



Office of  
Environment  
& Heritage

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DA 80/952 MOD 4

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Dear Philip

**Glendell Mine (DA 80/952) Modification 4**

I refer to your e-mail dated 15 November 2018 in which the Department of Planning and Environment (DPE) invited the Office of Environment and Heritage (OEH) to comment on the Environmental Assessment for the Glendell Mine Modification 4 project (DA 80/952 MOD 4). OEH has reviewed the Statement of Environmental Effects, prepared by Umwelt (Australia) Pty Limited (dated November 2018), that describes the project.

OEH's recommendations are provided in **Attachment A** and detailed comments are provided in **Attachment B**. If you require any further information regarding this matter, please contact Steven Cox, Senior Team Leader Planning, on 4927 3150 or via email at [rog.hcc@environment.nsw.gov.au](mailto:rog.hcc@environment.nsw.gov.au).

Yours sincerely

*Sharon Molloy 7/12/2018*

**SHARON MOLLOY**  
**Director Hunter Central Coast Branch**  
**Conservation and Regional Delivery Division**

Contact officer: STEVEN COX  
02 4927 3150

Enclosure: Attachments A and B

## OEH's recommendations

### Glendell Mine Modification 4

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1. OEH recommends that an Aboriginal archaeological cultural heritage assessment report is prepared to adequately identify any Aboriginal cultural heritage items or cultural values present within the Glendell Mine Modification 4 footprint. The Aboriginal cultural heritage assessment report should be prepared in accordance with the [Guide to investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW \(DECCW, 2011\)](#) and the [Aboriginal cultural heritage consultation requirements for proponents 2010 \(DECCW\)](#).
2. OEH recommends that only Aboriginal objects that occur within the Modification 4 proposed disturbance boundary should be salvaged as part of the project. The portion of Aboriginal sites that occur outside the Modification 4 proposed disturbance boundary should not be salvaged as part of the project.
3. OEH recommends that the existing Aboriginal Cultural Heritage Management Plan for the Mount Owen Complex (OzArk 2018) is updated to manage the Aboriginal objects within the proposed Glendell Mine Modification 4 proposed disturbance area.
4. OEH is satisfied with the biodiversity assessment conducted and no further biodiversity assessment of the impact area is required.
5. No further flooding assessment is required for this project.

## OEH's detailed comments

### Glendell Mine Modification 4

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#### Aboriginal Cultural Heritage

##### 1. An Aboriginal cultural heritage assessment report should be prepared

OEH has reviewed the information supplied with respect to Aboriginal cultural heritage for the Glendell Mine Modification 4. Modification 4 comprises an area of 12 hectares, a 2 kilometre x 100 metre strip along the length of the western boundary of the current approved disturbance area. The proposed modification area is within 200 metres of Swamp Creek, which is a tributary of Bowmans Creek and a major watercourse in the local area. OEH considers that this is an area of archaeological sensitivity.

OEH notes that the *Aboriginal Due Diligence Archaeological Assessment: Glendell Mine Modification 4, Mount Owen Complex* was undertaken for Modification 4 (OzArk EHM, November 2018). Please note that the due diligence process is not sufficient to support a state significant development modification project. Due diligence is a legal defence against harm under the *National Parks and Wildlife Act 1974*. Accordingly, OEH does not review or comment on the due diligence process undertaken by proponents. OEH considers that a due diligence process is inadequate to assess the impacts of this proposal on the Aboriginal archaeological and cultural heritage values of the subject land.

OEH notes that three new sites were recorded during the due diligence survey:

- AHIMS 37-3-1499 Swamp Creek OS1
- AHIMS 37-3-1508 Glendell North OS28
- AHIMS number pending Glendell North OS31

OzArk EHM (2018) asserts that these sites will be impacted and therefore harmed by the proposed modification. As only a portion of these sites lie within the modification boundary, only partial salvage is required with the remainder of the artefacts outside of the Modification 4 boundary requiring protection by a No-Go Zone Barrier Fence.

