



## Office of Environment & Heritage

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Our reference: DOC18/562962  
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Dear Mr Freeman

### **RE Hume Coal & Berrima Rail - Response To Submissions (SSD 7172 & SSD 7171)**

Thank you for consulting us with regard to the Response To Submissions report for the abovementioned projects. Our key issues are summarised below, and detailed comments on Aboriginal cultural heritage are provided at Attachment A.

- We appreciate the early assessment of Aboriginal heritage impacts pre-approval. In particular, we support the early test excavations that have occurred. This has allowed detailed recommendations about the project design to be prepared.
- Additional conservation and management measures are recommended for some Aboriginal cultural heritage sites identified through the assessment process. These are to be detailed in an Aboriginal Heritage Management Plan. This will reduce the level of impact of the project on Aboriginal heritage. There are some additional points we raised in our comments on the EIS (11 July 2017) that remain unresolved, as detailed at Attachment A.
- We recognise that detailed groundwater issues need to be resolved between DoI Natural Resource Access Regulator (NRAR), Water NSW, DPE and the proponent having due regard to community stakeholder issues. Once this aspect is resolved, OEH will then be in a position to understand the context of groundwater impacts and the relative implications for groundwater dependent ecosystems. We would therefore like to provide further comment once a detailed groundwater outcome has been identified.
- We request the opportunity to review DPE's independent review of groundwater undertaken by Hugh Middlemis and Dr Noel Merrick, and the proponent's formal responses to the review reports. We suggest that this material be made available on the DPE website to enable all stakeholders the opportunity to remain informed on the groundwater issue.
- Our previous comments on biodiversity suggesting corrections to the NSW Framework for Biodiversity Assessment (FBA) assessment have largely been addressed. However, it remains unclear from the Response To Submissions whether incorrect inputs in the paddock tree calculator have been rectified. We request confirmation that this suggested amendment has occurred.

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

Yours sincerely



10-8-2018

**MICHAEL SAXON**  
**Director, South East Branch**  
**Conservation and Regional Delivery**

Attachment A: OEH Detailed Comments on Hume Coal Response To Submissions – Aboriginal Cultural Heritage



**OEH DETAILED COMMENTS ON HUNE COAL & BERRIMA RAIL PROJECTS  
RESPONSE TO SUBMISSIONS – ABORIGINAL CULTURAL HERITAGE (SSD 7171 & SSD 7172)**

**1. Additional test excavation has been conducted at two sites**

The additional test excavation recommended by OEH at sites HC\_179 and HC\_146 has been completed. This means the decision maker has a more accurate level of information on which to assess the impact to Aboriginal heritage through the proposed works.

Aboriginal objects were found at both HC\_179 and HC\_146. HC\_179 is recorded as having a relatively high artefact density and is of moderate to high archaeological significance. This is a similar level of significance to site HC\_135 at Oldbury Creek, which has been recognised as one of the sites of higher significance within the Hume Coal project area.

We are satisfied that the additional test excavations at HC\_179 and HC\_146 provide adequate information to determine the impacts to Aboriginal objects at those two sites.

**2. Options to conserve a larger proportion of site HC\_179 should be considered**

We support the proposed archaeological salvage of those parts of HC\_179 that will be within the construction footprint. However, this should only be determined after all options for conservation of the site have been considered.

It is requested the applicant consider shifting the conveyor slightly west, to avoid more of the crest landform that EMM (2018, p.35) explains is where the majority of artefacts at site HC\_179 are concentrated.

**3. Previous test excavation results**

Some of our previous comments on the methods employed in the first round of test excavations have not been addressed in the Response To Submissions.

As explained previously, test excavation in single transects do not provide information about the true extent of the site. This means assertions about the level of conservation of a site area are based on limited evidence. The Response To Submissions has not addressed this comment.

**4. Proposed archaeological salvage excavation at the Berrima Rail Option 2 north of Berrima Road**

The applicant is maintaining their approach of a staged salvage excavation program after project approval at the Berrima Rail Option 2 north of Berrima Road.

Determining the alignment without test excavation presents a risk. It is also unusual to proceed directly to salvage excavation without first conducting test excavation. However, we note that the test excavations by Associates Archaeology (2017) did not identify Aboriginal objects in this area.

**5. The EIS should incorporate the results of consultation with the Registered Aboriginal Parties**

We recommend that the significance assessment in the EIS is updated to incorporate the comments relating to significance and Aboriginal cultural values received from Cubbitch Barta Native Title Claimants (Appendix 3.1, EMM 2018, pp.4-5)

**6. Long term management of Aboriginal objects**

The applicant is now considering an alternative long term management strategy for excavated Aboriginal objects to that presented in the EIS. A 'neutral' storage location rather than transfer to one of the RAPs is now being proposed (EMM 2018, Appendix 3.2).

We suggest that this option is clarified so that it can be included in the approval and detailed in the AHMP, which is to be finalised post-approval. Not resolving the long term management of Aboriginal objects could result in ongoing difficulties in residual Aboriginal heritage management issues.



## **7. Previously unrecorded site**

A previously unrecorded grinding groove site (HC\_181) has been found. The site is recorded as above the underground mining area (EMM 2018, Appendix 3.3). We support including this site in the AHMP being developed. We also recommend that the EIS is updated to include this site, as well as HC\_179 and HC\_146 revised impact assessments. We support the proposed baseline monitoring of this site because it is above the proposed underground mining area. We recommend that the RAPs are provided with an opportunity to comment on this proposed management strategy.

Any Aboriginal objects found must be registered with AHIMS in accordance with Section 89A of the National Parks and Wildlife (NPW) Act 1974.

## **8. The Aboriginal Heritage Management Plan could be prepared at this stage**

We continue to support the development of an Aboriginal Heritage Management Plan (AHMP) that addresses the matters raised in our previous advice (11 July 2017). We recommend that the AHMP is prepared as soon as possible so that all parties have a clear understanding of their obligations in relation to Aboriginal heritage management through the project. The applicant proposes developing the AHMP post-approval which does not offer upfront clarity and certainty.

We support the proposal to include reassessment of the scope of monitoring of subsidence impacts that are greater than those predicted are observed (RTS page 549). EIS submissions have recommended OEH staff carry out the monitoring and baseline recording of rock shelters (RTS, p.548). However, OEH is required to review these reports and provide expert advice to DPE in its planning assessment. It would therefore not be appropriate for OEH to have also prepared those reports, as that may reduce the independence of the review.

We recommend that the AHMP baseline recording and monitoring program for sites impacted by subsidence is reviewed and approved by OEH. This should be addressed as part of the conditions of consent, if the project is approved.

## **9. Any additional areas where an Aboriginal cultural heritage assessment is required**

The applicant has stated that there are no further ancillary areas of access tracks that need assessment (RTS, p.544).

## **10. Summary of recommendations**

In summary, we appreciate the early assessment of Aboriginal heritage impacts pre-approval. In particular, we support the early test excavations because this has allowed detailed recommendations about the project design to be prepared. Our recommendations on the Aboriginal cultural heritage assessment supporting the Response To Submissions are:

- The design and siting of the conveyor at site HC\_179 be re-considered to conserve a larger proportion of that site.
- The significance assessment in the EIS be updated to incorporate the comments relating to significance and Aboriginal cultural values received from Cubbitch Barta Native Title Claimants.
- The preferred long-term management option for excavated Aboriginal objects be outlined prior to any project approval.
- The Aboriginal Heritage Management Plan be prepared as soon as possible, so that all parties have a clear understanding of their obligations in relation to Aboriginal heritage management through the project.
- All recorded Aboriginal objects must be registered with AHIMS.