



Your reference:

Our reference:

Contact:

DOC12/21233; 273147A2

Ben Livissianis, 9995 5731

Mr Chris Ritchie
Manager – Industry
Mining and Industry Projects
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Mr Ritchie,

**PROPOSED MODIFICATION TO BHP BILLITON LOT 223 REMEDIATION PROJECT
DA 381-12-2001 MOD 3**

I refer to your letter dated 22 May 2012 seeking comments on the proposed modification to the above development consent for the remediation and rehabilitation of land described as Lot 223 Industrial Drive Mayfield.

The Environment Protection Authority (EPA) has reviewed the document provided in support of the modification application titled, '*Lot 223, Industrial Drive Mayfield – Section 75W Modification Request*' dated May 2012 prepared by AECOM and provides the following comments.

Protection of the Environment Operations Act 1997

The proposed works are not within the thresholds or activities defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* ("POEO Act") and therefore BHP Billiton will not require an Environment Protection Licence to undertake the remediation and rehabilitation works. Newcastle City Council will be the appropriate regulatory authority for the proposed works for the purposes of the POEO Act.

Air Quality

The EPA is agreeable to removing the requirement to conduct ambient air quality monitoring for TSP and PM10. The EPA notes the remediation and rehabilitation works will occur on a smaller area of land than originally approved and it is expected the works will be completed within a shorter timeframe of 12 weeks. The mitigation measures include a commitment to monitor wind speed and direction and if these conditions result in adverse impacts on the nearby sensitive receivers, works in the vicinity of the receiver would be modified and/or ceased. This is appropriate and the EPA recommends this be included as a condition of the approval.

Noise Impacts

The EPA notes BHP Billiton are not seeking to amend any of the existing conditions of consent in relation to noise for the project and that the existing consent was issued in 2002. The EPA's *Interim Construction Noise Policy* was published in 2009 and should be referred to when developing the Construction Noise Management Plan required by condition 39 of the existing consent.

Surface Water Quality

The EPA notes BHP Billiton are not seeking to amend any of the existing conditions of consent in relation to surface water quality for the project. The EPA would expect any surface water discharges from the site meet the requirements of section 120 of the POEO Act.

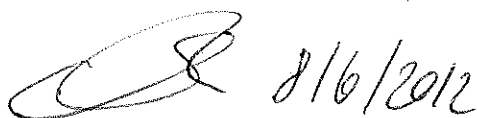
Site Contamination and Capping

The EPA is regulating the remediation of Lot 223 under the *Contaminated Land Management Act 1997* (CLM Act). The primary component of the remediation within the south and west parcels of Lot 223 is the implementation of the site capping in accordance with the requirements of the planning consent conditions in order to prevent direct human exposure to the contamination and to minimise surface water infiltration.

The EPA notes that the proposed modifications allow for the supply and use of alternative capping materials to those outlined in the original consent conditions. The EPA considers that the alternative capping will meet the objectives of the planning consent requirements and the regulation of the remediation under the CLM Act.

If you wish to discuss any issues in relation to the POEO Act, please contact Rebecca Scrivener in our Newcastle office on 4908 6830. For matters relating to the site contamination issues, please contact Ben Livissianis in our Sydney office on 9995 5731.

Yours sincerely



ERWIN BENKER
Acting Manager Contaminated Sites
Environment Protection Authority

CC: EPA Newcastle Office