A fourth new site was also identified, directly to the east of the modification boundary within the approved disturbance boundary. OEH is unable to determine from the information provided if it is likely to be impacted.

The Aboriginal archaeological and cultural heritage values of the Glendell Mine Modification 4 proposed disturbance area should be documented in an Aboriginal cultural heritage assessment report. The identification of cultural heritage values should be guided by the [Guide to investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW \(DECCW, 2011\)](#) and consultation with Aboriginal people must be undertaken and documented in accordance with the [Aboriginal cultural heritage consultation requirements for proponents 2010 \(DECCW\)](#).

The Aboriginal cultural heritage assessment report should assess any impacts on Aboriginal cultural values. The Aboriginal cultural heritage assessment report should demonstrate attempts have been made to avoid impact upon cultural heritage values and identify any conservation outcomes. Where impacts are unavoidable, the Aboriginal cultural heritage assessment report must outline measures proposed to mitigate impacts.

##### Recommendation 1

OEH recommends that an Aboriginal archaeological cultural heritage assessment report is prepared to adequately identify any Aboriginal cultural heritage items or cultural values present within the Glendell Mine Modification 4 footprint. The Aboriginal cultural heritage



assessment report should be prepared in accordance with the [Guide to investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW \(DECCW, 2011\)](#) and the [Aboriginal cultural heritage consultation requirements for proponents 2010 \(DECCW\)](#).

## 2. Only Aboriginal objects within the proposed disturbance area should be impacted

OEH notes that OzArk EHM intends to combine the following three previously recorded sites (identified in August 2017 and outside of the Modification 4 boundary):

- AHIMS 37-3-1492 (Swamp Creek IF-2)
- AHIMS 37-3-1493 (Swamp Creek IF-3)
- AHIMS 37-3-1490 (Swamp Creek IF-4)

OzArk EHM intends to amalgamate these sites with another site within the boundary:

- AHIMS 37-3-1499 (Swamp Creek OS1)

OzArk EHM proposes total salvage at all these sites as part of Modification 4, even though some of the artefacts lie outside the modification boundary. There is no evidence of consultation with the Aboriginal stakeholders on this matter.

### Recommendation 2

OEH recommends that only Aboriginal objects that occur within the Modification 4 proposed disturbance boundary should be salvaged as part of the project. The portion of Aboriginal sites that occur outside the Modification 4 proposed disturbance boundary should not be salvaged as part of the project.

## 3. The Aboriginal Cultural Heritage Management Plan should be updated

OEH has reviewed the *Aboriginal Cultural Heritage Management Plan (ACHMP) for the Mount Owen Complex (OzArk 2018)*. OEH recommends that the existing ACHMP (OzArk 2018) be updated to manage the Aboriginal objects within the proposed Glendell Mine Modification 4 Consent Boundary. The proposed modification boundary must be updated on all relevant figures in the ACHMP.

### Recommendation 3

OEH recommends that the existing Aboriginal Cultural Heritage Management Plan for the Mount Owen Complex (OzArk 2018) is updated to manage the Aboriginal objects within the proposed Glendell Mine Modification 4 proposed disturbance area.

## **Biodiversity**

### 4. OEH is satisfied with the biodiversity assessment

OEH reviewed the Biodiversity Development Assessment Report, the Biodiversity Assessment Method calculator file, and the Geographic information shapefiles for this project and is satisfied with assessment undertaken. The proponent has not identified which of the offsetting options available under the NSW biodiversity offsets policy for major projects will be used to meet the 109 ecosystem credits generated if this development is approved.

### Recommendation 4

OEH is satisfied with the biodiversity assessment conducted and no further biodiversity assessment of the impact area is required.

## **Flooding and flood risk**

### **5. OEH is satisfied with the flood impact assessment provided**

OEH has reviewed the surface water assessment provided by Umwelt (*Modification 4 Statement of Environmental Effects, 2018*) and is satisfied the proposed modification will have no significant off-site flooding impacts.

#### **Recommendation 5**

No further flooding assessment is required for this project.