

INDEPENDENT ENVIRONMENTAL AUDIT FINDINGS – BENGALLA MINING COMPANY PTY LIMITED (BMC) RESPONSE

Date: 13 March 2026

1.1 SSD-5170, EPBC 2012-6378, Mining Lease Standard Conditions - Identified Non-Compliances and Recommendations

Non-compliances identified against SSD-5170, EPBC 2012-6378 and Mining Lease Standard Conditions have been summarised in **Tabel 1** below, including the independent audit finding status, recommendation, and the BMC response.

Table 1 Non-compliances – SSD-5170, EPBC 2012-6378, Mining Lease Standard Conditions

Condition	Compliance Requirement	Independent Audit Finding Status	Independent Audit Recommendation	BMC Response (Proposed Action/Action Taken/Response)	Proposed Action Date
SSD-5170 (as modified)					
Sch 2, Cond 2	The Applicant must: (a) carry out the development generally in accordance with: - EIS; - SEE (Mod 1); - SEE (Mod 2); - SEE (Mod 3); - SEE (Mod 4); - Modification Report (Mod 5); - Modification Report (Mod 7); and (b) comply with the conditions of this consent and the Development Layout. <i>Note: The Development Layout is shown in Appendix 2.</i>	Non-compliant (NC-01)	No recommendation	BMC had a reportable incident in the reporting period which denotes the non-compliance. BMC notes that the appropriate notifications had been made.	N/A
Sch 2, Cond 12	The Applicant must ensure that all demolition work is carried out in accordance with Australian Standard AS 2601-2001: The Demolition of Structures, or its latest version.	Non-compliant (NC-02)	It is recommended BMC ensure demolition works are undertaken in accordance with AS 2601–2001 and that relevant supporting documentation is retained for audit purposes.	BMC is in the process of developing a decommissioning and demolition of structures checklist outlining the requirements (including record keeping) to align with AS 2601-2001 (as updated).	31 December 2026
Sch 3, Cond 15A	The Blast Management Plan, as approved by the Secretary, must be implemented for the development.	Non-compliant (NC-04)	It is recommended that a documented change management procedure be incorporated into the Blast Management Plan requiring the submission of a revised plan where monitoring infrastructure is added, relocated or removed.	BMC notes it was approached by a private receptor and requested to remove blast monitor. BMC is in the process of updating the Blast Management Plan and will, in consultation with DPHI to the satisfaction of the secretary, incorporate the administrative update. BMC to ensure updates to the Blast Management Plan are actioned in a timely manner in the future.	30 June 2026
Sch 3, Cond 23	Unless an EPL or the EPA authorises otherwise, the Applicant must comply with section 120 of the POEO Act and the Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Regulation 2002.	Non-compliant (NC-05)	No recommendation	BMC notes this non-compliance was related to an unplanned sediment water release during decommissioning works of a blue book retention basin. BMC confirms	N/A

