

Technical Review Board

12 October 2015

Our Ref: TRB.L61

Mr J Florent
Deputy Secretary - Market Access and Regulation
Department of Economic Development, Jobs, Transport and
Resources
Level 8, 8 Nicholson Street
EAST MELBOURNE 3002

cc. Duncan Pendrigh - Acting Executive Director
Earth Resources Regulation

Dear James

RE: Loy Yang Work Plan Variation

This letter serves as formal advice of that provided to you and Mr Duncan Pendrigh by email on 1 October 2015.

I have been through the main body of the Loy Yang Work Plan Variation (LYWPV) and select appendices sent to me by Mr Duncan Pendrigh and have a reasonably good working knowledge of them. I am a little disadvantaged by not having a copy of the earlier version in order to track changes, but this is probably neither here nor there. The LYWPV is in a different league to what I am used to from my time on the NSW Planning Assessment Commission and earlier major project approval bodies.

In summary, the application is highly conceptual and based heavily on descriptions of proposed activities and statements of intent. The underpinning technical information is scant and, furthermore, the reader is required to distil for themselves the little technical information that there is from the appendices. In the main, performance criteria appear to have been set by the proponent rather than by an independent assessing body. For example, the proponent has decided that that rehabilitation will be decreed to be successful if a rehabilitated batter can be grazed successfully for two consecutive seasons. Frankly, this is too silly to waste time explaining why.

A range of aspects critical to successful rehabilitation are not assessed or even discussed. For example, rehabilitation is premised on final slopes of 1:3 (V:H). As far as I know, this is an historical assumption that is yet to be confirmed by geotechnical, hydrogeological and environmental engineering studies. Critical factors such as drainage systems for rehabilitated slopes are not discussed.

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The TRB may be contacted through the TRB Executive Officer:

TRB EO: Karen Sonnekus
Telephone: (03) 9092 1969
Email: karen.sonnekus@ecodev.vic.gov.au

It seems that the proponent has no intention of reducing the fire fuel load on the northern batters until the final rehabilitation is carried out at the completion of Stage C mining in about a decade's time. The presence of a range of mining and other infrastructure on this batter has been put forward as the reason for this delay. Notwithstanding this, the proponent still claims to be undertaking progressive rehabilitation. The matter does not appear to have been independently tested to date from both technical and risk management perspectives.

Many of the deficiencies in the LYWPV will take considerable time and, in some cases, research to address. I am talking of years, not months. There are no immediate answers to some of the questions raised by the agencies in Attachments 1 and 2. With few exceptions, it cannot be said that the proponent has not responded to the questions. However, many of the answers are somewhat meaningless. For example, in response to the query that the proponent may not be able to use its existing water entitlement, the proponent has responded that it will use its best endeavours to source all available supplies of water. There is no discussion of the implications associated with restricted access to water.

A fundamental problem appears to me to be that a detailed set of performance criteria are yet to be set by government. For example, the current performance criteria for rehabilitation batters is simply that they are required to be *safe and stable in the long term*.

I can go through the list of queries raised by agencies in Attachments 1 and 2 that you sent me and comment on whether I consider that they have been addressed in the latest LYWPV. However, I do not know what value that will add against the preceding background. In most cases, the answer will be that the proponent has addressed the query. However, as in the example of water sources to flood the mine noted earlier, the answer is meaningless. It does not contribute to properly assessing risk and rehabilitation and such a meaningful assessment is likely to take several more years given the point at which the mine approval process is currently at in Victoria.

Based on my experience, the reality of the situation (presumably, the mine must continue to operate) might be dealt with through a staged approval process.

Please advise if and how you wish me to proceed further.

Yours sincerely



JM Galvin
Chair, Technical Review Board

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