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The Executive Director - Resources & Industry Policy
NSW Department of Planning & Environment
GPO Box 39
Sydney NSW 2001

CC: NSW Minister for Planning – Minister Stokes

Dear Sir/Madam

NSW Integrated Mining Policy

I would like to take this opportunity to provide feedback, on behalf of Peabody Energy Australia (**Peabody**), to the NSW Government Integrated Mining Policy (**IMP**) released for public comment on 28 May 2015, and more particularly on the "Policy Framework for Biodiversity Offsets for Upland Swamps and Associated Threatened Species" (**Upland Swamp Offset Policy**).

Peabody Energy Corporation is the world's largest private-sector coal mining company with operations across the United States and Australia. Peabody operates mines throughout New South Wales (**NSW**) and Queensland. We have four mining operations at three sites in NSW, located in the Hunter Valley, the Western Coalfields and the Southern Coalfields. Peabody's Metropolitan Coal Mine, located in the Southern Coalfields, would be significantly affected by the Upland Swamp Offset Policy as currently drafted.

Peabody employs a workforce of 1,200 people (including contractors) at its NSW sites. In 2014, the company produced more than 21 million tonnes of coal in NSW and delivered royalty payments of more than \$90 million to the NSW Government. Peabody operations are a significant contributor to the social and economic life of regional NSW, and the company has a strong track record in terms of community participation, safety and responsible local environmental management.

As a holder of current approvals granted under the State Significant Development provisions of Part 4 of the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**) and under the now repealed Major Project provisions of Part 3A of the EP&A Act, and also being a substantial landowner in NSW, Peabody has a significant interest in the form and content of any proposed reforms to planning and mining regulation in NSW.

Peabody generally considers the introduction of the IMP is a positive step in the improvement and streamlining of the overall regulation of mining projects in NSW. As a complete package, however the IMP should provide greater certainty for proponents, the community and regulators with regard to project application and performance requirements.

Peabody understands that the following components of the IMP are on public exhibition until 9 July 2015:

- 1 Standard Secretary's Environmental Assessment Requirements (SEARs);
- 2 Upland Swamp Offset Policy; and
- 3 Mine Application Guideline (MAG).

As a significant employer and contributor to the NSW economy Peabody needs certainty in the legislative requirements and cost to continue to invest in existing and potential future business in NSW. The Upland Swamp Offset Policy is an example of how the IMP could destroy any certainty and discourage future investment. This statement is supported by the facts that the draft Upland Swamp Offset Policy:

- Places more cost on currently approved operations in that the Upland Swamp Offset Policy is applied by stealth retrospectively through its application to future Extraction Plans without consideration of any existing approval conditions relating to offsets.
- Does not provide a transitional period and as such these liabilities apply immediately from 31 October 2015 – which is clearly a cause for concern for organisations in NSW.
- The approach of relying solely on a change in groundwater levels as the indicator of environmental consequence is too simplistic and doesn't reflect the complexity of upland swamp systems. Such an approach would be unacceptable if a proponent presented it in its Extraction Plans.
- Conflicts with the findings in the NSW Government's *Impacts of Underground Coal Mining on Natural Features in the Southern Coalfield – Strategic Review* (2008) that described how environmental impact due to additional groundwater monitoring sites might result in greater impact on the natural environment than may result from subsidence alone.

I urge you to collaborate fully with industry on the IMP Policies in order to achieve a sensible outcome for responsible investment in NSW.

If you would like to discuss any aspect of this submission in more detail, please don't hesitate to contact me.

Yours faithfully



Charles Meintjes
President, Australia
Peabody Energy Australia