



Department of Primary Industries

OUT13/35743

4 DEC 2013

Mr Matthew Riley
Mining Projects
NSW Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

matthew.riley@planning.nsw.gov.au

Dear Mr Riley,

Boggabri Coal Project (DA 09_0182 Mod.3) Proposed Modification (Mod.3)

I refer to your email dated 8 November 2013 requesting advice from the Department of Primary Industries (DPI) in respect to the above matter.

Comment by Fisheries NSW

Fisheries NSW advise the environmental assessment adequately addresses any fisheries issues.

For further information please contact David Ward, Fisheries Conservation Manager (Tamworth office) on 6763 1255, or at: david.ward@industry.nsw.gov.au.

Comment by NSW Office of Water

The NSW Office of Water (Office of Water) has reviewed the Environmental Assessment (EA) for the Boggabri Coal Mine Modification 3 – Access, Stockpiling and In-pit Fuel Storage. The Office of Water understands the modification to involve:

- Construction of permanent mine access from the Kamilaroi Highway;
- Temporary storage of processed mine overburden material at the existing rock quarry and the reuse of this material during the construction of the rail spur embankments;
- Reuse of the existing Daisymede laydown compound, and
- The use of temporary in-pit fuel storage facilities.

Water Supply: The Office of Water understands that the proposed modification will not alter the amount of water taken from any water sources. The proponent will need to ensure they have obtained an appropriate licenced water supply for any water required during the construction phase of the modification.

Flooding: Boggabri Coal recently gained approval under Part 8 of the *Water Act 1912*, for the construction of the viaduct. This approval does not include the access roads and intersection. It appears the northern access road was considered in the flood study submitted by Boggabri Coal for the viaduct Part 8 application, but there is no evidence that the southern road was considered in the flood study. Both

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access roads and intersections will need to be included and assessed in the flood study.

The proponent acknowledges in the EA they will require a separate Part 8 approval under the *Water Act 1912* for the proposed access roads and intersection. The proponent has discussed this with the Office of Water however no application has been submitted at this stage. The proponent will be required to submit supporting information with this application assessing the impacts the proposed works will have on flooding in the area.

Erosion and Sediment Control: The EA outlines the proposed modification has the potential to impact on surface water resources via contaminated and dirty water runoff from construction areas. It is recommended adequate erosion and sediment control measures, as outlined in the approved Water Environmental Management Plan, are put in place during construction and post construction, until the area is stabilised and revegetated, to reduce potential surface water impacts on the site.

For further information please contact Christie Jackson, Water Regulation Officer, (Tamworth office) on (02) 6701 9652 or at christie.jackson@water.nsw.gov.au.

Comment by Crown Lands

Crown Lands make the following comments and provide standard conditions for major project mining proposals in attachment A.

- (i) The proposed Kamilaroi Highway intersection cuts the Crown Land Travelling Stock Route (TSR) in half, preventing the through-flow of stock and interrupting the use of the reserve for travelling stock. Any variation to the use or construction of the road would need to be approved via variation to the proponent's existing license.
- (ii) Field verification (based on short description provided) appeared inadequate to classify the areas identified as "exotic grassland", including a significant proportion of Crown Land TSR. The EA gives no indication of how this veg community description (Exotic grasslands) was determined.

For further information please contact Anna Cronin, Natural Resource Management Project Officer, (Tamworth office) on (02) 6764 5127 or at anna.cronin@lands.nsw.gov.au.

Comment by Office of Agricultural Sustainability & Food Security

In accordance with procedures for mining projects that affect agricultural land, the Agricultural Sustainability & Food Security will respond direct to your Department.

For further information please contact Rob Williamson, Leader Land Use Planning (Orange office) on 6391 3166, or at: robert.williamson@dpi.nsw.gov.au.

Yours sincerely



Tony Jeffernan
Acting Executive Director Business Services

Attachment A

Boggabri Coal Project (DA 09_0182 Mod.3) Proposed Modification Additional comments by Crown Lands

STANDARD CROWN LAND CONDITIONS For Major Project Mining Proposals

The Applicant shall ensure that all statutory requirements relating to Crown Land including but not restricted to those set down by the *Crown Lands Act 1989* are fully met.

