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18/08/2011

Department of Planning and Infrastructure
23-33 Bridge Street
SYDNEY NSW 2000

Attention: Ms Sara Wilson

Dear Ms Wilson

Ulan Coal – Modification of Ulan Coal Major Project Approval 08-0184

We act for Mr Reece Robinson. Mr Robinson is the owner of a property called Eyrie. The location of the property is shown on the plan which we have attached and marked **Attachment 1**.

Our client has asked us to write this letter by way of objection to the proposed modifications.

This letter raises a number of serious objections in a summary manner. At this stage, we and our client have not been able to fully specify all of the objections. This is because the modification application contains new information and has only been available for a period of 14 days. Our client instructs us that he had in fact requested a lot of this information over a year ago from the proponent and it had not been provided to him. This has limited our client's ability to understand the impacts of the project, in particular, on his property.

At this stage our client's objections relate to:

- impacts on surface water;
- impacts on groundwater;
- impacts on threatened species;
- inadequate public consultation; and
- improper assumptions made in the environmental assessment.

The issues raised in this letter are also relevant to the determination of the proponent's applications under the *Water Act* 1912. Our client will be writing to the NSW Office of Water separately in that respect. Further, our client's objections go to whether this project should be referred under the Commonwealth *Environment Protection and Biodiversity Conservation Act* 1999 (**EPBC Act**). Our client will be writing to the Commonwealth Minister for the Environment in this respect.

Assumptions about the modifications and lack of consultation

Our client has had conversations with the proponent in relation to the expansion of the Ulan West longwall operations. We are instructed that those conversations occurred in the context of the proposal which is the subject of Project Approval 08-0184. During those conversations, our client indicated his concerns about the impacts on surface and groundwater amongst other matters. He

requested that information be provided in relation to his property. That information was in fact never provided.

The currently proposed modifications are described by the proponent as 'minor amendments to the approved mine plan for Ulan No. 3 and Ulan West...' (Environmental Assessment page 3 paragraph 4). Because the proponent has seen these as minor modifications, they have adopted a limited process of community consultation. On page 3 of the Environmental Assessment the authors make the following comment:

Community and agency consultations are a fundamental element of the preparation of an environmental assessment (EA) and necessary to assist in the determination of the relevant issues to be addressed in the EA.

Despite this and despite the impacts of this proposal on our client's property, our client has not in fact been consulted. On page 5.1 of the Environmental Assessment the authors concede that there has only been limited consultation, based upon the impression that they have, that the modifications are of a minor scale and they are unlikely to impact the community. They say:

The consultation approach undertaken for the proposed modifications has been through the identification of key stakeholders and subsequent engagement through relevant processes such as face to face and group meetings. The identification of the key stakeholders was based on the understanding that the proposed modifications are of a relatively minor scale that are unlikely to impact the community.

This approach to community consultation is not acceptable. It has resulted in a process which has not focused on the significant potential local impacts of this project.

Our client suggests that there needs to be proper consultation with the community, in particular, in relation to impacts of this project on groundwater and surface water and that appropriate management responses identified in consultation with the community.

Groundwater depressurisation

We are instructed that the surface watercourses that run through the valley which includes our client's land commence with a spring which is located to the south of the Ulan West 9, 10 and 11 longwalls. Our client is concerned that the depressurisation of the groundwater will impact upon that spring and therefore impact upon the currently permanent water resources that are available on our client's property.

Our client has instructed us that he has previously requested information about these impacts from the proponent but the information has not been provided.

The assessment of the impacts on groundwater appear to have focused on stream catchments to the north and to the east of our client's property. Figure 6.3 (**Attachment 2**) of the Environmental Assessment shows the location of the monitoring bores and notably the monitoring bores are not located within the headwaters of the streams in our client's valley. Our client requests that there be a proper assessment of the likely impacts of the mining on the groundwater springs that feed the creeks into our client's property.

Surface water

The focus of the assessment on surface water similarly does not address the impacts within the surface water courses on our client's property. Given the time available, we have only had limited opportunity to review the materials but it appears that the focus has been on surface water impacts within the mine site and the major adjoining watercourses but not on the lower order tributaries in particular those which are spring fed.



In particular, it is noted that the proponent acknowledges at 6.3.1 of the Environmental Assessment that minor changes are proposed for the Cockabutta Creek catchment area, but no further detail or assessment is provided.

Threatened Species and EPBC Act

The Environmental Assessment appears to assume that the impacts to be assessed are those proposed modifications on their own. There is very limited discussion about cumulative impacts. Those cumulative impacts are focused on a broad-brush approach rather than the impacts on particular locations, in particular those immediately adjacent to the Ulan West operations such as our client's property. Our client is concerned that the approach taken both in the previous project approval and in relation to these modifications has been incrementalist. That is to say, the assessments have focused primarily on the impacts of the specific works in those approvals rather than the impacts of the mine operations as a whole. By adopting this approach it is possible for the proponent to say at each step that the step being taken does not have a significant impact on threatened species either for the purposes of the New South Wales legislation or the Commonwealth legislation and to not adequately address the impact of the project as a whole.

Our client is concerned about this approach and it proposes to write to the Commonwealth Environment Minister in respect of the need to refer this project under the EPBC Act.

Diversion of water

The environmental assessment refers to the drawdown of water in the order of 34ML per day being diverted to the existing treatment works

Our client therefore understands that the majority of the groundwater extracted from the Mine will be discharged to the east. Our client requests that consideration be given to the water management of the Mine being adjusted so that compensatory flows are added back into catchments to the west (including to our client's property) to secure water supplies to the west of the Mine. The water needs to be regarded as a resource attributable to each catchment and subcatchment. The use of that resource following treatment should ensure that the resource is directed to the catchments or subcatchments which are being impacted by the extraction – not diverted to the east as an expedient solution.

Contact details

Our client's contact details are as follows:

20 Innes Road
MT VICTORIA NSW 2786

0427 759 242 or 02 6375 9242

Alternatively, communications with our client can be made through us using the details at the top of this letter.

Yours faithfully

Patrick Ibbotson
Partner

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