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Contact: Calvin Houlison  
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Dear Ms Evans

**RE: New Berrima Clay Shale Quarry Major Project Modification (PA08/2012 Mod 2)**

Thank you for the opportunity to comment on proposed modifications to the approved New Berrima Clay Shale Quarry project, pursuant to s75W of the Environmental Planning & Assessment Act 1979. We understand that the proposal comprises a new causeway over Stony Creek, realignment of western access road, relocated site facilities and a new underground power line. Detailed comments are provided at Attachment A and summarised below.

The proposed new causeway, located south of the existing bridge, would result in removal of three to four mature trees of Paddys River Box (*Eucalyptus macarthurii*), listed as endangered under both the NSW and Commonwealth legislation. We query why the proposed causeway is not located slightly further to the north, to avoid impacts on the existing stand of Paddys River Box.

Although the NSW Biodiversity Offsets Policy for Major Projects does not apply to the modification, we are supportive in principle of a negotiated offset as suggested by Kevin Mills & Associates (2017) that achieves a "maintain or improve" outcome in accordance with the Policy principles. Should the modification be approved, a condition requiring an offset strategy should be imposed requiring the proposed replanting area to be documented and established on site within an appropriate timeframe.

The proposed modification has potential to impact Aboriginal objects at the proposed new Stony Creek causeway. An archaeological assessment of these proposed impacts is required. Archaeological survey is also recommended for the proposed underground power line in the south eastern portion of the development area, which does not appear to have been included in the 2008 survey by ASR. We have attached more detailed advice in relation to the Aboriginal cultural heritage assessment requirements.

Please contact Calvin Houlison, Senior Conservation Planning Officer on 4224 4179 or via e-mail on [calvin.houlison@environment.nsw.gov.au](mailto:calvin.houlison@environment.nsw.gov.au) should you have any further queries.

Yours sincerely

**CHRIS PAGE**  
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Attachment A: OEH Detailed Comments – New Berrima Clay Shale Quarry Mod 2

## ATTACHMENT A: OEH DETAILED COMMENTS – NEW BERRIMA CLAY SHALE QUARRY MOD 2

### 1. Biodiversity

#### Background & Legislative Context

The proposed modification comprises construction of a new causeway south of the existing bridge, which is currently unsuitable for the heavy vehicle usage required. According to the proponent's assessment report, this would result in removal of three to four mature trees of Paddys River Box (*Eucalyptus macarthurii*), listed as endangered under both the NSW Threatened Species Conservation Act 1995 and Commonwealth Environment Protection & Biodiversity Conservation (EPBC) Act 1999.

The NSW Biodiversity Offsets Policy for Major Projects is now being implemented, which requires impacts to biodiversity to be assessed in accordance with the Framework for Biodiversity Assessment (FBA) by a person accredited in accordance with s142B(1)(c) of the Threatened Species Conservation Act 1995. Although the Offsets Policy and FBA are now in force, development consent for this project pre-dates its implementation.

#### Assessment

Updated SEARs were not issued and as such, the project modification is not subject to the Offsets Policy and FBA methodology. The avoidance measures outlined for the proposed modification include the need to provide a temporary causeway regardless, were the existing bridge to be upgraded. Alternatives within the access handle to the site are already constrained, as the cleared area to the north of the existing bridge is not within the subject site. The current option is therefore seen as the least impact on the riparian area and Paddys River Box species. However we query why the proposed causeway is not located slightly further to the north, to avoid impacts on the existing stand of Paddys River Box.

#### Proposed Offset

Although the Offsets Policy and FBA do not apply to the modification, we are supportive in principle of a negotiated offset approach that achieves a "maintain or improve" outcome in accordance with the Policy principles. The suggested offset by Kevin Mills & Associates (2017), which includes replanting elsewhere onsite at a ratio of ten to one and maintenance for a period of five years, is likely to achieve this outcome. Should the modification be approved, a condition requiring an offset strategy should be imposed requiring the proposed replanting area to be documented and established on site within an appropriate timeframe.

### 2. Aboriginal Cultural Heritage

#### Overview

The proposed modification includes works at Stoney Creek and in the south eastern portion of the quarry area that do not appear to have been subject to archaeological survey. An archaeological assessment of impacts associated with the proposed new Stoney Creek causeway and proposed underground power line is required.

#### AHIMS Records

The AHIMS search results included with this referral have a 50m buffer around Lot 1 DP414246. This buffer is limited and means that three sites close to Stoney Creek and the proposed new crossing are not shown in the search results. These are sites 52-4-0197, 52-4-0196 and 52-4-0175. The site locations on AHIMS are located approximately 80 – 150m from the boundary of Lot 1 DP414246. However, the archaeological assessment by ASR (2010) did map these sites.

The AHIMS database produces dot point data only. This means that the actual location of Aboriginal objects on the ground may extend beyond the dot point location shown on AHIMS. The site card for site 52-

4-0175 shows the distribution of artefacts extending into the southern boundary of Lot 1 DP414246 at the intersection with Stoney Creek.

Copies of site cards are available from AHIMS, and details are on the OEH website <http://www.environment.nsw.gov.au/licences/WhatInformationCanYouObtainFromAHIMS.htm>

### **Archaeological Assessment**

An archaeologist should survey the proposed new causeway at Stoney Creek. This is because of the archaeological potential associated with site 52-4-0175 and the proposal to build a new crossing over Stoney Creek on land that has been subject to much lower levels of disturbance than the existing access track. ASR (2010, p.18, 21) surveyed the existing bridge location within the road corridor only. There is potential for grinding grooves and stone artefacts to be located along the proposed new bridge location. The archaeologist must advise whether additional archaeological investigation such as test excavation is required.

Grinding grooves are also recorded at sites 52-4-0196 and 52-4-0197 along Stoney Creek to the north of the access road to the New Berrima Quarry. Grinding groove sites often have high levels of Aboriginal cultural heritage significance. 52-4-0175 is assessed as being of high significance (Total Earth Care (2007, p.26).

An archaeologist should also be engaged to survey the location of the proposed underground power line and removal of overhead power lines in the south eastern corner of the development area. This location does not appear to have been assessed by ASR (2010, p.8-19).

### **Recommendations**

- Archaeological survey of the proposed new bridge over Stoney Creek. The results of the survey must indicate whether archaeological test excavation is required.
- Archaeological survey of ground surface impacts associated with the proposed new underground power line and removal of the existing overhead powerline.
- The applicant should obtain a copy of the site card for site 52-4-0175 and / or the associated report by Total Earth Care (2007), Aboriginal Heritage and Archaeological Study, Moss Vale 'Enterprise Zone', report to Connell Wagner on behalf of Wingecarribee Shire Council.
- Impacts to Aboriginal objects should be avoided wherever possible.
- The provisions of the AHMP must be followed if Aboriginal objects will be impacted.
- It is our understanding that under the Part 3A project approvals and transitional arrangements for modifications an AHIP is not required.

