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**Project: Vickery Mine Extension Project**  
**Stage: Review Draft Conditions of Approval**  
**Development Application: SSD-7840**

Dear Philip,

I refer to the email dated 22 January 2020 inviting the Resources Regulator to provide advice on the Draft Conditions of Approval for Project Vickery Extension Project.

#### **Development Details**

Vickery Coal Pty Ltd is an open cut operation located in the Gunnedah Coalfield approximately 25 kilometres (km) north of Gunnedah, NSW. The Vickery Extension Project proposes a physical extension to the Approved Mine footprint to gain access to additional ROM coal reserves, an increase in the footprint of waste rock emplacement areas, an increase in the approved ROM coal mining rate and construction and operation of a Project Coal Handling and Preparation Plant (CHPP), train load-out facility and rail spur.

The Resources Regulator has previously provided the following advice:

- *Adequacy of EIS/SEE in on 26 October 2018 – DOC18/819220*

#### **Environment and Rehabilitation**

Compliance Operations within the Resources Regulator has responsibility for providing strategic advice for environmental issues pertaining to the proposed project in so far as they relate to or affect rehabilitation.

The Resources Regulator has identified that the Draft Conditions of Approval as outlined below are required to be modified to ensure consistency with the regulatory approach adopted by the Resources Regulator under the *Mining Act 1992* for mine site rehabilitation. The recommended modifications are outlined below.

#### Draft Condition No. B100 ("Rehabilitation Objectives")

##### *Proposed modification*

B100. The Applicant must rehabilitate the site ~~to the satisfaction of the Resources Regulator~~ in accordance with the conditions imposed on the mining lease(s) associated with the project under the *Mining Act 1992*. The rehabilitation must be generally consistent with the proposed rehabilitation ~~activities~~ **objectives** described in the documents listed in condition A2(c) (and

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shown conceptually in the figure in Appendix 6), and must comply with the objectives in Table 13.

#### *Justification*

The term satisfaction to the Resources Regulator is vague and difficult to enforce and as such the Regulator's recommendation is that the condition reference the conditions imposed upon the mining lease. Under the conditions of the mining lease further specificity in regards to the outcomes of rehabilitation are required, currently through the Mining Operations Plan process.

In addition, it is suggested to remove the word "activities" as the focus should be on the achievement of outcomes rather than activities. Under the conditions of a mining authority granted under the *Mining Act 1992*, the Resources Regulator requires an authority holder to adopt a risk-based approach to achieve the required rehabilitation outcomes. The applicability of the controls to achieve the approved rehabilitation outcome is to be determined based on site specific risk assessments conducted by an authority holder. This risk assessment should be used to not only establish a basis for managing risk when planning an activity, but it should also be used and updated (as required) to continuously evaluate risk and the effectiveness of controls used to prevent or minimise impacts. Requiring a proponent to adopt a rehabilitation activity specified in the EIS may limit the ability to adopt more innovative rehabilitation practices.

#### Draft Condition No. 103 ("Rehabilitation Strategy")

#### *Proposed modification*

The draft condition should be amended to remove the following sub-clauses:

- (h) identify and describe all rehabilitation domains and define completion criteria for each;
- (l) include a risks and opportunities assessment and risk register;

#### *Justification*

The Resources Regulator considers that sub-clauses (h) and (l) are duplicative of the regulatory requirements under the mining lease (e.g. currently Mining Operations Plan).

#### Draft Conditions No. 105 ("Rehabilitation Management Plan") and Condition No. 106 ("Implementation of the Rehabilitation Management Plan")

#### *Proposed modification*

The Resources Regulator's recommendation is to amalgamate these conditions into the following condition:

The Applicant must prepare and implement a Rehabilitation Management Plan in accordance with the conditions imposed on the mining lease(s) associated with the project under the *Mining Act 1992*. The plan must:

- be prepared in accordance with the relevant requirements specified under the *Mining Act 1992*;
- include a detailed plan for the re-instatement and review of the proposed:

- ecological rehabilitation and native woodland areas, including a protocol for progressive reviews to demonstrate that the target vegetation communities are being achieved; and
- agricultural land rehabilitation.
- a life of mine rehabilitation and mining schedule which outlines the key progressive rehabilitation milestones from the commencement of operations through to decommissioning and mine closure;
- include Rehabilitation Objectives, Rehabilitation Completion Criteria and the Final Landform and Rehabilitation Plan;
- an overview of the identified risks to achieving successful rehabilitation;
- an overview of the type of rehabilitation strategies to be implemented to address the identified risks;
- include a program to monitor, audit and report on the progress against the Rehabilitation Objectives and Rehabilitation Completion Criteria and the Final Landform and Rehabilitation Plan;
- describe further studies, work, research or consultation that will be undertaken to expand the site-specific rehabilitation knowledge base, reduce uncertainty and improve rehabilitation outcomes; and
- outline intervention and adaptive management techniques to ensure rehabilitation remains on a trajectory of achieving the Rehabilitation Objectives, Rehabilitation Completion Criteria and the Final Landform and Rehabilitation Plan as soon as reasonably practical.

**Note:** *The Rehabilitation Management Plan may be combined with a Mining Operations Plan, or similar plan, required under the mining lease granted for the development.*

#### *Justification*

The recommended amendments to the above conditions is to ensure that there is a consistent regulatory approach to rehabilitation between the consent as well as the requirements under the *Mining Act 1992* and the associated mining lease(s) for the project.

#### **Mine Safety**

Mine Safety Operations within the Resources Regulator is responsible for ensuring mine operators manage the risk to worker health and safety through compliance with the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* and the subordinate mining legislation. In particular the effective management of risk associated with the principal hazards as specified in the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014*.

Mine Safety Operations have not identified any risk that would require comment in relation to this matter.

For enquiries regarding this matter please contact me on 4063 6444 or [nswresourcesregulator@service-now.com](mailto:nswresourcesregulator@service-now.com)

Yours sincerely

Matthew Newton  
**Principal Inspector Environment & Rehabilitation Operations**  
**Resources Regulator**  
**NSW Department of Planning and Environment**

11 March 2020