

Mr William Dean
General Manager Projects
Maxwell Ventures (Management) Pty Ltd
Thomas Mitchell Drive
Muswellbrook NSW 2333

26/09/2019

Dear Mr Dean

Maxwell Underground Coal Mine Project (SSD 9526)
Request for Response to Submissions

The public exhibition of the Environmental Impact Statement (EIS) for the Maxwell Underground Coal Mine Project concluded on Tuesday 24 September 2019.

In response to the exhibition, the Department received 187 submissions from community members, 44 submissions from special interest groups and advice from 9 government agencies. Of the total submissions received, 52 submissions were in the form of objections and 175 expressed support for the Project. The remaining submissions provided comments on the Project. The submissions can be viewed on the Department's website <https://www.planningportal.nsw.gov.au/major-projects>.

The Department is expecting further advice from Muswellbrook Shire Council, the Environment Protection Authority (EPA), NSW Heritage Council, Roads and Maritime Services (RMS), the Crown Lands and Water Groups within the Department (DPIE Crown Lands and DPIE Water, respectively) and the Commonwealth Department of the Environment and Energy (DoEE).

The Department also notes that some community members and special interest groups have expressed a desire to provide supplementary comments in relation to the Project. The Department has requested that supplementary comments be provided by **8 October 2019** to provide sufficient time for these comments to be addressed in the Response to Submissions (RTS) Report.

The Department will make any further agency advice and supplementary community comments available to you as soon as possible once they are received.

The Secretary requests that you prepare and submit an RTS in accordance with clause 85A(2) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation). The RTS should detail your responses to all issues raised in submissions and agency advice. The Department requests that you give particular consideration to the matters outlined in **Attachment A**, including any requests for clarification and/or further information.

Please note that under clause 113(7) of the EP&A Regulation, the days occurring between the date of this letter and the date on which your RTS is received by the Secretary are not included in the deemed refusal period.

If you wish to discuss this matter further, please contact Lauren Evans at the details above.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Sprott', with a stylized, cursive script.

Matthew Sprott
A/Director
Resource Assessments (Coal & Quarries)
as the Secretary's delegate

Attachment A
Maxwell Underground Coal Mine Project (SSD 9526)
Request for Response to Submissions

<i>Key Issue</i>	<i>Comments</i>
Water Resources	<ol style="list-style-type: none"> 1. The Groundwater Assessment should identify all privately-owned bores within the model domain and the extent of predicted depressurisation at those locations. Please provide supplementary information in the RTS which considers impacts on all private groundwater users (including consideration of impacts to privately-owned bores that may experience less than 2 m of depressurisation). 2. The EIS does not provide a detailed assessment of water quality in the final voids. While the Surface Water Assessment includes some discussion regarding salt loads in the final voids, these assumptions appear to be based on previous water balance modelling and do not account for the tailings, rejects and brine which would be deposited in the East Void as a result of the Project. The Department requests further discussion and analysis in this regard. 3. The Preliminary Rehabilitation and Mine Closure Strategy in Appendix U indicates that the maximum modelled water levels in the three final voids are follows: <ul style="list-style-type: none"> • North Void: 44 metres (m) below the overflow level; • East Void: 9 m below the overflow level; and • South Void: 11 m below the overflow level. <p>The Department requests further discussion and analysis regarding the risk of overflow from the final voids into the receiving environment. The RTS should also consider how such risks could be managed or mitigated, having regard to advice provided by the Resources Regulator.</p> 4. The Biodiversity and Conservation Division (BCD) within the Department has requested further consideration of potential impacts on the flood immunity of Edderton Road. Please provide a detailed response in the RTS.
Rehabilitation	<ol style="list-style-type: none"> 5. The Resources Regulator has requested further information with respect to the conceptual final landform, rehabilitation objectives and completion criteria, as well as the proposed rehabilitation schedule and methodologies and risk management strategies. Please provide supplementary information in the RTS which addresses each of the issues raised by the Resources Regulator. 6. Further analysis and justification are required with respect to the proposed final landform. In particular: <ul style="list-style-type: none"> • The EIS does not provide sufficient justification for the retention of all three existing voids in the final landform. Further options analysis should be provided, including options to backfill one or more of the voids. • Consideration should also be given to refining or improving the design of the final voids (for example reducing the size of voids, reducing the slope of highwalls (currently up to 37 degrees) and low walls (currently up to 18 degrees)). • The Preliminary Rehabilitation and Mine Closure Strategy indicates that the retrospective application of micro-relief

