

MANGOOLA OPEN CUT

GLENCORE

11 March 2021

Commissioner Prof. Snow Barlow
Commissioner Peter Cochrane
Office of the Independent Planning Commission
201 Elizabeth Street
Sydney NSW 2001
Via email to: ipcn@ipcn.nsw.gov.au

Dear Commissioners,

Re: Response to Muswellbrook Shire Councils Suggested Amendments to the Recommended Conditions of SSD-8642

Mangoola Coal Operations Pty Limited (Mangoola) refers to correspondence the Independent Planning Commission (IPC) has received from Muswellbrook Shire Council (MSC) proposing amendments to the recommended conditions of Development Consent for State Significant Development (SSD) 8642 (MSC Proposed Conditions).

Mangoola sets out below its response to the MSC Proposed Conditions. The recommended conditions of SSD 8642 as proposed by the Department of Planning, Industry and Environment (DPIE) are in black and MSC Proposed Conditions are **red**.

1. Definitions

MSC Suggestion

Mining operations

The carrying out of mining, including the extraction, processing, stockpiling and transportation of coal on the site and the associated removal, storage and/or emplacement of vegetation, topsoil, overburden, tailings and reject material, **the removal of existing structures and the relocation of services and infrastructure.**

(reason: Many conditions reference completing management plans before mining operations commence. By including existing structures, the Applicant will need to complete the Heritage Management Plan before the Millville property is demolished – the Applicant agreed to an archival; record being demolition commenced).

Mangoola Response

Mangoola considers that the suggested change is inappropriate and unnecessary.

As noted in the MCCO Project Response to Submissions (RTS) (Umwelt Dec 2019), the property 'Millville' will be subject to detailed archival recording prior to impact. This is a commitment from Mangoola as captured in the RTS and already incorporated into the existing recommended conditions of SSD 8642 under the definition of 'EIS' as:

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The Environmental Impact Statement titled Mangoola Coal Continued Operations Project, prepared by Umwelt (Australia) Pty Limited, dated July 2019, submitted with the application for consent for the development, including the Applicant's response to submissions, dated 18 December 2019, and additional information provided by the Applicant on 14 February 2020, 17 March 2020, 1 April 2020, 19 June 2020 and 27 July 2020 in support of the application.

(our emphasis)

The removal of existing structures, as suggested by MSC, is already described in the recommended conditions Definitions and Condition 84 (Rehabilitation Objectives) which outlines the rehabilitation objectives for surface infrastructure.

The definition of mining operations as included in the recommend conditions of SSD 8642 is a standard definition used across mines in NSW and we do not consider that changing this standard approach for the MCCO Project is necessary or appropriate. MSC's suggested wording would also have the effect of altering the nature of many other currently recommended conditions relating to Mining Operations (as originally defined) which are deliberately limited to actual mining activities.

By way of example only, the recommended conditions of SSD 8642 include the requirement to enter into a planning agreement with MSC as reflected by Condition A17 and the associated General Terms included in Appendix 12. The General Terms included in Appendix 12 are based on the established principles of the existing Voluntary Planning Agreement (VPA) and, relevant to some items, include contributions 'for period of 12 months following the end of *Mining Operations*' [our emphasis]. Therefore, the suggested amendment to the condition as proposed by MSC would have the effect of extending the proposed VPA beyond what is currently proposed to which Mangoola is not in agreement.

2. Term of Consent – Condition A2

MSC Suggestion

TERMS OF CONSENT

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
 - (b) in accordance with all written directions of the Planning Secretary;
 - (c) generally in accordance with the EIS;
 - (d) **in accordance with the Response to Submissions Report; and**
 - (e) generally in accordance with the Development Layout in Appendix 2.

(reason: The RTS modified the proposal and included additional management measures)

Mangoola Response

Mangoola considers that the suggested change is unnecessary.

As noted in response to Item 1 above, the existing definition of 'EIS' (Condition A2(c)) includes, amongst other matters, the MCCO Project Response to Submissions (RTS) (Umwelt Dec 2019).

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3. MSC Suggest Conditions – Consolidation of Land

MSC Suggestion

Consolidation of Land

A35 Within eight months of the date of commencement of development, or other timeframe agreed by the Planning Secretary, the Applicant must consolidate those lots that form part of mining operations, including mine rehabilitation areas, coal handling and processing facilities and other mine infrastructure, into a single lot.

A36 Within eight months of the date of commencement of development, or other timeframe agreed by the Planning Secretary, the Applicant must consolidate any contiguous lots that form mining biodiversity offset areas to the least number of lots possible.

