



OUT21/8080

Steve O'Donoghue
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Dear Mr O'Donoghue

McPhillamys Gold Project (SSD-9505)

We understand that the proponent is currently having difficulty in demonstrating that it can obtain the water access licences necessary for you to complete your assessment.

I can advise you of some policy developments underway within DPIE Water's statewide policy program that may be relevant to your assessment of this project and residual water licensing matters. Note that from a policy and water management perspective our objective is to account for water taken consistent with the requirements of the *Water Management Act 2000* (the Act), and in doing so to minimise the impacts on the exercise of downstream water rights and water dependent values. I also note that the ecological impacts of the project will largely be considered under the provisions of the *Environmental Planning & Assessment Act 1979*, and as such it is the water access licence (or volumetric) issues highlighted below about which you have sought further clarification.

1. Surrendered water access licence

I understand that the proponent has made enquiries about the potential to obtain a water access licence surrendered to and held by the Minister. DPIE Water is currently developing a policy to guide decisions around what to do with surrendered water access licences. The proposed approach will be with the Minister for consideration in the coming months. The approach may provide an opportunity in the future for the proponent or another party to seek to obtain some or all of this entitlement through a controlled allocation process under section 65 of the Act. However, there is no guarantee that the proponent will end up as the holder of this licence.

2. Water trading

DPIE Water is working on updated rules guiding the trading of water, including in some circumstances to allow trading from a regulated to unregulated water sources and between unregulated water sources. We expect that these rules to be in place in the next 6-12 months.

In relation to the McPhillamys Gold Project, this may mean, for example, that the proponent could acquire high security licences in the Belubula Regulated River and hold or retire these licences to account for water take at the project site, should they meet the requirements of the relevant rules. This may provide a market based option for the proponent.

3. Refresh of the hydroline dataset used to calculate stream order

The "hydroline" dataset adopted by the Government to calculate stream order for water access licence exemption purposes ('excluded works' in Schedule 1 to the *Water Management (General) Regulation 2018*) is a static version of this data from 2018. The department has no intention to use a live dataset as this would create significant regulatory and enforcement challenges across the state. Instead, the department intends to implement a regular data update and refresh process, where this data would be updated into a new static version, likely on an annual basis, commencing from July 2022, once approaches and processes are in place to manage the regulatory implications of regular updating of the data set for excluded works.

Note that the hydroline data set is not used to define the stream order and hence statutory 'harvestable rights' provided for under Division 2 of Part 1 of Chapter 3 of the Act. Stream order for determining these rights is defined by reference to topographic maps specified in the harvestable rights 'orders'. While the department will consider the most appropriate approach to defining harvestable rights over the coming year or more, there is no guarantee that this will be aligned to a hydroline data set.

In relation to the McPhillamys Gold Project, we understand that the hydroline update for defining excluded works described above would not have a material difference on which structures would be considered to be exempt from requiring a water access licence. While the proponent has suggested that this would resolve the complete water licensing requirement, the Natural Resources Access Regulator (NRAR) has advised that it is unlikely these changes will address the water requirements for the project. This is because:

- The updated hydroline layer resulted in the dam walls of two storages (TSF and WMF6) being located on third or higher order watercourses and the remaining storages located on minor streams.
- Dams CWF1a, CWF1b, CWF2, CWF3, RWMF, MWMF would be located on minor streams, however do not appear to satisfy any of the exclusions for licence requirements under Schedule 1 of the *Water Management Regulation 2018*. This is due to the dams either capturing runoff from undisturbed areas or being constructed because of the project and hence not **solely** for the exclusion purposes (Sch. 1(3) and (4)) as required by the regulation.

In order to consider these structures as exempt the NRAR recommends that the proponent consider:

- Redesigning RWMF and MWMF to be turkeys nest dams with no catchment from undisturbed areas. Divert clean water around the site via diversions or in combination with appropriately sized clean water dams.
- Redesigning CWF1a and CWF1b to the minimum size necessary to enable the capture and diversion of clean runoff.
- Reviewing the design of WMF6 to ensure it is sized appropriately for the draining catchment and/or consider its relocation to minor streams.

Please note we are currently working with NRAR on any volumetric implications for the project once the hydroline data set is updated in 2022. We plan to provide this information to you in July.

Yours sincerely



Mitchell Isaacs
Chief Knowledge Officer
Department of Planning, Industry and Environment: Water
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