Key Issue	Comments
	<p>techniques was discounted, following an initial trial, due to prohibitive costs and environmental impacts. However, these costs are not quantified and the potential 'disturbance to establishing ecosystems, and noise and air quality impacts' associated with material rehandling have not been discussed in any detail.</p>
Biodiversity	<p>7. The Biodiversity Development Assessment Report (BDAR) does not explicitly address each of the Commonwealth's assessment requirements. For example, the BDAR does not include any detailed consideration of Conservation Advice, Recovery Plans, Threat Abatement Plans or Wildlife Conservation Plans for EPBC-listed species and communities. Please ensure that each of the Commonwealth's assessment requirements are addressed and provide a revised summary table in the RTS indicating how and where each of these requirements have been satisfied.</p> <p>8. Section 7.2.5 of the BDAR states that the Project is unlikely to lead to a long-term decrease in the population of the Legless Lizard or impact suitable habitat to the extent that the species may decline. This conclusion does not appear fully justified, given the preceding paragraph states that the Project may adversely impact habitat which is 'critical to the survival of the species.' The Department considers that further analysis and explanation is needed in this regard.</p> <p>9. BCD has requested further assessment of the Project's ancillary components and indirect biodiversity impacts in accordance with the Biodiversity Assessment Method (BAM). In particular, BCD has requested further detail and assessment with respect to the proposed centralised gas management infrastructure. BCD has also provided recommendations for the adaptive management, assessment and offsetting of biodiversity impacts during mining operations. These include impacts on vegetation in the Saddlers Creek and Saltwater Creek streambeds, as well as unexpected subsidence impacts and impacts associated with the remediation of cracking. Please review and respond to these recommendations in the RTS.</p> <p>10. BCD has recommended additional management measures for <i>Diuris tricolor</i>. Please review and respond to these recommendations in the RTS.</p> <p>11. The Department notes that payment into the Biodiversity Conservation Fund has not yet been endorsed by the Commonwealth as an acceptable offsetting mechanism for impacts on matters of national environmental significance. Please confirm:</p> <ul style="list-style-type: none"> • whether any preliminary surveys have been undertaken within EL5460 or EL6812 to confirm the availability of the required credits in Table 42 of the BDAR and to identify potential offset area(s); and • whether any investigations have been undertaken to confirm the availability of the required credits on the open market.
Impacts on Equine Critical Industry Cluster (CIC)	<p>12. The Department requests a detailed response to the each of the concerns raised by the Upper Hunter equine industry, particularly with respect to:</p> <ul style="list-style-type: none"> • the compatibility of the Project with existing and/or preferred land uses in the surrounding locality, having regard to clause 12 of <i>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</i>, including consideration of potential avoidance and/or minimisation measures to manage land use conflicts; • economic impacts (including the accuracy of the predicted benefits of the Project and consideration of potential negative impacts on the Upper Hunter equine industry);

<i>Key Issue</i>	<i>Comments</i>
	<ul style="list-style-type: none"> the reliability of groundwater modelling and potential impacts on groundwater resources; water management in the final landform (including the risk of seepage or overflow from final voids); air quality, noise and blasting impacts on CICs and the broader community; and the potential realignment of Edderton Road.
Cumulative Impacts	13. The community submissions raise concerns regarding the cumulative impacts of mining operations in the locality, particularly with respect to air quality and associated health and amenity impacts, impacts on water resources, and impacts on agricultural production and critical industries. The Department requests a detailed response to these concerns.
Greenhouse Gas Emissions	14. Please provide a detailed response to the concerns outlined in submissions with respect to greenhouse gas emissions, having regard to Australia's obligations under the Paris Agreement and the principle of inter-generational equity.
Social Impacts	15. Please provide an updated or supplementary Social Impact Assessment which incorporates and responds to the first-hand views of key stakeholders provided in the public submissions.