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8 November 2013

David Kitto
Director, Mining and Industry Projects
Department of Planning and Infrastructure
23-33 Bridge Street
SYDNEY NSW 2000

Dear David,

RE: MOD 3 - PROJECT APPROVAL 08_0111, AUSTAR COAL PROJECT STAGE 3 – RESPONSE TO SUBMISSIONS

We refer to the Department's request dated 7 November 2013 to provide a detailed response to submissions received during the public exhibition of the Environmental Assessment for MOD 3 PA08_0111. We understand a total of seven submissions were received from Government agencies and the CFMEU. We note the CFMEU supports the proposal and that no other special interest group or public submissions on the proposal have been received by the Department. The following information is provided in response to the issues raised in Government agency submissions.

1. Department of Resources and Energy (DRE)

Issue: DRE notes that revision of the existing MOP and SMP will be required and refers to ESG3: Mining Operations Plan (MOP) Guidelines dated September 2013.

Response:

Noted. A variation to the SMP/Extraction Plan is currently being sought as part of the Extraction Plan update process being undertaken concurrently with the assessment of MOD 3. An amendment of the current approved MOP will be prepared in accordance with the transitional provisions of ESG3: Mining Operations Plan (MOP) Guidelines dated September 2013.

Issue: DRE notes that the MOP and SMP will need updating to adequately describe the functional domains for this modification.

Response:

Noted. A variation to the SMP/Extraction Plan is currently being sought as part of the Extraction Plan update process being undertaken concurrently with the assessment of MOD 3. The revised Extraction Plan describes the functional domains for MOD 3 (i.e. LWA7-A10). An amendment of the current approved MOP will be prepared and include a description of the functional domains for MOD 3.

Issue: DRE considered that the proposed modification does not substantially change the overall subsidence risks at the site and can be dealt with via a variation to the approved SMP.

Response:

Noted. A variation to the SMP/Extraction Plan is currently being sought as part of the Extraction Plan update process being undertaken concurrently with the assessment of MOD 3.

Issue: DRE has recommended conditions of approval in relation to rehabilitation objectives and commitments, progressive rehabilitation and preparation of a Rehabilitation Plan.

Response:

Rehabilitation Objectives and Commitments

Rehabilitation objectives for the Austar Coal Project Stage 3 are set out in Schedule 6 Condition 1 of PA 08_0111 and confirmed in Appendix D of the current approved Extraction Plan for longwalls A7 to A10.

Progressive Rehabilitation

The requirement for progressive rehabilitation is established in Schedule 6 Condition 2 of PA 08_0111.

Rehabilitation Plan

A rehabilitation plan for potential subsidence impacts within the LWA7 to A10 mining area has been prepared and approved as part of the Extraction Plan for longwalls A7 to A10. The rehabilitation plan is provided as Appendix D, Land Management Plan, to the Extraction Plan. Approval is currently being sought for an update to the Land Management Plan in order to account for MOD 3, as part of the Extraction Plan update process being undertaken concurrently with the assessment of MOD 3. DRE has provided SMP approval for the current Extraction Plan, including the Land Management Plan, and will be consulted in relation to the proposed Extraction Plan update.

A Landscape Management Plan for the Kitchener Surface Infrastructure Site has previously been prepared and approved by Executive Director of DRE, which addresses rehabilitation of the Kitchener Surface Infrastructure Site area. In addition, the current approved MOP for the Austar Coal Mine addresses the final landform and rehabilitation plan for infrastructure across the Austar mining complex.

Given that the recommended requirements for a rehabilitation plan are addressed via the existing Extraction Plan, Landscape Management Plan and MOP, a further Rehabilitation Plan for the Stage 3 project is not considered warranted

Austar also notes that DRE has included the following note to the recommended Rehabilitation Plan condition:

The approved Mining Operations Plan (which will become the REMP once the Mining Act Amendments have commenced), required as a condition of the Mining Lease(s) issued in relation to this project, will satisfy the requirements of this condition for a Rehabilitation Plan.

It would therefore appear that the recommended condition is unnecessary as the existing approved MOP, once amended to accommodate the MOD 3 changes, satisfies DRE's requirements.