(reason: Operational areas of the mine site should be consolidated for easier public administration, public transparency and to avoid sale of land ahead of mining lease relinquishment. Future land uses are unlikely to conform to current lot boundaries. Likewise, for Biodiversity Offset parcels, although they need not be consolidated with the operational areas.)

Mangoola Response

Mangoola considers that the suggested conditions are inappropriate for a number of reasons including:

- There is no planning purpose that would justify a condition requiring the consolidation of existing lots into a single lot.
- A condition of this nature would be unprecedented.
- The consolidation of existing lots into a single lot would restrict Mangoola's ability to sell any excess land.
- The consolidation of existing lots into a single lot would influence the rating of land owned by Mangoola. Mangoola owns large areas of rehabilitated, offset and farming land that is not used for mining and as such cannot be rated for mining. Council rates payable for land used and rated as mining are significantly higher than other council rates categories and MSC would like to rate all land owned by mining companies as mining irrespective of its use. Consolidating all land into a single lot could enable MSC to significantly increase the land that it rates as mining irrespective of the fact that large areas of that land would not be used for mining. This is because where a lot has multiple uses it is rated according to its dominant use. If a single large lot were to be artificially created by the proposed condition then there could be large areas of land that would not be rated according to their actual use. Furthermore, the inflated rates payable for this non-mining land, that was artificiality categorised as mining, would not be reflective of the limited demand the use of that land placed on MSC's resources. This inequality would be avoided if the current lot configuration remained unaltered.
- The consolidation of lots provides no additional security for the land and would limit future land uses opportunities post mining.
- As noted in the EIS, the long-term security of the land-based biodiversity offsets will be established under Stewardship Agreements, in consultation with the Biodiversity Conservation Trust. Stewardship Agreements are attached to the title of the applicable land irrespective of the total number of lots and do not require the consolidation of lots as proposed.

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4. Blast Management Plan – Condition B23

MSC Suggestion

Blast Management Plan

B23. The Applicant must prepare a Blast Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:

- (a) be prepared by a suitably qualified and experienced person/s whose appointment has been endorsed by the Planning Secretary;
- (b) describe the blast management system and the measures that will be implemented to ensure compliance with the blasting criteria and conditions of this consent;
- (c) include a Blast Fume Management Strategy for:
 - (i) minimising blast fume emissions;
 - (ii) rating and recording blast fume events; and
 - (iii) reporting significant blast fume events to the Department and the EPA;
- (d) include a Road Closure Management Plan for any blasting within 500 metres of a public road, that has been prepared in consultation with relevant roads authorities and includes provisions for:
 - (i) minimising the duration of closures, both on a per event basis and weekly basis;
 - (ii) avoiding peak traffic periods as far as reasonable; and
 - (iii) co-ordinating closures with nearby mines to minimise the cumulative effect of road closures;
- (e) identify any agreed alternative ground vibration limits for public or private infrastructure in the vicinity of the site (if relevant);
- (f) include a strategy to monitor, mitigate and manage the effects of blasting on heritage items, particularly those identified in Appendix 7, **and nearby Aboriginal heritage items and sites**, including details of baseline (i.e. pre-blasting) and ongoing risk-based dilapidation surveys (subject to landowner access arrangements) **or damage surveys for rock structures containing Aboriginal heritage items and sites**;
- (g) include a monitoring program for evaluating and reporting on compliance with the relevant conditions of this consent;
- (h) include a protocol for identifying any blast-related exceedance, incident or non-compliance and for notifying the Department, the EPA and relevant stakeholders of these events;
- (i) include public notification procedures to enable members of the public, particularly surrounding residents, to get up-to-date information on the proposed blasting schedule; and
- (j) include a protocol for investigating and responding to blast-related complaints.

(reason: recent issues with mining activities in Western Australia has highlighted the need to specifically address Aboriginal heritage items and sites when planning blasts etc. The RTS indicated it was the Applicants intention to do this)

Mangoola Response

Mangoola considers that the suggested changes are unnecessary.

Appendix 7 of the recommended conditions of SSD 8642 includes a plan titled 'Recorded Aboriginal Sites' depicting Aboriginal Heritage items and sites. The recommended conditions already address the issues that the MSC Proposed Conditions are intended to cover based on their stated reasons. Specifically, and in addition to Condition B23, the protection of Aboriginal heritage sites in areas outside the MCCO Project Disturbance Boundary is captured in recommended Condition B64 and B67(c)(iv). The suggested wording by MSC is therefore an unnecessary duplication of what is already included within the existing recommended conditions.