				understands its requirement to comply section 120 of the POEO Act.	
Sch 3, Cond 24	The Applicant must ensure mining operations comply with the performance measures in Table 12 to the satisfaction of the Secretary.	Non-compliant (NC-06)	Establish a formal inspection and record-keeping program for erosion and sediment controls and water management infrastructure (e.g. basins, diversion drains and storages) to demonstrate ongoing maintenance and timely identification of issues.	Establish formal inspection and record-keeping program for inspections of erosion and sediment controls and water management infrastructure (e.g. basins, diversion drains and storages) and incorporate into BMC Environmental Compliance Management System.	31 December 2026
Sch 3, Cond 25A	The Water Management Plan, as approved by the Secretary, must be implemented for the development.	Non-compliant (NC-07)	It is recommended that BMC implement a documented inspection and maintenance program for water management infrastructure (including dams and basins)		
Sch 3, Cond 26	The Applicant must implement the biodiversity offset strategy as outlined in Table 13 and as generally described in the EIS (and shown in Appendix 7), to the satisfaction of the Secretary.	Non-compliant (NC-08)	Establish and maintain a documented inspection and maintenance program for the offset areas (including fencing, access tracks and general condition), with records retained as evidence of ongoing management.	Formalise and document offset inspections (including fencing, access tracks and general condition of the property) and to demonstrate compliance with BOMP management activities.	30 June 2026
Sch 3, Cond 28	Within 2 years of the commencement of development under this consent, unless otherwise agreed with the Secretary, the Applicant must make suitable arrangements to provide appropriate long term security for the land within the Biodiversity Offset Strategy identified in Table 13 through a Biobanking Agreement under the Threatened Species Conservation Act 1995 (or an alternative mechanism agreed with BCT), to the satisfaction of the Secretary.	Non-compliant (NC-09)	BMC should continue to liaise with the Biodiversity Conservation Trust and Department of Planning, Housing and Infrastructure and take all reasonable steps to finalise the Biodiversity Stewardship Agreement to secure long-term protection of the offset areas as soon as practicable.	Bengalla will continue to liaise with the appropriate authorities to retire and Biodiversity Offsets as required by SSD-5170.	
Sch 3, Cond 47	The Applicant must prepare a Rehabilitation Strategy for all land disturbed by the development to the satisfaction of the Secretary. This plan must: (a) be prepared in consultation with Water Group, CHPR, Council, Resources Regulator and the CCC and be submitted to the Secretary for approval within 12 months after the approval of Mod 7, unless otherwise agreed by the Secretary; (b) be prepared by a suitably qualified and experienced person/s; (c) build upon the Rehabilitation Objectives in Table 15, conceptual final landform plan in Appendix 9, describe the overall rehabilitation outcomes for the site, and address all aspects of rehabilitation including mine closure, final landform (including final voids and reinstatement of Dry Creek), postmining land use/s and water management; (d) align with strategic rehabilitation and mine closure objectives and address the principles of the Strategic Framework for Mine Closure (ANZMEC and MCA, 2000); (e) describe how rehabilitation will be integrated with the mine planning process, including a plan to address premature mine closure;	Non-compliant (NC-10)	No recommendation	BMC notes that this non-compliance was in regard to the submission of the Rehabilitation Strategy within the nominated 12-month timeline due to varying factors. BMC notes that the DPHI was kept informed about the delays to the finalisation of the Rehabilitation Strategy.	N/A

	(f) investigate opportunities to refine and improve the final landform and final void outcomes over time; (g) include a stakeholder engagement plan to guide rehabilitation and mine closure planning processes and outcomes; (h) include a post-mining land use strategy to investigate and facilitate post-mining beneficial land uses for the site (including the final voids), that: • considers regional and local strategic land use planning objectives and outcomes; • support a sustainable future for the local community; • utilise existing mining infrastructure, where practicable • considers opportunities for regional vegetation connectivity with adjoining developments; and • avoids disturbing self-sustaining native ecosystems, where practicable (i) investigate ways to minimise adverse socio-economic effects associated with rehabilitation and mine closure; (j) include a program to periodically review and update this strategy at least every three years.				
Sch 4, Cond 3	As soon as practicable after obtaining monitoring results showing: (a) an exceedance of any relevant criteria in schedule 3, the Applicant must notify the affected landowners in writing of the exceedance, and provide regular monitoring results to these landowners until the development is again complying with the relevant criteria; and (b) an exceedance of any relevant air quality criteria in schedule 3, the Applicant must send a copy of the NSW Health fact sheet entitled “Mine Dust and You” (as may be updated from time to time) to the affected landowners and/or existing tenants of the land (including the tenants of any mine-owned land).	Non-compliant (NC-11)	BMC should revise the Air Quality Management Plan to include an exceedance notification procedure. The procedure should require that, upon identification of a monitoring exceedance, affected landowners and tenants are notified and provided monitoring results and the Mine Dust and You fact sheet, with follow-up advice issued once attribution investigations are completed.	BMC notes that following investigation of all-source criterion exceedances it was not found to be contributing 50µg/m ³ or greater. BMC will develop an air quality exceedance notification procedure to define and address the notification protocols for private receptors and tenants in the event of an air quality exceedance and incorporate into the next revision of the AQMP.	31 December 2026
Sch 5, Cond 5	Within 3 months of the submission of: (a) an annual review under Condition 4 above; (b) an incident report under Condition 7 below; (c) an audit report under Condition 9 below; or (d) any modification to the conditions of this consent (unless the conditions require otherwise), the Applicant must review, and if necessary, revise, the strategies, plans, and programs required under this consent to the satisfaction of the Secretary. Where this review leads to revisions in any such document, then within 4 weeks of the review, unless the Secretary agrees otherwise, the revised document must be submitted to the Secretary for approval.	Non-compliant (NC-12)	It is recommended BMC implement a documented trigger-based review process requiring relevant strategies, plans and programs to be reviewed following environmental incidents, modifications to the development, or significant operational changes in accordance with Schedule 5 Condition 5 of the Consent.	During the commissioning of the Environmental Compliance Management System, BMC will establish a process to initiate and document the management plan review process. BMC notes that for many of its management plans, material change was not required following review.	30 September 2026

