

Enquiries

Please ask for Tracy Ward
Direct 02 6549 3700
Our reference CM 25/18504

16 May 2025

Tegan Cole
Senior Environmental Assessment Officer
Department of Planning, Housing and Infrastructure

Dear Ms Cole

**Bengalla Open Cut Coal Mine (SSD-5170) Modification 7 – Muswellbrook Shire Council
comments on Modification Report**

Reference is made to the following:

- ‘*Bengalla Mine Temporary Emplacement Area Modification Report*’ (James Bailey and Associates, 2025) (Modification Report); and
- Request to provide comment on the Modification Report via the Major Projects Portal.

Bengalla Coal Mine is an existing open cut coal mining operation located 4 km west of Muswellbrook. The operation is managed by Bengalla Mining Company Pty Ltd (Bengalla) (Proponent) in accordance with Development Consent SSD-5170 granted under the (then) Division 4.1 of Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). SSD-5170 (as modified) grants the continuation of open cut coal mining and associated activities at Bengalla until 28 February 2039.

Modification (MOD7) to SSD-5170 seeks to construct a temporary overburden emplacement area (TOEA) to stockpile 11 million loose cubic metres of waste overburden material within the existing overburden emplacement area (OEA) footprint. The interim landform will be approximately 25 m higher than the approved final landform within the TOEA footprint. However, it remains 20m lower than the maximum approved final landform height.

The construction of the TOEA is intended to allow BMC to temporarily stockpile waste overburden material in a central location on site, providing opportunities to develop an improved final landform or for the overburden to be later relocated into the void.

Council has reviewed the Modification Report and has provided comments below. Council has taken the opportunity to comment on certain existing consent conditions that are outdated.

General

1. Council notes that a temporary stockpile exposes material to wind and water erosion and potentially increased dust levels in the locality.
2. Council considers that the 24-hour averaging period for air pollution monitoring has the unintended consequence of obscuring issues of elevated dust levels at night and early morning, particularly when a surface temperature inversion is present. A 12-hour average would better show air quality impacts on the community. Council requests that the NSW Government review their policy on allowing 12-hr averaging rather than 24-hour averaging. It also requests that the State Government update the 2010 NSW Health report, commission a study into the effects to human health of exposure to night-time dust levels in the Upper Hunter and provide funds for the EPA to install a ceilometer in Muswellbrook. These three requests are essential to improving the understanding of the consequences to human health, particularly respiratory and cardiovascular health, of exposure to night-time dust levels generated by mining.

3. In view of the overall size of the approved disturbance area, increased height of the final landform, and the distance to the Muswellbrook township, Council considers it appropriate that a contemporary air quality condition be applied to the Bengalla Mine, consistent with the Environment Protection Licence condition applied to the Mount Pleasant Coal Mine.
4. It should be noted that a substantial portion of land in the Muswellbrook Shire is mine owned or classified as 'mine buffer land'. The Hunter Regional Plan 2041 encourages the activation of alternative uses in these areas that aren't class 1,2 or 3 agricultural land, and Council seeks DPHI support for more formalised mechanisms through consent conditions to facilitate and secure long-term economic and environmental outcomes on these lands.

Planning Agreement

5. Council requests that the existing Planning Agreement (PA) condition be amended to a contemporary format with contributions to be paid into the Muswellbrook Shire Community Benefit Fund (MSCBF); which is supported by the recently adopted [MSCBF Policy](#) to guide the allocation of planning agreement contributions.

Closure Planning

6. SSD-5170 includes outdated conditions relating to the management of social impacts during mine closure. Council considers that the condition recently included in MP 09_0062 (MOD2) for the Mount Arthur Coal Mine provides a more contemporary and appropriate framework for managing these impacts. Council requests that a similar condition be applied to SSD-5170 (MOD7) upon determination, given the uncertainty around future opportunities to seek its inclusion.

The Applicant must prepare a Closure Social Impact Management Plan for the Mt Arthur mine complex to the satisfaction of the Secretary. This plan must:

- a) be submitted to the Secretary for approval within six months of the approval of Mod 2, unless otherwise agreed with the Secretary;*
- b) be prepared by suitably qualified and experienced person/s;*
- c) be developed in consultation with Council and the CCC;*
- d) include a Stakeholder Engagement Framework including details about communications with relevant stakeholders, including local services providers, and particularly focussed on the Muswellbrook community, and incorporating risk communication techniques;*
- e) describe the measures that would be implemented to manage and mitigate negative (and cumulative) social impacts from mine closure,*
- f) describe the community benefits funding arrangements to support the transition to closure of the mine, having regard to local and NSW State Government initiatives to support workforce and community transition following closure including the relevant Future Jobs and Investment Authority; (g) include a program to monitor, review and report on the effectiveness of these measures including:*
 - (i) identifying performance indicators, incorporating trigger action response plan; and*
 - (ii) having regard to the principles and monitoring framework recommended in the "Social Impact Assessment for the Mt Arthur Coal Mine Modification 2030 Project (1 September 2023)" MOD 2*

Visual

7. Section 4.3 of the Visual Impact Assessment states that properties located within 7.5 km of the active face of the OEA would be classified as having moderate to high visual sensitivity. Council requests that any such properties be offered appropriate visual screening, where such measures are not already in place.

8. Council appreciates the commitment to maintaining all existing screening measures, including the dense woody vegetation across the eastern face of the OEA that is visible from Muswellbrook and Denman Road. Additionally, Council recognises the early, progressive establishment and rehabilitation of some areas of the outer faces of the OEA and the maintenance of existing tree planting and existing visual screening measures.

Flood Prone Land

9. Council notes that the southern extent of the project boundary and the Bengalla rail loop are within the extent of the 1% flood level. Council requests erosion control measures be installed in these areas and a plan for revegetation if, due to flooding, vegetation is removed.

Progressive Rehabilitation

10. As stated in Section 3.1 of the Modification Report 'the surplus material would be rehandled into the final void to achieve the currently approved final landform by the end of mine life'. Council is concerned about how this approach may affect the Mine Plans outlined in Section 4.3 of the '*Continuation of Bengalla Mine Environmental Impact Statement*' (Hansen Bailey, 2013), particularly in relation to whether progressive rehabilitation will continue along Wybong Road and the southern face of the OEA, should the TOEA remain in place until the end of mine life.

Council appreciates the opportunity to comment and would be pleased to provide additional information if requested. Should you need to discuss the above, please contact Tracy Ward, Sustainability Officer, on 02 6549 3700 or email council@muswellbrook.nsw.gov.au

Yours faithfully



Sharon Pope
Director Environment and Planning