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Senders ref: SSD 8194

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Dear Ms Hawkeswood

Subject: Dendrobium Mine Extension Project – Amendment Report – SSD 8194

Thank you for your referral dated 20 August 2020, and the subsequent additional letter from the proponent dated 4 September 2020, requesting advice on amendments to the abovementioned major project.

We have reviewed the applicant's amendments and provided advice on the outstanding matters raised in our Response To Submissions (RTS) letter dated 9 March 2020. Please also note that, as of 1 July 2020, Department of Premier & Cabinet (Aboriginal Cultural Heritage Regulation) are now responsible for dealing with Aboriginal cultural heritage matters and will respond separately regarding the heritage matters raised in BCD's previous advice on the RTS.

A further detailed review prepared by EES can be provided upon request, but in summary:

- There are only minor changes to the proposed longwall mining layout which was presented in the RTS, comprising a 306m reduction of LW 516 in the vicinity of Avon Dam, and the proposed 305m wide longwalls are retained. While this reduction is noted, the amended layout does not materially reduce the impact upon Coastal Upland Swamps in particular. In its current form the proposed mine layout remains likely to have a significant impact on threatened species and ecological communities and in our opinion, does not satisfactorily demonstrate the "avoid" principle has been met.
- We note regarding mitigation that the proponent is relying on methods and approaches similar to previous conditions of consent. The information provided however does not detail the efforts to mitigate previous and more recent impacts, nor the success of such an approach. In the absence of supporting evidence, mitigation appears to be of unknown robustness.
- We maintain our strong objection to the applicant's swamps assessment approach, which does not satisfactorily calculate impacts against a 'worst case scenario' of total loss of Coastal Upland Swamps as required by the Addendum to NSW Biodiversity Offsets Policy for Major Projects - Upland swamps impacted by longwall mining subsidence (Upland Swamp Offset Policy). Significant issues remain in applying the NSW Framework for Biodiversity Assessment (FBA) and Upland Swamp Offset Policy addendum to calculate the maximum predicted offset liability for Coastal Upland Swamps, as detailed in our EIS and RTS submissions.
- For avoidance of doubt, whilst we note while that the Upland Swamp Offset Policy must be read "in conjunction" with the broader FBA, the Introduction states that "*this addendum extends ... to the calculation and provision of biodiversity offsets for the subsidence impacts of longwall coal mining on upland swamps and associated threatened species*". We

therefore maintain that the current project is required to apply the Upland Swamp Offset Policy expressly in relation to such impacts.

- We note that the proponent's letter dated 4 September 2020 identifies that less than half of the swamp offsets can be sourced via the proponent's acquired offset property, with the remainder to be made up by payments into the NSW Biodiversity Conservation Fund. Payment into the Fund is only to be used in lieu of like-for-like offsets as a "last resort" only where offsets cannot be sourced, as per the NSW Biodiversity Offsets Policy for Major Projects 2014.
- We note that the proponent's letter dated 4 September 2020 also includes an offer to secure swamp offsets within 1 year of project commencement, rather than incrementally over the life of the project as required by the Upland Swamp Offset Policy. However, we maintain that offsets have been significantly under-estimated for this threatened ecological community, even though according to the proponent's calculations a significant proportion of Coastal Upland Swamp offset liability can be achieved via the offset site.
- The Upland Swamp Offset Policy also provides that "re-crediting" of the maximum offset liability for swamps can occur should the natural groundwater regime return to a "natural regime" within five years post-mining. This could potentially reduce the overall quantum of swamp offsets required over the life of the project to below that of the "worst case" scenario, where such impacts have been demonstrated to not occur. Similarly, the likelihood and quantum of re-crediting may be increased by utilising a mine layout that encourages further impact avoidance.
- We maintain that Koala should be assumed present and offset accordingly where suitable habitat is proposed to be cleared, as detailed further in our RTS submission and supplementary report supplied to the proponent on 4 September 2020. Given the low density population and timing of the proponent's additional surveys during April and May 2020 being outside breeding season, it is unsurprising koalas were not located at this time.
- The extent of vegetation clearing for proposed surface infrastructure has now been further quantified in response to our RTS submission. The extent of Shale Sandstone Transition Forest threatened ecological community clearing has been reduced from 1.5ha to 0.55ha. Further surveys for the Eastern Pygmy Possum generating an offset for this species have also been undertaken, in accordance with our previous request. We encourage a reduced clearing footprint for surface infrastructure and mitigation measures such as micro-siting to further reduce impacts wherever possible.

If you have any questions about this advice, please do not hesitate to contact Mr Chris Page, Senior Team Leader, Planning (Illawarra) via chris.page@environment.nsw.gov.au or 4224 4180.

Yours sincerely



9/9/2020

Michael Saxon

**Director, South East Branch
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