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Dear Mr Murphy

Subject: Russell Vale Colliery Underground Expansion Project (MP09_0013) – Revised Preferred Project Report

Thank you for your email dated 30 July 2019 requesting advice on the abovementioned Revised Preferred Project report (PPR) for the Russell Vale Colliery Underground Expansion Project (UEP). Our comments on the revised PPR are summarised below, and detailed further at Attachment A:

Coastal Upland Swamps & Subsidence

- We note that the proposed coal extraction method has been amended to comprise first workings only instead of the previous longwall layout, significantly reducing the risk of subsidence to sensitive environmental features. On this basis our concerns regarding subsidence impacts upon Coastal Upland Swamp threatened ecological community and significant streams to be undermined by longwall mining have been addressed based on negligible predicted impacts.
- We support ongoing subsidence monitoring, as suggested in the revised PPR and supporting biodiversity assessment (Biosis, 2019), to confirm that predicted imperceptible subsidence impacts to undermined swamps will occur throughout the life of the project. We remain available to discuss conditions of project approval for this or any other relevant mitigation measure as required.

Aboriginal Cultural Heritage

- If the proposed non-caving first working mining system will cause imperceptible subsidence then impacts to Aboriginal heritage are likely to be minimal. Baseline archaeological recording should occur for rock art, rock shelter and grinding grooves sites. Without this information it will be impossible to effectively monitor the impact of the mining on the Aboriginal cultural heritage sites. AHIMS site cards should be updated with the updated baseline recordings.
- Updated Aboriginal community consultation records and outcomes should be provided. If consultation has not been continuous, the applicant may need to restart the formal consultation. The Aboriginal community must be provided an opportunity to contribute to the proposed Aboriginal heritage management. We recommend the consultation follow the Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010 guideline.
- Should the project be approved, we recommend that the project approval:
 - Specify that harm to Aboriginal objects is not permitted (reflecting the predicted negligible Aboriginal heritage impacts).

- Require that an Aboriginal Heritage Management Plan (AHMP) is prepared before the underground mining commences.
- Require Aboriginal community consultation to follow the Aboriginal cultural heritage consultation requirements for proponents 2010 (DECCW 2010), which is available on our website.

Water Quality and Flooding

- The revised PPR (Umwelt 2019) provides reference to the Bellambi Gully Flood Assessment (Engeny, 2018), which outlines an approach to manage surface water at the site. This approach was previously reviewed by OEH (now DPIE's Environment Energy & Science group) as part of the MP10_0046 MOD 4 application, and understood to have been determined adequate in minimising adverse impacts to water quality and flooding to Bellambi Creek and downstream residents.
- Although the Engeny (2018) approach was an alternative to the approved Cardno (2015) approach, none of the major elements from any approaches have yet been implemented. As such the development continues to present a risk to the downstream community and environment as experienced in the August 1998 flood event, which resulted in significant downstream flooding and water quality impacts.
- Should the Underground Expansion Project (UEP) be approved, it is recommended that it be conditioned in such a way that ensures adequate measures are put in place to reduce the impacts the development has on downstream flooding and water quality. The development conditions should embrace requirements of Wollongong City Council on flood risk management and the EPA on water quality for suitable stormwater and flood risk management measures that reduces off site impacts.

If you have any questions about this advice, please do not hesitate to contact Mr Calvin Houlison, Senior Conservation Planning Officer, via calvin.houlison@environment.nsw.gov.au or 4224 4179.

Yours sincerely



Michael Saxon

30.8.2019.

**Director, South East Branch
Biodiversity & Conservation Division
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ATTACHMENT A – DETAILED COMMENTS ON RUSSELL VALE COLLIERY UNDERGROUND EXPANSION PROJECT (MP09_0013) – REVISED PREFERRED PROJECT REPORT

1. Aboriginal Cultural Heritage

Aboriginal cultural heritage impact assessment

An updated technical Aboriginal cultural heritage assessment reflecting the current UEP has not been provided. Previous reports prepared by ERM (2012) and Biosis (2013) appear to be the most recent Aboriginal cultural heritage assessments. These reports are based on the previously proposed longwall layout.

The applicant should clarify how the previous Aboriginal cultural heritage survey effort and heritage assessment relates to the current UEP. Additional survey may be required if some areas of the UEP have not previously been included in an Aboriginal cultural heritage assessment.

