

## **Submission on modifications to the Tahmoor South Project Application**

This submission provides comments on aspects of the modified Tahmoor South Project Application, (modified Application) consistent with the following submissions that have been previously lodged by Council in relation to this Application:

- Preliminary Environmental Assessment and Standard Secretary Assessment Requirements (June 2017)
- Referral of the Project Application to the Commonwealth (including under the Water Trigger provisions) within the *Environment Protection and Biodiversity Conservation Act 1999* (November 2017).
- The exhibited Environmental Impact Statement for Tahmoor South (March 2019).
- The Response to Submission and first amendment to the Project Application (April 2020).

The comments are based on a review of applicable aspects of the Second Project Amendment Report (Amendment Report) as well as the Project Amendment Report (PAR) and Response to Submission Report (RtS) Report by Council. It also incorporates information contained in a presentation provided by representatives of SIMEC Mining (SIMEC) to a Councillor Workshop, which has been appreciated.

### **PART A: INTRODUCTION**

#### **Scope and structure of this submission**

This submission is based on applicable resolutions of Council as well as issues raised by Council and feedback received by the community it represents that have been detailed in the submissions listed above. The submission contains comments, position and requested action by the Department of Planning, Industry and Environment (DPIE) in relation to relevant events or activities of Council that have occurred since the lodgement of Council's submission on the EIS in May 2019. The DPIE is requested to note that a separate submission specifically in relation to implications associated with the Project Application to the Bargo Waste Management Centre has been prepared.

#### **Council support and overall Council position regarding the amended Project Application**

Council's submission on the Tahmoor South Project Application Environmental Assessment (EA) recognised the economic contributions of the Project to both the local and broader economy. The broad position held by Council that it is not opposed to mining operations provided it can occur without more than minor impacts to the natural and built environment was applied to the Tahmoor South Project Application by this submission. A list of Council resolutions that defines Council's position in regard to issues associated with the Project Application is presented in Attachment 1.

The fourteen day timeframe required by the Department of Planning, Industry and Environment for receipt of comments has prevented a formal updated Council position regarding the amended Project Application. However, Councillors were provided with this submission for review and also received a presentation by SIMEC on the project and amendments, which has been appreciated.

The removal of the two previously proposed longwalls to achieve an approximately 80 percent reduction in dwellings in Bargo directly above longwalls is welcomed as a means of responding

to concerns regarding aspects of the Project Application that has been expressed to Council by residents. The significant reduction in scale of the Project as a result of the removal of these longwalls is understood and appreciated. Other key amendments involving retaining the expansion of the Emplacement Area within the approved footprint is also welcomed.

However, concerns remain over potential implications to the operation of the Bargo Waste Management Facility operated by Council that is predicted to experience full subsidence effects as detailed in the separate submission. Residual concerns remain regarding the adequacy of the assessment and management of impacts to water sources from the Project Application (a key issue raised in Council's previous submissions). This submission requests that this issue be investigated further by both DPIE and the IPC in collaboration with research based organisations and agencies both in accordance with existing Council resolutions and in response to expressed community concerns.

### **Stakeholder engagement for the Amendment Report and subsequent stages of the Project Application**

The placement of the Amendment Report and related documents on public exhibition is recognised as not being a statutory requirement. The justification expressed by a DPIE representative for public exhibition is not necessary as the amended Project has reduced impact is recognised as being technically correct in a broad sense. However, public exhibition is viewed as being warranted given the modified application retains a range of impacts to the built and natural environment and the demonstrated high level of community interest (particularly the Bargo district) in the Project Application.

The state intent of SIMEC to distribute flyers over amendments to the Project Application in the latter part of August (after the feedback period), is welcomed in principle. However, the apparent absence of initiatives to seek feedback from the community beyond placement on the Planning Portal by DPIE is viewed with strong disappointment. Council would expect that the local community be given the opportunity to provide comment on the Amendment Report and as part of the IPC investigation (recognising constraints associated with the COVID pandemic).

