



Our ref: DOC21/863820

Your ref: SSD-10269

Philip Nevill
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Planning Assessment Group
Department of Planning, Industry and Environment
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Dear Phil,

Narrabri Underground Stage 3 – Response to Submissions

Thank you for your e-mail dated 27 September 2021 to the Biodiversity, Conservation and Science Directorate (BCS) of the Department of Planning, Industry and Environment (DPIE) inviting comments on the proposed Narrabri Underground Stage 3 Response to Submissions (RTS).

BCS has reviewed the following documents prepared by or on behalf of Narrabri Coal Operations Pty Ltd (NCOPL):

- Narrabri Underground Mine Stage 3 Extension Project Submissions Report
- The amended Narrabri Underground Mine Stage 3 Extension Project Biodiversity Development Assessment Report (BDAR)
- Narrabri Underground Mine Stage 3 Extension Project Biodiversity Impact Reduction and Offset Report (The Narrabri Stage 3 Offset Report)
- The Narrabri Coal Mine Stage 1 and 2 Biodiversity Offset Strategy

BCS are satisfied with the approach taken to address the concerns raised in our response letter dated 16 December 2020 for matters relating to the content of the BDAR.

BCS notes and commends NCOPL for producing an iterative development layout which will result in the reduction of biodiversity impacts as compared to the exhibited EIS, especially to Serious and Irreversible Impact (SAIL) entities.

BCS provides recommendations and comments for your consideration in **Attachment A** and **B** in relation to matters raised in the Narrabri Stage 3 Offset Report, and the proponents request to condition credit obligations in the project consent. As these matters have been submitted within a standalone document separate from the BDAR or concern details within post-approval development conditions, BCS does not expect that these issues would require the updating and resubmission of the BDAR.

BCS have continued to correspond and seek relevant assessment advice regarding the Glossy-black Cockatoo within the subject site. This advice has been provided in Attachment B for the convenience of NCOPL if planning future surveys and assessments within the Narrabri Underground Stage 3 site.

If you require any further information regarding this matter, please contact Ben Ellis, Senior Conservation Planning Officer, via ben.ellis@environment.nsw.gov.au or (02) 8275 1838.

Yours sincerely

A handwritten signature in cursive script that reads "Samantha Wynn".

Samantha Wynn
Senior Team Leader Planning North West
Biodiversity, Conservation and Science Directorate

14 October 2021

Attachment A – BCS's Recommendations

Attachment B – BCS Detailed Recommendations

BCS's detailed comments

Narrabri Underground Stage 3 – Response to Submissions

Recommendations

- 1.1. The request for a credit reduction be reflected via a commensurate decrease to the area NCOPL is required to conduct mine site rehabilitation and secure under a long-term security mechanism for Stage 2 in the project consent, rather than a reduction in credits calculated for Stage 3.
- 2.1. The upper quantum of credits for each stage be included in the consent conditions.
- 2.2. Any change to credit obligations post approval be done through a formal modification application.
- 3.1. NCOPL note the dual-credit bird species advice provided by BCS.

BCS's detailed comments

Narrabri Underground Stage 3 – Response to Submissions

1. NCOPLs request to reduce the credit obligation for the project be satisfied via a commensurate decrease in the Stage 2 offset obligation rather than a reduction to the Stage 3 offset calculation

The Narrabri Underground Stage 3 Offset Report states that:

“NCOPL proposes to forgo clearance of native vegetation within a portion of existing/approved Narrabri Mine Stage 2 surface infrastructure, and; NCOPL seeks from DPIE that these credits will be discounted from the credit liability for the Project”

The area proposed to be relinquished is referred to by NCOPL as the “Impact Reduction Area” and is 14.1 hectares in size.

In post-exhibition consultation with NCOPL, BCS requested demonstration that the current total offset requirement for Narrabri Underground Stage 2 has been met. It was stated that this demonstration would be a minimum requirement prior to any potential reduction of the offset credit obligation for Stage 3 being reviewed and potentially supported by BCS.

The approved Stage 1 and 2 Offset Strategy expresses the total offset requirement for the mine site in hectares. The Offset Strategy states that 2,832.79 hectares of offset area would be required to compensate for the projects total impact. The Offsets Strategy also states that *“the combination of on-site and off-site offsets is required to meet the ‘like for like’ requirements of the condition of approval.”*

Table 7 of the Narrabri Stage 3 Offsets Report describes the current offsetting for the mine which has been secured under an appropriate long-term security mechanism i.e. an in-perpetuity Conservation Agreement. It also lists future offset areas which are expected to be included in the total offset strategy.

