

Mr Thomas Watt
Development Assessment Systems & Approvals
Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Our Ref: MP08-0203
R:2964275
WB:EH

Contact: Mr Wayne Burgess
Telephone: (02) 6591 7292

1 August 2014

Dear Thomas

RE: DURALIE COAL MINE MODIFICATION (08-0203 MOD 2)

I refer to your email dated 14 July 2014 advising Council of the above proposed modification.


Please find enclosed a letter dated 28 July 2014 from Council's Acting Manager - Natural Systems Branch, Mr Mat Bell. In summary, it is requested that your department considers the following issues:

- The additional extraction of up to 70 metres depth is under emphasised in the Environmental Assessment report.
- In relation to the Biodiversity Offset Area (BOA), this should be recognised in Council's Local Environmental Plan (LEP) through an E2 Environmental Conservation land use zone designation.
An addition to existing condition 42 recommending that the BOA be zoned E2 under the LEP at the first possible amendment should be considered; and
- There is an opportunity to include additional requirements in relation to:
 - The establishment and protection of additional trees and shrub plantings to assist in screening the approved pit when viewed from The Bucketts Way.
 - Resolving issues associated with mitigation of wild life road-kill risks through the southern BOA associated with Johnsons Creek Road.

I also wish to raise the issue of the evaporative spray. At a recent meeting of the Duralie Coal Community Consultative Committee held on 8 May 2014, issues relating to noise across the site generally but specifically from the evaporative spray was raised as local residents were apparently being affected. It was not clear how noise is dealt with or monitored.

Please contact me on (02) 6591 7292 should you have any further enquiries.

Yours faithfully



Wayne Burgess
Manager - Development Assessments
Planning & Environmental Services

Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Our Reference:
Your Reference: DCM Mod 08_0203

Contact: Mr Mat Bell
Telephone: 6591 7243

28 July 2014

Dear Sir/ Madam,

Re: Ecological and Water Quality Comments to the DP&E in regards to the proposed Duralie Coal Mine Modification 08_0203

The Department of Planning & Environment (DP&E) has exhibited the Environmental Assessment for the Duralie Coal Mine (DCM) Open Pit Modification (08_0203).

I understand that the Modification proposal involves:

- An increase to the maximum depth of the approved Claremont Open Pit, by up to 70-metres in places (from 190-metres to up to 260-metres in places);
- A 2.5-hectare increase in the extent of surface development at DCM to reduce low wall angles of the Claremont Open Pit and removal of a pillar to improve geotechnical stability;
- Associated relocation of upstream diversion around part of the Claremont Open Pit;
- A slightly revised mining sequence; and
- An increase of 25-metres of the height of the central portion of the waste emplacement from 110 to 135-metres AHD.

The Modification is required to enhance the efficient extraction of coal, source additional coal from the Claremont Seam and improve waste emplacement and geotechnical stability.

The proposed Modification has been referred to Council's Natural Systems Branch for comment. This comment relates to both Biodiversity and Water Quality matters.

I must note that the depth of proposed additional extraction of up to 70-metres was, in my opinion, under-emphasised in the EA material. This could be seen to be a substantial further extension of the pit and the resultant void from that currently approved. It represents a change in depth of some 37% beyond the current consent (an altogether not such a minor variation to the depth limit of the proposed pit). I would ask that the Department recognise this in its statutory response.

Biodiversity

The EA reports that the increase in surface development would affect 1.8-hectares of derived grassland and 0.7-hectares of Spotted Gum/ Grey Ironbark dry open forest (and which is located on the edge of the approved Pit). No threatened plants or Endangered Ecological Communities are known from the additional area. Several threatened fauna species have been recorded in the additional area and surrounds. The proposal does not amend existing protocols and procedures relating to Biodiversity. It does however result in an expansion of the existing Biodiversity Offset Area (BOA) by 12.5-hectares to 656.5-hectares). The BOA is to be permanently protected and includes areas of active and passive regeneration and revegetation. The Modification area avoids an area of land containing Grey Myrtle/ Flintwood Dry Rainforest (which is a listed EEC). The proposed Modification seeks to maintain the operation of the existing Biodiversity Management Plan (subject to the increase in area of the BOA).

