

28 August 2018
Contact: **Lisa Schiff**

Department of Planning and Environment
Attn: Rose-Anne Hawkeswood
Resource & Energy Assessments
GPO Box 39
SYDNEY NSW 2001

Dear Rose-Anne

RE: Sunrise Mine Project - Modification 4: Proposed Consolidated Consent Conditions

Thank you for the opportunity to provide comment on the proposed consolidated consent for the Sunrise Mine Modification 4.

Lachlan Shire Council (LSC) has provided comment specifically in relation to the proposed Modification Conditions (indicated in blue text) in your document as requested however we have also provided some comment in relation to Conditions that already form a part of the consent (indicated in black text).

While LSC recognises that comments in relation to existing consent conditions are considered to be outside the scope of the Mod 4 additions, we nonetheless provide our suggestions for your consideration.

We understand that many of the existing conditions, and also the proposed conditions, are deemed “standard” that aim to deliver a consistent whole of Government approach to assessment of State Significant Development, followed by an “outcome based” approach to regulation. We also understand that this approach is intended to set thresholds that proponents are expected to comply with and that there are penalties for non-compliance.

Council Supports the Concerns of our Community

LSC is aware of many of the concerns of our community and in the main, supports these concerns.

The Mod 3 amendment contemporised the Development Consent and for the first time presented a different, less prescriptive approach to the wording of consent conditions and in fact removed others. The contemporised consent was delivered in the absence of a community engagement process which the Department has recently acknowledged as being less than ideal. The resultant amendments have raised significant community concern.

The lack of transparency around the contemporisation process, and subsequent lack of understanding of the Department’s change in direction in relation to an outcome-based approach, has contributed to the community’s mistrust of the entire assessment process. This is evidenced by the individual (but qualified) statements of community support for the Clean TeQ project at the Community Consultative Committee meeting held in Condobolin on 27 August 2018. This support was qualified because of the inadequacy of the Conditions of Consent to address community concerns in relation to potential impacts of the mine and also the removal of the acquisition Condition of the consent at the Mod 3 stage.

LSC shares the concern of our residents and ratepayers that the burden of proof of exceedance of relevant emission criteria rests with the impacted individuals and their success in having issues

addressed will be based on their individual capacity to convince the regulators to either investigate or take action in relation to a breach. And all of this without any off site scientific real time data being available to the community.

While we appreciate the government's approach to State Significant Development consents being outcome focussed as opposed to immediately prescriptive, this gives little comfort to the community and does nothing to build trust between the community, the proponent and the government.

LSC submits that the Department should give further consideration to the wording of both the existing and proposed consent conditions that relate to air emissions and water and noise impacts so that these conditions are transparent, measurable and readily understandable by our community. Further to this, we request that these conditions have a clear path to regulatory compliance should the proponent not perform to the Department's expectations.

The community requests for offsite real time monitoring at the nearest residences is considered reasonable in the circumstances and some concession should be made in regard to these requests. The provision of real time off site monitoring can only generate a new level of trust. This will also build community capacity in relation to understanding both measurement techniques and acceptable emission levels - which in turn will contribute to improved relationships between our residents and the proponent. We do recognise that some training might be necessary so that future conversations are based on common understanding.

Finally, in relation to LSC support for community concern we request that the acquisition Condition – removed in Mod 3 without discussion with affected community members is immediately reinstated. Given the confidence of both the government departments and the proponent that no adverse offsite impacts will occur – acquisition is not a risky proposition for the proponent moving forward.

Having this safety net will give the community confidence that their interests are in fact protected should the “unforeseen occur”. The proponent should be prepared and expected to back themselves and show confidence in their modelling particularly as the outcomes-based approach is based on an expectation that the proponent will perform within the required standards.

