



OUT16/27880

Mr Thomas Watt
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Resource Assessments
Department of Planning and Environment
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SYDNEY NSW 2001

Email: thomas.watt@planning.nsw.gov.au

Dear Mr Watt

**Mount Owen Continued Operations Project (SSD 5850)
Glencore Response to Commission Review Report**

I refer to your email of 1 June 2016 requesting a review of the Glencore's (the Proponent) response to the Planning Assessment Commission's (PAC) Review Report for the Mount Owen Continued Operations project (the Project).

Summary of Division Rehabilitation and Mine Closure Recommendations

The Division has reviewed the *Mount Owen Continued Operations Project Response to PAC Review Report May 2016* prepared by Umwelt (Australia) Pty Limited, and *Mount Owen Continued Operations Project Response to Queries Raised by Agencies Following Response to Submissions November 2015* prepared by Umwelt (Australia) Pty Limited and responses to issues raised by the Division, it is recommended that conditions to be imposed on the Consent Conditions to ensure the following is addressed:

- 1) Inclusion of Preliminary Condition 21 "Independent Rehabilitation Audit" (if considered necessary : see note below)
- 2) Inclusion of Preliminary Condition 46 "Rehabilitation Objectives".
- 3) Inclusion of Preliminary Condition 48 "Progressive Rehabilitation".
- 4) Inclusion of Preliminary Condition 49 "Rehabilitation Management Plan", with the following amendment:
c.49(g) include detailed performance and completion criteria for evaluating the performance of the rehabilitation of the site consistent with Table 10, and triggering remedial action (if necessary);

DIVISION COMMENTS ON THE PAC REPORT RECOMMENDATIONS

PAC Report Recommendation 10

That prior to determination, the Department clarifies the number of currently approved final voids and seeks further justification from the Applicant for any additional proposed final voids.

The applicant has proposed a reduction in the number of final voids from three voids to two voids. The Division supports the reduction in the number of final voids as proposed by the Proponent as it results in an increase of beneficial land use on mine closure. The altered locations of final voids are to be included in revisions of the Rehabilitation Management Plan (RMP), also known as a Mining Operations Plan (MOP) under a Mining Lease.

PAC Report Recommendation 11

That, prior to determination, the Department seeks further information about alternative post-mining land use options, including the possibility of increasing woodland rehabilitation on slopes and focusing on agricultural species on the flatter areas of land to support grazing activities.

The assessment of potential land uses has been revised with consideration of the new final landform. Woodland has been increased and the area for grazing reduced. The Division considers this is appropriate to ensure long-term land uses can be achieved. The changes in land use objectives are to be incorporated into revisions of the MOP.

PAC Report Recommendation 12

That, prior to determination, the Applicant provides a revised mine plan that:

- *includes more detailed consideration of the potential minimisation of final voids, with particular reference to the large volumes of overburden material that would be moved over the life of the project;*
- *provides more detail about the final void shapes and how these are to be achieved;*
- *incorporates micro-relief, with a focus on ensuring that the final landform will be more sympathetic to the surrounding landscape; and*
- *includes a more refined composition of proposed vegetation within the rehabilitated areas in order to ensure a diversity of species and appropriate fauna habitat.*

Compared to the EIS, the proposed modifications result in one less void and a reduction of 12 ha of void catchment and 6 ha of pit lake area. The Division considers the reduction in void catchment and pit lake area compared to that proposed in the EIS as an improvement in mine closure outcomes.

PAC Report Recommendation 13

That the recommended preliminary conditions relating to the Rehabilitation Management Plan and/or Revision of Strategies, Plans and Programs are

strengthened to take into account the outcomes of any review of the NSW Government's current policy on final voids.

The Division notes that any change to the mine design following approval by the Department of Planning and Environment (DP&E) would require a modification of the Project consent conditions. The MOP, regulated by the Division's Environment Sustainability Unit (ESU), reflects and adopts the DP&E approved mine design, conditions of consent and commitments made by the Proponent. Any changes to the mine design that reflects future development of NSW Government policy on final voids is to be reflected and adopted into an approved MOP.

PAC Report Recommendation 14

That the recommended preliminary condition of consent relating to the Independent Environmental Audit should be linked to the preliminary Rehabilitation Management Plan condition to ensure that rehabilitation is independently monitored and audited on a regular basis.

The Division notes that the Proponent agrees with this condition being imposed. It is further noted that the Minister for Resources and Energy has a similar power under s.246P the *Mining Act 1992* to impose a mandatory audit condition on mining leases at any time. Accordingly, the imposition of preliminary consent condition 21 on the Project Consent for a mandatory audit of the progress of rehabilitation may not be necessary, but if considered necessary in the consent, is supported.

The Division recommends that the preferred approach is to reserve the Independent Rehabilitation Audit power to operate in accordance with the *Mining Act 1992*, and then be imposed only as necessary should regular audits not be conducted voluntarily. The Mandatory Audit Condition may be imposed to ensure periodic or a singular audit as required and may be 'tailored' to the issues and circumstances as they arise at the time. Further this approach relieves the project operator of commitment to a costly audit on a regular basis, resulting in reduced compliance costs for those companies that demonstrate leading practice mine rehabilitation.