	<i>Note: This is to ensure the strategies, plans and programs are updated on a regular basis, and incorporate any recommended measures to improve the environmental performance of the development.</i>				
Sch 5, Cond 7AA	Within seven days of becoming aware of a non-compliance, the Applicant must notify the Department of the non-compliance. The notification must be in writing and must be submitted via the Department's NSW planning portal (Major Projects). The notification must identify the development (including the development application number and name), set out the condition of this consent that the development is non-compliant with, why it does not comply, the reasons for the non-compliance (if known), and what actions have been undertaken, and when, to address the non-compliance. <i>Note: A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.</i>	Non-compliant (NC-13)	Water exceedances against groundwater criteria outlined in the WMP were also recorded during the audit period but there was no verifiable evidence to suggest that these exceedances were reported to the Department.	BMC will sought clarification of regulator expectation regarding this matter and revise its water management plan to include document the agreed notification process. BMC notes that all criterion exceedances are investigated by independent experts. Any true exceedance is reported to the NSW DPHI where required.	30 June 2026
EPBC Approval 2012/6378 (as modified)					
Cond 3	To compensate for the loss of 535 hectares of Box Gum Woodland ecological community and 272 hectares of habitat for the Grey Headed Flying Fox, Large eared Pied Bat, South-eastern Long-eared Bat, Regent Honeyeater, Swift Parrot and the Spotted-tail Quoll, the approval holder must prepare and submit, by 3 September 2015, a Biodiversity Offset Management Plan (BOMP) for the Minister's written approval. The BOMP must: (a) Identify those lands described as the Offset Areas at Schedule 2 (Figures 1- 6) of this notice. This must include offset attributes, shape files, textual descriptions and maps to clearly define the location and boundaries of the offset area(s) (b) Provide a survey and description of the current condition (prior to any management activities) of the offset areas identified in Condition 3a. (c) Detail management actions and regeneration and revegetation strategies to be undertaken on the offset areas to improve the ecological quality of these areas, including: (i) a description and timeframe of measures that would be implemented to improve the condition of Box Gum Woodland and habitat for the Grey Headed Flying Fox, Large-eared Pied Bat, South-eastern Long-eared Bat, Regent Honeyeater, Swift Parrot and the Spotted-tail Quoll on the offsets sites;	Non-compliant (NC-14)	It is recommended that BMC establish and maintain a documented inspection and maintenance program for the offset areas (including fencing integrity, access tracks and general condition), with inspection records retained as evidence of ongoing management and compliance with the BOMP.	See above (NC-08).	

	(ii) performance and completion criteria for evaluating the management of the offset areas, and criteria for triggering remedial action; (iii) a program to monitor and report on the effectiveness of these measures, and progress against the performance and completion criteria; (iv) a description of potential risks to the successful implementation of the plan, a description of the measures that will be implemented to mitigate against these risks and a description of the contingency measures that will be implemented if defined triggers arise; and (v) details of who would be responsible for monitoring, reviewing, and implementing the plan. The approved BOMP must be implemented. The approved BOMP must be published on the approval holder's internet web site within 1 month of being approved. The most recently approved version of the BOMP must be published on the approval holder's internet web site for a period of 5 years after it is approved. <i>Note: The Biodiversity Management Plan required under NSW Approval condition 29 may be used to satisfy this condition if it meets the above content and submission requirements.</i>				
Cond 4	The approval holder must secure the lands identified as the Offset Areas at Schedule 2 (Figures 1- 6) of this notice as a biodiversity offset, in accordance with NSW Approval condition 28.	Non-compliant (NC-15)	No recommendation (refer to NC-09)	See above (NC-09)	
Cond 6	The approval holder must undertake management and monitoring of water resources in accordance with NSW approval conditions 23 to 25.	Non-compliant (NC-16)	No recommendation (refer to NC-05)	See above (NC-05)	
Cond 8	Upon request, the approval holder shall supply the groundwater monitoring data for the Bengalla Mine to the Department, NSW Government agencies, operators of the Mt Arthur and/or Mount Pleasant mines or other adjacent mine operators. A protocol for the supply of the data must be included in the approval holder's Water Management Plan.	Non-compliant (NC-17)	It is recommended that the Water Management Plan be updated to include a clear protocol for the provision of groundwater monitoring data upon request from the Department, NSW Government agencies, operators of the Mt Arthur and/or Mount Pleasant mines or other adjacent mine operators.	Update Water Quality Management Plan with formalised protocol for the provision of groundwater monitoring data upon request from government departments and neighbouring mine operators and submit for approval.	30 June 2026
Cond 15	If the approval holder wishes to carry out any activity other than in accordance with a Plan as specified in the conditions, the approval holder must submit to the	Non-compliant (NC-18)	BMC should revise the Biodiversity Offset Management Plan to include the additional monitoring plots requested by the	Update Biodiversity Offset Management Plan to include the additional monitoring plots requested by DCCEEW letter dated 20 November 2023.	30 June 2026

