile.

HVO North and HVO South have separate approvals but are regulated by the EPA under one licence Environment Protection Licence 640 (**the Licence**).

The EPA has reviewed the EIS titled '*Hunter Valley Operations Continuation Project Environmental Impact Statement*' prepared by EMM consultants dated December 2022 and the including Appendix I *Hunter Valley Operations Continuation Project Noise Impact Assessment (NIA)* prepared by EMM dated September 2022.

The EPA notes the proposal addresses and implements all feasible and reasonable noise mitigation measures in an attempt to meet the Project Noise Trigger Levels (**PNTL**) prior to developing the proposed achievable noise levels. Despite apply all feasible and reasonable mitigation measures 15 new receptors are likely to experience impacts 3-5 dB above the PNTL.

#### **Ability to receive noise mitigation rights have been considered**

The NIA states: "*15 receptors (equivalent to 11 landholders) are in new areas of marginal impact, being NAGs 5A and 5B in the area of Jerry Plains. Of these, six are 'isolated' and therefore qualify for voluntary noise mitigation rights. The remaining nine are within the Jerrys Plains village and therefore do not qualify for mitigation as per Section 4.2 of the NPfl that states that "Receiver treatment, including the extreme case of voluntary acquisition, is normally only applicable for isolated residences in rural areas."*

The EPA disagrees with this statement and recommends the 9 receptors in NAG 5A within the Jerrys Plains village predicted to receive noise levels 3-5 dB (receptors 336, 347, 359, 360, 361, 362, 363, 368 and 377) above the PNTL receive mitigation rights under the NSW Government *Voluntary Land Acquisition and Mitigation Policy for State Significant Mining, Petroleum and Extractive Industry Developments*, (VLAMP) dated 15 December 2014.

The NSW EPA *Noise Policy for Industry (NPfl)* considers a broad cross section of Industry but in this situation the VLAMP should take precedent over the guidance of 'isolated receivers' in the NPfl. The NPfl is not a statutory document but may be referenced in instruments in relation to the assessment and management of industry noise sources. The EPA uses the NPfl to inform its decision making but where there is inconsistency with another instrument, the provisions of the other instrument prevail.

**Assessment of Sleep Disturbance Criteria**

The NIA proposes adopting the NPfl sleep disturbance noise criteria of 52dB (LAFmax) increased from the existing licence criteria of 45dB (LA1min). The EPA notes that HVO have been reasonably complying with the existing sleep disturbance criteria and the proposal demonstrates they can continue to comply within a range of 1-2dB.

In conjunction with the NPfl, the EPA published the '*Implementation and Transitional Arrangements for the Noise Policy for Industry*'. This transitional note states "Where an application is made to vary requirements using the new policy, the NSW Environment Protection Authority (EPA) will take into account existing commitments and requirements, and performance against those requirements, as evidence of the ability of the proponent/licensee to implement reasonable and feasible measures to mitigate noise. That is, where a licence holder meets current noise limits or can do so, this will be considered evidence that practical measures can be implemented to mitigate pollution for the purposes of s.45(d) of the Protection of the Environment Operations Act 1997 when the EPA makes a licensing decision."

Considering the transitional note and the ongoing compliance by HVO with sleep disturbance criteria the EPA recommends continuing compliance criteria of 45-46 dB.

**Recommended Noise Limits**

The EPA recommends the following night-time noise limits for the project

LOCATION	Noise Limits in dB(A)	
	Night LAeq (15 minute)	Night LAFmax
NAG 1A	41	46
NAG 1B	40	46
NAG 1C	39	46
NAG 2	35	46
NAG 3	40	46
NAG 4	37	46
NAG 5	40	46
All other privately owned land	35	45

If you have any further questions about this issue, please contact Hannah Schuchmann on 4908 6893 or at [Hannah.schuchmann@epa.nsw.gov.au](mailto:Hannah.schuchmann@epa.nsw.gov.au).

Yours sincerely

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