

27 FEB 2002

Mr. Mark Howes  
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MUSWELLBROOK NSW 2333

Development and Infrastructure  
Assessment  
Level 4, 20 Lee Street  
Sydney NSW 2000  
GPO Box 3927  
Sydney NSW 2001

Dear Mr Howes,

**Proposed Extension to the Open Cut at Muswellbrook Coal Mine – Muswellbrook Local Government Area  
Reference no : N01/00268**

Thank you for your letter of 14 November 2001 seeking consultation with the Director-General for the preparation of an Environmental Impact Statement (EIS) for the above development. Attachment No. 1 outlines the statutory matters that must be included in any EIS under clauses 71 and 72 of *Environmental Planning and Assessment Regulation 2000* (the *Regulation*). Under clause 73(1) of the *Regulation*, the Director-General requires the EIS to address the issues listed in Attachment 2. You should note however, that if the Development Application to which these requirements relate is not made within two years of the date of this letter, you must consult further with the Director-General prior to lodging the application.

The Department's EIS Guideline *Coal Mines and Associated Infrastructure* should also be consulted in the preparation of the EIS. The Guideline is available for purchase from the Department's Information Centre, 20 Lee Street, Sydney or by calling (02) 9762 8044.

Development Applications (DAs) are "integrated development" where certain licences or approvals are required from bodies other than the consent authority. Your Form A identified that you will require an approval from the Department of Land and Water Conservation (DLWC), Environmental Protection Authority (EPA) and the Mine Subsidence Board (MSB). The EIS should also address the detailed requirements of these agencies (refer to attached correspondence). If further integrated approvals are identified before the Development Application is lodged, you must conduct your own consultation with the relevant agencies to identify their requirements for the EIS.

Further to the advice contained in your Form A, the Department understands that following further investigations of the site, National Parks and Wildlife Service (NPWS) may also be an approval body for this project. As a result, you are required to consult with NPWS directly and incorporate their requirements in the preparation of the EIS.

In the preparation of the EIS, you must also address those issues raised by the government agencies which attended the Public Focus Meeting (PFM) on 14 November 2001.

You should also consult with Muswellbrook Shire Council and take into account any comments Council may have in the preparation of the EIS. The EIS should also address other issues that emerge from consultations with relevant local, State and Commonwealth government authorities, service providers and community groups, particularly, DLWC, EPA, NPWS, Department of Mineral Resources, Department of Agriculture, MSB and representatives of the local aboriginal community. You are also required to consult with landholders who will potentially be impacted by the proposal and provide documentation of this consultation process in the EIS.

Under the *Commonwealth Environment Protection Biodiversity Conservation Act (EPBC Act) 1999*, approval of the Commonwealth Minister for the Environment is required for actions that may have a significant impact on matters of National Environmental Significance, except in circumstances which are set out in the *EPBC Act*. Approval from the Commonwealth is in addition to any approvals under NSW legislation. If you need approval under the Commonwealth Act, your EIS will be expected to assess the impacts on these matters.

When lodging your Development Application, you must include at least one copy of the DA and supporting information for each of the integrated approval bodies and cheques for \$250 made payable to each of the integrated approval bodies.

Please contact Stacy Warren on (02) 9762 8157 if you require any further information regarding the Director-General's requirements for the EIS.

Yours sincerely



Gordon Kirkby  
Acting Assistant Director  
**Development and Infrastructure Assessment**  
As Delegate for the Director-General

Note: Matters of National Environmental Significance under the *EPBC Act* are:

- i) World Heritage properties;
- ii) RAMSAR wetlands;
- iii) threatened species or ecological communities listed in the *EPBC Act*;
- iv) migratory species listed in the *EPBC Act*;
- v) the environment in a Commonwealth marine area; and
- vi) nuclear actions.

**STATUTORY REQUIREMENTS FOR THE PREPARATION  
OF AN ENVIRONMENTAL IMPACT STATEMENT UNDER PART 4 OF  
THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

In accordance with the *Environmental Planning and Assessment Act 1979* (the Act), an environmental impact statement (EIS) must meet the following requirements.

**Content of EIS**

Pursuant to Schedule 2 and clause 72 of the *Environmental Planning and Assessment Regulation 2000* (the Regulation), an EIS must include:

1. A summary of the environmental impact statement.
2. A statement of the objectives of the development or activity.
3. An analysis of any feasible alternatives to the carrying out of the development or activity, having regard to its objectives, including the consequences of not carrying out the development or activity.
4. An analysis of the development or activity, including:
  - (a) a full description of the development or activity; and
  - (b) a general description of the environment likely to be affected by the development or activity, together with a detailed description of those aspects of the environment that are likely to be significantly affected; and
  - (c) the likely impact on the environment of the development or activity, and
  - (d) a full description of the measures proposed to mitigate any adverse effects of the development or activity on the environment, and
  - (e) a list of any approvals that must be obtained under any Act or law before the development or activity may be lawfully carried out.
5. A compilation, (in a single section of the environmental impact statement) of the measures referred to in item 4(d).
6. The reasons justifying the carrying out of the development or activity in the manner proposed, having regard to biophysical, economic and social considerations, including the following principles of ecologically sustainable development:
  - (a) The precautionary principle - namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by:

