

Our Ref: Epic Response 01 to EPA comments on EAR.docx
EPA Ref: DOC14/293065
23 January 2015

Ms PHILLIPA DUNCAN
Senior Planning Officer
Mining Projects
Department of Planning & Environment
GPO Box 39
Sydney NSW 2001

Dear Ms Duncan,

**Epic Mining Pty Limited – 275 Adams Road, Luddenham
Application for Modification of Development Consent No 315-7-2003**

I refer to your E-mail dated 16 January 2015 in relation to Epic Mining Pty Limited's (the applicant) application for modification of the existing Development Consent No 315-7-2003 (Consent). Your E-mail included the NSW Environment Protection Authority's (EPA) comments on the environmental assessment report No 137018_EAR_Rep_Rev3 dated 18 November 2014 (EAR), prepared by Benbow Environmental Pty Ltd on behalf of the applicant.

I take this opportunity to express my gratitude on behalf of the applicant to all EPA staff who have contributed to the environmental management of the activities conducted on site including all improvements that have been made so far and the successful application of best management practices for such activities. This collaborative and professional approach has resulted in the continuous compliance of the applicant with all environmental requirements. Similarly, my gratitude extends to you and your colleagues in the Department of Planning and Environment (Department) for their assistance and persistence in achieving environmental improvements across the extractive industries in NSW.

Attachment A includes our response to the matters raised by the EPA.

I hope the submitted information is to your satisfaction. However, if you or the EPA's representative wish to discuss the matter further, please do not hesitate to contact me on any of my contact details included below.

Yours Sincerely



N. ISRAEL

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Encl. Attachment A – Epic Mining Pty Ltd response to EPA comments on the Luddenham Clay/ Shale Quarry Modification Application (DA 315-7-2003 MOD 3)

Attachment A

Epic Mining Pty Ltd response to EPA comments on the Luddenham Clay/ Shale Quarry Modification Application (DA 315-7-2003 MOD 3)

Composting

The Environmental Assessment Report (EAR) included a very comprehensive Section (18 pages) with very relevant information including description of the process and environmental assessment of the small scale non-commercial composting activities conducted by Epic Mining. The EPA should refer to previous correspondences between Epic Mining (and its representatives including expert consultants) and both Authorities; the Department and the EPA. In addition, the EPA should refer to records of site inspections and meetings as well as relevant documents submitted during the initial stages of establishing the quarry including the composting activities.

During all the above events, Epic Mining supplied both Authorities with tens of documents on the quantities, qualities and processes of materials received and stored on site including the quantities and qualities of finish products and their use on site. As a result of all communications, meetings and inspections, both the EPA and Department determined that the activities are not required to be approved by the Department or licensed by the EPA. The EPA should refer to the documents included in Appendix K, and its own regulatory and records management systems for confirmation of the determination. It should be noted that a large number of hours was spent on this subject by all parties to ensure that the Authorities determination was transparent, justified and qualified.

Notwithstanding the above, the comprehensive assessment of the composting activities was requested by the Department during the consultation process on the EAR. This assessment was undertaken by highly qualified environmental engineers to ensure that any potential impacts on human health and the environment as a result of these activities are fully addressed.

The EPA would be aware also that the Development Consent issued for the site includes the establishment of a plant nursery (refer to definition of plant nursery below) in addition to the quarrying activities.

Under the **Liverpool Local Environmental Plan 2008**, *plant nursery* means a building or place the principal purpose of which is the retail sale of plants that are grown or propagated on site or on an adjacent site. It may include the on-site sale of any such plants by wholesale and, if ancillary to the principal purpose for which the building or place is used, the sale of landscape and gardening supplies and equipment and the storage of these items. **Note.** Plant nurseries are a type of **retail premises**—see the definition of that term in this Dictionary.

In accordance with the Dictionary, retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following;

- (a) bulky goods premises,
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,

- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises. **Note.** Retail premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

For your information and as clearly indicated in the EAR, the applicant does not sell any composting products to external clients since the finish products are required to be used on site.

In any case, the applicant is aware of the thresholds included in Clause 12 (Composting) of Schedule 1 of the Protection of the Environment Operations Act 1997 and has always complied with these thresholds. Furthermore, during the last 3-4 years that the composting activities are being conducted on site the annual total weight of non-putrescible materials received from off site has been between 2000-4000 tonnes. The EPA may also be aware that the rehabilitation and maintenance of the riparian zone alone require large quantities of composted materials to be mixed with the soil due to the riparian zone's large size and the poor quality of the existing soil. In addition, the composting cycle is very long and this may, on some occasions, have resulted in the total composted finish products (not organics received from off site) being slightly over 200 tonnes stored on site. However, the applicant has been working very hard to prevent these occasions from re-occurring by reviewing its current processes, procedures and rehabilitation plan to establish a better management system for the composted materials.

We agree, though, with the EPA that composting activities should not be included in the Development Consent, however our request for the inclusion of in-house non-commercial composting activities in the Development Consent was driven by the Department's request, for a comprehensive assessment of the composting activities, which we have complied with. Hence, we believe that the ultimate decision on including (or not) the composting activities in the Development Consent should rest with the Department.

Stockpiling

The statements made in Section 16 of the EAR were based on several advices given by employees of relevant State and Commonwealth Government Departments at that time. The applicant took these advices for granted and included them in the EAR. The applicant greatly appreciates the EPA's advice and clarification on this matter especially for further dealings with the Commonwealth. The EPA's determination on this matter is also appreciated.

Noise Monitoring

The application for the Development Consent modification was lodged with the Department in December 2010 before any activities commenced on site. Noise monitoring has been undertaken for several years now. The applicant has been submitting these reports to the EPA on a quarterly basis in accordance with the requirements of the Environment Protection Licence (EPL). Noise monitoring in the past 2-3 years has included stockpiling activities as well as extractive activities. Both the Department and the EPA are well aware of this and hence the results of noise measurements included in the noise reports submitted to the EPA reflects all activities conducted on site including the stockpiling activities.

The consistency of the noise measurements results and the continual compliance with the noise criteria were the driver for the applicant's request to reduce the frequency of noise monitoring since a trend has been well established now. Table 5.2 provide a summary of the noise monitoring results to assist the authorities in making a determination on this request.

The applicant believes that its request is well justified since the EPL included a provision for the frequency of noise monitoring should have been reviewed 12 months after the first monitoring

session. This could also be interpreted that the noise monitoring frequency should have been reviewed after the first year of noise monitoring with the stockpiling activities included.

In any case, the applicant is willing to compromise by accepting the EPA's decision on this matter, if the EPA still believes that an additional 12 months of quarterly monitoring is warranted.

Monitoring Locations

In relation to the groundwater monitoring bores, the different easting and northing readings between the existing and proposed locations was explained as being the difference between the previously estimated readings and the accurately measured readings. Due to our extensive experience in accurately specifying the easting and northing of licensed discharge and monitoring points, we considered to be appropriate to accurately re-define all points. This does not mean that the groundwater or surface water monitoring locations have changed but rather more accurately defined.

In relation to the Water Sampling Points 1 and 2 included in Table 14.1, the EPA is correct in identifying this typographical error and that Water Sampling Point 1 is actually located downstream of Water Sampling Point 2. However, table 14.1 is now replaced with table 14.2 where all points are more accurately defined.

Again, the Department requested more accurate drawings showing proposed monitoring points with more accurately defined easting and northing. The applicant is appreciative of both authorities for their input and determination on this matter.