



**Office of
Environment
& Heritage**

Your reference: DA 211/93
Our reference: DOC14/101507-01; EF14/1125
Contact: Ziggy Andersons, 4908 6820

Mr Mathew Sprott
Planning Officer, Mining Projects
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Mr Sprott

RE: REVIEW OF BENGALLA MINE – MODIFICATION 5 ENVIRONMENTAL ASSESSMENT – SECTION 75W MODIFICATION (DA 211/93)

I refer to your email dated 11 June 2014 requesting comments from the Office of Environment and Heritage (OEH) on the Bengalla Mine Modification 5 Environmental Assessment (EA). This application represents a modification to the approved Bengalla Mine Development Consent (DA 211/93).

OEH understands that the proposed modification involves geotechnical activities that include multiple test pits and two bore holes which are required to assess the nature of the soil and substrate within the pipeline corridor and proposed dams.

OEH has undertaken a review of the EA titled 'Bengalla Mine Development Consent Modification Environmental Assessment', prepared for Bengalla Mining Company Pty Ltd by Hansen Bailey Environmental Consultants and dated June 2014. OEH has determined that the EA lacks a clear quantification of the scale of the impacts of the proposal. Specific issues identified in the EA include:

- the number of test pits to be excavated is only approximate
- the test pit surface disturbance area doesn't appear to allow for activities associated with the excavation of the test pits
- the pipeline route and therefore location of the test pits hasn't been confirmed
- it is unclear to what extent any new tracks will require 'clearing'.

In summary, clarification is required as to the actual area of disturbance and therefore what Aboriginal objects and area of Box Gum Woodland endangered ecological community will potentially be impacted upon.

OEH recommends that prior to approval; the Department should be satisfied that the above issues have been clarified. OEH has provided detailed comments and recommended conditions of consent in **Attachment 1**.

If you require any further information regarding this matter, please contact Ziggy Andersons, Regional Biodiversity Conservation Officer, on 4908 6820.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Bath', with a long horizontal flourish extending to the right.

17 JUN 2014

RICHARD BATH
Senior Team Leader Planning, Hunter Central Coast Region
Regional Operations

Enclosure: Attachment 1

ATTACHMENT 1: COMMENTS AND RECOMMENDED CONDITIONS OF APPROVAL FOR PROPOSED BENGALLA MINE – SECTION 75W MODIFICATION 5 TO DA 211/93

OEH has reviewed the Environmental Assessment (EA) for Aboriginal cultural heritage issues and threatened biodiversity.

ABORIGINAL CULTURAL HERITAGE ASSESSMENT

OEH notes that the proposed geotechnical activities 'may' disturb at least twenty-one (21) recorded Aboriginal objects (isolated artefacts) and that the archaeological significance of these artefacts is considered to be low. The proponent has previously indicated that they would obtain a Section 90 Aboriginal Heritage Impact Permit (AHIP) under the *National Parks and Wildlife Act 1974* to either destroy or salvage these artefacts before any construction works start. OEH had no objection to this course of action.

The current environmental assessment for the Bengalla Development Consent Modification with respect to Aboriginal Archaeology now proposes that the impact assessment is documented within both the 'Aboriginal Archaeological and Cultural Heritage Impact Assessment prepared for the Continuation of Bengalla Mine Environmental Impact Statement 2013' prepared by AECOM (2013a) and the 'BMC Aboriginal Cultural Heritage Management Plan' that was completed for the modification. These documents state that the geotechnical activities have been specifically designed to avoid all previously identified Aboriginal objects and to ensure that no impacts occur to any objects or places of Aboriginal cultural significance.

To ensure that this modification does not impact both the known and unknown Aboriginal objects within the modification footprint, OEH recommends that the following conditions of consent be issued.