## **PART B: UPDATED COUNCIL POSITION REGARDING KEY ISSUES ASSOCIATED WITH THE PROJECT APPLICATION**

### **Economic benefits of the Project application**

Council's submission on the EIS broadly agreed with the range of economically related positive social impacts associated with the Project detailed in the accompanying Social Impact Statement. The submission did however request the following additional information to allow for the verification of the stated economic benefits of the Project Application by Council's Tourism and Business Investment Section for which a response from DPIE would be appreciated:

- Details over the economic multipliers specifically in terms of indirect employment generated as a consequence of the Project Application.
- More specific information if at all possible over the likely increase in direct employment as a result of the Project Application than the current 'up to around 175 employees'.

The potential for the Tahmoor South Application in providing economic and social stimulus while the effects of this pandemic are being experienced is also fully recognised by Council. In this regard, the encouragement of increased local employment is a component of Council's Business Support Package that has been prepared to address effects of both the COVID pandemic and the 2019/2020 bushfires which significantly affected parts of the Wollondilly.

The projected additional employment of 175 people directly related to Tahmoor South and projected is projected to increase by 245.4 full time equivalent (FTE) workers on average in the Wollondilly region as a result of the Project detailed in the Amendment Report is therefore particularly welcomed.

### **Social benefits and potential implications associated with the modified Application**

Council is aware of opposition expressed by a number of Bargo residents to aspects of the Tahmoor Application outside the exhibition period referred to in the Amendment Report. While Council staff are aware of issues raised as a result of being copied in correspondence sent by these residents to DPIE no approach has been made to Council seeking any form of support. Council advised SIMEC in correspondence dated 10<sup>TH</sup> April 2020 in response to received representation that:

- The management of this issue is viewed as a matter between State Government, SIMEC and residents.
- Council has a responsibility to advocate community concerns and is confident that the IPC will undertake detailed and open community consultation as part of its review of the Project Application.

Council's EIS submission recognised the existence of the well-established process for monitoring and repairing damage to buildings caused by mine subsidence but referred to feedback received expressing concerns over this approach from members of the local community. The approximate 80 percent reduction in residential dwellings directly above longwalls is recognised as being highly beneficial in responding to community concerns. However, social and economic implications the remaining 143 potentially affected dwellings as well as additional (unspecified) dwellings in close proximity to the longwalls are viewed as existing and warranting careful management.

The potential impacts to private bores from subsidence induced impacts was noted to be a common issue raised in the correspondence from residents to DPIE copied to Council staff. The analysis of bores and statements within the Amendment Report that there will be a reduction in number of private bores impacted from 52 to 44 as a result of modification and 10 bores at risk of requiring 'make good' (rehabilitation) is viewed as broadly acceptable. The Report is however considered to contain a generic nature statement regarding this issue "*it is understood three bores are used for business purposes*" that warrants clarification. **The DPIE is requested to note any impact to the productivity of these bores would be viewed with concern given economic and social implications as well as water supply issues within a broader context.**

The ongoing consultation by SIMEC and intended consultation detailed in the Amendment Report as well as presentation provided to Council is welcomed. **The DPIE is requested to ensure conditions are contained in the Determination which require compliance with the stated consultation in this Report and that Extraction Plans be required to contain detailed consultation plans that reflect applicable components of the Social Impact Statement that accompanied the EIS. The DPIE is further requested to include conditions requiring on-going monitoring of impacts to private bores and that any impacted bore be rehabilitated to its former pre mining condition.**

### **Key environmental issues associated with the amended Project Application**

- (i) *Potential impacts to water sources (surface and groundwater)*

#### Previously expressed Council position

The protection of ground and surface waters, (including the ecological health of waterways), from subsidence related impacts associated with the Project Application was a key issue raised in Council's EIS submission. It requested that DPIE Provide a response to all identified areas of concern and position of Council outlined in the submission prior to the referral of the Project application to the Planning Commission. Key positions expressed in this submission were that *"all potentially affected watercourses should be subject to detailed assessment within a catchment context"* and *"any watercourse that is identified as being impacted by mining operations should be rehabilitated to its former condition that includes ecological health"*.

