



Office of
Environment
& Heritage

DOC16/202661-3
DA 305-7-2003 MOD12

Ms Jessie Evans
Team Leader
Planning Services, Resource Assessment & Compliance
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms Evans

RE: SOUTH WAMBO UNDERGROUND MINE MODIFICATION – ENVIRONMENTAL ASSESSMENT (DA 305-7-2003 MOD 12)

I refer to your email dated 26 April 2016 seeking comment on the above modification. The Office of Environment and Heritage (OEH) understands that this project is a modification to a nominal and residual Part 3A project (DA 305-7-2003) under the now-repealed Part 3A of the *Environmental Planning and Assessment Act 1979*.

OEH has undertaken a review of the relevant sections of the Environmental Assessment (EA) for the South Wambo underground Mine Development Consent Modification, prepared by Peabody Energy (dated April 2016). The review focused on possible impacts of the proposed changes on Aboriginal cultural heritage, and threatened biodiversity. The proponent is offering a biodiversity offset of 41.6 hectares to compensate the loss of 7.9 hectares of native vegetation using the 13 biodiversity offsetting principles. An assessment of the proposal with recommended conditions of consent are provided in **Attachment 1**.

If you require any further information regarding this matter please contact Robert Gibson, Regional Biodiversity Conservation Officer, on 4927 3154.

Yours sincerely

RICHARD BATH 13 MAY 2016
Senior Team Leader, Planning Hunter Central Coast
Regional Operations

Enclosure: Attachment 1

ATTACHMENT 1: REVIEW OF THE ENVIRONMENTAL ASSESSMENT FOR THE SOUTH WAMBO UNDERGROUND MINE MODIFICATION (DA 305-7-2003 MOD 12) WITH RECOMMENDED CONDITIONS OF APPROVAL

OEH has undertaken a review of the Environmental Assessment (EA) titled '*South Wambo Underground Mine Modification, Environmental assessment, for the Modification of DA 305-7-2003 (MOD 12) The Realignment and Extension/Relocation of the Approved South Wambo Underground Mine*', April 2016, prepared by Peabody Energy. The review of the EA was in relation to possible impacts of the proposed development on Aboriginal cultural heritage and threatened biodiversity. OEH's comments and recommended conditions of consent are provided below:

ABORIGINAL CULTURAL HERITAGE ASSESSMENT

OEH has reviewed the '*Cultural Heritage Impact Assessment, South Wambo Underground Mine Modification, Prepared by RPS East Pty Ltd, Prepared for Wambo Coal Pty Limited, March 2016*' and makes the following recommendations and comments with respect to Aboriginal cultural heritage.

The Cultural Heritage Impact Assessment (CHIA) addresses the potential impacts to Aboriginal cultural heritage, specifically Aboriginal sites that are within the additional activity footprint for the modification to Development Consent (DA 305-7-2003) for the Wambo Coal Mine. The CHIA considers the archaeological context of the Modification Project Area, results from a search of the Aboriginal Heritage Information Management System (AHIMS) database, the development of a predictive model, comments from the Registered Aboriginal Parties (RAPs) regarding cultural heritage significance and the results of archaeological and cultural surveys of the Modification Project Area.

The CHIA notes that an application for an AHIP (or a variation to an existing consent) may be required for any Aboriginal sites that may be impacted by the proposed Modification that lie outside of the approved Consent 2222 boundary and the approved AHIP C0001474 boundary but within the Modification Project Area. OEH advises that a new AHIP application will be required for any Aboriginal sites that will be impacted by the proposed modification that are located outside the two current AHIP's, and that an AHIP Variation will not be possible. All sites within the existing Consent 2222 and AHIP C0001474 boundaries are to be managed consistent with the existing requirements of these consents. OEH concurs that all sites within existing consent are to be managed consistent those AHIP conditions. Searches of the AHIMS database indicated there are 35 registered AHIMS sites previously recorded within the Modification Project Area.

An archaeological investigation of the wider Study Area using archaeological pedestrian survey methods was undertaken over a period of eight days in October 2015 by RPS archaeologists with representatives from the RAPs. During the fieldwork a total of 83 previously unrecorded Aboriginal sites were identified within the Study Area, of which there were 52 previously unrecorded sites in the Modification Project Area. Including previously registered AHIMS sites and sites identified as a result of the survey, the total Aboriginal sites in the Modification Project Area is 87. The RAPs indicated during the consultation process that all Aboriginal sites and objects are of cultural significance and that confirmed and possible scarred tree sites, grinding grooves and grinding surfaces and earth mounds are of high cultural significance. The RAPs present during the field surveys recommended that artefact scatters and isolated finds not be moved/salvaged unless required. They considered that if any potential impacts to specific Aboriginal sites were likely, then those Aboriginal sites should be salvaged under an appropriate permit. OEH supports this management strategy.

OEH notes that the CHIA makes 11 recommendations, all of which are directly related to the management of Aboriginal cultural heritage, except for number 7 which relates to historic heritage. OEH supports all 10 recommendations proposed. OEH has no further concerns with respect to Aboriginal cultural heritage and the proposed development modification proceeding.

