



OUT19/15854

Lauren Evans
Team Leader
Resources Assessments
NSW Department of Planning, Industry and Environment

lauren.evans@planning.nsw.gov.au

Dear Ms Evans

**Maxwell Underground Coal Mine Project (SSD-9526) (Muswellbrook Shire)
Response to Submissions (RTS)**

I refer to your email of 22 November 2019 to the Department of Planning, Industry and Environment (DPIE) Water and the Natural Resources Access Regulator (NRAR) about the above matter.

The following advice is from DPIE Water and NRAR. Please note the Department of Primary Industries (DPI) and Crown Lands now provide a separate response.

Malabar currently holds 527 units of Water Access Licenses (WAL) in the Sydney Basin-North Groundwater Source associated with WALs 41491 and 41559. These licences were issued to offset the on-going groundwater take of three pit voids of the discontinued Drayton Mine. This proposal seeks to assign this entitlement to now offset groundwater take due to the proposed underground project. However we believe that the proponent does not hold sufficient entitlement for the first four years of operation as stated in the RTS.

We note that the RTS estimates additional water inflow to the Drayton pit voids to be approximately 2,200 ML/year (6.1 ML/day) and advises that the major source of this additional inflow is seepage from the in-pit spoil with a small contribution from 'external groundwater inflows'. The volume of 'external groundwater inflows' is predicted to be 3 ML/year on average and less than 11 ML/year maximum.

The proponent considers that water sourced from the in-pit spoil is not groundwater take, instead advising that there are only 'external groundwater inflows' of 11 ML/year.

For the purposes of the *Water Management Act 2000*, water stored within mine spoil is groundwater and water that flows to the pit void is licensable take. Consistent with the NSW Aquifer Interference Policy (2012), the diversion of groundwater flow towards the pit voids including that from the pit spoil area is water take. The groundwater licences issued to the former Drayton Mine remain fully committed to account for this take. In effect WAL 41559 or WAL 41491 are insufficient to offset existing Drayton Mine groundwater impacts. Therefore, any entitlement issued to the former Drayton Mine under WAL 41559 or WAL 41491 is not available to offset take associated with the proposed Maxwell Underground Mine Project.

The proponent will need to obtain the full entitlement associated with the Maxwell underground mine and does not hold sufficient entitlement for the first four years of operation. Additional entitlement will also be required to account for the shortfall between the modelled 6.1 ML/day (2,200 ML/year) inflow to the Drayton Pit voids against the entitlement held under WAL 41491 and 41559.

DPIE Water provides the following recommendations:

Pre-approval

- The proponent should revise their water licensing strategy to account for the combined water take of the proposed underground workings and the take of the legacy mine voids.

Post-approval

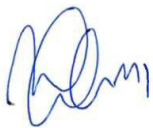
- The proponent should monitor the condition of the potential GDE (Swamp Oak) identified along Saddlers Creek as part of the on-going environmental monitoring requirements of the Water Management Plan.

Any further referrals to DPIE – NRAR & Water can be sent by email to:

landuse.enquiries@dpi.nsw.gov.au.

Any further referrals to (a) Crown Lands; (b) DPI – Fisheries; and (c) DPI – Agriculture can be sent by email to: (a) lands.ministerials@industry.nsw.gov.au; (b) ahp.central@dpi.nsw.gov.au; and (c) landuse.ag@dpi.nsw.gov.au respectively.

Yours sincerely



Mitchell Isaacs
Director Office of the Deputy Secretary and Strategic Relations
Water Group
5 February 2020