I do concur that in relation to the currently approved operation, this proposed Modification is relatively minor in relation to its Biodiversity impacts. The area of extension of surface impacts is located in an area of ecological significance, due to the presence of threatened species. However, this habitat unit has been approved for development under the current mine layout and is therefore already compromised. It has been offset by way of the BOA and BMP. The surface extension is a very small area and would have been compromised by edge effects associated with the existing pit. It is offset by a proposed area that is suitable and appropriately located, in my opinion.

Therefore, I do not object to the proposed extension from a Biodiversity perspective, provided that all existing protocols, procedures and biodiversity requirements are maintained and the additional offset area is incorporated into these conditioned requirements.

I would however like to raise one issue in relation to the Biodiversity Offset Area. That is, it is my opinion that the BOA should be recognized in the planning scheme through an E2 land use zone designation.

Should the proposed Modification be approved, I would suggest an addition of the following words to existing Condition 42:

Within 12-months of the date of the approval of the modification, the Proponent shall provide accurate spatial details of the final Biodiversity Offset Area to Great Lakes Council and advise Great Lakes Council in writing that it does not object to and recommends that the Biodiversity Offset Area be zoned as E2 under the Great Lakes Local Environmental Plan at the first possible amendment.

I remain unsatisfied that the VCA mechanism represents the best and most proactive form of conservation instrument for the protection and long-term management of the Biodiversity Offset Areas. I still believe that a creative opportunity exists for the biodiversity offset lands to be dedicated to the public or a NGO conservation organization, with inputs of funds from DCPL for ongoing restoration, revegetation and conservation management. This is beyond the scope of the Modification application, but should be table for further consideration and discussion.

Finally, there remain some outstanding Biodiversity and Landscaping matters and this modification may represent an opportunity to better address conditional requirements pertaining to:

- There may remain an inadequacy of landscape screening provided to the approved mine area from The Bucketts Way between Duralie Road and Martins Crossing Road. The Department may recall that a screen was erected in a manner that was closer to The Bucketts Way (due to a fibre-optic telecommunications cable), was higher than approved and that consultation with Great Lakes Council was sub-optimal. The physical screen has been reduced in height and some (minor) attempt at landscaping appears to have been provided. The determination of this Modification application provides an opportunity to determine and apply new/ additional conditional requirements pertaining to the establishment and protection of additional trees and shrub plantings to assist screen the approved pit when viewed from The Bucketts Way.
- The determination of the proposed Modification may present an opportunity to better resolve issues associated with mitigation of wildlife road-kill risks through the Southern Offset Area (Biodiversity Offset Area) associated with Johnsons Creek Road. The Proponent seeks to mitigate roadkill risks through the provision of warning signage only. Council considers that there is no evidence that this is a sufficient response. We therefore respectfully ask that the matter of roadkill avoidance and mitigation through the Southern Offset Area be further and better considered by the Department and the Proponent in the determination of this modification application.

Water Quality

The EA predicts that there would be no substantive change to groundwater and surface water physical and chemical dynamics and parameters beyond that currently approved and adopted within the mine operations. The proposed modification seeks no amendment of the current protocols and procedures or conditional requirements of surface and groundwater quality management. I see no reason to suggest that this is not likely to be the case. Therefore, I do not object to the positive determination of the modification in respect to water quality management. All of the current requirements of the existing consent should be maintained and applied.

In closing, I would like to note that I appreciate the opportunity to make comment to the Department in regards to this development proposal.

Yours faithfully



Mr Mat Bell

Acting Manager - Natural Systems Branch
Great Lakes Council