



**Catchment Management
Authority**
Hunter-Central Rivers

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File: LVDA088
Your ref: MP 10_0215
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Ms Rebecca Newman
Infrastructure Projects
NSW Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Ms Newman,

**Subject: Exhibition of Environmental Assessment for Port Waratah Coal
Services Terminal 4 Project (MP10_0125)**

I refer to your correspondence of 8 March 2012 seeking comments from the Hunter-Central Rivers Catchment Management Authority (CMA) on the Environmental Assessment (EA) for the proposed Port Waratah Coal Services (PWCS) Terminal 4 Project (MP 10_0125). As you would be aware, representatives from the CMA previously attended the planning focus meeting (9/12/10), offset workshop (4/2/11) and provided comments on the draft Director-General Requirements (DGRs) and Preliminary Environmental Assessment (16/12/11). The CMA recommends that our previous correspondence be reviewed along with this current submission.

While the CMA acknowledges that PWCS have put forward an offset package including Green and Golden Bell frog offsets, a 400ha site including Freshwater Wetlands at Ellalong lagoon and an unquantified estuary wetland site, the CMA must object to the proposal in its current form.

The CMA is not satisfied that the current proposal provides enough information to adequately assess whether it meets the 'improve or maintain' test for native vegetation and threatened species habitat requirements.

Rationale:

The CMA has reviewed the environmental assessment documentation and provides the following rationale to support this position.

Biodiversity and Offsets

The CMA notes that the proposal will result in the removal of approximately 87ha of native vegetation including Endangered Ecological Communities (EECs) and significant habitat for Threatened Species (TS) and migratory birds.

The proposed clearing includes:

- 28.9ha of mangroves, 27.3ha of fresh water wetlands (including 4ha of EEC freshwater wetlands), 7.5ha of mud flat habitat, 5.1ha of Green and Golden Bell Frog (GGBF) habitat and 18.8ha of saltmarsh EEC.
- loss of habitat for 14 threatened bird species including the Australasian Bittern (endangered under the TSC Act and the EPBC Act);
- loss of habitat for 7 vulnerable species of micro-bat and the vulnerable grey-headed flying fox;
- loss of the aquatic plant *Zannichellia palustris*; and
- loss of migratory and marine habitat with 84 migratory and marine species recorded in the T4 project area of which 27 species are listed under International conventions;

The Environmental Assessment (EA) does not contain adequate details of specific areas or locations proposed to offset the loss of 'like for like' habitat and Biodiversity outlined above.

For example, the CMA considers Deep Pond a very important fresh water wetland within the lower Hunter estuarine complex as it sustains large numbers of migratory birds and provides a drought refuge for a range of local and regional birds, including threatened species. The unique location of this fresh water habitat within the lower Hunter estuary, and in close proximity to RAMSAR wetlands makes it a challenging site to replicate in terms of providing 'like for like' compensatory offset.

In our previous correspondence, the CMA recommended that offsets be determined using either the Environmental Outcomes Assessment Methodology (EOAM) or Biobanking methodology. It is acknowledged that under the EOAM endangered ecological communities (EECs) are unable to be offset. The CMA supports this principle, however for the purposes of determining offsets for this proposal where the Native Vegetation Act (NVA), 2003 does not apply, the CMA would support the application of either methodology.

The CMA notes that neither the EOAM or Biobanking methodology have been utilised to determine the current offsets proposed in the EA. The Consultants state that they have "considered the principles underpinning Biobanking in the development of the Biodiversity Offset Strategy" however it is clear that a full assessment has not been completed by a qualified Biobanking practitioner.

The Consultants state that they are waiting for the release of Version 2.0 of the Biobanking Credit Calculator before being able to complete a full Biobanking assessment and will provide copies of the assessment to the Office of Environment and Heritage (OEH) and Department of Primary Industries (DPI) when completed. The CMA would also appreciate the opportunity to review the Biobanking assessment once completed.

The CMA is unable to properly assess the proposal until additional offset information is provided including the total amount of hectares of 'like for like' native vegetation proposed to be offset and the location of the offset/s. The CMA is only able to support clearing that meets the 'improve or maintain' principles of the NVA.

In addition to the information outlined above CMA Board has resolved the following principles for consideration of offset:

- Avoidance and mitigation of impacts should be first course of action, prior to considering offsets.
- That offsets only be applied to land not zoned or managed for conservation.
- That negotiated offsets must meet the "improve or maintain" principle as in accordance with a NSW Government approved methodology.
- That offsets should not be located outside the major catchment boundary as defined by fifth order streams and be within the same Interim Biogeographic Regionalisation of Australia (IBRA) sub-region.
- That offsets can only be applied to government owned land in a specific catchment (5th order streams) after all NRM agencies, including the relevant CMA, have provided advice to their responsible Minister.
- That such offsets be listed on the land title in perpetuity and accompanied by sufficient resources for ongoing management.
- That a system be developed to spatially record previous and future offsets, that can be accessed by all levels of government
- That such offsets can only be erased by a separate Act of Parliament
- Offsets should be provided on the basis of like for like or better conservation outcomes.

Traffic Transport and Access

In our previous correspondence on the draft DGRs and Preliminary Environmental Assessment (16/12/11), the CMA outlined that a cycleway connection between Ash Island and Tourle Street Bridge along the South Arm of the Hunter River is a key component of the Hunter Region cycleway tourism strategy to create recreational and commuter cycling potential between Mayfield and Hexham. The CMA's submission stated that the proposed T4 development should, at a minimum, not block the potential for this cycleway to be developed in the future. The EA did not address or examine this issue including the feasibility of PWCS contributing to this project in the future.

The CMA notes from Section 5.2 in the EA that PWCS have realigned the proposed rail line to avoid Bittern Corner, OEH wetlands 1 and 2 and Railway Road Pond and redesigned the proposal to retain approximately 5.2ha of Deep Pond. While this is a better outcome than originally proposed in the Preliminary Environmental Assessment, there is no avoiding the significant ecological impact that will result if Deep Pond and other important habitat areas are lost or highly modified.

The CMA notes that there is incremental movement into the wetlands through the development of the rail system from both PWCS and NCIG operations expanding over the past number of years. The cumulative impact of this expansion must be addressed in the assessment as the viable areas of habitat are continually being diminished by multiple developments.

Consistency with Hunter-Central Rivers Catchment Action Plan (CAP)

Please refer to our previous comments in correspondence dated 16 December 2011 under the heading Assessment Requirements that refers to the CAP's guiding principles including a list of specific guiding principles that have particular relevance to this proposal. While the EA has considered some of these principles, more work needs to be done to address the majority of the principles outlined in our earlier submission.

The CAP is available at <http://www.hcr.cma.nsw.gov.au>.

If you require any further information please do not hesitate to contact Callaghan Cotter, Catchment Coordinator Lower Hunter on 4938 4935 or Peggy Svoboda, Project Manager, Kooragang Wetland Rehabilitation Project on 4964 9308.

Yours faithfully



Callaghan Cotter
for
Fiona Marshall
General Manager

23 April 2012