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cc. Idemitsu Australia Resources Pty Ltd, enquiries@idemitsu.com.au

29 June 2023

Dear Coal Assessment Hub,

RE: Proposed Coal mining operation – Mining Lease Application Number 700061

Thank you for the opportunity to make this submission in response to the Mining Lease Application by Bligh Coal Limited, Bowen Investment (Australia) Pty Ltd and Idemitsu Australia Pty Ltd (**the Proponent**) for the Ensham Life of Mine Extension Coal Project (**the Project**). We note that this application is subject to a transfer of approval to Sungela Pty Ltd and Bowen Investment (Australia) Pty Ltd.

Environmental Advocacy in Central Queensland (**EnvA**) is a Central Queensland association concerned about the risks associated with coal mining, coal seam gas and climate change.

EnvA believes that opening new or expanding existing coal and gas projects:

- is contrary to meeting Australia's emission targets and Queensland's emission targets,
- is likely to result in irreparable damage to our local landscape and result in stranded assets,
- will put our local community at further risk of extreme weather such as increasing the intensity and frequency of storms, floods, droughts and bushfires,
- will damage our significant coastal resources including our beaches and the Great Barrier Reef through storm surge and increased coral bleaching events,
- will further degrade wildlife habitats of state and national significance through both habitat loss and climate change, and
- rarely take into consideration the views of Traditional Owners and local communities who are concerned about protecting their land from fossil fuel development.

The Ensham Life of Mine Extension Project

The proposed Project is the extension of the existing underground bord and pillar Ensham coal mine. The Project is located approximately 35km east of Emerald and 49km north-west of Blackwater in Central Queensland. The proposed Project spans an area of approximately 2,737 hectares. It would maintain the extraction of thermal coal at a rate of 4.5 million tonnes per annum until approximately 2037.

No further surface infrastructure or disturbance is proposed as the existing infrastructure including road, rail and mine infrastructure will be used.



EnvA's comments on the Mining Lease application

EnvA is strongly opposed to the Project and recommends that Mining Lease Application Number 700061 be refused for the following reasons:

Flaws in the assessment process

Background

The Project (EPBC Number: **2020/8669**) was determined to be a controlled action under the *Environmental Protection and Biodiversity Act 1999* (EPBC Act) with the controlling provisions of:

- Listed threatened species and communities (sections 18 & 18A), and
- A water resource, in relation to coal seam gas development and large coal mining development (section 24D & 24E)

It was determined that the project would be assessed under a bilateral agreement with the Queensland government. It is our understanding that there has been no final approval of the project by the federal Environment Minister as required under the agreed bilateral EIS approval process. It is our understanding that under the bilateral assessment process, the federal Environment Minister must provide the final approval of the Project before the project can commence.

This Project was also part of a reconsideration request based on a legal argument that the impacts of climate change must be considered in the assessment of the impacts of the activity on all Matters of National Environmental Significance (MNES) and not only the local impacts. We acknowledge that the reconsideration request has delayed the federal approval of the project.

It appears that the Queensland Department of Environment and Science has approved a major amendment to the Proponent's environmental authority despite no federal approval of the EIS assessment as required under the bilateral agreement.

Recommendation

EnvA strongly believes that the mining lease must be refused. In the alternative, the bilateral agreement process is followed and no decision on a mining lease is provided until an approval (or otherwise), and any conditions are determined by the Australian government.

Greenhouse gas emissions

Background

The Queensland government has committed to a transition to renewable away from fossil fuels to a renewable energy future. The government has also set emission reduction target of 30% by 2030 and net-zero by 2050. Australia's targets are more ambitious at 43% by 2030 and net-zero by 2050. Both of these targets are insufficient if we are to reverse the current climate change impacts that we are experiencing in Queensland, Australia and around the world.

This proposed Project is for **thermal coal** which is no longer in demand domestically, and there is more than sufficient supply for the export market without expanding the thermal coal extraction in Australia.

The proposed project seeks to extract thermal coal at a planned production rate of up to approximately 4.5 million tonnes per annum (Mtpa), which is expected to enable the extension of the life of the Ensham Mine from 2028 by up to nine years. The mine is estimated to produce 38 million tonnes (Mt) of thermal product coal for export to Asian markets.

The estimated total of Scope 1 and Scope 2 emissions over the life of the mine from the Proposed Project alone are 8.64 Mt CO₂-e.

Scope 3 emissions have not been reported for the Proposed Project, however a total of combustion CO₂ emissions from the product coal of the Proposed Project is estimated to be 92.34 Mt CO₂¹.

These unnecessary greenhouse gas emissions (GHG) emissions are contributing to accelerated climate change which is already impacting on our local communities through²:

- exacerbation of heatwaves;
- long-term increase in extreme fire weather and length of the fire season;
- changes in rainfall patterns resulting in severe flooding events;
- mass bleaching of the Great Barrier Reef; and
- worsening drought conditions.

If Queensland (and Australia) is serious about meeting emission reduction targets, there is sensible reason to continue to allow new or expanding fossil fuel projects. With the new safeguard mechanism requirements to be implemented, these new unnecessary fossil fuel projects place additional onus on emerging and future new-economy industries to make up for the high emissions from the fossil fuel industry.

