



21 September 2012

Director-General, Department of Planning & Infrastructure
Attention Mr David Kitto
Director Mining & Industry Projects
Department of Planning & Infrastructure
23-33 Bridge Street,
Sydney NSW 2000

Via email: david.kitto@planning.nsw.gov.au

Dear Sir,

**RE: INTEGRA MINE COMPLEX – REQUEST TO MODIFY PROJECT APPROVALS
(08_0101 and 08_0102)**

I write to you to request that the Minister for Planning and Infrastructure (Minister) modify the Integra Mine Complex project approvals, PA 08_0101 and PA 08_0102 (together the Project Approval) under section 75W of the NSW *Environmental Planning and Assessment Act 1979* (EP&A Act). As you are aware, the provisions of the repealed Part 3A of the EP&A Act continue to apply to the Project Approval and modifications to it.

Specifically, Integra Coal Operations Pty Limited (Integra) seeks that the Minister modify its Project Approval by extending the time frame stipulated in conditions 43 and 48 of Schedule 3 from the end of September 2012 to the end of March 2013 (Interim Modification). This Interim Modification has become necessary in light of the status of Integra's current modification application (discussed below) which remains undetermined, for reasons set out below.

Conditions 43 and 48 of Schedule 3 of the Project Approval respectively state:

"43. By the end of September 2012, the Proponent shall make suitable arrangements to provide appropriate long term security for all the areas in the revised offset strategy to the satisfaction of the Director-General."

"48. By the end of September 2012, "the Proponent shall cease truck haulage of ROM coal from the underground surface facilities to the CHPP, and transport such coal only via overland conveyor, except in an emergency situation and with the prior written approval of the Director-General"

In addition to requesting that the Minister modify these conditions of the Project Approval, this letter provides an assessment of the potential impacts resulting from the proposed Interim Modification in order for the Minister to make a determination.

This letter also provides clarification to the Department on Integra's interpretation of condition 42 concerning the revised offset strategy.

Background to Interim Modification

Both conditions have been the subject of numerous discussions with the NSW Department of Planning and Infrastructure (Department) and have previously been the subject of modification applications (08_0101 Mod 1 and 08_0102 Mod 1, together the Modification 1 Application). The Modification 1 Application was supported by an environmental assessment (Modification 1 EA) The Modification 1 EA was publicly exhibited in December 2011 and the response to submissions made in February 2012 following the receipt of a late

submission. On 18 March 2012, Modification 1 was approved and the Project Approval was modified by the Minister to extend the date specified in both of these conditions to September 2012.

Modification 1 modified the Project Approval to allow Integra to undertake further investigations in relation to both condition 43 and 48, by extending the date specified in those conditions to the end of September 2012.

The Modification 1 EA foreshadowed the potential need for Integra to seek an additional extension of time, depending on the progress of the further investigations.

As you would also be aware, these conditions are also the subject of Integra's current modification application (08_0101 Mod 2 and 08_0102 Mod 2, together, the Modification 2 Application). The scope of the Modification 2 Application also incorporates additional elements which are not directly relevant to this present application.

A Preliminary Environmental Assessment in support of the Modification 2 Application was lodged with the Department on 21 October 2011. An environmental assessment has been completed by Integra (Modification 2 EA) in support of the Modification 2 Application. The Modification 2 EA is currently with the Department for its consideration prior to it being placed on public exhibition.

Changes to the scope of the Modification 2 Application, the revision of the Director-General's requirements and additional requests made by the Department in its consideration of the Modification 2 EA have all impacted the timing of the modification application process and resulted in sometimes lengthy and unanticipated delays.

Recent discussions with the Department confirmed that the assessment and determination of the Modification 2 application will not be completed by the end of September 2012.

Accordingly, on 5 September 2012 Mr John Trotter, Integra's Environmental Superintendent sought written confirmation from the Department that condition 48 would be temporarily suspended pending the determination of the current Modification 2 Applications. On 14 September 2012 the Department advised that a formal request was required and on 18 September 2012 Integra formally wrote to the Department. The Department advised on 19 September 2012 that a modification was required.

