

Phil Jones - OBJECTION HVO Modifications

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Date: 15/10/2012 2:35 PM
Subject: OBJECTION HVO Modifications

SUBMISSION AGAINST THE CHANGES TO THE MODIFICATION TO RELOCATE THE HVO GREEN BIODIVERSITY OFFSET TO THE GOULBURN RIVER AREA SEPTEMBER 2012

06-0261 (MOD 4 & 5)

Biodiversity offsets are meant to be enduring, for at least the length of time that the harm being done by mining remained. Planning should reject the claims in the letter supporting these latest modification that it will deliver 'long term' conservation value as meaningless. This has been demonstrated by the 2002 Consent for Warkworth Operations where the mine promised a conservation area be established then did nothing about it. Each year of the Annual Environmental Report actioned it for the following year. Hence it never happened. Nor was the \$50,000 to a Conservation Fund ever contributed. The same will apply to the Goulburn River area since the two mines are owned largely by the same company with the same environmental credentials and since Planning failed to enforce compliance.

Offsets must be located appropriately. The land along the Goulburn River is over 100 kms away from the area where the biodiversity losses will take place. The Goulburn River property consists predominantly of cleared creek flats and slopes comprising shrubby versions of woodlands. The confidence that the woodland communities would return to a sustainably functioning community with the cessation of grazing is not supported by any evidence. No details of enhancement or revegetation plans are offered. I conclude therefore that there will be no net benefit from setting aside this area. I also argue most strongly that this area certainly will not offset losses in the Wollombi Brook area. It is too far away to meet the 'like for like' principle. There is also no connectivity to the Goulburn River. This is an essential requirement for a true offset to provide the environmental outcomes of the bird and animal species which will be displaced. There is no evidence that I have seen from the Developer that the Goulbourn River contains vegetation assemblages even similar to those being lost in the Hunter Valley or that the proposed area will offer equal or greater biodiversity value. Indeed in the few pages submitted by C&A in September there is no further scientific information to demonstrate that the new area will offer vegetation which is not a mere simplified assemblage of lesser biodiversity value. There has been no Risk Assessment examining the potential for failure to deliver a sustainable WSW ecosystem and for the losses of biodiversity enhancement that the Archerfield site currently offers HVO.

I contend that the new biodiversity area at Merriwa is unsuitable and inappropriate for either mining development. The offset strategy is not "like for like" because offset areas are from different communities, and the Goulburn River site, said to be merely within a similar landscape, is in a different locality 100 km distant. The Goulburn River area consists predominantly of cleared creek flats and slopes comprising a shrubby version of the EECs. Although it is bigger in area there has been no commitment to enhancement programs on that property other than excluding grazing. This Offset area is not contiguous with the proposed disturbance area to ensure a direct offset in terms of all the vegetation communities known to occur in the disturbance area and for the loss of habitat of the State and Commonwealth endangered birds and mammals. The location of the proposed biodiversity offset area should provide for the development of broad regional vegetation linkages across the Hunter Valley Floor, to facilitate the development of future regional biodiversity corridors. The choice of this site makes this impossible. It assumes that the biodiversity will be enhanced without outlining any practices other than those normally expected such as weed control.

It is of similar and increasing concern that the area in question does not belong to the proponent. What will be the outcome if the sale does not eventuate but consent for mining previously offset areas is granted? Had the Mining company purchased the land in advance and committed to environmental improvement then public confidence in their promises might have increased. What we have had then and in the latest proposal is nothing more than company spin.

Close reading of the letter 26th September 2012 fails to remove the ambiguity surrounding the life of biodiversity

offsets. The word “perpetuity” is used but no definition of its meaning supplied. The NDAs were also to be protected in perpetuity but the Deed of Agreement supposedly binding this has been revoked. Repeatedly the EA says that the biodiversity area will be protected “for the life of the project”. This does not necessarily mean either ‘for the life of the mine’ or ‘for the period that the impact occurs’. The project exists only as long as the consent. Since offsets must be enduring and they must offset the impact of the development for the period that the impact occurs whether this equates to ‘the life of the project’ or longer. There is no instrument or regulation to provide a legally binding framework for these commitments.

The objectors to the 2002 Warkworth Development Application thought that the previous consent and the commitments made in the existing Biodiversity Offset Strategy would be legally binding. Biodiversity Areas which have been set aside in a previous development approval now proposed as an offset for an alternate mine is totally unacceptable. There can be no confidence as to the security and enforceability of commitments made. It was believed offsets will be enforceable through development consent conditions, that offsets will be secured by appropriate land zoning or other alternatives. This was never enforced. Planning must now give assurances to those beliefs and reject this modification thus ensuring the commitments made in previous development consents.

Sincerely,
Carol Russell
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