PAC Report Recommendation 15

That the Department reviews intentions to mine existing rehabilitated land and considers options to ensure that proposed rehabilitated areas are not disturbed in the future, through conditions of consent or any other means.

The Division recommends that where mining applications to re-disturb rehabilitated areas are proposed, each case be examined on its merits and where improved mine closure outcomes are expected, support the proposal. In assessing the benefits and costs of each proposal, changes to existing rehabilitated land may result in improved rehabilitation outcomes. For example, the reworking of former emplacement stockpiles to fill voids or for visually enhanced, sympathetic landform profiles containing micro relief and natural-like drainage lines.

RECOMMENDED CONDITIONS OF APPROVAL

The Division recommends that the following conditions be incorporated into the Development Consent, if granted:

Rehabilitation Objectives and Applicant Commitments

- 1) Inclusion of Preliminary Condition 21 "Independent Rehabilitation Audit" similar to the following form:

Mandatory Audit Action Condition

1. The authority holder must undertake, to the satisfaction of the Secretary, a mandatory audit to:
 - (a) provide information to demonstrate compliance or otherwise with rehabilitation progression and rehabilitation obligations under the authorisations and compliance or otherwise with the final land use outcomes imposed by the project's Planning Approval
 - (b) enable a determination of whether the authority holder is progressively rehabilitating the mine site to an acceptable standard.
2. The authority holder must undertake a mandatory audit by:
 - (a) appointing an auditor(s) certified to AS/NZS ISO 19011:2014 *Guidelines for auditing management systems*
 - (b) preparing an audit report in accordance with AS/NZS ISO 19011:2014 *Guidelines for auditing management systems*
 - (c) submitting the audit report to the Secretary on or before **[Date]**.
3. The audit must:
 - (a) Identify the areas and status of rehabilitation undertaken for each year of mine operation
 - (b) Include a plan prepared in accordance with the structure of the Series 3 Plans described in the Division's *ESG3: Mining Operations Plan (MOP) Guidelines, September 2013* including:
 - (i) The proposed final land use domains (e.g. grazing, biodiversity corridors etc.)
 - (ii) Surface contours at 5 metre contour intervals
 - (iii) Active mining areas
 - (iv) The Planning Approval boundary
 - (v) The mining lease boundaries
 - (vi) Areas that are excised from the mining lease
 - (vii) The status and age of rehabilitation areas and what phase they are up to in the rehabilitation program (e.g. decommissioning; landform establishment; growth medium development; ecosystem and land use establishment; and ecosystem and land use sustainability)
 - (viii) The location of any specific rehabilitation observations identified in the audit.

- (c) Determine whether rehabilitation, including final landform establishment, is being undertaken progressively and that the outcome of the rehabilitation is likely to comply with the final landform and land use objectives imposed by the project's Planning Approval;
 - (d) Determine the adequacy of any current rehabilitation monitoring and management programs that have been implemented to date (e.g. scope, frequency, number of monitoring locations and use of analogue sites) and whether the associated findings can demonstrate that progressive rehabilitation is on a trajectory to meeting the final landform and land use objectives as approved in the Planning Approval;
 - (e) Determine the effectiveness of rehabilitation care and maintenance programs in place to ensure that rehabilitation progress remains on a trajectory of meeting the final land use objectives in a timely manner;
 - (f) Determine any areas of failed rehabilitation or areas that, if left unmanaged, are likely to result in a delay in achieving rehabilitation obligations;
 - (g) Based on the findings of the audit, outline recommendations for rectifying any rehabilitation performance or non-compliance(s) identified.
 - (h)
- 2) Inclusion of Preliminary Condition 46 "Rehabilitation Objectives".
 - 3) Inclusion of Preliminary Condition 48 "Progressive Rehabilitation".
 - 4) Inclusion of Preliminary Condition 49 "Rehabilitation Management Plan", with the following amendment:
 - 1. c.49(g) include detailed performance and completion criteria for evaluating the performance of the rehabilitation of the site consistent with Table 10, and triggering remedial action (if necessary);

Key Findings of the Proponents Response

The Environmental Assessment (EA) and additional information has generally addressed the Division's Adequacy Review comments. The Division notes that the preliminary conditions of consent include the requirement to prepare a Rehabilitation Management Plan to the satisfaction of the Division.

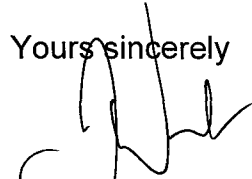
The recommended conditions of approval have been reviewed for consistency and standardisation with other project assessments and as exist on the current project being modified. The standard conditions of approval appear to have been adopted.

The PAC Report did not specifically address issues raised in the Division's submission.

The Proponent's response refers to the current Mount Owen Complex MOP, however the requirement to "*address all aspects of mine closure*" is deferred to the development of future mining operations plans and the development of a detailed Mine Closure Plan at least five years prior to the cessation of mining. This is acceptable provided the obligation for progressive rehabilitation is met in the interim and incorporated into the MOP(s).

Should you have any enquires regarding this matter please contact Steve Cozens, Senior Project Officer on (02) 9842 8573.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Zane West', with a stylized flourish at the end.

Zane West
Manager, Royalties & Advisory Services