Council Comments- Draft Consent Conditions

Our comments in relation to the proposed draft consent conditions are provided Condition by Condition below:

Schedule 2 – Administrative Conditions

Condition 12 - Updating & Staging of Strategies, Plans or Programs

LSC requests:

- the wording be amended to state updating strategies, plans or programs should be subject to consultation with the three impacted Councils – Parkes Shire Council, Forbes Shire Council and Lachlan Shire Council.
- the phrase 'progressive basis' is open to wide interpretation. Please adjust so is clear and transparent.

Condition 14 - Pipeline Construction and Operation

LSC requests that an additional Condition 14 (b) be inserted to read: an access agreement is to be negotiated with Parkes Shire Council, Forbes Shire Council and Lachlan Shire Council for the construction and operation of the water pipeline within the Councils road reserves.

Schedule 3 – Environmental performance Conditions

Condition 2: Construction Noise

LSC requests that the word ‘minimise’ be made more explicit as to what is required to be achieved.

Condition 3: Operations Noise

LSC requests that the consent be more expansive and stipulate the entitlements and safeguards afforded to neighbours in the event that noise exceeds permissible limits. We submit the consent should provide protective legal safeguards for the neighbours listed in Table 2 in the event of adverse impacts.

Condition 21: Air Quality

LSC submits the phrase “all reasonable and feasible” is too vague and subjective and open to wide ranging interpretation. This wording is skewed in favour of the proponent and should be changed to provide wording that is balanced for all parties and helps protect neighbours in the event of adverse impacts occurring.

Condition 23: Air Quality Management Plan

LSC submits:

- that the opening sentence be changed to read “to the satisfaction of the NSW EPA and the Secretary” and
- Condition 23 (a) should be amended to read “be prepared in consultation with and signed off by the NSW EPA”.

Condition 26: Water Supply

LSC submits that this condition requires elaboration to define “sufficient water”. The condition needs to make it clear that harvestable rights, bore field supplies and river water supplies will not be increased without full, transparent and robust assessment and the company must have operational contingencies embedded in all its management plans to scale back the development.

Condition 28: Compensatory Water Supply

LSC submits that this condition provides no fairness or balance to neighbours to the mine site in the event of adverse impacts. The process outlined is hugely time consuming (would be lucky to be resolved within 18 months) and provides no natural justice to farmers who would have to battle with the company and government agencies.

LSC kindly requests that the wording of this condition be significantly revamped to provide protection to farmers and their rights.

Condition 29 - Water Management Performance Measures

LSC submits be condition be changed so that:

- the Parkes Shire Council, Forbes Shire Council and Lachlan Shire Council have the opportunity to review and comment on any work arising from Table 9 prior to the commencement of any works
- the opportunity to review and comment on watercourse diversion and tailing storage design be provided to LSC. This will enable LSC to consider any potential downstream impacts on our infrastructure and residents.

Condition 30 - Water Management Plan

LSC submits that:

- after the words in the opening sentence “with DoI Water” (in Blue Text – proposed modified condition) be added “Lachlan Shire Council & Forbes Shire Council.”
- 30 (b) and 30 (c): Given the project was assessed nearly 20 years ago with no development since then, baseline data must be available and should be required as the yardstick for any assessment of impacts moving forward.
- Groundwater and Surface water Management Plans: should specifically require attention to the 10 kms within the mine site boundary, rather than the ill-defined “within the region”.
- The onus of proof must be on the developer to prove that its activity has not caused any adverse impact, rather than a powerless farmer having to try to convince the miner and the government he/she has been adversely affected. The condition – effectively enshrined in the law – must provide a fair balance for all.

Condition 43 - Road Upgrade and Maintenance Strategy

LSC submits that a new Condition 43A be added: “the program is to be consistent with the terms of the VPA”

Condition 47 to 47A - Accommodation Camp

LSC submits that Condition 47a should be amended to insert the words “to the satisfaction of Lachlan Shire and the Secretary”.

