

Introduction

The respondent is a ground water user located outside the project disturbance boundary who could suffer adverse impacts if the project disrupts the respondent's ground water supply.

The proponent advised the respondent on 15 October 2019 that its application would be referred to the Independent Planning Commission [IPC]. The respondent requests the Department of Planning, Industry and Environment [DPIE] to have regard to this response during the preparation of DPIE's assessment report to the IPC.

Requested action by the consent authority

1. The respondent requests the consent authority to refuse consent to Application No. SSD-9505 because the EIS contains inadequate measures to remediate or make good the possible disruption to the supply of groundwater to users located outside the project disturbance boundary if the project goes ahead.
2. The respondent requests the consent authority to assess, when considering whether to grant consent to Application No. SSD-9505, the remedial or make good arrangements proposed by the proponent to deal with possible disruptions to groundwater supplies to users located outside the project disturbance boundary instead of permitting those issues to be determined by the proponent post approval under the Water Management Plans described in the EIS at Appendix K, Item 7.2.2 Water Management Plans.
3. The respondent requests the consent authority to refuse consent to Application No. SSD-9505 because the benefits to the community predicted in the EIS might not be available to offset the adverse impacts of the project on the community if, after operations commence but before completion, the proponent prematurely abandons the project.

Additional reasons in support of the requested actions

1. Inadequate make good proposed to offset disruptions to groundwater caused by the project

The no controls risk matrix for the project to disrupt the supply of groundwater to agricultural users is wrongly rated as "unlikely" and "moderate" with some on-going management implications for up to 5 years [D3]. The correct rating is "possible" as in I've heard of it happening and "severe" as in permanent and irreversible damage to agricultural industries [C1]. Refer to Appendix I, Agricultural Impact Statement, Item 4.1.1.2 Risk matrix of agricultural impacts.

The made good risk matrix for the project to disrupt the supply of groundwater to agricultural users is wrongly rated as unlikely and moderate [D4]. The correct made good risk matrix rating is possible and severe [C1].

The make good or management measures contained in the EIS that are designed to respond to the disruption of groundwater supply to users located outside the project disturbance boundary are inadequate. Appendix K, Mine development groundwater assessment, Item 7.4 Management measures, Table 7.1.

The provision by the proponent of supplementary water to offset disruption caused by the project to groundwater supplies to users located outside the project disturbance boundary would be an unsuitable make good arrangement.

The volume of water available from the pipeline could be insufficient to supply supplementary water to offset disruption caused by the project to groundwater supplies for users located outside the project disturbance boundary.

The water from the pipeline could require processing by the proponent before being of suitable quality to supply supplementary water to offset disruption caused by the project to groundwater supplies to users located outside the project disturbance boundary.

The EIS states that at the end of mining, supply of water via the pipeline will cease, Item 9.5.5 Changes to water supply, iv External water supply via the pipeline. When the project ends, the proponent would be unable to use water from the pipeline to supply supplementary water to offset disruption to groundwater supplies caused by the project for users located outside the project disturbance boundary.

The EIS is silent upon what management measures the proponent would adopt, to deliver after the project ceases operation, supplementary supplies of water to groundwater users located outside the project disturbance boundary whose supply of groundwater is permanently disrupted by the project.

Transportation of water by road vehicle to supply supplementary water to offset disruption caused by the project to groundwater supplies for users outside the project disturbance boundary could be impractical and costly.

A low yielding bore that produced 2 litres of groundwater per second for 5 hours would produce 36 tonnes of water. A B-double truck would be needed to carry that volume of water in a single load. A herd of 400 cattle that drank 90 litres per head per day would require that volume of water to be supplied every day. It is difficult to envisage the cost to the proponent of delivering 36 tonnes of water to a groundwater user located outside the project disturbance boundary being less than about \$600 per load or \$4,000 per week. The on-farm infrastructure required to enable a B-double load to be delivered every day under all weather conditions could be costly and require on-going maintenance. Additional infrastructure could also be required to enable a user to manage water in consignments of that volume in comparison to the infrastructure needed when a pump is operated so that the output from the pump was more closely matched to the rate of water use.

The Agricultural Impact Statement, Appendix I to the EIS at Table 4.1 shows that before the project on average about 2,950 dry sheep equivalents were carried on each agricultural holding that carried more than 1,000 dry sheep equivalents near the site of the project. The NSW Department of Primary Industry advises that an adult dry sheep on dry pasture will consume up to 6 litres per day. Primefact No 326, Water requirements for sheep and cattle, June 2014. On that basis each of those agricultural holdings would require about 18 tonnes or 18,000 litres of water each day to supply drinking water for those livestock.