- (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and
  - (ii) an assessment of the risk-weighted consequences of various options,
- (b) Inter-generational equity - namely, that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations,
  - (c) Conservation of biological diversity and ecological integrity, namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,
  - (d) Improved valuation, pricing and incentive mechanisms, namely, that environmental factors should be included in the valuation of assets and services, such as:
    - (i) polluter pays, that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,
    - (ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,
    - (iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

An environmental impact statement referred to in Section 78A(8) of the Act shall be prepared in written form. The prescribed form to accompany the environmental impact statement must comply with the

requirements of clause 71 of the Regulation and be signed by the person who has prepared it.

Procedures for public exhibition of the EIS are set down in clauses 77 to 81 of the Regulation.

Attention is also drawn to clause 283 of the Regulation regarding false or misleading statements in EISs.

**Note**

If the development application to which the EIS relates is not made within 2 years from the date of issue of the Director-General's requirements, under clause 73(6) of the Regulation the proponent is required to reconsult with the Director-General.



## **ATTACHMENT 2 - Specific issues to be addressed in the Environmental Impact Statement.**

### **➤ Statutory provisions**

- Consideration of the objectives and provisions of relevant environmental planning instruments including:
  - i. State Environmental Planning Policy 11 "Traffic Generating Development";
  - ii. State Environmental Planning Policy 33 "Hazardous and Offensive Industry";
  - iii. State Environment Planning Policy 44 "Koala Habitat Protection";
  - iv. State Environment Planning Policy 45 "Permissibility of Mining";
  - v. Hunter Regional Environmental Plan 1989;
  - vi. Muswellbrook Shire Council Local Environment Plan 1985; and
  - vii. Upper Hunter Cumulative Impact Study and Action Strategy.

### **➤ Noise**

- Detailed assessment of the existing noise conditions and potential noise impacts during the construction and operational phases of the proposal. Specific attention must be paid to locations likely to be impacted by the proposal, especially on nearby non-mine residences;
- Road traffic noise impact assessment in accordance with the Environment Protection Authority's *Environmental Criteria for Road Traffic Noise*; and
- Details of management and mitigation measures to minimise these impacts and monitoring proposals to assess the ongoing performance of the mine.

### **➤ Air Quality**

- Detailed assessment of the existing air quality characteristics and potential impacts on air quality and odour during the construction and operational phases of the proposal, particularly for cumulative impacts at non-mine owned residences;
- Details of the proposed measures to minimise impacts of the development on air quality, monitoring methods and contingency plans in the event of equipment failure or incorrect predictions.

### **➤ Groundwater and Surface water**

- Identification of existing groundwater and surface water conditions. This assessment must include a description of current groundwater regime, outlining flux, direction of movement and quality of the resource over a range of climatic conditions;
- Details of any potential impacts of the proposal on groundwater and surface water conditions, including any changes to the groundwater regime;
- Anticipated groundwater make volumes and rates as a result of the proposed extension, including variations in groundwater make during the extension and into the post-mine life of the site;
- A description of proposed management measures to minimise adverse impacts on surface water and groundwater;
- Details of water circuits for clean runoff, sediment laden waters and contaminated waters on site, and a system for use of contaminated water for dust suppression and other uses. Attention must also be given as to how poor quality water is to be managed to prevent contamination of adjacent areas;
- details of waters within the final void, including a discussion of long term groundwater recovery make inflow rates, and the levels and quality of void waters;
- a description of surface and groundwater monitoring procedures to be adopted for the development, specifically including pre-and post mining monitoring to allow for the management of any alteration in groundwater quality which occurs as a result of mining operations.

### **➤ Blasting**

- details of any blasting to be conducted at the project site;
- Identify any residential zones, dwellings or other sensitive structures businesses or land uses that may be impacted by blasting and describe proposed mitigation and management measures to control the generation of blasting impacts and to ensure compliance with relevant blast overpressure and ground vibration standards.

