OUT19/10712

Lauren Evans
Team Leader
Planning and Assessment Group
NSW Department of Planning, Industry and Environment

lauren.evans@planning.nsw.gov.au

Dear Ms Evans

Maxwell Underground Coal Mine Project (SSD-9526)
EIS Exhibition

I refer to your email of 7th August 2019 to the Department of Planning, Industry and Environment (DPIE) – Lands, Water and Department of Primary Industries (DPI) about the above matter.

DPIE Water Group and the NSW Natural Resources Access Regulator (NRAR) have reviewed the EIS.

We advise there are a number of recommendations related to the proposal, regarding:

- Water Take and Licencing – ensuring that the project has sufficient shares of water from relevant water sources, and that the correct entitlements are reported within the EIS.
- Water Users – adequately monitoring impacts to nearby private bores.
- Groundwater Dependant Ecosystem (GDE) - commitment to monitoring the condition of the potential GDE (Swamp Oak) identified along Saddlers Creek.

Please note further explanation about these matters is provided in **Attachment A**.

Please send any further referrals to Department of Primary Industry & Environment Water Group by email to landuse.enquiries@dpi.nsw.gov.au.

Yours sincerely

Mitchell Isaacs
Director, Office of the Deputy Secretary and Strategic Relations
Department of Planning, Industry and Environment: Water
1 November 2019

Attachment A

Detailed advice to DPIE Planning & Assessment regarding the Maxwell Underground Coal Mine Project (SSD-9526)

1.0 Water Take and Licencing

The proponent needs to demonstrate that they have sufficient shares of water (water licence holdings) from relevant water sources, and ensure the correct entitlements and ownership details are reported.

1.1 Explanation

Water Allocation Licences (WALs)

The EIS identifies that the proponent has 591 units of existing entitlements for the Sydney Basin-North Coast Groundwater Source (within the Water Sharing Plan (WSP) for the North Coast Fractured and Porous Rock Groundwater Sources 2016), as follows:

- 527 units for WALs 41491 and 41559*; and
- a proposed transfer of 64 units under a different WAL.

As the predicted annual maximum take in this water source is 1096 units, a remaining 505 units are required.

The proponent recommends that they will only require 255 units because they propose to carry over water shares (the 250 units difference) that may have not been used in the previous year/s, in accordance with the WSP under Part 8 section 38 (Rules for managing access licences). NRAR advises that the proponent will need to take into account that no carryover will be available at the beginning of the project when water take may be higher.

The proponent proposes to seek approval for the additional 255 entitlements through a controlled allocation order to make new access licences available in the water sources with unassigned water. DPIE Water advises that a controlled allocation order is not being considered for this water source as it is fully allocated. We recommend that the proponent source the water on the open market in accordance with the appropriate trading rules.

The proponent currently holds a total of 1,123 units from the Hunter Regulated River Water Source, with WALs held under Spur Hill Agriculture Pty Ltd and Maxwell Ventures (Management) Pty Ltd. It is recommended that these licences should be amended and renamed to align with this project to avoid doubling up on water take.

* - WALs 41491 and 41559 - the NSW Government is working with the proponent in correctly assigning these WALs to the Sydney Basin-North Coast Groundwater Source (under the Water Sharing Plan for the North Coast Fractured and Porous Rock Groundwater Source 2016). The proponent will need to demonstrate these are correctly assigned.

Water In Former Drayton Mine Open-cut Pits

Inspection of satellite imagery over the past few years identifies increases in water level storage within the three former Drayton Mine open-cut pits. This water storage increase coincides with a relatively prolonged dry period since January 2017 to present. With minimal on-site run-off and high evaporation, the proponent needs to identify the driver for the observed inflow to confirm that the current groundwater model accurately depicts the water flow rate (inferred as 11 ML/year) in the open-cut pits.

The proponent should provide information in tabulated form on the changes in the three pit water storage volumes (over the past 2-3 years against the climatic conditions (rainfall and evaporation) and any water pumped out/in) to derive the indicative groundwater flux. This information is required to confirm if there is residual unused groundwater entitlement, and thus ensure adequate groundwater WALs account for any associated water take.

1.2 Recommendations – Pre Determination

NRAR and DPIE Water recommend that the proponent:

- Demonstrate that they have sufficient shares of water from relevant water sources, and ensure the correct entitlements and ownership details are reported in the RTS. This confirmation will provide clarity and certainty that volumes are sufficient to account for all water take (including at peak times, such as at the commencement of the project), and includes:
    - If required, obtaining the necessary WAL(s) prior to commencement of work.
    - Ensuring existing WALs are effectively managed, by:
        - Confirming in consultation with the NSW Government that WALs 41491 and 41559 are correctly assigned to Sydney Basin-North Coast Groundwater Source, under the Water Sharing Plan for the North Coast Fractured and Porous Rock Groundwater Source 2016.
        - Consolidation of the existing WALs under project-related names to ensure a double up of water take does not occur with other projects.
- Provide information on the quantity of groundwater entering the three former Drayton Mine open-cut pits, and ensure adequate groundwater WALs are obtained to account for any associated water take.

2.0 Water Users

The proponent needs to commit to adequately monitoring impacts to nearby private bores.

2.1 Explanation

If approved, the Project will meet the Aquifer Interference Policy (AIP) (2012) category 1 'minimal impact' considerations except for a category 2 impact predicted in the EIS at one private bore. The proponent has committed to make good if the category 2 threshold is exceeded. They will be required to prepare a plan to ensure adequate monitoring and response is in place. In addition, there are two other bores modelled to already be dry from existing approved mining related impacts. These bores are constructed within the low yielding porous hardrock aquifer. Monitoring and make good provisions will be required should this or any other registered private bore be impacted beyond the category 1 'minimal impact' threshold.

It is recommended a water census be undertaken for the closest private bores. This will create a benchmark of water level, yield and quality given the current drought conditions and to confirm whether or not the two bores predicted to be dry within the impacted area are indeed dry.

2.2 Recommendation – Post Determination

DPIE Water recommends that:

- A plan is prepared which documents the monitoring and associated make good arrangements for the private bore predicted to have category 2 impacts
- the proponent commit to periodically undertaking a census of the closest private bores to create a benchmark of water level, yield and quality.

3.0 Groundwater Dependant Ecosystem (GDE)

3.1 Explanation

No 'high priority' Groundwater Dependant Ecosystems (GDEs) or culturally significant sites are located in proximity to the Project. However, a potential GDE (Swamp Oak) community has been

identified along Saddlers Creek. This community should be considered for monitoring as part of the on-going environmental monitoring requirements.

3.2 Recommendation – Post Determination

DPIE Water recommends that the proponent commit to monitoring the condition (including baseline) of the potential GDE (Swamp Oak) identified along Saddlers Creek.