



Our reference: DOC12/2530 LIC08738-02
 Karen Gallagher 02 49086822
 Mining and Industry Projects
 Department of Planning and Infrastructure
 GPO Box 39
 SYDNEY 2001

Attention: Mr Howard Reed

Dear Mr Reed

**MANNERING COLLIERY – EXTENSION OF MINE PROJECT (06-0311 Mod 1)
 ENVIRONMENTAL ASSESSMENT**

Reference is made to the Department of Planning and Infrastructure’s (DP&I) letter sent to the Environment Protection Authority (EPA) dated 18 January 2012 seeking comment on the *Manning Colliery – Extension of Mine Project (Section 75W Modification to 06_0311) Environmental Assessment* (the EA) prepared on behalf of Centennial Coal by GSS Environmental dated January 2012.

EPA understands that the proposed modification project will allow for:

- An extension of underground mining operations within the Fassifern Seam beyond the 2008 Project Approval boundary using bord-and-pillar mining methods to recover approximately 3.2 million tonnes of ROM coal; and
- An extension of underground mining operations into the Great Northern Seam using bord-and-pillar mining methods to recover approximately 1.4 million tonnes of ROM coal.

EPA has conducted a review of the EA and provides the following comments.

Noise Limits

The EA states that the Manning Colliery Extension of Mine Project will not exceed the currently approved coal recovery rate and it will not extend the life of the Colliery beyond the currently approved 2018 life of mine. Furthermore, it will not change the methods of coal mining, handling and transport, mine ventilation and gas management, or involve and additional surface infrastructure. On this basis, noise emissions are not expected to increase or alter noticeably from those previously assessed and approved under project approval 06_0311.

As such, EPA recommends that the current project approval noise limits be applied to the entire site (including the extension) for this project application.

Air Quality

Commensurate with the above response regarding Noise limits, EPA considers there is minimal risk of adverse air quality impacts at sensitive receptors provided operations are well managed and consistent with those outlined in the EA.

Water Management

The EA states that the Extension of Mine Project will not result in a significant change to the water management system at Mannering Colliery. It is predicted that the increase volume of discharge through the licensed discharge points will remain within the current Environment Protection Licence discharge volume limits.

An assessment of the water quality discharged from Mannering Colliery indicates some elevated levels in heavy metals when compared to the ANZECC (2000) trigger values. Pollution Reduction Program (PRP) U1 - Assessment of potential impacts of metals discharging from the premise, is included on the Mannering Colliery Environment Protection Licence to address this issue.

Aboriginal and Cultural Heritage

Aboriginal community consultation

EPA notes that consultation with the local Aboriginal community has not been undertaken in accordance with the *'Aboriginal cultural heritage consultation requirements for proponents 2010'* (2010). It is acknowledged that six (6) Aboriginal groups registered an interest in the project. However, some groups that were not registered for the project were invited to participate in the survey. This invitation appears to have been made to the exclusion of some of the Registered Aboriginal Parties (RAPs). EPA does not support such a process.

Further to this EPA identifies the project area as not only being within three Local Aboriginal Land Council (LALC) areas and two local government areas; it is also across two traditional lands/Countries. It appears that the groups excluded all identify with Darkinjung Country. The exclusion of these RAP's has lead to a situation were the newly registered sites identified in the survey have been registered by an Awabakal identified RAP on Darkinjung Country. EPA does not support such a process.

EPA acknowledges that many areas within the State are pathways between Countries or areas of shared use. These matters are informed by providing opportunities for RAPs to actively participate in the assessment process. Equitable access to opportunity to participate and inform the assessment process or acknowledgement of the uniqueness of the two Countries has not been acknowledged or addressed in the Aboriginal Cultural Heritage Assessment.

Aboriginal cultural heritage field survey

EPA notes the field survey did not inspect the large proportion of land within the project area that is private property. It is acknowledged that at the time of the survey permission had not been granted to access this land. EPA further notes that the three (3) registered Aboriginal sites in the project area all fall within the private land and as such were not inspected during the survey.

The Aboriginal Cultural Heritage Assessment (ACHA) provided with the EA (Appendix F) acknowledges three (3) registered sites occurring within the project area, and that the project area contains landforms which have the potential for subsurface cultural material to occur. The field survey also identified two (2) sites in the project area. The registered sites include middens, open camp sites and a culturally modified tree.

EPA also notes that the area of Wyee Creek and the adjoining lagoons and swamp are recorded within the Cultural Heritage Assessment (CHA) as being archaeologically sensitive rather than as a Potential Archaeological Deposit (PAD). This raises the possibility that currently undetected Aboriginal cultural material may be present within the project area in those unsurveyed or low visibility areas.

EPA therefore recommends that the proponent provide additional appropriate management strategies developed in consultation with the registered Aboriginal parties to the project to address this possibility. Evidence of this consultation should also be appended to any publicly exhibited documentation.