- **Cumulative Impacts**
  - Identification of cumulative impacts generated by the proposal, particularly on nearby non-mine owned residences, including impacts on:
    - i. Noise conditions;
    - ii. Air quality and dust, and
    - iii. Surface and groundwater quality and quantity.
- **Spoil and Waste Management**
  - Details of the waste management practices including disposal/storage of refuse material and wastewater, and environmental management measures proposed to be adopted.
- **Erosion and Sediment Control**
  - Details of practices to manage soil erosion and ensure sediment control, including any proposed soil conservation strategies, an assessment of the impact of any unstable soils on any rehabilitation program and design of diversions to ensure re-entry to the natural drainage system will remain stable.
- **Rehabilitation**
  - Provision of an outline of a rehabilitation plan to be adopted during and post mining operations, particularly considering measures to minimise soil erosion, management of stockpiled soils and topsoil, landscaping and proposed re-vegetation works;
  - Details of proposals for the backfilling of the No.1 and No.2 pit, with particular attention to the management of inert coarse overburden and soil materials.
- **Indigenous and Non-Indigenous Heritage**
  - Provide an Aboriginal heritage assessment, which conforms to the National Parks and Wildlife Service Guideline titled "Aboriginal Cultural Heritage and the Integrated Development Assessment Process". Provide an assessment of European heritage in consultation with NSW Heritage;
  - Details of potential impacts of surface works and infrastructure (including drainage works) on areas of cultural and/or archaeological sensitivity, and detail proposed mitigative and management measures. This shall also include documentation from the Aboriginal community outlining their assessment and recommendations and incorporate these into the recommended management measures in the EIS;
  - Identify and map Aboriginal sites which will be affected by the proposal and for which Section 90 consent will be sought under the National Parks and Wildlife Act, 1974;
  - Identify any native title rights in relation to Crown land, in accordance with the Native Title (Commonwealth) Act 1993;
  - Investigation of any Aboriginal land claim pursuant to the Aboriginal Land Rights Act, 1983.
- **Greenhouse**
  - A greenhouse gas assessment, incorporating the following:
    - i. A quantitative model showing the tonnages of each greenhouse gas produced per year. These figures should be expressed as a percentage of the total national greenhouse gasses produced for that year.
    - ii. A discussion of the types of greenhouse gases being emitted.
    - iii. A discussion of the alternative options considered for:
      - the chosen fuel source used, and
      - the technology adopted to reduce greenhouse gas emissions.
    - iv. Justification for the chosen fuel source and technology in terms of greenhouse gas emissions.
- **Transport/Traffic**
  - i. A traffic impact study prepared in accordance with the Roads and Traffic Authority's *Guide to Traffic Generating Developments*;
  - ii. A detailed description of measures to be provided to ensure the maintenance of the current level of operating conditions on the State Road network; and

➤ **Overburden**

- Details of overburden placement and management including potential salinity issues and measures to minimise impacts on vegetation.

➤ **Hazards**

- Identification of hazards (natural and otherwise) that may impact on the development and identification of hazards that may result from the development, and a discussion of measures to minimise the risks associated with hazards must be provided.

➤ **Visual**

- Details of the visual impact of all components of the proposal, including any emplacement areas, stockpiles, surface facilities, and night lighting. Clear illustration is to be given of predicted visual impacts through the life of the mine from sensitive receiver locations, particularly private residences;
- Details of the proposed management measures to be adopted to limit visual effect.

➤ **Flora and Fauna**

- Impact on flora and fauna, particularly critical habitats, threatened species, populations or ecological communities, or their habitats. The assessment should involve the following steps:
  - i. Conduct baseline surveys, and consult relevant databases and listings by the Scientific Committee.
  - ii. Describe the types and condition of habitats in, and adjacent to, the land to be affected by the proposal.
  - iii. Prepare a list of species, populations or ecological communities, or their habitats, that may occur on the site, and conduct targeted surveys for these.
  - iv. Apply the "8 part test" (section 5A of the *EP&A Act*) to species, populations or ecological communities, or their habitats, that may be affected by the proposal. The EIS must justify any decision to not apply the test to all of the species, populations or ecological communities identified in step 3.
  - v. Prepare a Species Impact Statement for any critical habitats; species, populations or ecological communities, or their habitats that are likely to be significantly affected by the proposal (Note: An SIS must be prepared in accordance with any requirements of the Director-General of National Parks and Wildlife Service).
- outline of management measures to reduce the impact of the proposal on flora and fauna, particularly including opportunities to protect the dryland box/ ironbark community.

➤ **Mine Operations**

- Provide a clear description of all the components that make up the proposal, including detail of all surface infrastructure to be utilised, and a clear identification of the development application area. The EIS shall assess the environmental impacts of each component;
- Provide details of the interrelationship of the proposal with existing developments and existing approved development consents;
- Details of a Mining Operations Plan for the proposal prepared in accordance with the Department of Mineral Resources Guidelines;
- Provide a resource and reserve statement to be prepared in consultation with the Department of Mineral Resources, and provide details the proportion of product coal to be transported to export and to domestic markets.

➤ **Miscellaneous**

- an assessment of all other potential environmental impacts of the proposal, by reference to the relevant matters in section 79C of the *Environmental Planning and Assessment Act, 1979*, including impacts on heritage items, Aboriginal sites, and soil erosion.