1. That a Due Diligence Aboriginal Archaeological Assessment under current 2010 OEH guidelines for each test pit and borehole site be undertaken by suitably qualified heritage professional.
2. All recorded Aboriginal objects be clearly marked and suitably fenced off to ensure that no impact occurs.
3. Access to the test pit and borehole locations is clearly demarcated to ensure that all disturbance is contained within the designated footprint.
4. Should any new Aboriginal objects be recovered during the proposed works, all works will cease, objects recorded and secured, and appropriate measures are undertaken to ensure that no further harm occurs. Any Aboriginal objects recovered must be managed in accordance with the existing BMC Aboriginal Cultural Heritage Management Plan.
5. All staff and contractors undertaking the proposed works are to be inducted and informed of the presence of Aboriginal cultural heritage objects and made aware of their location within the development footprint to ensure no impact occurs.

THREATENED BIODIVERSITY ASSESSMENT

OEH has reviewed the EA for potential impacts to the terrestrial ecology within the application area and based on below recommends that the Department request additional information before approving this application.

The EA states that the location of the pipeline and Wybong Road test pits are indicative only as the route of the pipeline has yet to be confirmed, in addition the EA states that 'approximately 51' test will be excavated though it does not provide any information regarding to what degree that location and number may vary.

In addition the EA states that the excavation of the test pits will result in a surface disturbance area of no greater than 4m x 4m but does not provide details as to what activities will be restricted to that 4m x 4m. The EA does not appear to make allowances for the temporary stockpiling of topsoil and spoil nor does it appear to allow for the placement of the excavation equipment. Both these impacts can potentially be mitigated and managed but no details as to how this will be achieved have been provided.

Section 5.1.2 provides mitigation and management measures to minimise impacts from the proposal but is the first instance that the 'clearing' of access tracks may be required has been raised. In addition there are no details as to what level of disturbance will occur as a result of track clearing and why consideration of this has not been included within the total area of disturbance. In general OEH supports the mitigation measures that are proposed within the EA and recommends that they be included in the conditions of consent for the proposed modification.

The endangered ecological community (EEC) that portions of this proposal occur within is predominantly native groundcover. Therefore any activity that may impact upon the groundcover component of this community is considered an impact to the EEC. OEH recommends that prior to approval; the Department should be satisfied that the above issues have been clarified. The Department may wish to request the following additional information:

- a description of what activities will occur within the proposed test pit footprints needs to be provided. If any activities associated with the excavation of the test pits cannot be confined to the 4m x 4m footprint then measures to mitigate these activities need to be provided. If the activities cannot be satisfactorily mitigated then the additional area required will need to be included into the total area of disturbance
- an upper limit of the number of test pits is to be provided with the impacts to biodiversity considered based on this upper limit, this area will then need to be included into the total area of disturbance
- in regards to the access tracks that may require 'clearing', details of what is involved in the clearing of these tracks needs to be provided. If track clearing will require any form of topsoil disturbance or if repeated access to the sites may result in damage to groundcover vegetation through compaction mitigation measures to prevent this occurring needs to be provided. If the activities cannot be satisfactorily mitigated then the additional area will need to be included into the total area of disturbance.

The proposal is a modification of an existing consent and therefore needs to be considered in isolation of the pending determination. However, OEH does acknowledge that the proposed modification falls within the boundary of the Bengalla Continuation Project and that all impacts associated with this proposal will be offset by the Bengalla Biodiversity Offset Package.

Therefore based on the above OEH recommends that the conditions of consent should include:

1. A project report shall be submitted upon completion of works and will include;
 - a. Details of the final location and number of test pits as well as the location of cleared tracks displayed in a figure overlaying Archaeological sites and vegetation mapping;
 - b. Details of mitigation measures applied;
 - c. Photographs of each site taken immediately following rehabilitation; and
 - d. The final area of disturbance must be provided and include types and areas of communities impacted upon.
2. If within 12 months of the modification approval the Bengalla Continuation Project does not receive approval, then Bengalla Mine will provide offsets for the total area of disturbance in accordance with OEH offset principles.