#### Updated Council position

The conclusion within the Amendment Report that impacts to surface waters and groundwaters has either been maintained or reduced as a result of the removal of the two longwalls and other initiatives including enhanced waste water treatment is agreed with in principle. However, the modified application and reviewed documentation is viewed as not adequately responding to a range of requests from Council for greater scientific investigation on likely impacts to ground and surface waters. While not a matter for Council, it would appear that a number of issues raised in submissions from research based agencies and institutions including the Commonwealth Independent Expert Committee (IESC) have also not been adequately responded to.

As an updated position, Council retains residual concerns regarding potential impacts to surface and groundwater sources associated with the modified Project Application. **The DPIE is consequently requested to ensure that these impacts are further investigated as part of the preparation of its Report to the IPC in consultation with research based agencies and organisations.**

#### *(ii) Vegetation clearance associated with the expansion of the Emplacement Area*

#### Existing Council position

Council's EIS submission expressed the view that options for the reuse of the generated rejects be investigated in detail as a means of reducing the proposed removal of 34ha of native vegetation of largely high conservation value was warranted. It also expressed the view that the numbers of credits required for removal of threatened species for the expansion was significantly in excess of what would be considered a high level for applications where Council was the consent authority.

#### Updated Council position

The further amendment of the Project Application to retain vegetation clearance to the approved development footprint of the facility is strongly welcomed. **Council would however request that DPIE require SIMEC to continue to investigate means of reusing the generated rejects as a means of enhancing the sustainability of the Application as well as reducing the understood 14 ha of vegetation to be removed, which is understood, was previously approved as part of Tahmoor North operations.**

### **PART C: COMMENTS ON RESPONSE TO KEY ISSUES RAISED IN COUNCIL'S EA SUBMISSION**

The tight timeframe for both the submission on the Response to Submission Report and the Amendment Report has prevented the provision of detailed commentary on the response by the SIMEC to the wide variety of issues contained in Council's EIS submission. This part of the submission consequently provides updated comments in relation to specific concerns of Council and the local community based on a review of the Amendment Report and response to Council's EIS submission contained in Attachment 2 as well as requested response by the DPIE. A summary of the specific comments provided in relation to issues raised in Council's submission on the EIS and considered adequacy of response by the proponent is presented in Attachment 2 to this submission.

### **Potential impacts to ground and surface water sources**

Council's EIS submission recognised that detailed comments on specific technical aspects of Subsidence, Groundwater, Surface Water and Aquatic Ecology sections of the document was a matter for applicable Government Agencies and research organisations such as the IESC given their highly specialised nature. Council would consequently be satisfied and comfortable for comments to be provided by these agencies and organisations in relation to these fields both in regard to the adequacy of the Amendment Report and during the IPC investigation. The following provides commentary on the response by SIMEC in either the Response to Submission Report, Amendment Report and Project Amendment Report based on key specific positions detailed in Council's EIS submission as well as requested DPIE response.

#### *(i) Groundwater related impacts*

##### Council comments in EA submission

*The EIS include a description of the properties and behaviour of the groundwater environment in a lateral and vertical direction based on modelling that is informed by extensive groundwater monitoring and consistent with scientific research.*

*The groundwater assessment is not considered to include a detailed geological analysis and modelling that would identify the likely interaction of mining induced fracturing with both surface and groundwaters at the Application Stage (based on received specialist advice).*

The provision of comments regarding the adequacy of the groundwater assessment and modelling is a matter for specialist agencies and research organisations. In this regard, the above requests in Council's EIS submission were based on specialist advice received by Council staff and Council's broad expectation that the assessment and management of potential impacts to water sources be scientifically based and consistent with the most applicable scientific research.

The Project Amendment Report is recognised as containing a response to specific issues raised in various submissions from these agencies and research organisations which on occasions has been accepted as amendments to the Project Application. Council would expect that further consultation occur with the agencies and research organisations, (which must include the IESC), during the preparation of its Report to the IPC and that this report be made available to all agencies and residents that provided submissions both during and outside the formal submission period.

The comment in the Amendment Report that a peer review has identified that the updated groundwater model for the Project Application in response to feedback received is 'fit for purpose' is supported subject to agreement from personnel with expertise in groundwater issues. In addition, the Amendment Report would appear to have in large part responded to

the above request within the level of expertise of Council staff. However, the focus of this response would appear to be investigation of mine induced fracturing and analysis of groundwater behaviour rather than interaction of these two features as recommended by the IESC representative.

