

Mr Stephen Barry
A/Executive Director
Independent Planning Commission
GPO Box 3415
Sydney NSW 2001

12/11/2020

**Dunmore Lakes Project Modification 2 (DA195-8-2004 Mod 2)
Request for Department comments on conditions**

Dear Mr Barry

I refer to the Independent Planning Commission's correspondence of 11 November 2020, regarding the Dunmore Lakes Project Modification 2 proposal. I note this proposal is before the Commission for determination, as the delegate of the Minister for Planning and Public Spaces.

I understand that the Commission is seeking comments from the Department of Planning, Industry & Environment on the workability and appropriateness of a number of amendments that the Commission is seeking to make to Department's recommended conditions as they relate to the propose modification.

The Department appreciates this opportunity to engage with the Commission and provides the following comments for the Commission's consideration in determining this proposal.

- 1) The Department wishes to confirm the workability of the Commission's proposed definition for "Riparian Area" and proposed changes to the Department's recommended conditions 12A, 29C, 29D, 30, 33, 38, 43, 45, 46, 56 and 69.
- 2) The Department notes the Commission's proposed inclusion of a second example of the types of matters that would qualify as a period of suspension of quarrying operations under condition 11 of Schedule 2. The Department acknowledges that the proposed wording is enforceable and can be imposed by the Commission, but notes that the inclusion of a further example would not change the effect of this condition which already requires any period of suspension of quarrying operations to be notified to the Department (including any period entered into for commercial reasons).
- 3) The Department notes that conditions 50-52 of Schedule 3 are existing obligations imposed on the Applicant in relation to the Stage 2-4 operations. These conditions are designed to ensure that consideration is given to the long term management of the site and are similar to 'mine closure' conditions seen in many development consents around NSW.

The Department notes that these requirements are separate from but related to the Rehabilitation and Rehabilitation and Conservation Bond conditions imposed under conditions 42- 49C. It is the Department's view that these conditions could continue to operate effectively to ensure the forward planning of post closure outcomes and appropriate rehabilitation of all stages of the operations.

- 4) The Department considers that the proposed wording of condition 55 of Schedule 3 is workable, but notes for the Commission's consideration that given the nature of the material being transported, trains entering and exiting the site (in the same manner as current approved) are not expected to contribute significant offsite air quality impacts. As there may be a significant financial impost in upgrading or changing the existing wagon fleet to facilitate covered loads, the Department notes that this amendment should be considered relative to the potential for a marginal reduction in air quality impacts.
- 5) With respect to the Commission's proposed amendments to Condition 12B, the Department notes that the recommended wording could be enforced from a compliance perspective, if the Commission choose to impose this requirement.

In considering whether to impose this requirement the Department wishes to note that the basis of its the originally recommended condition 12B related to the consideration of the hierarchy of avoid, minimise, mitigate in considering the merits of proposed impacts on biodiversity values. In applying this consideration, the Department noted that the area of E3 land that overlapped with the proposed extractive footprint was relatively minor, located along the edge of the propose disturbance area and could be relatively easily avoided with minimal impacts on potential resource recovery.

In considering an appropriate setback distance for the proposal, the Department notes that the E3 zone ranges in width along the western project boundary, reaching widths in the vicinity of 20 metres in some areas. The Commission proposed amendments would require the Applicant to stand off this E3 zoned land, then impose a further 10 metre setback before any environmental management of water control infrastructure could be installed, which would then be followed by a several metre wide earthen flood bund. Together, this could result in dredging activities being setback a substantial distance from the proposed project boundary in these areas.

As outlined in section 3.3 of the Department's Assessment Report, extractive industries are permitted with consent in E3 zoned land by way of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*, which allows extractive industries to be developed in zones where agriculture is permitted. Accordingly, there is no minimum distance required for setbacks from these lands and the imposition of any minimum setback distance is a matter for the Commission's consideration in determining the proposal.

I trust the above comments are of assistance. If you have any questions, please feel free to contact me on [REDACTED] or by email at [REDACTED]

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Spratt', written in a cursive style.

Matthew Spratt
Director
Resource Assessments