



DOC17/378347
DA 344-11-2001

Ms Genevieve Seed
Senior Planning Officer
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Genevieve

Wallerawang Quarry MOD 1 Response to Submissions

I refer to your email dated 10 July 2017 requesting comments from the Office of Environment and Heritage (OEH) on the Response to Submissions report for the Wallerawang Quarry MOD 1.

OEH is satisfied that the proponent has adequately addressed Recommendations 1 and 4 from our submission to you dated 26 June 2017.

Whilst a more detailed process outlining how the required biodiversity credits will be secured has been provided (as requested in Recommendation 2), we are concerned that investigations into potential offset sites have not already commenced. Given that this project modification is a response to unauthorised clearing and environmental impacts have already occurred, we recommend that analyses of potential sites commence now, not after an approval has been granted as proposed by the proponent.

The proponent has not provided any additional evidence to justify why blackthorn was not present at the ESEA, nor has the proponent undertaken the requested targeted survey for blackthorn around the boundary of the ESEA as requested in Recommendation 3. As a result we recommend that it is assumed that blackthorn was present at the ESEA and the credit requirements for the purple copper butterfly are increased accordingly.

If you have any further questions on this matter please contact Renee Shepherd, Conservation Planning Officer on 02 6883 5355 or renee.shepherd@environment.nsw.gov.au.

Yours sincerely

PETER CHRISTIE
Director North West
Regional Operations Division

21 July 2017

Contact officer: RENEE SHEPHERD
02 6883 5355

Summary of OEH Recommendations

List of acronyms used in this response:

DPE	Department of Planning and Environment
EA	Environmental Assessment
EOI	Expression of Interest
ESEA	Eastern Stockpile Extension Area
FBA	Framework for Biodiversity Assessment
OEH	Office of Environment and Heritage
RTS	Response to Submissions

Recommendations:

1. A condition of consent be created that requires the retirement of biodiversity credits in accordance with the NSW Biodiversity Offsets Policy for Major Projects. It could be achieved by purchasing or retiring credits under the BioBanking Scheme; making payments into the Biodiversity Conservation Fund; or by providing supplementary measures. The biodiversity credits should be retired within 12 months of the approval of this modification.
2. Determine the suitability of the project site as a potential biodiversity offset site. The proponent should address the minimum information requirements outlined in Table 22 of the Framework for Biodiversity Assessment prior to the finalisation of the project modification.
3. An investigation should commence immediately into the suitability of the EOI on the BioBanking EOI Register which may fulfil the offset requirements for PCT 732.
4. The 0.5 hectares of the ESEA should be considered purple copper butterfly habitat and the credit liability for this species should be updated accordingly and offset appropriately. This will result in a total credit requirement of 184 credits.

OEH Detailed Comments

Wallerawang Quarry MOD 1 – Response to Submissions

Options and timeframes for retiring biodiversity credits should be captured within a condition of consent

Recommendations:

1. A condition of consent be created that requires the retirement of biodiversity credits in accordance with the NSW Biodiversity Offsets Policy for Major Projects. It could be achieved by purchasing or retiring credits under the BioBanking Scheme; making payments into the Biodiversity Conservation Fund; or by providing supplementary measures. The biodiversity credits should be retired within 12 months of the approval of this modification.

We note and support the Expression of Interest request for biodiversity credits that has been lodged on the BioBanking EOI Register, thereby responding to Recommendation 1 in OEH's review of the Environmental Assessment (EA).

Recommendation 2 in OEH's response requested that a detailed process be provided outlining how the required biodiversity credits would be secured. We acknowledge that the proponent has provided more details on the proposed process compared to the EA. We also note that the proponent proposes to concurrently investigate any responses to the BioBanking Credits Wanted submission whilst investigating the potential of the proponent's project site to fulfil the credit requirements. If neither of these options are successful the third option will investigate other potential locations where ecosystem credits may be available.

These are all relevant options that may lead to successfully securing the required biodiversity credits. We recommend that the relevant options for retiring biodiversity credits be clearly captured within a condition of consent. The condition should request that the retirement of credits should be carried out in accordance with the NSW Biodiversity Offsets Policy for Major Projects, and it could be achieved by purchasing or retiring credits under the BioBanking Scheme; making payments into the Biodiversity Conservation Fund; or providing supplementary measures. The biodiversity credits should be retired within 12 months of the approval of this modification.

Investigations into the suitability of on-site and off-site offset sites should commence immediately

Recommendations:

2. Determine the suitability of the project site as a potential biodiversity offset site. The proponent should address the minimum information requirements outlined in Table 22 of the Framework for Biodiversity Assessment prior to the finalisation of the project modification.
3. An investigation should commence immediately into the suitability of the EOI on the BioBanking EOI Register which may fulfil the offset requirements for PCT 732.

Step 2 of the proponent's approach to offsetting outlines the proposed on-site investigations into available credits. It is proposed that the type and condition of vegetation and availability of ecosystem and species credits on-site will be investigated within "6 months of the approval of the proposed modification". The report goes on to state that these surveys are proposed to be undertaken in spring to coincide with the period when the purple copper butterfly is most likely to be on the wing. Our response to the EA requested that the RTS provide:

“Evidence to support the potential to establish an offset site on the proponent’s land, or the land adjoining the site as proposed by the proponent. The proponent should address the minimum information requirements outlined in Table 22 of the Framework for Biodiversity Assessment (FBA)”.

OEH again requests that this information be provided by the proponent prior to the finalisation of this project modification.

In addition, Table 2 in the RTS report indicates that there is currently one EOI (ID 66) on the BioBanking EOI Register which may fulfil the offset requirements for PCT 732 - *broad-leaved peppermint-ribbon gum grassy open forest in the north east of the South Eastern Highlands Bioregion*. The proponent should commence investigations into the suitability of this EOI now. Similarly, any responses to the Credits Wanted submission should be investigated as soon as they are lodged.

No additional evidence was provided to justify why it is unlikely blackthorn occurred in the ESEA

Recommendations:

4. The 0.5 hectares of the ESEA should be considered purple copper butterfly habitat and the credit liability for this species should be updated accordingly and offset appropriately. This will result in a total credit requirement of 184 credits for the purple copper butterfly.

The proponent has not provided additional evidence in the RTS report that clearly justifies why it is unlikely that blackthorn existed in the ESEA. The proponent has also not undertaken further surveys within 100 metres of the boundary of the ESEA to determine whether blackthorn is present, as requested in Recommendation 3 of OEH’s previous response to DPE.

Like the EA, the RTS states that two monitoring plots established near the ESEA in 2016 did not record any presence of blackthorn. Like the EA, no details of the location of these plots was provided. Furthermore, the report goes on to state that blackthorn has been mapped approximately 80 metres to the south of the ESEA – within the 100 metre ESEA boundary buffer of our recommended survey area.

In summary the RTS report confirms that blackthorn does exist within 100 metres of the ESEA, but no new evidence has been provided to justify why it would not therefore have also occurred at the ESEA. OEH must therefore assume that there was potential for blackthorn to exist within the ESEA prior to the clearing event. As a result, OEH recommends that the 0.5 hectares of the ESEA should be considered to be purple copper butterfly habitat and the credit liability for this species should be updated accordingly and offset appropriately. This would result in a total credit requirement of 184 credits for the purple copper butterfly.