Impact on Aboriginal cultural heritage

The EPA understands that all five (5) Aboriginal sites are considered unlikely to be impacted by the proposed development modification. However, EPA notes that the recommendations detailed in the ACHA and Statement of Commitments indicate that impact may occur and as such certain triggers have been included to address this possibility in the EA. However, further details are required.

EPA recommends that the proponent detail a more robust method of future assessment, evaluation and monitoring program. This assessment should be undertaken in consultation with the registered Aboriginal parties.

Management of Aboriginal cultural heritage values

EPA acknowledges that there is a likelihood of further evidence of Aboriginal occupation occurring within the project area. Accordingly, it is recommended that if the modification is approved, the Aboriginal Cultural Heritage Management Plan (ACHMP) (referred to in Recommendation 2 of the ACHA) is developed to detail not only the identified Aboriginal heritage items within the project area but also those areas considered to be either archaeologically or culturally sensitive in consultation with all the RAPs. This should include details of the two Aboriginal Countries within the project area, the timing of and the RAP involvement in the monitoring program, a map illustrating the areas to be monitored, reporting protocols, long term management of any objects recovered, etc.

Legislative Requirements

The importance of protecting Aboriginal cultural heritage is reflected in the provisions of the NPW Act. OEH notes that the requirements of the NPW Act have recently been amended. It is strongly recommended that the proponent familiarises itself with the new requirements during the development and any subsequent assessment/development works processes.

Threatened Species

The proposed modification involves the mining of additional areas of the Fassifern Coal Seam and new mining of the overlying Great Northern Coal seam in the Mannering Colliery mining lease (EA 2012). The area of additional mining, if approved is predicted to lead to up to 20mm of mine subsidence. The new areas that would be mined include areas west and south of Mannering Bay that includes endangered ecological community (EEC) vegetation and contains a number of threatened species. EPA recommends a number of conditions of approval are included in any consent granted in order to reduce the impact on threatened biodiversity.

The EPA's main concern with undermining of low-elevation areas at the interface between freshwater and saltwater environments is that subsidence can lead to altered flow regimes, increased periods of inundation, or increase the frequency of saltwater incursion into freshwater habitats. Therefore, mine subsidence could lead to harm to Coastal Saltmarsh and Swamp Oak Floodplain Forest on the shore of Mannering Bay, as well as River-flat Eucalypt Forest on Coastal Floodplains within other parts of the modification area footprint, all of which are EECs. There is also the risk that subsidence could lead to saltwater incursion into wetlands to the west of the Vales Point power station ash dam in the modification area where the threatened Wallum Froglet has been recorded.

The EPA therefore recommends that the proponent regularly monitors the health and extent of EEC vegetation above the modification footprint, particularly by remotely-sensed data, and also monitors the health of freshwater wetlands around Mannering Bay and the lower reaches of Wyee Creek to ensure that threatened species habitat is maintained. In the event that any harm to a threatened species, population or community or threatened species habitats is detected the EPA recommends that the proponent implement adaptive management to ensure that no further harm occurs. The EPA also requires that any harm to

threatened species, populations, communities or their habitats is offset in accordance with EPA offsetting policy.

In April 2011, the introduction and establishment of Exotic Rust Fungi, of the order Pucciniales, pathogenic on plants of the family Myrtaceae, commonly known as 'myrtle rust' was listed as a key threatening process on the *Threatened Species Conservation Act 1997*. There is potential for myrtle rust to occur in the region of the Mannering Colliery and therefore the EPA is concerned about activities that may facilitate the spread of this fungus to new areas of remnant woody vegetation.

Therefore, the EPA recommends that the monitoring program should also include regular monitoring for myrtle rust and development of associated mitigation, management, hygiene and reporting measures, should myrtle rust be detected. Further information regarding the hygiene practices to be implemented can be found at the NSW Department of Trade and Investment, Regional Infrastructure and Services web site: <http://www.dpi.nsw.gov.au/biosecurity/plant/myrtle-rust>.

Should you require any further information please contact Karen Gallagher on (02) 4908 6822.

Yours sincerely



29 FEB 2012

MARK HARTWELL
Head Regional Operations Unit - Hunter
Environment Protection Authority

Encl: Attachment A – Recommended conditions of approval – Mannering Colliery – Extension of Mining Project Environmental Assessment (06-0311 Mod 1)

Attachment A – Recommended conditions of approval – Mannering Colliery – Extension of Mining Project Environmental Assessment (06-0311 Mod 1)

Threatened Species

1. The proponent must carry out surveys above the footprint of the proposed extension of mine project area on at least a six-monthly basis to:
 - (a) Measure the amount of mine subsidence caused by the Mannering Colliery, which may include the use of remote sensing data and its analysis;
 - (b) Identify any surface disturbances, changes in drainage lines or watercourses, or the shoreline of Lake Macquarie shoreline, or saltwater incursion into freshwater vegetation that may be attributable to mine subsidence above the mine operations; and
 - (c) Determine how any such disturbances and changes are impacting or may impact on Endangered Ecological Communities or freshwater wetlands that support threatened species within the approved project area.