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5. Historic Heritage Management Plan – Condition B70

MSC Suggestion

Historic Heritage Management Plan

- B70. The Applicant must prepare a Historic Heritage Management Plan for the development, in respect of all non-Aboriginal cultural heritage items, to the satisfaction of the Planning Secretary. This strategy must:
- (a) be prepared by a suitably qualified and experienced person/s whose appointment has been endorsed by the Planning Secretary;
 - (b) be prepared in consultation with the Heritage NSW, Council and relevant landowners and in accordance with the relevant Heritage NSW guidelines;
 - (c) build upon the approved Conservation Management Strategy prepared for the Mangoola Coal Project;
 - (d) describe how historic heritage values of the site would be recorded and preserved;
 - (e) identify all heritage items in the vicinity of the site and include a statement of significance for each item;
 - (f) describe the measures to be implemented on the site or within any offset areas to:
 - (i) ensure all workers on the site receive suitable heritage inductions prior to carrying out any activities which may cause impacts to historic heritage, and that suitable records are kept of these inductions;
 - (ii) protect heritage items located outside the approved disturbance area, particularly 'Castle Hill', from impacts of the development, beyond those predicted in the document/s listed in condition A2(c);
 - (iii) protect Anvil Hill Rock and "The Book" rock formations from the effects of blasting;
 - (iv) undertake photographic/archival recording of any items of heritage significance predicted to be impacted by the development, prior to **disturbance, including archival recording of the Millville property**; and
 - (v) manage any new heritage items discovered during the life of the development;
 - (g) include a program to monitor the effects of blasting on the heritage items; and
 - (h) include a strategy for the care, control and storage of heritage relics salvaged from the site.

(reason: This was a commitment in the RTS)

Mangoola Response

Mangoola considers that the suggested changes are unnecessary as the current wording of the condition, through the use of the word 'any', covers off on all items of heritage significance.

It should also be noted that MSC's suggestion to include the word prior to 'disturbance' is not their recommendation. The word 'disturbance' is already included in the DPIE Recommended Conditions for SSD 8642 reproduced below.

DPIE Recommended Conditions for SSD 8642

Historic Heritage Management Plan

*B70(f)(iv) undertake photographic/archival recording of any items of heritage significance predicted to be impacted by the development, prior to **disturbance**; and*

(our emphasis)

Further and as noted in response to Item 1 above, the commitment for the archival recording of Millville has been made by Mangoola and forms part of the EIS.

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6. Visual Impact Management Plan – Condition B75

MSC Suggestion

Visual Impact Management Plan

B75. The Applicant must prepare a Visual Impact Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:

- (a) be prepared by a suitably qualified and experienced person/s;
- (b) describe the measures to be implemented to minimise and manage the visual and off-site lighting impacts of the development;
- (c) include a landscaping strategy to reasonably minimise or shield public views of the development **during mining operations** from key vantage points in the public and/or private domain, that includes a road-side tree planting and maintenance schedule;
- (d) **include a landscaping strategy to restore public views over the site post-mining to a similar level as existed prior to commencement of mining; and**
- (e) include a program to monitor, maintain and report on the implementation and effectiveness of the visual impact mitigation measures to the satisfaction of the Planning Secretary.

(reason: The RTS assures Council that the landscape bunds along Wybong Rd will be removed once mining has ceased.)

Mangoola Response

Mangoola considers that the suggested changes are unnecessary.

In respect of the MSC Proposed Condition B75(c), while Mangoola considers that visual mitigation during mining operations is already required by, and is clearly outlined in, the EIS it has no objection to MSC's proposed inclusion of the reference to "mining operations".

In respect of the MSC Proposed Condition B75(d), Mangoola considers it is not warranted and the issue is adequately covered in the existing recommended conditions B84 (Rehabilitation Objectives) and B87 (Rehabilitation Strategy). As noted in the EIS, a detailed Mine Closure Plan will be developed five years prior to the planned mine closure and will be aimed at achieving the post mining landform and land use as presented in the EIS. The Mine Closure Plan will include the evaluation of re-use opportunities for facilities, infrastructure and services on the site, with the majority of demolition/decommissioning works to be planned and undertaken as soon as practicable following the cessation of mining, unless alternative post mining uses are identified at that time. In the absence of any other agreed outcome, the relinquishment of operational areas is a process administered through the EP&A Act and the *Mining Act 1992* once statutory obligations are satisfied and therefore this condition is not warranted. The proposed condition would also likely require significant clearing of established vegetation.

The wording of the MSC Proposed Condition B75(d) could also be read as conflicting with the proposed MCCO Project final landform and rehabilitation objectives as currently presented in the recommended Condition B84 and Appendix 9 (Final Landform Rehabilitation).