The scientific consensus is clear that expansion of fossil fuel production must be stopped in order to reduce global GHG emissions and avoid the potentially catastrophic impacts of unmitigated global warming and climate change.³

The relationship between GHG emissions and climate change in Australia was recognised in the 2021 State of the Environment Report, which stated that:⁴

“Warming of the Australian climate, and associated changes in the climate system, are driven by increased concentrations of greenhouse gases in the atmosphere. Changes to the climate are inevitable, based on greenhouse gases that have already been emitted, but further changes in the second half of the 21st century will depend on the level of future global emissions.”

On current trajectories, the impacts of the changes in the climate system will be significantly exacerbated. The Federal Court in *Sharma v Minister for the Environment* accepted evidence put forward in respect of the future impacts of climate change and found:⁵

“It is difficult to characterise in a single phrase the devastation that the plausible evidence presented in this proceeding forecasts for the Children ... The physical environment will be harsher, far more extreme and devastatingly brutal when angry. As for the human experience – quality of life, opportunities to partake in nature’s treasures, the capacity to grow and prosper – all will be greatly diminished. Lives will be cut short. Trauma will be far more common and good health harder to hold and maintain. None of this will be the fault of nature itself. It will largely be inflicted by the inaction of this generation of adults, in what might fairly be described as the greatest inter-generational injustice ever inflicted by one generation of humans upon the next.”

¹ <https://livingwonders.org.au/explore-the-evidence/coal-and-gas/>

² Ian Cresswell, Terri Janke and Emma Johnston, *Australia State of the Environment Report 2021: Overview* (2021) 82-93.

³ UN Environment Programme, *Production Gap Report 2020* (Report, 2 December 2020); Intergovernmental Panel on Climate Change, *Climate Change 2022: Mitigation of Climate Change – Technical Summary* (Report, 2022) 52.

⁴ Ian Cresswell, Terri Janke and Emma Johnston, *Australia State of the Environment Report 2021: Overview* (2021) 85.

⁵ *Sharma v Minister for the Environment* [2021] FCA 560 at [293].

The economic benefit of any development is also vulnerable to climate change impacts itself, including the risk that it may not be able to operate at optimal levels for its full expected lifespan due to factors including increased frequency of extreme weather events and changes to water availability as a result of prolonged droughts. The risks of any fossil fuel based-development's assets becoming stranded will likely continue to increase throughout the development's lifespan as a result of global policies and international action on climate change.

Recommendations

EnvA strongly believes that the mining lease must be refused on the basis that the impacts of the emissions on the local, Queensland and national environment have not been adequately assessed or considered in the justification for this project in relation to environmental, social and economic grounds.

Human rights

Background

The Department of Resources, as a public entity, must not act or make a decision in a way that is not compatible with human rights.⁶

The contribution of this Project to the continued accretion of GHGs in the atmosphere and the resulting impacts of climate change will limit, beyond the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the HR Act, the following rights of people in Queensland protected under that Act:

- (a) the right to life of people in Queensland (s 16);⁷
- (b) the rights of First Nations Peoples (s 28);⁸
- (c) the rights of children (s 26);⁹
- (d) the right to property (s 24);¹⁰
- (e) the right to privacy and home (s 25(a));¹¹ and
- (f) the right to enjoy human rights without discrimination (s 15(2)).¹²

In the recent decision of the Queensland Land Court of *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors (No 6)* [2022] QLC 21, President Kingham found that the link between the approval of Projects which contribute to climate change and the impact of that harm on human rights is sufficiently connected so as to require consideration of the HR Act.¹³ Specifically, the President considered the listed human rights relevant to that decision, as per footnotes above.

The Project presents risks to human rights due to its contribution to climate change, as well as risks posed to biodiversity and ground and surface water.

Recommendations

EnvA strongly believes that the mining lease must be refused as the Project would, on the balance, unreasonably limit human rights.

⁶ *Human Rights Act 2019* (Qld), s 58.

⁷ *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors (No 6)* [2022] QLC 21, at [1452].

⁸ *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors (No 6)* [2022] QLC 21, at [1514].

⁹ *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors (No 6)* [2022] QLC 21, at [1569].

¹⁰ *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors (No 6)* [2022] QLC 21, at [1604].

¹¹ *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors (No 6)* [2022] QLC 21, at [1623].

¹² *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors (No 6)* [2022] QLC 21, at [1634].

¹³ *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors (No 6)* [2022] QLC 21, at [1703]-[1705].

In conclusion, we strongly recommend that the mining lease is refused on the basis that:

- the resulting thermal coal product may not have any economic value before the end-of-mine and may result in stranded assets when the Proponent is no longer realising the current economic benefits;
- it will be a 'new' fossil fuel industry that will force greater emission restrictions on necessary industries of the future;
- the impacts, both locally, nationally and internationally will impact on human rights.

In the alternative, no decision on this mining lease application should be made until the assessment at the federal level is completed and considered.

Kind regards

A handwritten signature in blue ink, appearing to read 'Coral Rowston', written in a cursive style.

Dr Coral Rowston

Director

Environmental Advocacy in Central Queensland