As stated in Table 7, currently 1,665 hectares (58%) of the total offset requirement detailed by the project approval for Stage 2 have been secured under an appropriate long-term security mechanism. The remaining 1,168 hectares of future on-site offset area is expected to be generated by mine-site rehabilitation, after extraction activities within Stages 1 and 2 have ceased. Prior to being considered complete, rehabilitation activities would first need to meet the development consent objectives to *“restore ecosystem function, including maintaining or establishing self-sustaining native ecosystems comprised of local native plant species; with a landform consistent with the surrounding environment”*.

Given that NCOPL have not demonstrated that the current total offset requirement for Narrabri Underground Stage 2 has been met and secured under an appropriate security mechanism BCS does not support requests by NCOPL for any potential reduction to the offset credit obligation for Stage 3.

BCS also note that there would likely be a considerable lag period which may occur between the potential approval of the Narrabri Underground Stage 3 project and NCOPL meeting both the rehabilitation and security offset requirements for Stage 2 on-site offset areas.

BCS recommend that a more appropriate compensation pathway for the relinquishment of the Stage 2 impact area would be a commensurate decrease in the area in which NCOPL is required to conduct mine site rehabilitation and secure under a long-term security mechanism for Stage 2. This could reduce the total area required to be offset for Stage 2 from 2,832.79 ha to 2818.69 ha.

Recommendation

- 1.1. The request for a credit reduction be reflected via a commensurate decrease to the area NCOPL is required to conduct mine site rehabilitation and secure under a long-term security mechanism for Stage 2 in the project consent, rather than a reduction in credits calculated for Stage 3.

2. Upper quantum of credits should be included in the project consent

Narrabri Underground Mine Stage 3 Extension Project Submissions Report states that “*NCOPL expects that the possible change in credit obligation can be conditioned*”.

BCS does not support the proponent’s request for post-consent changes to the projects credit obligation to be conditioned. It is BCS expectation that if consent is granted prior to either the provision of an expert report or additional survey effort, the final credit obligation will be set within the conditions of consent for the project, and any revisions of this credit obligation post-consent will require submission of a Modification Application. The upper quantum should be included in the consent, it is then at the discretion of the proponent should they wish to seek a modification prior to impacting each stage of the project.

Recommendations

- 2.1. The upper quantum of credits for each stage be included in the consent conditions.
- 2.2. Any change to credit obligations post approval be done through a formal modification application.

3. NCOPL should note the dual credit bird species survey advice provided by BCS

In post-exhibition consultation with NCOPL, the accredited assessor sought advice relating for the adequate survey and preparation of species polygons for the Glossy-black Cockatoo. BCS provided this advice to the accredited assessor and have continued to seek relevant advice from the BAM-Operations team of BCS.

The BAM-Operations team have provided updated survey advice which has been specifically prepared for dual credit bird species. This advice has been provided below for the convenience of NCOPL if planning surveys and assessments as part of any future Modification Application:

The following is a basic position for assessing dual credit bird species on the subject land and in adjacent areas:

Where it applies to a development or clearing site, the ‘subject land’ includes the operational and construction footprint, and any clearing associated with temporary construction facilities, infrastructure, and ancillary use. This will include, but is not limited to, asset protection zones, landscaping, fence lines, driveways and services.

Assessors are required to undertake targeted threatened species surveys on the subject land to determine the direct impacts on biodiversity values.

Dual credit bird species, whose breeding habitat is identified by vegetation features surrounded by a buffer area, do not require targeted survey outside of the subject land. This does not preclude the requirement for the proponent to avoid and minimise impacts based on preliminary surveys of the subject land and adjacent areas.

If:

- breeding habitat for the target species is present on the subject land, or
- breeding individuals of the target species were observed during survey, or
- records of breeding individuals exist on the subject land or in adjacent areas,

then, strong justification is needed for why breeding habitat is unlikely to be present in areas adjacent to the subject land. Consideration should be given to the plant community types (and their condition) being consistent with those on the subject land. The home range and mobility of the species should also be considered in the evaluation of records.

Where breeding habitat features are identified or considered likely to occur (as indicated by preliminary surveys, observations, records, or similar evidence) in areas adjacent to the subject land, there may be **indirect** impacts to the species. For example, if the buffer area surrounding the breeding habitat feature extends into the subject land. These impacts must be described and assessed under BAM (sub-section 8.2.2). As per BAM 2020 (Section 8.6), retirement of credits can be used to offset indirect impacts on breeding habitat.

BAM 2020 (sub-section 8.2.2) indicates “The assessor must describe and assess the indirect impacts of the proposal on TECs/PCTs and/or threatened species and their habitat, beyond the development footprint, including but not limited to....”. In this context, assess (as underlined) is referencing the requirement to evaluate the impact rather than conducting a targeted species survey.

Recommendation

3.1. NCOPL note the dual-credit bird species advice provided by BCS.