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7. Rehabilitation Management Plan – Condition B90

MSC Suggestion

Rehabilitation Management Plan

B90. The Applicant must prepare a Rehabilitation Management Plan for the development, in accordance with the conditions imposed on the mining lease(s) associated with the development under the *Mining Act 1992*. This plan must:

- (a) be prepared in consultation with the Department and Council;
- (b) be prepared in accordance with any relevant Resources Regulator Guidelines;
- (c) include detailed performance indicators and completion criteria for each rehabilitation domain, **reference sites to measure performance against**, and triggers for remedial actions;
- (d) include an overview of the identified risks to achieving successful rehabilitation;
- (e) describe the measures to be implemented on the site to achieve the Rehabilitation Objectives in Table 9, the requirements of the Rehabilitation Strategy referred to in condition B87 and the criteria in paragraph (c);
- (f) include a program to monitor, independently audit and report on progress against the criteria in paragraph (c) and the effectiveness of the measures in paragraph (d);
- (g) describe any further studies, work, research or consultation that will be undertaken to expand the site-specific rehabilitation knowledge base, reduce uncertainty and improve rehabilitation outcomes; and
- (h) outline intervention and adaptive management techniques to ensure rehabilitation remains on a trajectory of achieving the Rehabilitation Objectives, Rehabilitation Completion Criteria and the Final Landform in the Rehabilitation Management Plan as soon as reasonably practical.

(reason: analogue and/or reference sites should be in place for all rehabilitation categories (including pasture) to enable measurement of success.)

Mangoola Response

Mangoola considers that the suggested changes are unnecessary.

The recommended condition B84 (Rehabilitation Objectives) states that Mangoola must rehabilitate the site in accordance with the conditions imposed on the mining lease(s) associated with the development under the *Mining Act 1992*. This rehabilitation must be generally consistent with the proposed rehabilitation strategy described in the documents listed in condition A2(c) and shown in Appendix 9, and must comply with the objectives in Table 9. The requirement under the *Mining Act 1992* will include the development of a Mining Operations Plan prepared in accordance with the Department of Trade and Investment, Division of Resources and Geoscience's *ESG3 – Mining Operations Plan Guidelines* (DRG 2013) or equivalent. MOP requirements include the identification and baseline tracking of rehabilitation for the various landform domains against reference sites (as is current site practice) and therefore this suggested condition is unnecessary.

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8. Wybong Post Office Road – Condition B101

MSC Suggestion

Wybong Post Office Road

B101. Prior to undertaking mining operations within 200 m of Wybong Post Office Road, unless otherwise agreed to by the Planning Secretary, the Applicant must close the affected section of Wybong Post Office Road and either:

- (a) realign the affected section of Wybong Post Office Road as described in the EIS and shown conceptually in Appendix 2, to the satisfaction of the applicable roads authority; or
- (b) provide a financial contribution to Council equivalent to the cost of the works identified in subparagraph (a) that is to be directed towards the implementation of Council's preferred approach to addressing road network issues associated with the closure of the affected section of Wybong Post Office Road.

Note: *Under the Roads Act 1993, the Applicant may require separate approvals from appropriate roads authorities prior to closure, construction or dedication of public roads. Design work may be required to determine costs.*

(reasons: *at this time there is no approved design for the realignment, so the cost of construction has not been independently calculated).*

Mangoola Response

Mangoola considers the suggested change are inappropriate and unnecessary.

Consultation with MSC has been ongoing since the Project's inception in July 2017. MSC has had numerous opportunities to articulate its expectations with regard to the local road network and the interactions with the MCCO Project. In this regard, prior to the submission of the EIS, the conceptual design was discussed and shown in the field to representatives of MSC including the Manager Technical Services. Mangoola has had numerous other meetings and has sought to engage with MSC in order to seek to understand its expectations for the local road network as outlined in Section 5.4.5.1 of the EIS and in Section 1.3 of the RTS.

The existing portion of Wybong Post Office Road to be closed and relocated is a narrow road generally of a single lane tarred section (measured at generally 3.7m width) with gravelled edges, with the width requiring vehicles to substantially move off the tar surface to enable passing. The alignment is also subject to flooding with two notable reduced speed "dips" as part of drainage lines that cross the road. The intersection of Wybong Post Office Road with Wybong Road is positioned with the two roads at an angle of 25 degrees, with the intersection design having an approach angle of approximately 70 degrees.