Condition 53: Pre-Commissioning Hazard Studies

LSC submits that:

- the words “Lachlan Shire Council” be added to Condition 53 (b) after the words “Fire and Rescue NSW”
- following the words in Blue Text “Principle Mining Hazard” that the following sentence be added: “Where the System refers to the Lachlan Shire, SES, RFS or Fire and Rescue the representatives of the organisation are to be consulted including invitation to attend high level risk assessment workshops and meetings.”
- after the words “must be available for inspection by the Secretary” the words “Parkes Shire Council, Forbes Shire Council and Lachlan Shire Council” be added.

Schedule 4: Additional Procedures – Independent Review

LSC requests that the wording be expanded to include:

- who and how the terms of reference for a review are established, ensuring that any landholders involved have a genuine say
- an independent review must be commissioned within 28 days not two months. Two months is far too long in the event of water, noise or air quality impacts
- provide in the process an open and transparent dialogue with any affected parties, and genuine engagement, understanding and empathy with any landholder’s position.

Schedule 5 – Environmental Management, Reporting and Auditing

Condition 3: Adaptive Management

LSC submits:

- that Condition 3(a) be altered to read “take all steps necessary to ensure that any exceedance ceases forthwith and does not recur”. The current wording is vague and ill-defined and favours the proponent and its lawyers and provides no legal protection of landholder’s rights
- that a new Condition 3(d) be inserted “notify Parkes Shire Council, Forbes Shire Council and Lachlan Shire Council”

Condition 5: Annual Review

LSC requests that point (g) be added stating “describe the perception, views and attitudes of the various communities to the performance of the project over the past 12 months” and, if necessary, what steps it is taking to improve a social

Condition 8: Incident Reporting

LSC submits that the words “including Parkes Shire Council, Forbes Shire Council and Lachlan Shire Council” be added after the words “any other relevant agencies”

Appendix 3: VPA

LSC submits that the wording be altered as below to reflect the VPA document dated 22 August 2018. Note is a single document to be signed by all four parties.

TERMS OF VOLUNTARY PLANNING AGREEMENT

Community Enhancement Contribution

- Clean TeQ shall pay **an annual** total payment of \$400,000 **plus CPI** to Forbes Shire Council (FSC), Parkes Shire Council (PSC) and Lachlan Shire Council (LSC).
- The total payment shall be allocated 50% to Lachlan Shire Council, with 25% each to Parkes Shire Council and Forbes Shire Council, unless otherwise determined jointly by FSC, LSC and PSC.
- **The first payment of \$400,000 shall be payable within 21 days of signing of this Agreement and then paid on the same date each year until Mining Operations cease.**

If the Final Investment Decision is not reached within 12 months of the initial payment, no further annual Community Enhancement Contributions will be made until the Final Investment Decision is reached. Once the Final Investment Decision is reached payments will resume within 21 days of the Final Investment Decision and continue annually.

Road Maintenance Contribution

- **Clean TeQ shall pay an annual Road Maintenance Contribution totalling \$340,000 plus CPI as follows:**
 - (i) Lachlan Shire Council: \$168,000**
 - (ii) Parkes Shire Council: \$152,000**
 - (iii) Forbes Shire Council: \$20,000**
- The first annual contribution **shall be** paid within 21 days of the Final Investment Decision and then paid on the same date each year until Mining Operations cease.

- If the Final Investment Decision is not reached within 12 months of the initial payment, no further Road Maintenance Contributions shall be made until the Final Investment Decision is reached. Once the Final Investment Decision is reached, payments shall resume within 21 days of the Final Investment Decision **payable annually on the same date**.
- The Road Maintenance Contributions are to be used to maintain the following roads:

Parkes Shire Council

- Middle Trundle Road [SR83] (between Henry Parkes Way [MR61] and The Bogan Way [MR350]);
- The Bogan Way [MR350] (between Henry Parkes Way [MR61] and Fifield Trundle Road [SR171]);
- Fifield Trundle Road [SR171] (between The Bogan Way [MR350] and the Parkes Shire boundary);
- Fifield Road [MR 57] (between the Parkes Shire Boundary and The Bogan Way [MR350]);
- The Bogan Way [MR350] (between Fifield Road [MR57] and The McGrane Way [MR354]); and
- The McGrane Way [MR354] (between The Bogan Way [MR350] and the Parkes Shire Boundary).
- Scotson Lane between the rail siding access road and The Bogan Way [MR350].