	Department for the Minister's written approval a revised version of that Plan. The approval holder must not commence the varied activity until the Minister has approved the varied Plan in writing. The Minister will not approve a varied Plan unless the revised Plan would result in an equivalent or improved environmental outcome over time. If the Minister approves the revised Plan, that Plan must be implemented in place of the Plan originally approved.		Department and submit the revised Plan to the Department for approval.		
Mining Regulation 2016 - Schedule 8a Standard Conditions of Mining Leases					
Division 3 – Rehabilitation documents					
Cond 10	10 Rehabilitation management plans for large mines (1) The holder of a mining lease relating to a large mine must prepare a plan (a rehabilitation management plan) for the mining lease that includes the following: (a) a description of how the holder proposes to manage all aspects of the rehabilitation of the mining area, (b) a description of the steps and actions the holder proposes to take to comply with the conditions of the mining lease that relate to rehabilitation, (c) a summary of rehabilitation risk assessments conducted by the holder, (d) the risk control measures identified in the rehabilitation risk assessments, (e) the rehabilitation outcome documents for the mining lease, (f) a statement of the performance outcomes for the matters addressed by the rehabilitation outcome documents and the ways in which those outcomes are to be measured and monitored. (2) If a rehabilitation outcome document has not been approved by the Secretary, the holder of the mining lease must include a proposed version of the document. (3) A rehabilitation management plan is not required to be given to the Secretary for approval. (4) The holder of the mining lease: (a) must implement the matters set out in the rehabilitation management plan, and (b) if the forward program specifies timeframes for the implementation of the matters—must implement the matters within those timeframes.	Non-compliant (NC-19)	It is recommended BMC implement a formalised record-keeping process to capture and retain all rehabilitation implementation records (e.g. topsoil placement, ameliorant application and vegetation establishment).	BMC notes that is currently completes a rehabilitation completion document that outlines works completed. BMC will further this process to link back to the rehabilitation objectives.	31 December 2026
16	16 Certain documents to be publicly available (1) This clause applies to the following documents: (a) a rehabilitation management plan, (b) a forward program,	Non-compliant (NC-20)	It is recommended BMC prepare a procedure to ensure required rehabilitation documents are uploaded to the website within the prescribed 14-day timeframe. This should	BMC will create a compliance obligation in the Environmental Management System to allow records to be kept to ensure compliance with this condition.	

	(c) an annual rehabilitation report. (2) The holder of a mining lease must make a document to which this clause applies publicly available by: (a) publishing it on its website in a prominent position, or (b) if the holder does not have a website— providing a copy of it to a person: (i) on the written request of a person, and (ii) without charge, and (iii) within 14 days after the request is received. (3) If a document is published on the website of the holder of the mining lease, the holder must ensure that it is published: (a) for a rehabilitation management plan—within 14 days after it is prepared or amended, or (b) for a forward program or an annual rehabilitation report—within 14 days after it is given to the Secretary or amended, (4) Personal information within the meaning of the Privacy and Personal Information Protection Act 1998 is not required to be included in a document made available to a person under this clause.		include maintaining verifiable records of publication dates (e.g. upload logs, screenshots, or a document register).		
Division 4 – Rehabilitation documents					
17	17 Records demonstrating compliance The holder of a mining lease must create and maintain records of all actions taken that demonstrate compliance with each of the conditions set out in this Part. <i>Note—</i> <i>The Act, sections 163D and 163E provide for the form in which records must be kept and the period for which they must be retained.</i>	Non-compliant (NC-21)	It is recommended BMC implement a formalised record-keeping process to capture and retain all rehabilitation implementation records (e.g. topsoil placement, ameliorant application and vegetation establishment).	See above (for NC-19)	