The Central Tablelands Local Land Services is currently promoting with incentive based programs the use of confined areas to carry livestock to protect drought depleted pastures from damage caused by livestock being grazed on depleted pasture. This use of confinement areas requires the provision of clean water for drinking by the confined livestock. Hence, the volume of water that is required to carry livestock in confined areas is higher than the volume needed for actual drinking by the livestock because the troughs in the confined areas need to be regularly cleaned.

The provision by the proponent of a new submersible pump or lowering the existing submersible pump to sustain lost yield from a bore outside the project disturbance boundary does not deal with any additional and on-going energy costs to operate the replacement pump or whether at the current site there is sufficient energy available to operate the replacement pump. Lowering the existing submersible pump could raise issues related to extra operating costs and availability of additional energy to operate the existing pump at greater depth.

The drilling of a new bore by the proponent could create issues about access to electricity and existing reticulation infrastructure at the site of the new bore.

If the project disrupts the supply of groundwater to users located outside the project disturbance boundary it could be relatively difficult in such localities to find a location from where a new bore could produce a supply of groundwater capable of replacing the supply of groundwater disrupted by the project.

Implementation of the management measures outlined in Table 7.1 would not make good a situation where the project caused disruption to the supply of groundwater from a spring located in the bed of a deep creek.

Implementation of the management measures outlined in Table 7.1 would not make good a situation where the project caused contamination of the supply of groundwater to a user located outside the project disturbance boundary.

2. Consent authority to assess make good arrangements when considering whether to grant consent

There is a direct conflict of interest between the proponent and groundwater users located outside the project disturbance boundary over the issues of make good for disruption to groundwater supplies for those users caused by the project. The conflict of interest should be resolved by the consent authority assessing those issues when considering whether to grant consent instead of those issues being determined unilaterally by the proponent post approval.

The Aquifer Interference Policy [AIP] requires a proponent to include in its EIS make good arrangements to deal with actual impacts on groundwater supplies that exceed the predicted impacts to enable those make good arrangements to be considered by the Minister administering the Water Management Act 2000 (or the NSW Office of Water) during the preparation of advice provided by them at the various stages of an assessment under the Environmental Planning and Assessment Act 1979. AIP Item 1, Introduction and Item 3.2.3.

The EIS treats superficially and inadequately issues about make good arrangements to be adopted by the proponent to deal with possible but unpredicted disruption to groundwater supplies for users located outside the project disturbance boundary and proposes that these issues will be dealt with in detail by Water Management Plans to be prepared and reviewed by the proponent post approval.

Groundwater users located outside the project disturbance boundary should be entitled to know from the time the project receives consent the remedial action or make good arrangements that will be required to be observed by the proponent if the project disrupts their supply of groundwater.

The EIS does not require the proponent to engage with groundwater users located outside the project disturbance boundary during the post approval initial preparation and each subsequent review of Water Management Plans. Appendix K, Item 7.2.2 Water Management Plans.

To protect access to supplies of groundwater currently held by groundwater users located outside the project disturbance boundary it would be unfair and inequitable to those users if, instead of issues about make good being assessed by the consent authority when considering whether to grant consent, these issues are dealt with by the proponent post approval behind doors closed to those groundwater users.

It would be unduly burdensome if in order for ground water users located outside the project disturbance boundary to attempt to protect on-going access to their current supplies of groundwater they would need to engage with the proponent during the post approval initial preparation of both Water Management Plans and each time those Water Management Plans are reviewed even if the proponent voluntarily engaged with groundwater users located outside the project disturbance boundary during the post approval initial preparation and subsequent reviews of the Water Management Plans.

Ground water users located outside the project disturbance boundary could be effectively disenfranchised if, instead of issues about make good being assessed by the consent authority when considering whether to grant consent, the proponent voluntarily engaged with them during the post approval preparation and each subsequent review of the Water Management Plans because despite such engagement, the proponent would effectively control the content of the Water Management Plans as varied from time to time.

3. Premature abandonment of the project before completion

The proponent could abandon the project after operations commence but before planned completion due to unexpected reductions in predicted profits caused either by lower than predicted prices for gold or unpredicted cost blow-outs caused by the need for the proponent to remediate unforeseen adverse impacts caused by the project to ground water users located outside the project disturbance boundary.

