

12/01353

Mr Robert and Rhonda McGregor
"Callandar"
Boggabri NSW 2382

Dear Mr and Mrs McGregor

I refer to your letter to the Hon Brad Hazzard MP, Minister for Planning and Infrastructure, concerning impacts associated with Tarrawonga Coal Mine. The Minister has asked me to reply on his behalf. I note that your concerns relate both to impacts from existing operations at the mine and to the proposed expansion of the mine, which may further increase these impacts.

I understand that you have already been advised by officers of the Department that the exhibition period for the proposed expansion commenced on 24 January and will continue until 29 February 2012. The public exhibition provides an opportunity for you to raise your concerns in a formal submission to the Department regarding the extension project. I also understand that you have already had some discussions with the Department's Stephen O'Donoghue regarding your key issues of concern and providing a formal submission.

The Department also notes your concerns regarding negotiations on the potential acquisition of your property "Tarrawonga" by Whitehaven Coal. As you are aware, the existing conditions of approval for the Tarrawonga Mine allow acquisition following any written request by you. This condition was included as a result of predicted noise impacts at the residence located on "Tarrawonga". Under the conditions of approval, a formal process is established to provide for independent valuation if negotiations between the parties cannot be satisfactorily concluded. However, I am advised that you are reluctant to trigger this condition at this stage.

The Department also notes your advice that part of the private haul road operated by Whitehaven, located on your property "Tarrawonga", is subject to a commercial lease arrangement with yourself which is due to expire in February 2015. As this haul road is still identified as being an ongoing access route for the Tarrawonga Mine Extension Project, the continuation of this access (either by way of lease, purchase of the land or some other arrangement satisfactory to yourself) is a key issue that will need to be resolved during the assessment of this project.

A Departmental officer has discussed your concerns with Mr Danny Young from Whitehaven Coal and suggested that an independent mediator (satisfactory to both parties, but paid for by Whitehaven) be engaged to assist in trying to achieve an outcome regarding acquisition that is satisfactory to both parties.

Otherwise, you still have the option of formally triggering an acquisition process under the conditions of approval. This process includes independent third party assessment of any written offers from Whitehaven Coal and submissions from either party associated with the offer.

I should also point out that the Department is supportive of alternative arrangements that might apply in place of acquisition, such as acquisition and leaseback, or lease of additional mine-owned agricultural lands at favourable rates, provided that both parties are in agreement.

In relation to existing impacts, the Department advises that Whitehaven Coal Mine is currently preparing an independent audit report. This report is required under the conditions of approval to assess compliance against approval conditions, other statutory requirements and commitments in management plans.

The audit report will be assessed by the Department including review of any identified non-compliances and consideration of any regulatory action as appropriate. In the interim, the Department has written to Whitehaven regarding the concerns you have raised in your letter and asked for a response to them.

Please contact Stephen O'Donoghue on 9228 6393 for any further advice in relation to this matter.

Yours sincerely



Richard Pearson
Deputy Director General
Development Assessment and Systems Performance

9/2/12