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Mr Howard Reed
Manager, Mining Projects
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GPO Box 39
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Attention: Stephen O'Donaghue

03 March 2013

Dear Mr Reed

Subject: Central West CMA response to the Preferred Project Report and Response to Submissions for proposed Cobbora Coal Project (10_0001)

Thank you for the opportunity to respond to the release of the Preferred Project Report (PPR) and Response to Submissions for the proposed Cobbora Coal project. The CMA has previously provided an assessment of the adequacy of the information supplied to meet the Director General's Requirements under the *NSW Environmental Planning and Assessment Act 1979* and a response to the release of the Environmental Assessment (EA) for this project. In general, the same areas are raised as concerns as were raised in previous submissions and form the basis of this response.

Central West Catchment Action Plan (CAP)

The Central West CAP is a statutory plan for regional whole of Government natural resource management. As such it could greatly assist with the planning of this project, particularly with regard to impact and offset identification and management. The CMA is disappointed to find that again, despite comment with regard to this issue in both previous submissions regarding this project, the proponent fails to mention the CAP nor link project planning actions or outcomes to it.

Downstream impacts on permanent and semi-permanent pools

The CMA has expressed concern about the lack of clarity in the EA regarding the potential impact to permanent and semi-permanent pools in Sandy's and Lahey's Creeks. The CMA notes that the Preferred Project will alter the average downstream flow volumes in these creeks, with predicted increases in flow during median and wet years and decreases in dry years (s. 7.2.3,

p.66). The release of mine water from the mine water management system will increase the magnitude of flows in the low flow categories and introduce more regular flows downstream of the project. Both of these project impacts have the potential to impact the ecology and ecosystem health of these creeks by altering the natural hydrological regime.

Whilst the PPR does mention the development of an aquatic monitoring strategy (s.9.5.3) to monitor the quality and quantity of water in pools, it does not mention the inclusion of monitoring of the ecological health of the pools, or ecosystem impacts of changed flow regimes. Thus, the strategy appears inadequate in its current form. The CMA strongly recommends that any monitoring strategy developed includes the ability to monitor indicators to ensure changes to ecosystem health are detected. This strategy should include mitigation measures to ensure maintenance of aquatic biodiversity and ecosystem health.

The mitigating measure of using pipes or trucks to transport water to these pools should they be affected by groundwater drawdown appears clumsy and inappropriate, with the potential to result in increased project impacts related to the need to clear roads or easements for pipes along the affected waterways. The CMA strongly recommends the determination of a better solution to this issue.

Impact to groundwater systems

The CMA has expressed concern regarding the availability of aquifer access licenses for purchase by the project to enable groundwater use. The CMA notes that licenses for the extraction of 1024 ML of the required 1924 ML have been acquired from the water trading market, and that the purchase of an additional 150 ML license is pending finalisation (s. 6.2.4, p.54). However, this leaves 750 ML of the required groundwater unaccounted for by the Preferred Project. There is no indication in the PPR that any of the existing 113 license holders within the basin have been approached to, or have agreed to, sell their allocation. Whilst the report mentions a large volume of unassigned groundwater within the relevant basin, there is no indication that this is available for purchase, nor of a strategy to undertake such purchase. The CMA strongly recommends that this issue is addressed prior to approval of the Preferred Project.

Offset adequacy

The CMA questioned the ability of offsets identified within the EA to provide the required “like for like” quality of habitat that would be representative of the areas of vegetation cleared for the project (including endangered ecological communities, threatened ecological communities and habitat for potential populations of endangered species).

The CMA notes the updated biodiversity offset strategy included as Appendix H to the PPR. Whilst noting that the offset package is still being finalised, the CMA acknowledges that minimum offsets proposed within the final package are at ratios above those required for similar regional projects in similar habitat.

However, the CMA would recommend that all offsets be secured prior to the approval of this project. There is still significant land to be acquired to meet the proposed offset strategy (3,134 ha), and the 2,500 ha currently being negotiated has yet to be surveyed for ecological values. Therefore it would seem prudent to ensure the full package was finalised to ensure its suitability. The project should not be approved if suitability is not achieved.

The CMA is satisfied that offset sites secured to date will extend the existing reserve network and notes that these areas provide known threatened species habitat and contain areas of threatened ecological communities. The CMA also notes that the offset sites contain vegetation types representative of the project impact area. The CMA strongly recommends that all offsets

be protected via dedication to the NSW reserve network, as opposed to the establishment of formal conservation agreements.

Aboriginal Cultural Heritage

The CMA remains concerned with regard to the whole or partial disturbance of 79 sites of Aboriginal Cultural Heritage. However, the CMA acknowledges the protection of identified sites and the inclusion of Aboriginal people in the design of the proposed mitigation program. The CMA notes that the PPR mentions the Aboriginal Heritage Management Plan (s.17.2.3, p.262) that was recommended for development in the EA and recommends that this document is completed with the registered Aboriginal Parties and the NSW Office of Environment and Heritage and that it includes provision for Aboriginal employment and training as per s.17.2.6 of the PPR.

We thank you once again for the opportunity to provide comment on the Preferred Project for the proposed Cobbora Coal development. If you have any questions regarding this submission please contact Tracey MacDonald on the details listed at the top of this letter.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Chris Ambler', with a horizontal line underneath.

Chris Ambler
A/General Manager
Central West CMA