Reports of the survey findings must be submitted to the EPA on an annual basis.

2. The proponent must take remedial action in the event of any mine-subsidence related impact that is likely to significantly adversely affect the ecological viability of any Endangered Ecological Communities within the approved project area. In the event that any harm has occurred to any threatened species, population, or community, or their habitats then the EPA recommends that the proponent implements adaptive management to prevent any further harm from occurring and that any harm caused is offset in accordance with the EPA's 'Principles for the use of biodiversity offsets in NSW' (EPA, 2011) or the 'NSW OEH interim policy on assessing and offsetting biodiversity impacts of Part 3A, State significant development (SSD) and State significant infrastructure (SSI) projects' (EPA 2011b).
3. The proponent must carry out a field survey and assessment for the presence of Exotic Rust Fungi, of the order Pucciniales, within the approved project area.

Reports of the survey findings must be submitted to the EPA Hunter Regional Office within four (4) weeks of the survey being carried out.

4. The proponent must develop a reporting procedure to be followed should Exotic Rust Fungi, of the order Pucciniales, be identified within the approved project area. As a minimum, the proponent must report the sighting, including the GPS location of the sighting, to the EPA's Environment Line via phone (131 555) and the NSW Department of Trade and Investment, Regional Infrastructure and Services by telephoning the Exotic Plant Pest Hotline -1800 084 881 or by sending photos to biosecurity@industry.nsw.gov.au.
5. The proponent must develop a hygiene protocol to be followed when surveying for Exotic Rust Fungi, of the order Pucciniales. The protocol should be developed in accordance with hygiene recommendations outlined on the Department of Trade and Investment, Regional Infrastructure and Services website at <http://www.dpi.nsw.gov.au/biosecurity/plant/myrtle-rust>.

References:

- EPA (2011a) Principles for the use of biodiversity offsets in NSW. 17 June 2011. NSW EPA, Sydney. <http://www.environment.nsw.gov.au/biocertification/offsets.htm>
- EPA (2011b) NSW OEH interim policy on assessing and offsetting biodiversity impacts of Part 3A, State significant development (SSD) and State significant infrastructure (SSI) projects. 25 June 2011. NSW EPA, Sydney.
- EA Mannering Colliery – Extension of Mine project, Section 75W Modification to Project Approval 06_0311 January 2012. GSS Environmental: Environmental, Land and Project Management Consultants, Broadmeadow
-

Aboriginal Cultural Heritage

1. The proponent must continue to consult with and involve all the registered local Aboriginal representatives for the project, in the ongoing management of the Aboriginal cultural heritage values. Evidence of this consultation must be collated and provided to the consent authority upon request.
2. In the event that subsidence monitoring indicates that mine-induced subsidence levels may exceed 20 millimetre, all works must halt in the immediate area. Assessment of potential impacts to items of Aboriginal cultural heritage should be undertaken by a suitably qualified archaeologist and the registered Aboriginal representatives. The assessment of the cultural significance of the Aboriginal heritage sites within the project area is to be carried out in consultation with the registered Aboriginal stakeholders. The two sites registered during the survey for the project area and any future identified sites to be registered in the Aboriginal Heritage Information Management System (AHIMS) need to provide fair and reasonable opportunity for all registered Aboriginal stakeholders to input into the site recording and the management outcome for the site included in the information provided to the AHIMS. The proponent will consult with the Aboriginal representatives the archaeologist and OEH to develop and implement management strategies for all objects/sites identified with the project area and included in the Aboriginal Cultural Heritage Management Plan.
3. If human remains are located in the event that surface disturbance occurs, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police are contacted immediately. No action is to be undertaken until police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact the EPA's Enviroline on 131555 and representatives of the local Aboriginal community. No works are to continue until the EPA provides written notification to the proponent.
4. All reasonable efforts must be made to avoid impacts to Aboriginal cultural heritage at all stages of the development works. If impacts are unavoidable, mitigation measures are to be negotiated with the local Aboriginal community and undertaken in accordance with the Aboriginal Cultural Heritage Management Plan. All sites impacted must have an Aboriginal Site Impact Recording (ASIR) form completed and be submitted to the AHIMS Registrar within 3 months of completion of these works.
5. An Aboriginal Cultural Education Program that recognises and acknowledges all Countries within the Mining modification border must be developed for the induction of all personnel and contractors involved in any construction activities on site. Records are to be kept of which staff/contractors were inducted and when for the duration of the project. The program should be developed and implemented in collaboration with the registered Aboriginal representatives.