The proposed new realigned section of Wybong Post Office Road, as included in the MCCO Project EIS, is of a significantly higher standard to the current length of road and planned to be:

- Designed in accordance with the RMS Road Design Guide (RTA, 2000) for a typical two lane
- Of a width suitable to have two vehicles pass safely
- Suitable for 100km/h vehicle speed
- Flood free to an event of peak 1% AEP(100yr ARI) flow
- At 90 degrees where it re-joins Wybong Road
- At greater site line distance than the current intersection

The design of the Wybong Post Office Road realignment has been developed by a competent engineering consultancy firm and costed by an independent quantity surveyor with all detailed design planning complete as presented in the application for SSD 8642. The cost of the Wybong Post Office Road

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realignment as proposed in the EIS is proposed to be borne by Mangoola and therefore Mangoola does not accept the suggested inclusion as proposed by MSC.

9. Social Impact Management Plan – Condition B107

MSC Suggestion

Social Impact Management Plan

B107. The Applicant must prepare a Social Impact Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:

- (a) be prepared by a suitably qualified and experienced person/s;
- (b) be prepared in consultation with Council, the CCC, local affected communities and other interested stakeholders;
- (c) identify both positive and negative social impacts resulting from the development and following mine closure, both locally and regionally;
- (d) specify adaptive management and mitigation measures to avoid, minimise, and/or mitigate negative social impacts;
- (e) identify opportunities to secure and enhance positive social impacts from the development, including opportunities to assist in maintaining community services and facilities **during and post mining**;
- (f) **include a stakeholder engagement plan to guide mine closure planning processes and outcomes**;
- (g) include a stakeholder engagement plan to guide the evaluation and implementation of social impact management and mitigation measures; and
- (h) include a program to monitor, review and report on the effectiveness of these measures, including updating the plan 3 years prior to mine closure.

(reason: Mine closure planning requires a focus on social and economic outcomes, including assistance for employees who will be made redundant, and accordingly is more than rehabilitation to identified landforms)

Mangoola Response

Mangoola considers that the suggested change is unnecessary.

Stakeholder engagement will be completed as part of the Mine Closure Plan. However this condition relates to the development of a Social Impact Management Plan to account largely for operational impacts associated with the MCCO Project to local affected communities and other interested stakeholders. In this regard, recommended Condition B107(b) includes key stakeholders consultation during the development of the Social Impact Management Plan. Condition B107(g) in the recommended conditions (Condition B107(h) above) adequately captures the update to the Social Impact Management Plan in the period 3 years prior to mine closure.

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10. Notification of Landowners/Tenants– Condition C6

MSC Suggestion

~~C6. Prior to entering into any tenancy agreement for any land owned by the Applicant that is predicted to experience exceedances of the recommended dust and/or noise criteria, the Applicant must:~~

~~(a) — advise the prospective tenants of the potential health and amenity impacts associated with living on the land, and give them a copy of the fact sheet entitled “Mine Dust and You” (NSW Health, 2017); and~~

~~(b) — advise the prospective tenants of the rights they would have under this consent, to the satisfaction of the Planning Secretary.~~

C6 The Applicant is not to rent out any dwelling that is predicted to experience exceedances of the recommended dust, noise or blasting criteria.

(reason: The EA has determined that these properties are unhealthy or unsafe to live in and should not be rented to people. It is common practice for the mines to offer these homes at a rental rate much lower than market rates, which attracts people from lower socio-economic backgrounds who cannot afford more than basic levels of medical expenses.)

Mangoola Response

Mangoola considers the suggested change is inappropriate and unnecessary.

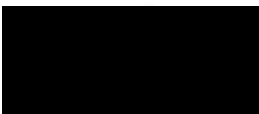

Mangoola currently operates in accordance with the existing Project Approval (PA) 06_0014 (as modified) which includes an existing framework for management of mine owned properties. Schedule 3, Condition 21 of PA 06_0014 describes the existing arrangement for notification to tenants and includes the ability for the tenant to terminate their tenancy agreement without penalty at any time, subject to giving reasonable notice. This condition also includes the requirement for air quality monitoring to be regularly undertaken to inform the tenant and landowner of the actual particulate emissions.

Condition B29 of the recommended conditions of SSD 8642 carries over this equivalent condition and states that the tenant of any land owned by the Applicant can terminate their tenancy agreement without penalty. In addition, Condition B29(c) states that air quality monitoring is regularly undertaken to inform the tenant and landowner (if the residence is owned by another mining company) of the likely particulate matter emissions at the residence.

The recommended condition is considered a standard condition of development consent for SSD. The suggested amendment would be a significant departure from the current arrangements in place for tenancy agreements in proximity to SSD operations.

We welcome the opportunity to discuss any aspects in this letter with you further, should you require.

Yours sincerely


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