Lachlan Shire Council

- Fifield Road [MR57] (between Henry Parkes Way [MR61] and Slee St [in Fifield Village] and between Slee St [in Fifield Village] and Red Heart Road [SR41]);
- Platina Road [SR64] (between the Lachlan Shire Boundary and Fifield Road [MR57]);
- Slee St [in Fifield Village] (between Fifield Road [MR57] and Wilmatha Road [SR34]);
- Wilmatha Road [SR34] (between Slee St [in Fifield Village] and Mine Access Road); and
- Fifield Road [MR57] (between Red Heart Road [SR41] and the Lachlan Shire Boundary).

Forbes Shire Council

- North Condobolin Road (between the bore fields and Ootha-Mulguthrie Road);
 - Ootha-Mulguthrie Road (between North Condobolin Road and Henry Parkes Way [MR61]);
 - Ootha- Ringwood Road (between Henry Parkes Way [MR61] and Burkes Road);
 - Burkes Road (between Ootha- Ringwood Road and Ootha North Road); and
 - Ootha North Road (between Burkes Road and the Forbes Shire Boundary).
- Clean TeQ shall maintain Sunrise Lane (between the accommodation camp site access road and Wilmatha Road [SR34]), to the satisfaction of LSC, during the construction and operation phase of the mine and processing facility.

Project Facilitation Contribution

Clean TeQ shall pay LSC, PSC and FSC each an annual Project Facilitation Contribution of \$30,000 within 21 days of the Final Investment Decision and then on the same date each year thereafter. The payments are to be made during the period between Final Investment Decision and two years to the day after the commencement of construction.

Consumer Price Index

- The Community Enhancement Contribution, the Road Maintenance Contribution and the Project Facilitation Contribution are all subject to CPI. The three different contributions shall be indexed according to the CPI at the time of payments after the initial payment.

Major Repair Contributions

- Clean TeQ shall pay Major Repair Contributions on the Transport Route to address exceptional failure of or damage to roads where government grants do not cover the full cost of repairs.
- The Major Repair Contribution shall be undertaken on an as needs basis during the life of the Mine, but limited to a maximum 5 km of construction in any year, unless mutually agreed between Clean TeQ and the relevant council(s).
- Clean TeQ shall pay the Major Repair Contribution to the Council(s) within 30 Business Days of the date of the letter notifying the relevant Council of acceptance of the Cost Report. These contributions are to be mutually agreed by the Parties and do not substitute for the nominated Road Maintenance Contributions.

Road and Intersection Upgrades

Clean TeQ shall pay for and be responsible for the following Road and Intersection Upgrades. Such upgrades shall commence promptly following the Final Investment Decision, or earlier at the sole discretion of Clean TeQ:

Road Upgrades

Prior to the commissioning of the Accommodation Camp, Clean TeQ shall pay for and require the completion of the upgrade of Sunrise Lane (between the Accommodation Camp access road and Wilmatha Road [SR34]) to the following:

- all weather unsealed surface for an operating speed standard of 80 km/h; and
- carriageway width of 9 m (equivalent to two 3.5 m lanes and two 1.0 m wide shoulders).

Construction of the Road and Intersection Upgrades, and completed prior to the commissioning of the development

In addition, Prior to the Commissioning of the Development (meaning the date on which the testing of the Mine Processing Facility to verify that it functions according to its design objectives and specifications is completed), Clean TeQ shall pay for and be responsible for the delivery of the following upgrades:

- road pavement (8.0 m sealed pavement and 1.0 m gravel shoulders); and
- all private access roads (3.5 m sealed private access road approach and 3.0 m gravel shoulders along road 30 m either side of all private access roads).

to the following roads:

- Platina Road [SR64] (between the Lachlan Shire boundary and Fifield Road [MR57]);
- Fifield Road [MR57] (between Platina Road [SR64] and Slee St [in Fifield Village]);
- Wilmatha Road [SR34] (between Slee St [in Fifield Village] and the mine and processing facility access road); and
- Fifield Trundle Road [SR171] (between The Bogan Way [MR350] and the Parkes Shire boundary).