**The DPIE is requested to obtain feedback specifically from the IESC regarding the adequacy of the groundwater component as part of ongoing consultation during the preparation of its Report to the IPC to minimise the risks to groundwater (and connecting surface) waters as a consequence of the Application. The DPIE is also requested to ensure that the stated intentions within the RtS regarding increased modelling and assessment as amended in response to additional feedback received be required to be complied with during the preparation and implementation of Extraction Plans.**

(ii) *Assessment and management of potential impacts to surface waters*

Council comment

*The Risk Management Zones depicted on maps within the EIS have not been applied to all watercourses and consequently have strong shortcomings in identifying and managing impacts associated with subsidence to both the structure and ecological health of waterways in a catchment context.*

The adoption of Risk Management Zones by the EIS was supported by Council' submission in broad terms given their recommendation by the Southern Coalfields Inquiry Report and broad acceptance by subsequent documents including the Report by the Independent Expert Panel for Mining in the Catchment. The utilisation of such zones is viewed as having benefits in reducing likely subsidence induced impacts to watercourses proposed to be undermined as part of the amended application. Both the Amended Project Report and Amendment Report would appear however not to contain any comments or specific response to this particular issue. **The DPIE is consequently requested to investigate with relevant government agencies the merits of utilising Risk Management Zones for the Project Application and also ensure that the outcomes of this investigation is detailed in its report to the IPC.**

Council comment

*The intended approach for monitoring and managing subsidence related impacts is considered heavily dependent on detailed sub-plans prepared after Determination such as Extraction Plans as well as Trigger Action Response Plans*

Council's EIS submission recognised that Trigger Response Plans (TARP's) were necessary given the difficulty in identifying likely subsidence levels. However, it further stated that *"the defining of the triggers should be identified to the greatest extent possible at the Application Stage and not largely be the responsibility of Extraction Plans subsequent to Determination"*. The noted statements in the PAR that a range of requests contained in submissions will be incorporated into TARP'S and that a similar process utilised for Longwalls 1 and 2 associated with Tahmoor North, (supported by Council), will be utilised, and is welcomed. However, there is concern over the statement in the conclusion of the BAR that *"the revised Subsidence Assessment concluded that the levels of impact and damage to all identified natural features and built infrastructure will be manageable, as was the conclusion of the Subsidence Assessment in the EIS and can be controlled by the preparation and implementation of Extraction Plans and associated sub-plans"*.

**Council would expect that the issue of obtaining both strong scientific based subsidence assessment in partnership with strong scientific based triggers at the application stage be investigated by the IPC in consultation with agencies and research organisations with experts in this field. Council would also expect that any Determination contain a requirement that Extraction Plans contain such scientific based triggers and not be left to conditions of the Plans.**

Council comment

*Potentially affected watercourses should be subject to detailed assessment of likely subsidence induced impacts within a catchment context.*

Council's EIS submission recognised that the specialist Water Report contained a detailed description of hydrological and riparian features of potentially impacted waterways and subsidence predictions in the vicinity of these courses. However, it expressed the view that there was an insufficient of likely assessment of impacts to the ecological health of these watercourses as a consequence of subsidence associated with the Project. It also requested the realignment of the longwall layout to avoid undermining third order streams. This request was in response to specialist advice expressing concerns over the potential for draining of pools within such order streams with resulting significant hydrological as well as ecological downstream impacts that are potentially significant.

The Amendment Report is noted to not provide a specific response to this request in Council's submission. The response detailed in the BAR is recognised as being detailed and referring to subsidence risk assessments for potentially affected water sources carried out. However, this response is viewed as having a heavy focus on the Trigger Action Response Plan approach involving the assessment of impacts then responding to impacts in the event of triggers being activated subsequent to Determination and commencement of mining operations. Similar comments were noted to have been expressed in the Final Report of the Independent Expert Panel for Mining in the Catchment which is considered to have relevance to Tahmoor South given the similarity in mining operations.