The Applicant shall hold a Crown lands tenure, in accordance with the *Crown Lands Act 1989*, authorising occupation of Crown land reflective of the use of the land.

The Applicant shall conform to the following requirements under the *Crown Lands Act 1989*:

- a). Where Crown roads are utilised for the purposes of the project or impacted on by the project activities, the Applicant must within 12 months of project approval, obtain a License or Lease over the Crown road in accordance with the *Crown Lands Act 1989*.
- b). Crown roads within holdings owned by the Applicant or impacted on by projects activities as described above, may be included in a road closing application lodged by the Applicant. Where Crown roads under application cannot be closed and purchased within a 12 month period following project approval, then the Applicant must obtain License or Lease over the Crown road in accordance with the *Crown Lands Act 1989*.
- c). Where Crown land (other than Crown roads) is utilised for the purposes of the project, the Applicant must within 12 months of project approval, obtain a License or Lease over the Crown land in accordance with the *Crown Lands Act 1989*. Note the Applicant has no authority to occupy or utilise Crown Land until a tenure under the *Crown Lands Act, 1989* is granted. Given the complexities in regard to Native Title that affect many Crown Lands it is in the Applicants best interest to inform and apply to Crown Lands for a tenure as early as possible in the development process.
- d). Where the purpose of any existing Crown land Licence or Lease, held or acquired by the Applicant, is not compatible with the proposed project activities and land uses, the Applicant must within 12 months of project approval, obtain a new License or Lease over the Crown land that reflects the proposed use of the land in accordance with the *Crown Lands Act 1989*.
- e). Where the Applicant fails to meet any of the above conditions, the Applicant is subsequently not in compliance with the project approval, and all necessary enforcement from NSW Planning should come into effect.

The Applicant shall consult with the Minister administering Crown lands and the Minister's delegates, on any requirement of the Applicant to restrict public access to Crown land for the reasons of Public Safety, in particular in relation to prevent public access to land subjected to subsidence, blasting affects, water and air quality impact, and general security around access roads haulage roads and mining infrastructure.

The Applicant shall provide the Minister administering Crown lands and the Minister's delegates, the detail of any proposed Environmental Offset to be located on Crown land, in particular any conditions proposed by the Applicant that seek long term security of the Offsets.

The Applicant shall consult with the Minister administering Crown lands and the Minister's delegates, on any requirement of the Applicant to seek the rezoning of Crown land. Note that the landholders consent is required prior to the lodging of any re-zoning application.

The Applicant shall consult with the Minister administering Crown lands and the Minister's delegates, throughout the life of the mine on the development and implementation of all Environmental Management Plans that affect Crown land, including but not limited to:

- (i) Archaeology and Cultural Management Plans
- (ii) Flora and Fauna Management Plans
- (iii) Biodiversity Management Plans
- (iv) Heritage Management Plans
- (v) Erosion and Sediment Control Management Plans
- (vi) Landscape Management Plans
- (vii) Bushfire Management Plans
- (viii) Land Man Management Plans
- (ix) Property Subsidence Management Plans
- (x) Longwall Subsidence Management Plans
- (xi) Rehabilitation Management Plans
- (xii) Final Void Management Plans
- (xiii) Water Management Plans
- (xiv) Dust Management Plans
- (xv) Noise Management Plans
- (xvi) Blast Management Plans

The Applicant shall provide the Minister administering Crown lands and the Minister's delegates, detailed information and location diagrams of the proposed use of Crown land, including but not restricted the following land uses:

- i. Hazard Waste and Industrial Waste disposal sites.
- ii. Waste Water utilisation areas.
- iii. Point Discharge areas.
- iv. Waste Rock and Tailing structures.
- v. Processing Plants and other high impact Infrastructure sites
- vi. Gravel Borrow Pits.
- vii. Environmental Offset areas.

The Applicant, where requested by the Minister administering Crown lands or the Minister's delegates, shall purchase Crown land considered by the Minister to be impacted on by mining operations to the extent that it is in the interests of the Public of NSW that the land be sold to the Applicant. The Applicant shall pay all reasonable costs associated with the purchase. The Applicant shall pay the current market value of the land and a commercial premium as negotiated between the Applicant and the Minister administering Crown lands or the Minister's delegates.

End Attachment A