Clean TeQ shall prepare a road construction programme detailing the work specifications, timing and scheduling of road upgrades required. The programme shall be prepared by Clean TeQ in consultation with the relevant Councils. The road upgrades shall be undertaken in accordance with the road construction programme unless otherwise agreed the relevant Councils.

Intersection Upgrades

Prior to the Commissioning of the Development (meaning the date on which the testing of the Mine Processing Facility to verify that it functions according to its design objectives and specifications is completed), Clean TeQ shall pay for the following intersection upgrades:

- Platina Road [SR64] /Fifield Road [MR57];
- Fifield Road [MR57] /Slee Street [in Fifield Village];
- Slee Street [in Fifield Village]/Wilmatha Road [SR34]/Fifield Road;
- The Bogan Way [MR350] /Fifield Trundle Road [SR171] and Scotson Lane;
- Henry Parkes Way [MR61] and Middle Trundle Road [SR83];
- Henry Parkes Way [MR61] and The Bogan Way [MR350]; and
- Sunrise Lane/Wilmatha Road [SR34] - remove the transition between the gravel and dirt surfaces while Wilmatha Road remains unsealed, and then seal a minimum of 30 m of Sunrise Lane on the approach to the intersection once Wilmatha Road is sealed.

Clean TeQ shall prepare a road construction programme detailing the work specifications, timing and scheduling of intersection upgrades required. The programme shall be prepared by Clean TeQ in consultation with the relevant Councils. The road upgrades shall be undertaken in accordance with the road construction programme unless otherwise agreed the relevant Councils.

Road Safety Audits

Prior to Commissioning of the Development (as defined above), Clean TeQ shall pay for and deliver a road safety audit program to determine road upgrade requirements on the following roads (including intersections and rail crossings):

- Henry Parkes Way [MR61] (between Jones Lane [eastern outskirts of Condobolin] and Fifield Road [MR57]);
- Fifield Road [MR57] (between Henry Parkes Way [MR61] and Slee St [in Fifield Village] and between Slee St [in Fifield Village] and Red Heart Road [SR41]);
- Platina Road [SR64] (between the Lachlan Shire Boundary and Fifield Road [MR57]);
- Slee St [in Fifield Village] (between Fifield Road [MR57] and Wilmatha Road [SR34]);
- Wilmatha Road [SR34] (between Slee St [in Fifield Village] and Mine Access Road); and
- Fifield Road [MR57] (between Red Heart Road [SR41] and the Lachlan Shire Boundary);
- Henry Parkes Way [MR61] (between Westlime Road [western outskirts of Parkes] and The Bogan Way [MR350]);
- Middle Trundle Road [SR83] (between Henry Parkes Way [MR61] and The Bogan Way [MR350]);
- The Bogan Way [MR350] (between Henry Parkes Way [MR61] and Fifield Trundle Road [SR171]);
- Fifield Road [MR 57] (between the Parkes Shire Boundary and The Bogan Way [MR350]);
- The Bogan Way [MR350] (between Fifield Road [MR57] and The McGrane Way [MR354]);
- Fifield Trundle Road [SR171] (between The Bogan Way [MR350] and the Parkes Shire boundary); and
- The McGrane Way [MR354] (between The Bogan Way [MR350] and the Parkes Shire Boundary).

Prior to the Commissioning of the Development, Clean TeQ shall reach an agreement with the relevant Councils on funding and the timing of any additional road safety works deemed necessary by the road safety audit program.

If you require clarification on any of the comments submitted, please do not hesitate to contact me contact me on 02 6895 1950.

Yours sincerely

Lisa Schiff
Acting Director
Environment & Projects