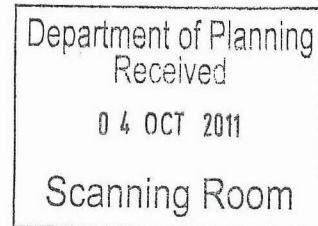


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Mr Howard Reed
Manager
Mining and Industry Projects
NSW Department of Planning & Infrastructure
GPO Box 39
SYDNEY NSW 2001



Dear Mr Reed

**MAJOR PROJECT REFERRAL – MAULES CREEK COAL PROJECT MP 10_0138
– EXHIBITION OF ENVIRONMENTAL ASSESSMENT**

I refer to your letter dated 26 August 2011, advising of the Exhibition of the Environmental Assessment for the above project. The Heritage Branch has previously commented on the Adequacy of the EA by letter dated 17 May 2011. That letter advised that despite some minor errors in heritage terminology that the EA had met the adequacy requirements and could be placed on public exhibition.

The Environmental Assessment includes a specialist appendix K which provides a Non Indigenous Heritage assessment undertaken by Archaeology Australia for the Project. The assessment did not identify any items of significance within the Project Boundary. Five sites were identified in proximity to the Project Boundary, all of which were assessed to be of Local significance. These include the Velyama Homestead site (including the homestead, shearing shed and burial ground); Warriahdool Hut sites and the Therribri Homestead Site.

The specialist heritage report still demonstrates a number of errors in terminology and in its descriptions of the legislative and statutory framework for the Project. In particular, the report provides incorrect and outdated descriptions of the NSW Heritage Act, and the 'relics' provisions, which were amended as part of changes to the Act which were made in 2009. The heritage report also implies that the Heritage Act consents would be required even though Maules Creek is currently being assessed as a Major Project. The heritage report has made a series of recommendations relevant to the future management of the identified heritage items, however, as these are not within the project area it is unclear to the Heritage Branch how any of the measures would be implemented or by whom, unless these properties are in the possession of Aston Coal 2 Pty Limited. In this regard parts of the heritage report and its recommendations are vague and unspecific.

The Statement of Commitments for the Project (Section 8.0 of the Environmental Assessment) has also been reviewed by the Heritage Branch. These are:

21 Aston will compile an Oral History Report for any land owners which are identified to be adversely impacted by the Project and who are to be acquired in accordance with Conditions of Project Approval.

22 Aston will ensure that the Heritage items located on its land holdings will be adequately managed and preserved in accordance with the requirements of the Heritage Act.



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As part of its Environmental Management System Aston will also develop a Non-indigenous heritage management procedure (Section 7.9.3 of the EA). The EA also notes that in the event previously unknown "relics" are found that the Heritage Council would need to be notified in accordance with S146 of the Heritage Act, 1977.

The above measures are considered acceptable given that no Non-Indigenous heritage Items have been assessed to be within the Project Boundary. As there are no affected items, the Heritage Branch does not wish to recommend any specific Conditions of Approval for the project.

Thank you for referring this project to the Heritage Branch

Yours sincerely

29/09/2011

Vincent Sicari
Manager, Conservation Team
Heritage Branch
Environment & Heritage, Policy & Programs
Office of Environment & Heritage