**The DPIE is requested to recommend that scientific based Triggers and measures to protect the ecological health of watercourses in a catchment context be investigated by the IPC in consultation with applicable research based agencies and research organisations. The DPIE is further requested to recommend the IPC investigate in more detail impacts on the long-term ecological health of third order watercourses and identify measures for their protection.**

*(iii) Rehabilitation of impacted watercourses*

Council comment

*There should be full rehabilitation of any watercourse identified as being impacted by mining operations to its former condition including ecological health.*

Council's EIS submission referred to shortcomings observed in the adequacy of the current framework involving TARP's Creek Restoration Plans required by the Division of Resources and Geoscience in achieving full restoration of the ecological health of waterways. In relation to this matter, the submission also expressed strong disappointment that the EIS had utilised local waterways within the Tahmoor North (including Redbank Creek) as the basis for its viewpoint that these impacts will be effectively managed within the Tahmoor South Project

Area. It referred to research undertaken by Dr Ian Wright that identified significant impacts from mining to the condition of this watercourse as the basis for these concerns.

There is consequently concerns over statements in both the Amendment Report and PAR that the current process for rehabilitation of works involving TARP's and potentially Creek Management Action Plans is intended to be adopted for the amended Project Application. **Council would therefore request that the DPIE in its report requested that the IPC carry out an investigation into a suitable framework that would achieve full restoration of creeklines impacted by mining to their formal ecological condition as recommended in its EIS submission.**

- (iv) *Response to the Peer review on aspects of the EIS by Dr Ian Wright regarding impacts to aquatic ecology and licenced discharges*

#### Details of the Peer Review and requested DPIE response

Dr Ian Wright carried out a peer review of the adequacy of the aspects of the Surface Water and Aquatic Ecology Section of the EIS that included assessing and managing impacts resulting from the discharge of treated mine water under an EPA licence for Council. Council's EIS submission requested that the DPE provide a response to Council all findings of this Peer Review prior to the forwarding of the Application to the Planning Assessment Commission as well as make this response publicly available.

While the PAR contains a response to issues raised in the Peer Review, there is an absence of a response regarding this issue in the Amendment Report. Both these documents have been forwarded to Dr Wright for review given the peer review accompanied Council's submission and advice from DPIE that feedback other than government agency stakeholders would be accepted. The short time frame for the provision of comments has presented the inclusion of any comments on both these documents by Dr Wright. **It is requested and would be appreciated if firstly Dr Wright could be formally notified by DPIE to provide comment given his expertise and secondly defer finalising its Report to the IPC should he elect to provide comments.**

#### Issues associated with Discharges

In relation to this matter, the DPIE is requested to note that discharges from the colliery are upstream from Mermaid's Pools on the Bargo River that is a popular recreation destination, particularly during the warmer months. The DPIE is further requested to note that this River and adjoining bushland has high natural, cultural and aesthetic value and is viewed as an important asset by both Council and the local community. This importance is illustrated by the recent announcement by the NSW Government to investigate the establishment of a National Park.

Consequently, the addressing of issues raised in the Peer Review by Dr Wright regarding downstream impacts associated with licenced discharges is of high importance to Council. The issues experienced by SIMEC with its former Water Treatment Plant is recognised and the intention to install a new Plant at the site is welcomed. However, the DPIE is strongly requested to thoroughly consider all issues raised in submissions regarding this matter during its preparation of its report



to the IPC. It is also requested to hold discussions with the NSW Environment Protection Authority to ensure close correlation between the licence for discharges and Determination that produces an outcome that prevents adverse impacts to the condition of downstream waterways.

### **Impacts to biodiversity associated with the modified application**

Council's submission recognised the role of the (now Environment, Energy and Science Division) in the protection and management of biodiversity and provision of comment regarding this issue on the Project Application. A review of the submission provided by this Agency identified broad agreement with Council's submission and issues raised. The following provides comments on the response by SIMEC to key issues raised in Council's submission that are pertinent to biodiversity in NSW and requested response by DPIE.

#### *(i) Impacts associated with vegetation clearance for the modified application*

Council's EIS submission raised issues associated with the amount of clearance of the Critical Endangered Ecological Community Shale/Sandstone Transition Forest (SSTF) as well as threatened species and their habitat within this community for surface infrastructure. The modifications to the layout that have occurred with the amended application are recognised as reducing the level of biodiversity impacts associated with surface infrastructure and are supported.

