

OUT15/16731

Mr Carl Dumpleton
Senior Planning Officer
Resource Assessments and Compliance
NSW Planning and Environment
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Dear Mr Dumpleton

**Section 75W Modification (PA08_0212)
New Berrima Clay/Shale Quarry - Environmental Assessment**

I refer to your email of 6 May 2015 regarding Austral Brick Company Pty Limited lodgement of a modification application and accompanying environmental assessment to modify its existing development consent for the New Berrima Shale Quarry, located in the Wingecarribee LGA.

It is noted the proposed modification involves:

- relocating and expanding the extraction area to better align with the resource;
- relocating site infrastructure (i.e. amenity bunds, water management structures and internal roads); and
- amending the final landform.

NSW Industry, Skills & Regional Development, Division of Resources & Energy (DRE) has reviewed the "Austral Bricks, Environmental Assessment to Support a Section 75W Modification of PA08_0212 for the New Berrima Clay/Shale Quarry, April 2015" and provides the following comments within its area of responsibility.

MINING TITLE

It is noted the Environmental Assessment states that "Austral is currently in discussion with DRE regarding the need for a Mineral Owners Mining Lease" and "a mining lease is not required for the Project as the ownership of the clay/shale to be extracted is vested in the landowner".

As clay/shale is a prescribed under the Mining Act 1992, Austral Brick Company Pty Limited is required to hold an appropriate mining authority from DRE in order to mine the mineral.

In addition, Austral Brick Company Pty Limited will be required to demonstrate proof of extinguishment of Native Title, in compliance with the *Commonwealth Native Title Act 1993*.

Rehabilitation

While it is noted this is a modification, the requirement for a mining authority will mean the activity will come under DRE's regulatory functions. As a result, DRE has reviewed the Environmental Assessment with regard to environmental and rehabilitation aspects of the project.

Based on the information provided, DRE does not believe the final landform would be consistent with the surrounding landform, nor safe or stable in the long term.

DRE considers a final landform outcome which incorporates gradual slopes, rather than a steep slope/bench arrangement would be preferable as a rehabilitation outcome in terms of safety (removing a potential fall risk), stability and visual amenity. In addition, DRE would recommend that the required outcome is for the sides of the extraction area to have slopes of no greater than 18 degrees (1V:3H).

There appears to be no documentation in either this Environmental Assessment or the original December 2010 Environmental Assessment covering consideration of alternative rehabilitation landforms or outcomes.

As a result, Austral Brick Company Pty Limited Bricks should be required prepare a more detailed consideration of alternative rehabilitation/landform options, including the positive and negative aspects of each and a subsequent justification for the chosen outcome.

Should you have any enquires regarding this matter please contact Steve Cozens, Senior Project Officer, Industry Coordination on 9842 8573.

Yours sincerely

 3/7/15

per

Adrian Delany
A/Director Industry Coordination