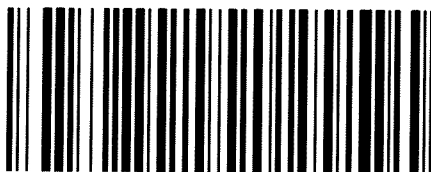


7 August 2015



PCU060958

NSW DEPARTMENT OF PLANNING & ENVIRONMENT  
GPO BOX 39 Sydney NSW 2001

Department of Planning & Environment  
Received  
11 AUG 2015  
Scanning Room

Dear Sir/Madam

**Subject: SSD 5465 -Chain Valley Colliery Modification 2 - An Increase In The Maximum Rate Of Rom Coal - An Increase In Full Time Personnel And Minor Vegetation Clearing**

Council has reviewed the application and provides the following response:

### **Air Quality**

Given that the application will result in a substantial increase in coal production, and the 2013 study revealed that cumulative concentrations of key air pollutants are approaching the impact assessment criteria, it is important that an Air Quality Impact Assessment (AQIA) is prepared to accompany the application. In the AQIA, it would be expected that, at a minimum, deposited dust, TSP, PM10, and PM2.5 would be assessed in accordance with the Approved Methods. The modelling should include vent emissions, increased stockpile emissions (emergency situation, and other), and all other relevant point and fugitive emissions sources. In the modelling, more relevant background air quality data should be considered, including on-site monitoring (which was previously unavailable for the 2013 study), and/ or air quality data from the Wyong Air Quality Monitoring Station as appropriate.

### **Marine Ecology**

In relation to the marine ecology assessment, it is noted that there are inconsistencies between the body of the report and summary of mitigation measures.

Specifically, Section 6 Mitigation Measures should include the following commitments (as detailed elsewhere in the report):-

- Triggers for mitigation – 20% decline in condition from the base year survey or mining induced subsidence of 150mm or greater recorded at one of the monitoring sites
- If loss of seagrass habitat is found to occur as a result of subsidence, then Lakecoal commits to undertaking remediation strategies to replace an equal area of any loss of seagrass habitat.
- On-site remediation measures will be undertaken in the first instance. Should remediation on-site not be viable, mitigation would be undertaken at other sites within Lake Macquarie in consultation with DPI Fisheries and Lake Macquarie City Council.

The proponent should detail the period over which seagrass and benthic fauna will be monitored. Generally, sampling periods relate to the mining schedule. It is requested that instead, the monitoring period is based on the risk of subsidence on a temporal scale.

### **Bushfire Management**

All clearing relating to bushfire protection, should be conducted in a manner that prevents exposure of bare earth. A lack of groundcover will likely result in erosion and subsequent sediment in surface dams required for water quality purposes.

### **Terrestrial Ecology**

The proposed bushfire asset protection zones are an outcome of a bushfire risk and hazard assessment completed subsequent to the major bushfires at Summerland Point in 2013.

The field assessment results (Section 5.7.2 vii a) state that the swamp mahogany swamp forest comprises feed tree species listed on Schedule 2 of SEPP 44 Koala Habitat Protection greater than 15% of the canopy cover, and therefore this vegetation community is considered potential koala habitat. Firstly, SEPP 44 defines "potential koala habitat" as areas of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component (not canopy cover as reported). Secondly, before a council may grant consent to an application to carry out development on land to which SEPP44 applies that is potential koala habitat, it must satisfy itself whether or not the land is core koala habitat. An assessment under SEPP 44 to determine if the subject site constitutes core koala habitat is therefore required but has not been provided. Thirdly, scribbly gum *Eucalyptus haemastoma* is listed as a dominant canopy species within the scribbly gum-red bloodwood heathy woodland vegetation community at the site. *Eucalyptus haemastoma* is listed as a feed tree species listed on Schedule 2 of SEPP 44 and therefore an assessment to determine if scribbly gum-red bloodwood heathy woodland constitutes potential and core koala habitat is required but has not been provided.

Koala *Phascolarctos cinereus* is included in Table H.2 as 'moderate likelihood of occurrence' and 'further assessment required', however has not been included within the assessment of significance for TSC Act listed species (H.2) nor EPBC Act species (H.3). The assessment of impacts on this species, both under SEPP44 and within the assessment of significance framework for TSC Act and EPBC Act listed species, is inadequate.

The impact assessment (Section 5.7.3) states that trees will only be selectively felled within the APZ, however lacks specific information regarding trees proposed for removal and retention. Trees should be marked on a tree retention or site analysis plan, flagged in the field, individually numbered, and accompanied by a correlating tree schedule. This allows proper assessment of trees that are on site, and provides a clear reference point when individual trees are being considered for removal/retention. The retention of large, structurally sound eucalypts (in particular swamp mahogany), hollow-bearing trees and black sheoak at the subject site should be prioritised when considering trees for retention and removal for the establishment of an APZ.

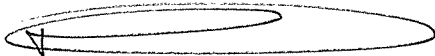
The impact assessment (Section 5.7.3 i b) states that five hollow-bearing trees could potentially be removed for the works, although these will be retained within the allowable canopy cover of the APZ where possible. A qualified ecologist or wildlife carer should supervise installation of nest boxes and removal of any hollow bearing trees to ensure mitigation against any native animal welfare issues. Nest boxes should be installed at a 1:1 basis for number of hollows lost and be of a design suitable for species that may be residing in trees marked for removal. Nest boxes should be of a design consistent with 'Nest Boxes for Wildlife - A Practical Guide (Franks, 2006)' and of durable material (ie; marine ply or equivalent). Nest boxes should be monitored to determine their usage and repairs or replacement (as required) carried out on an annual basis for a minimum period of five years following installation. Removal of trees with habitat hollows should be undertaken in either March, April, September or October, to minimise impact to threatened species that could

breed and or hibernate within hollows on site. Any hollow-bearing trees should be felled in one to two metre sections, beginning at the top of the crown. Lengths cut from the tree(s) should be in a manner that will preserve the hollow(s) with each section inspected and appropriately treated to minimise impact to fauna.

Council does not support the clearing or disturbance of endangered ecological communities (EECs) for the establishment of a bushfire asset protection zone. The LMCC Flora and Fauna Survey Guidelines Appendix 8.5 require a 20 m vegetated buffer to significant vegetation (such as EECs) from development impacts including asset protection zones. In this case, the asset needing protection is already built (as opposed to a new asset proposed for development) and relocating the asset is not possible. Provision of compensatory replanting and weeding within other areas of swamp sclerophyll forest on coastal floodplains EEC at the subject site should be implemented within a Vegetation Management Plan. The Statement of Commitments (Table 6.1) should be updated to reflect this.

The Statement of Commitments (Table 6.1) should be updated to reflect the peak flowering time for the required pre-disturbance surveys of *Tetratheca juncea* (mid September to mid October), not July to December as reported.

Kind Regards

A handwritten signature in black ink, appearing to read 'David Lovell', enclosed within a hand-drawn oval border.

**David Lovell**  
**Senior Development Planner**  
**Development Assessment and Compliance**