This Interim Modification is therefore sought by Integra whilst it awaits the outcome of the Modification 2 Application and to ensure that ongoing operation of the Integra Mine Complex can continue, in compliance with the current conditions of the Project Approval, in the intervening period. An outline as to the reasons why the Interim Modification is now sought, the alternatives that have been considered and the justification, is set out below in relation to each particular condition.

Environmental impact of proposed modifications

Both the Modification 1 Application and the Modification 2 Application have been supported by detailed environmental assessments. The environmental assessment submitted in support of Modification 1, dated December 2011 (Modification 1 EA) sets out the environmental impacts associated with extending the timeframes within both of these conditions and is relied upon for the purposes of assessing this Interim Modification (Attachment 1). Further, sections 3.3.2 and 3.3.3 of the Modification 1 EA assessed the alternatives to modifying the relevant conditions, as well as considering the objects of the EP&A Act.

The Modification 2 EA, which is presently with the Department for adequacy review, similarly assesses environmental impact. In respect of each condition, the Modification 2 EA outlines the proposed modification, the need for the modification application, and alternatives which have been considered. This assessment is also relied upon for the purpose of assessing this Interim Modification (Attachment 2).

Long Term Security of Integra's Biodiversity Offset Areas – condition 43

As outlined in the Modification 1 EA, Integra has been undertaking an assessment of the suitability of its existing biodiversity offset areas and investigating the feasibility of an alternative offset strategy. In relation to long term security specifically, the extension provided under Modification 1 was to enable sufficient time to complete further investigations into the feasibility and suitability of a range of possible mechanisms to provide long term security over the biodiversity areas as required under condition 43. This was to include, in particular, the appropriate mechanism with respect to land not currently owned by Integra.

To date, Integra has submitted documentation to address its obligations to revise its current offset strategy under condition 42 of the Project Approval by including the Martin's Creek offset area in its existing biodiversity offset areas (BOA). Integra has also submitted its revised Biodiversity Management Plan to the Department under condition 44 which sets out the proposals to implement the offset strategy.

Integra initially sought, as part of Modification 2, to replace its existing BOA with alternative BOA of equivalent biodiversity conservation value and prevent potentially mineable coal reserves from being sterilised. However, as part of those investigations Integra now proposes to participate in the Government's Upper Hunter Strategic Biodiversity Assessment.

An additional extension to the timeframe within condition 43 is therefore now required based on the time associated with undertaking investigations and enquiries in relation to this process, undertaking consultation and obtaining the relevant Government support.

As part of this process, Integra wrote to the Department on 5 June 2012 expressing its interest in participating in the Upper Hunter Strategic Biodiversity Assessment and asked the Department to consider this proposal as part of the development of its revised offset strategy (Attachment 3). On 4 July 2012 the Department responded by stating that the Director-General agreed to an extension of time to 2014 to provide long term security of the offset areas as required by Condition 43 (Attachment 4).

To enable the extension to be assessed and determined as part of its existing Modification 2 Application, Integra wrote to the Department on 20 July 2012 to modify the scope of the Modification 2 Applications. Specifically, Integra sought to replace an existing element of its proposed Modification 2 Application with amendment of Schedule 3 Condition 43, to extend the timeframe for the long term security of all areas in the revised offset strategy from September 2012 to September 2014.

As a result of the change in scope of the Modification 2 Application since the Preliminary Environmental Assessment for Modification 2 was submitted in October 2011, the Director-General requirements that were issued by the Department on 4 January 2012 also needed to be re-issued. These were re-issued by the Department on 27 July 2012.

There were also additional changes in the scope of the Modification 2 Application on unrelated matters which were no longer required, resulting in the delays to the timeframe for completion of the Modification 2 EA and its submission to the Department.

Integra understands from the Department's letter dated 4 July 2012 that the extension of the time specified in condition 43 is supported. This Interim Modification is therefore sought by Integra whilst it awaits the outcome of the Modification 2 Application and to ensure that ongoing operation of the Integra Mine Complex can continue, in compliance with the current conditions of the Project Approval, in the intervening period.

Overland Conveyor – condition 48

As outlined in the Modification 1 EA, compliance with condition 48 would make Integra's underground operations economically unfeasible based on the costs associated with constructing the overland conveyor.

Modification 1 sought an extension to the timeframe stipulated in condition 48 of the Project Approvals in order to allow time for a robust assessment to be carried out into the feasibility of removing this condition.