To clarify the adequacy of the Aboriginal heritage assessment, we recommend the applicant provide:

- An overlay of the recorded Aboriginal cultural heritage sites and UEP mine plan.
- An overlay of Aboriginal cultural heritage survey transects in relation to the UEP mine plan.
- An updated AHIMS site search given the time since the previous assessments.
- An updated impact assessment based on this information.

The assessment could also be improved by the applicant providing examples of similar cultural heritage sites above mines that have used the proposed extraction technique.

Subsidence impacts on Aboriginal heritage are predicted to be low

The Second Review report (Umwelt 2019, p.56) concludes that as subsidence impacts have been substantially reduced there will be no impact on Aboriginal heritage sites.

The subsidence assessment report (Wilson and Mills 2019, p.10) refers to previous impacts from extraction of the Bulli Seam on one rock shelter site. The applicant should clarify which site is being referred to in this statement.

Baseline recording

Baseline archaeological recording is required for all rock art, rock shelter and grinding grooves sites. Several of the AHIMS site cards for sites directly above the mining area were completed in the 1970s and 1980s. Natural changes to site condition, changes as a result of previous mining, are likely to have changed the site condition.

Without up to date baseline recording it will be impossible to effectively monitor the impact of the mining on the Aboriginal cultural heritage sites. The updated baseline recordings should be submitted to the AHIMS Registrar to update the site cards.

Aboriginal community consultation

Aboriginal community consultation specific to the current UEP is required.

The summary of public submissions in the Second Review Report (Woodward et al 2016, p.52) noted comments received in relation to Aboriginal heritage. It is not clear how these submissions have been addressed in the intervening period.

We recommend that the project approval require Aboriginal community consultation in accordance with the Aboriginal cultural heritage consultation requirements for proponents 2010, which is available on our website: <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Aboriginal-cultural-heritage/aboriginal-cultural-heritage-consultation-requirements-for-proponents-2010-090781.pdf>. This guideline provides a robust process for consulting with the Aboriginal community.

Project approval

We recommend that any project approval:

- Specify that harm to Aboriginal objects is not permitted (reflecting the applicant's prediction of 'negligible' Aboriginal heritage impacts).
- Require that an Aboriginal Heritage Management Plan (AHMP) is prepared before the underground mining commences. The AHMP must be prepared in consultation with the Aboriginal community.
- Require Aboriginal community consultation to follow the Aboriginal cultural heritage consultation requirements for proponents 2010 (DECCW 2010), which is available on our website.

An Aboriginal heritage management plan is required

An Aboriginal heritage management plan (AHMP) is required and must be prepared in consultation with the Aboriginal community.

We recommend the AHMP include:

- A process for protecting Aboriginal objects from harm across the life of the mine.
- Detailed consultation protocol setting out how and when the Aboriginal community will be consulted in both the construction and operational phases of the mine.
- Detailed methodology for monitoring rock shelter, art and grinding groove sites within the UEP area.
- Detail of any required mitigation measures if harm to Aboriginal heritage is identified.
- Process for managing unrecorded sites identified during works.
- Procedure for updating AHIMS site cards throughout the project.

Summary of Aboriginal cultural heritage recommendations

- The applicant should provide an Aboriginal cultural heritage impact assessment that addresses our comments.
- Baseline archaeological recording is required for all rock art, rock shelter and grinding grooves sites.
- Aboriginal community consultation specific to the current UEP is required.

- The project approval should incorporate our recommendations that harm to Aboriginal objects is not permitted, an AHMP must be prepared and Aboriginal community consultation must be conducted in accordance with our guidelines.

References

- Biosis. 2013. NRE No. 1 Colliery – Underground Expansion Project: Preferred Project Report – Heritage. Report to Gujarat NRE Coking Coal Ltd.
- ERM. 2012. NRE No. 1 Colliery, Aboriginal Heritage Assessment. Report to Gujarat NRE Coking Coal Pty Ltd.
- Umwelt. 2019. Russell Vale Revised Underground Expansion Project, Revised Preferred Project Report and Response to Second PAC Review. Dated July 2019.
- Wilson, S. and Mills, K. (SCT Operations Pty Ltd). 2019. Russell Vale Colliery: Subsidence Assessment for Proposed Workings in Wongawilli Seam at Russell Vale East.
- Woodward, J., Forward, P. and Stoeckel, A. (Planning and Assessment Commission). 2016. Russell Vale Colliery Underground Expansion Project, Second Review Report.