**It is however considered warranted and requested that the DPIE request the investigation of possible additional measures to reduce the proposed stated unavoidable impact to SSTF of 10.10 ha by the modified application by both SIMEC and the IPC given the conservation status of this ecological community.** This viewpoint is considered consistent with the avoidance and minimisation measures within the Framework for Biodiversity Assessment and noted comments in the EES submission.

#### *(ii) Offsetting of biodiversity impacts*

Council's EIS submission requested that clarification be sought from EES over potential inconsistencies with avoidance and minimising measures contained in the *Framework for Biodiversity Assessment*. The EES is noted to raise this issue in its submission by stating "*further development of the Biodiversity Offset Strategy (BOS) is required to demonstrate that required offsetting, after all avoidance measures have been applied, can be achieved*".

The response contained in the Response to Submission Report and Amendment Report is viewed as being sufficient in terms of providing the requested clarification from Council's perspective subject to any further issues being raised by EES or during the IPC investigation. **The DPIE is requested to note in relation to this matter that Council is nearing the finalisation of a draft Biodiversity Strategy and accompanying draft Biodiversity Offset Policy for the Wollondilly LGA. Both these draft documents express a preferred position that retiring of credits occur locally where possible within the Wollondilly LGA.**

#### *(iii) Protection of koala habitat*

Mapping carried out by EES in partnership with Council subsequent to its submission on the EIS has identified the vegetation on the Tahmoor Colliery site as being a Primary Koala Corridor. In relation to this matter, the EES submission is noted to state the site is within a major regional koala link and the locality is also at the nexus of three mapped primary koala linkages, the Bargo Corridor, Tree Hollow Corridor and Dog Trap Corridor.

The Amendment Report is noted to state in response “*the area of potential Koala habitat to be cleared has been reduced from 43.5 to 17.26 ha. The vegetation clearing would result in minor fragmentation of potential habitat; however the clearing is unlikely to impede Koala movement as no large barriers or hostile barriers to Koala dispersal would be erected as part of the Amended Project*”. The additional surveys and measures put in place to reduce the extent of the originally proposed impacts detailed in this Report is welcomed. However, it is considered additional assessment is warranted to obtain an accurate understanding of impacts and develop measures to further minimise these impacts given the conservation status of koalas and their iconic nature.

**It is consequently recommended that the DPIE in its report to the IPC recommend that the level of impediment presented by intended clearing on koala movement be investigated and that a condition which specifically requires an up-to-date analysis of the movement of any koalas as well as presence of any other threatened species be included in the Determination. It is also requested that this condition require SIMEC to consult with Council as part of this analysis for possible assistance based on local knowledge and mapping.**

### **Social issues associated with the modified application**

Council's submission advised that the Social Impact Assessment was thorough, comprehensive and uses established SIA methodology. It however also requested that DPIE require on-going monitoring of noise impacts by increased truck movements as a consequence of the Project Application.

It is understood in relation to this matter that the proposed new Water Treatment, (while welcomed from a water quality perspective), will involve a further increase in truck movement for the transport of produced brine. The DPIE is requested to note that Council would expect that on-going monitoring of noise impacts associated with this increased traffic movement occur.

### **CONCLUDING STATEMENT**

This submission recognises and welcomes the predicted contribution of the Tahmoor South Project Application to the local and regional economy including securing the continued additional 175 jobs as well as the continued employment of 400 employees as part of the overall Tahmoor Project. The modifications and associated impacts to the scale of production in achieving an 80 percent reduction in number of dwellings directly above longwalls and retaining vegetation clearance to the approved footprint for the existing Emplacement Area is also welcomed by this submission.

However, this submission raises residual concerns consistent with issues raised in Council's submission on the Environmental Impact Statement (EIS) particularly in regard to impacts to water sources given the small extent in reduction of watercourse length intended to be undermined by the amended Project Application. This submission requests that these concerns be investigated by both the Department of Planning, Industry and Environment and Independent Planning Commission in collaboration with applicable government agencies and research organisations. This submission also refers to a separate submission on the modified Project Application prepared by Council's Waste Services Section that raises on-going concerns over potential implications to the ongoing operation of the Bargo Waste Management Centre.