Since the Modification 1 Applications were submitted and Modification 1 granted, Integra has been carrying out these assessments, which have been documented within the Modification 2 EA and submitted to the Department for adequacy review. As set out in the long term security section above, the Modification 2 Applications process has undergone various changes in scope and additional information has been sought by the Department of the draft Modification 2 EA, all of which have resulted in delays. For these reasons, an additional extension to the timeframe stipulated in condition 48 is therefore now required to enable Integra to continue to haul ROM coal from its underground operations to the coal handling plant (CHPP) on an interim basis, pending the determination of the current Modification 2 Application by the Minister.

If Integra were to cease truck haulage of ROM coal from the underground surface facilities to the CHPP by 30 September 2012, Integra would be required to significantly reduce or possibly stop production. This would place significant risk on the retention of 333 jobs, comprising 225 Integra Underground employees and 108 contractors.

The Integra Underground Mine is the only part of the Integra Mine Complex that is profitable in the current economic climate and therefore the suspension of Integra Underground operations would make the overall Integra Mine Complex unprofitable and highly likely result in the further reductions to the entire mine complex placing an additional 349 jobs at risk.

Additionally, failure to operate the long wall for any period would place considerable stress on underground strata and would result in rapid deterioration of both the face and roof of the current long wall. Gas and

underground water would be unmanaged, imposing further risk upon re-entry. Accordingly, if underground operations were to cease from 1 October 2012, there is a real possibility that coal recovery operations could not re-commence due to the extremely high risks (which could include fatalities) associated with this.

Clarification regarding condition 42 – revised offset strategy

Integra also wishes to take this opportunity to clarify its interpretation of condition 42. That condition requires Integra to revise its offset strategy to incorporate certain additional land, by the end of September 2012. Implementation of the revised offset strategy is governed by the Biodiversity Management Plan that is required to be prepared pursuant to condition 44. Integra's view is that condition 42 does not require the implementation of the strategy to occur in respect of the additional lands by the end of September 2012, but instead that implementation (and the timing of implementation) is governed by the Biodiversity Management Plan. Further, Integra is committed to implementing its revised offset strategy in accordance with its Biodiversity Management Plan, which was recently amended and submitted to the Department.

Integra's understanding of the Department's letter dated 4 July 2012 is that the Department similarly accepts that implementation of the revised offset strategy need not be completed by the end of September 2012. On the basis of this understanding, Integra does not consider it necessary to seek to modify condition 42.

If the Department now holds a different view, and considers that implementation of the strategy in relation to the additional lands must occur by the end of September 2012, it is necessary for Integra to seek to amend condition 42 as well so as to extend the date for compliance with condition 42 to end of March 2013.

Integra seeks the Department's urgent confirmation of its interpretation of condition 42 so as to clarify whether an extension of the date referred to in condition 42 is required, and if so, is hereby sought.

If an extension is required, the Modification 1 EA sets out the environmental impacts associated with extending the condition 42 timeframe and is also relied upon, together with the Modification 2 EA for the purposes of assessing this Interim Modification.

Conclusion

As indicated through our cooperation with the Department thus far, Integra remains willing to work openly and constructively with the Department to remain in compliance with the conditions of the Integra Project Approval. We would greatly appreciate your urgent attention to this Interim Modification.

In these circumstances, we request that the Minister promptly determine this Interim Modification prior to 30 September 2012, and modify conditions 43 and 48 so that in each case the relevant date is amended from "*end of September 2012*" to "*end of March 2013*".

In relation to condition 42, the Department is asked to urgently clarify its interpretation. In the event that the Department asserts that the strategy is required to be implemented by the end of September 2012 – which conflicts with Integra's interpretation of the condition – then for abundant caution an extension of the date referred to in condition 42, to the end of March 2013 is hereby sought prior to the end of September 2012.

Authorising these modifications will ensure that the ongoing operation of the Integra Mine Complex can continue, in compliance with the current conditions of the Project Approval, pending the Minister's assessment and determination of the Modification 2 Application.

I would welcome an opportunity to speak with you or Mr Kitto at your earliest convenience. I can be contacted by phone on 0427331858.

Yours sincerely,



Andrew Betts
General Manager – Integra