THREATENED BIODIVERSITY ASSESSMENT

OEH has reviewed the EA in relation likely impacts on threatened biodiversity by this project, particularly the flora (FloraSearch, 2016) and fauna (EcoLogical, 2016) assessment which were presented in Appendix D and E of the EA. OEH provided recommended input for Director General's Requirements for this project in 2012. However, due to unforeseeable delays the Secretary's Environmental Assessment Requirements (SEARs) were not issued until 3 March 2016. Given the longevity of this consent, this modification has been assessed in accordance with OEH's principles for the use of biodiversity offsets in NSW (OEH, 2016).

According to the EA, the proposed development would clear about 7.9 hectares (ha) of native vegetation, of which 4.5 ha is derived native grassland. The proposed offset has an area of 41.6 ha, of which about 15.2 ha is derived native grassland. The vegetation communities are summarised in **Table 1**. There are no records of any threatened plant or animal in the development or offset areas. Of the threatened vegetation communities affected by the development the offset provides more than 20 times the area of Forest Red Gum Lowland forest Endangered Ecological Community than that affected and more than five times the area of Slaty Box Woodland Vulnerable Ecological Community than that in the development footprint. Overall the offset is more than five times the area of the impact area.

Table 1. Summary of vegetation communities in the proposed development footprint and offset site (based on date in the EA).

No.*	Vegetation Community (and)	TSC Act equivalent	Development Area (ha)	Offset Area (ha)
2	Forest Red Gum Lowland Forest	Hunter Lowland Redgum Forest in the Sydney Basin and New South Wales North Coast Bioregions Endangered Ecological Community (EEC)	0.4	9.1
3	River Red Gum woodland	Hunter Floodplain Red Gum Woodland in the NSW North Coast and Sydney Basin Bioregions EEC	0.2	0
6	Narrow-leaved Ironbark – Grey Box Woodland	Central Hunter Ironbark – Spotted Gum – Grey Box Forest in the New South Wales North Coast and Sydney Basin Bioregions EEC	0	1.1
6a	Narrow-leaved Ironbark – Grey Box Woodland Derived Native Grassland	n/a	0	11.9
7	Bull Oak Grassy Woodland	n/a	1.8	0
10	<i>Melaleuca decora</i> Low Forest	n/a	0.1	0
11	Grey Box – Slaty Box Woodland	Hunter Valley Footslopes Slaty Gum Woodland in the Sydney Basin Bioregion Vulnerable Ecological Community (VEC)	0.9	5
13	Derived Native Grassland	n/a	4.5	14.5
	TOTAL		7.9	41.6
	TOTAL TSC Act-covered		1.5	15.2

* Vegetation Community Number as per Appendix 6 of the EA.

The proposed offset is adjacent to existing 'Habitat Management Areas' that have been established to mitigate the impacts of previously-issued consents for the Wambo Mining complex. Those existing Habitat Management Areas are in the process of being conserved under Conservation Agreements under Part 4, Division 12 of the *National Parks and Wildlife Act 1974*. The proponent is offering to also secure the offset for this proposed Modification under a Conservation Agreement.

The proposed offset was compared against the impact using the 13 biodiversity offsetting principles. OEH notes that while an exact like-for-like match is not provided for all threatened entities to be affected (i.e. Hunter Floodplain Red Gum Woodland in the NSW North Coast and Sydney Basin Bioregions EEC), the offset package includes a much larger area of other affected threatened vegetation communities affected, that it contains habitat for the range of threatened species affected by the

proposed works, and that it is contiguous with a larger area of vegetated land that is also being managed for conservation. Therefore, OEH is satisfied that the proposed offset meets the 'like-for-like or better' requirement of Offset principle 6. OEH recommends that if this proposal is approved it includes the following conditions of consent provided below.

Recommended Conditions of Approval for Threatened Biodiversity:

1. That the proponent provide a biodiversity offset package as described in Appendix D (FloraSearch Pty Ltd) of the Environmental Assessment (Peabody Energy, 2016); and
2. That if any unexpected harm to threatened species, populations, or communities occurs due to unexpected mine subsidence that it is offset in accordance with OEH biodiversity offsetting policy.

References:

EcoLogical (2016) *Wambo Coal Mine – South Wambo Underground Mine Modification – Fauna Assessment. Prepared for Wambo Coal Pty Limited. 14 March 2016.* EcoLogical Australia Pty Ltd, Mudgee. http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5586

FloraSearch (2016) *South Wambo Underground Mine Modification – Flora Assessment. Prepared for Wambo Coal Pty Limited. March 2016.* FloraSearch, Orange. http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5586

RPS (2016) *Cultural Heritage Impact Assessment: South Wambo Underground Mine Modification. Prepared for Wambo Coal Pty Limited. March 2016.* RPS Australia East Pty Ltd, Broadmeadow. http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5586

OEH (2016) *OEH principles for the use of biodiversity offsets in NSW.* 18 April 2016. NSW Office of Environment and Heritage, Sydney. www.environment.nsw.gov.au/biodivoffsets/oehoffsetprincip.htm

Peabody Energy (2016) *Wambo Coal Pty Limited. South Wambo Underground Mine Modification Environmental Assessment for the Modification of DA 305-7-2003 (MOD 12): The Realignment and Extension/Relocation of the Approved South Wambo Underground Mine. April 2016.* Peabody Energy Australia Pty Limited, South Brisbane. http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5586

OEH – MAY 2016