2. Office of Environment and Heritage (OEH)

Issue: *OEH notes that potential impacts on Aboriginal sites are minor and able to be addressed by the implementation of existing approved management strategies, however recommends four conditions of approval:*

- 1. The proponent shall consult with the Director General of DP&I, local aboriginal groups and OEH to develop a mutually agreeable subsidence monitoring program and an Aboriginal Cultural Heritage Management Plan for all culturally sensitive areas for the duration of the project.*
- 2. In the event that surface disturbance identifies a new Aboriginal site, all works must halt in the immediate area to prevent any further impacts to the object(s) or are managed in accordance with an approved methodology. A suitably qualified archaeologist and Aboriginal community representatives must be contacted to determine the significance of the object(s). The site is to be registered in the AHIMS (managed by OEH) and the management outcomes for the site included in the information provided to the AHIMS.*
- 3. If human remains are located in the event that surface disturbance occurs, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police must be contacted immediately. No action can be undertaken until police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact OEH's Environment Line on 131555 and no works can continue until OEH provide written notification to the proponent.*
- 4. All reasonable efforts must be made to avoid impact to Aboriginal cultural heritage values in the event that surface disturbances occur at any stage of the development works. If impacts are unavoidable, mitigation measures are to be negotiated with the Aboriginal community and OEH.*

Response:

An Aboriginal Cultural Heritage Management Plan (ACHMP) for the Austar Mining Complex has been prepared in consultation with OEH and the Registered Aboriginal Parties and approved by the Director General in accordance with Schedule 4, condition 10 of PA 08_0111. An addendum to the current approved ACHMP to incorporate MOD 3 has also been prepared and submitted to the Director General as part of the Extraction Plan update process being undertaken concurrently with the assessment of MOD 3. Consultation with the RAPS in relation to the addendum is currently underway. This process satisfies the requirements of OEH's recommended condition 1, and the management strategies outlined in recommended conditions 2 to 4 are reflected in Section 3.0 and Appendix 3 of the current approved ACHMP.

Issue: *OEH requests further details of the proposed offset package referred to the Revised Statement of Commitments.*

Response:

As outlined in Section 7.0 of the EA (Umwelt 2013), the Revised Statement of Commitments presented in the EA is a direct copy of the current approved Statement of Commitments for PA 08_0111, and therefore relate to the broader Austar Coal Project Stage 3.

The Biodiversity Offset Area referred to in the Revised Statement of Commitments relates to the clearing of vegetation for the construction of the Kitchener Surface Infrastructure Site undertaken as part of the Austar Coal Project Stage 3 (PA08_0111), and is not relevant to MOD 3. Further details of the offset package for Austar Coal Project Stage 3 are provided in Section 7.2.4 of the Austar Coal Project Stage 3 EA (Umwelt 2008) and Appendix 5 of PA 08_0111.

In accordance with Schedule 6 Condition 3 of PA08_0111, a land swap with National Parks occurred for the long term conservation security of the nominated offset area. The transfer of the title to Austar Coal Mine of Certificate of Title 3/755225 occurred from the Minister administering the *National Parks and Wildlife Act 1974*, on 11 December 2009.

Issue: OEH is concerned that there is a lack of absolute certainty around the potential for connective cracking and requests two additional conditions of approval as a precautionary measure:

- 1. The proponent must implement the commitments described in Section 1.4 of the 'Statement of Commitments' in the Main Report of the EA.***
- 2. If the works done as part of the Modification 3 to Stage 3 cause harm to the threatened species (such as *Callistemon linearifolius*, *Grevillea parviflora* subsp. *parviflora* or *Rutidosis heterogama*), threatened populations, threatened ecological communities or their habitats then this harm must be offset in accordance with OEH biodiversity offsetting policy.***

Response:

OEH's recommended condition 1 replicates Schedule 2 Condition 2 of PA 08_0111 and is therefore not considered necessary.

In reference to OEH's concern regarding certainty around the potential for connective cracking, we note the height of the fracture zone above the extracted longwall panels is predicted to be approximately 245 to 285 metres. With a minimum depth of cover of 455 metres, it is highly unlikely that the fractured zone would extend to the surface resulting in connective cracking. This is supported by extensometer testing within the previous Austar mining areas which show the measured height of the fracture zone is less than predicted.

The ecological assessments prepared for the Austar Coal Project Stage 3, including that prepared for MOD 3, conclude that the potential for impacts on threatened species, threatened populations, threatened ecological communities and their habitats is very minor given the predicted subsidence impacts on the landform surface. This conclusion is supported by extensive historical monitoring across the remainder of the Austar mining complex. Based on these findings it is considered that a biodiversity offset for potential very minor subsidence related impacts is not required.

3. Department of Primary Industries - NSW Office of Water, Crown Lands and Fisheries NSW

No issues raised. No response required.

4. Department of Primary Industries – Office of Agricultural Sustainability and Food Security

No issues raised. No response required.

5. NSW EPA

No issues raised. No response required.

6. Hunter New England Population Health

No issues raised. No response required.

7. CFMEU (Mining and Energy Division)

Submission in support of MOD 3. No response required

I trust this response will enable the Department to finalise it's assessment of the modification proposal. If you require any further information or wish to discuss this matter, please contact me on 02 8583 5910 or 0408 634 613.

Yours faithfully,

Mark Jacobs
General Manager Environment, Approvals and Community Relations
Yancoal

cc: Paul Freeman