The probability that the project could be abandoned after commencement but before completion is elevated by the proponent's statement that it would abandon the project if the price of gold fell by 60%. That statement by the proponent was made by the Chief Executive of Regis Resources, the proponent, in answer to a question raised by a resident of Kings Plains at a meeting convened by the proponent and held at the Blayney Shire Community Centre during autumn 2019.

The probability that the project could be abandoned after commencement but before completion is also increased by the possibility that actual profits generated by the project could be less than predicted if the proponent is required to adopt more costly than proposed make good arrangements to offset disruption to groundwater supplies to users located outside the project disturbance boundary.

It would be contrary to the public interest for a project to be approved where the proponent wants the community impacted by a project to carry an unfair share of the risks associated with a project. That could happen if due to actual profits from a project being lower than predicted, a project is abandoned after a project caused adverse impacts, but before the predicted benefits to the impacted community had materialised.

Background

Outline of respondent's ground water supply

The respondent operates a beef cattle farm located on the eastern side of the north eastern part of Gardiners Section of Vittoria State Forest. The most recently acquired area of the respondent's farm was acquired by the respondent's family during 1979. Some areas of the respondent's farm have not been owned by people outside the respondent's family since the mid-19th century.

Bores

The respondent's farm has an area of about 740 hectares with three bores constructed between the early 1970s and 1998. Two of those bores are equipped with submersible pumps. The pumps on those two bores produce a combined total of about 2 litres per second. The cased bore without an installed pump can supply about 0.25 litres per second.

The respondent has no recollection of the bores on the respondent's farm being unable to supply all water able to be moved by the pumps installed in those bores.

Springs in Dicks Creek

Dicks Creek which has its source on a section of the respondent's farm hosts a spring on the bed of the Creek which is about 10 metres below the surface of the land adjacent to the bank of Dicks Creek. The respondent would be unsurprised if that spring supplies more than 4 litres per second before Dicks Creek passes into the Kings Plains Section of Vittoria State Forest. Since the mid-19th century no person outside of the respondent's family has owned the land through which Dicks Creek passes from its source to where it enters the Kings Plains Section of Vittoria State Forest.

Dicks Creek re-enters the respondent's farm after passing for a distance of about 2 kilometres through two parcels of land not managed by the respondent. Downstream from where Dicks Creek re-enters the respondent's farm a spring fed tributary supplies additional water to Dicks Creek before it passes out of the respondent's farm for the final time.

The respondent is unaware of any water being extracted from Dicks Creek where it passes between different sections of the respondent's farm apart from water used by the Forestry Corporation of NSW [Forestry] for road construction and dust suppression. The respondent expects that use of water from

Dicks Creek by Forestry to almost stop for several years after harvesting, currently underway on a large portion of Gardiners and Kings Plains Sections of Vittoria State Forest, is completed in the not too distant future.

The respondent is unaware of any occasion when the springs in Dicks Creek where it passes through the respondent's farm have not been running.

The respondent would challenge any assertion that the groundwater supplies on its farm as described above are in any way ephemeral or unreliable.

Water for stock and domestic use

The respondent understands that without the need to obtain a water licence it could confinement feed up to 999 head of cattle. A supply of not less than 0.1 mL per day would be required to satisfy the drinking needs of 1,000 head of confinement fed cattle.

Approximately 0.01 mL per day of water is required for domestic purposes.

The respondent is confident that in the absence of disruption caused by external incidents, the groundwater supplies on its farm could satisfy upon demand the needs for water described above.

If the groundwater supplies on the respondent's farm as described above are disrupted, the respondent could be unable to continue to manage a closed herd of cattle and live in the current residence through seasonal fluctuations. Apart from bulls, no cattle bred by other beef cattle breeders have been introduced to the respondent's herd since June 2000. Seasonal fluctuations without a reliable supply of water could require selling part of the herd during adverse seasonal conditions and then purchasing cattle from other breeders during improved seasons.

Biosecurity

The veterinary approved biosecurity plan for the respondent's farm would need to be re-written in order to cover management of a herd that included the introduction of cattle other than bulls onto the respondent's farm. Accreditations for the respondent's cattle herd would restrict the potential sources from which the respondent could source cattle, thus making it more difficult to access cattle with proven genetics.

Signed:

