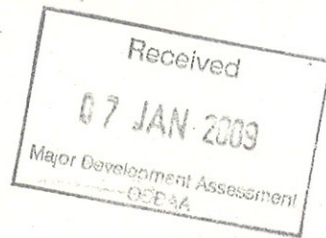


Our reference : FIL08/16350: DOC08/61451:JB
Contact : Jen Byrne (02) 4224 4100



HR.
A/Manager
Mining & Extractive Industries
Major Development Assessment
Department of Planning
(Attention: Howard Reed)
GPO Box 39
SYDNEY NSW 2001

→ H.R.
Dear Sir

**EXHIBITION OF ENVIRONMENTAL ASSESSMENT
PROPOSED DIESEL STORAGE FACILITY AND REFUELLING STATION AT
WEST CLIFF COLLIERY (MP 08 0151)**

We refer to the above Environmental Assessment (EA) provided for the proposed Diesel Storage Facility and Refuelling Station at West Cliff Colliery received by the Department of Environment and Climate Change (DECC) on 21 November 2008.

The proposed project involves the decommissioning of the existing refuelling station on Stockpile Road and the installation of a self-bunded, aboveground, diesel storage facility adjacent to Wedderburn Road, within the West Cliff Colliery site.

The DECC notes that we were not consulted in the development of the Director General's Requirements for the EA.

However, on the basis of a review of the EA provided, the DECC has identified several matters that require clarification, justification and/or additional commitments. These are outlined in Attachment 1 to assist the Department of Planning in their assessment of the project application.

They relate to:

- Decommissioning of the existing West Cliff Colliery refuelling station
- Impacts on threatened species and their habitats
- Impacts on native vegetation
- Water quality

We would be happy to meet with the Department of Planning and the proponent at a convenient time if necessary to discuss the above.

The Department of Environment and Conservation NSW is now known as
the Department of Environment and Climate Change NSW

PO Box 513, Wollongong NSW 2520
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Department of **Environment and Conservation** NSW



If you have any further queries in relation to the above matter, please contact Jen Byrne on (02) 4224 4100.

Yours sincerely



31/12/08

PETER BLOEM
Acting Manager Illawarra
Environment Protection and Regulation

Att: 1

(N:\EPRD\PART 3A\EA Assessments\West Cliff Colliery - Proposed Diesel Storage Facility.doc)

Attachment 1

1. Decommissioning of the Existing West Cliff Colliery Refuelling Station

The *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008* (UPSS Regulation) was gazetted on 28 March 2008 and commenced on 1 June 2008. The Department of Environment and Climate Change (DECC) is the appropriate regulatory authority (ARA) for matters arising from the UPSS Regulation until 31 May 2012. All Underground Petroleum Storage Systems (UPSS) that are subject to the planning approvals process must now meet specific requirements of the UPSS Regulation.

The Environmental Assessment (EA) does not demonstrate that the proposal will comply with applicable requirements of the UPSS Regulation.

It is proposed that the existing West Cliff Colliery refuelling station be decommissioned, but not be removed from the site until the completion of mining activities at the West Cliff Colliery site.

The following items require clarification, justification and/or additional commitments:

- Justification as to why the existing refuelling station is to remain onsite, rather than be removed.
- Demonstration that the proposal will comply with applicable requirements of the UPSS Regulation, including identification of the 'person responsible' and a commitment to the preparation of a Validation Report in accordance with the requirements of clause 15 of the UPSS Regulation.
- Demonstration that the proposal will be consistent with WorkCover and relevant Australian Standard requirements.
- Clarification of proposed closure activities, including but not necessarily limited to, the staging of works, pump-out procedures, liquid and vapour management procedures, mechanisms for disposal of residues, identification of fill materials to be used.
- Clarification whether the decommissioning is temporary or permanent in nature.

2. Impacts on Threatened Species and their Habitats

A preliminary review of DECC information has shown that a number of threatened species under the *Threatened Species Conservation Act 1995* (NSW) and the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) are known to occur within the West Cliff Colliery site including, but not necessarily limited to, the Koala (*Phascolarctos cinereus*), Broad-headed Snake (*Hoplocephalus bungaroides*), Grey-headed Flying Fox (*Pteropus poliocephalus*), Powerful Owl (*Ninox strenua*), *Pultenaea aristata* and *Persoonia hirsuta*.

The EA relies heavily upon previous flora and fauna survey and assessments undertaken as apart of the West Cliff Emplacement Stage 3 (Biosis Research, 2007). The DECC notes that the proposed location for the diesel storage facility off Wedderburn Road is wholly outside of the study area for the West Cliff Emplacement Stage 3 and therefore, previous survey and assessments would not have covered the subject site. In addition to the use of the West Cliff Emplacement Stage 3 survey and assessments, the EA states that Biosis Research visited the proposed location for the diesel storage facility on 2 April 2008. It is unclear from the EA, whether the site survey was undertaken in accordance with the draft *Threatened Species Survey and Assessment: Guidelines for Developments and Activities* (DECC, 2004).

The following items require clarification, justification and/or additional commitments:

- Given that large populations of *Pultenaea aristata* and *Persoonia hirsuta* are recorded within the immediate vicinity of proposed diesel storage facility, clarification that flora and fauna survey and assessment was undertaken in accordance with the draft *Threatened Species Survey and Assessment: Guidelines for Developments and Activities* (DECC, 2004).

- In the event that surveys are not in accordance with the draft *Threatened Species Survey and Assessment: Guidelines for Developments and Activities* (DECC, 2004), justification should be provided in the EA.

a) Additional commitments for *Pultenaea aristata*

The DECC has previously placed conditions on a Certificate issued under Section 95(2) of the *Threatened Species Conservation Act 1995* to protect and enhance the population of *Pultenaea aristata* on the West Cliff Colliery site. These measures have been developed with, and agreed to, by the proponent in correspondence with the DECC dated 1 October 2008.

Should approval be granted by the Department of Planning, the following conditions should be reflected in the Statement of Commitments in the EA:

- The installation of physical barriers where threatened plants are at risk of inadvertent damage is required instead of 'flagging'. As a temporary measure, barrier fencing will be installed to highlight the footprint of disturbance. Contractors engaged to undertake the proposed works are to be inducted and made aware of the *Pultenaea aristata* in the immediate vicinity of the proposed works.
- The development and implementation of a program for the testing for the presence of *Phytophthora cinnamomi*, including the implementation of hygiene measures to prevent the introduction and/or spread of the pathogen is to be addressed as part of the Emplacement Management Plan.
- The proponent engages a suitably qualified consultant to develop and implement a program to record and update sightings of *Pultenaea aristata* on the West Cliff Colliery site. Any new sightings are to be lodged annually on the Atlas of NSW Wildlife database. The proponent must suitably record and update sightings of *Pultenaea aristata* in operational management systems for the West Cliff Colliery site.
- The proponent engage a suitably qualified consultant to monitor the health of the remaining population of *Pultenaea aristata* on the West Cliff Colliery site in accordance with the recommendations of the Vegetation sub-plan and Emplacement Management Plan.
- Any hazard reduction burns are to be undertaken in consultation with the Department of Environment and Climate Change.

3. Impacts on Native Vegetation

The DECC notes that the clearing of native vegetation is listed as a Key Threatening Process under the *Threatened Species Conservation Act 1995* (NSW) and the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) for the above threatened species.

The proposed location of the diesel storage facility off Wedderburn Road would require the clearance of high-quality Exposed Sandstone Scribbly Gum Woodland. This vegetation community is limited to the Hawkesbury Sandstones of the Woronora Plateau and only 9% of this community is represented in conservation reserves.

In this regard, justification is required as to why the proposed diesel storage facility can not be located on an area that has been subject to previous disturbance to avoid the need for clearance of high-quality Exposed Sandstone Scribbly Gum Woodland.

4. Water Quality

We note the EA identified that the proposed development will require the construction of a primary spillage collection pond that overflows into Pond 1. It is unclear from the EA whether the primary spillage collection pond will have either sufficient capacity to prevent overtopping or to dry out and allow any spillage solids/sludge to be collected.

To address these matters, the following items require clarification, justification and/or additional commitments:

- Clarification of the capacity of the primary spillage collection pond will be sufficient to manage any diesel spillage without discharge under a range of operational scenarios and climatic conditions as represented by local historical rainfall and evaporation data.
- Clarification that the primary spillage collection pond will be designed to permit any spillage solids/sludge to be periodically collected and transported off-site for disposal (eg through being sized sufficiently to allow periodic drying-out of the pond, pumping water between ponds, etc).