



**Office of
Environment
& Heritage**

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Our reference: DOC16/391494
Contact: Calvin Houlison
4224 4179

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Dear Mr Ko

RE: Bulli Seam Operations Modification 2 (PA 08_150 MOD 2)

Thank you for consulting us with regard to the abovementioned major project modification, known as the "Mine Safety Gas Management Project", which comprises installation of a 1 metre diameter gas pipeline of approximately 4km in length between Appin No. 3 Vent Shaft and Appin No. 2 Shaft, located predominantly within the Brooks Point Road reserve. We have reviewed the relevant information and have provided detailed comments at Attachment A and our key issues are discussed below.

In summary, we recognise that the proposed alignment has been designed to avoid impacts on native vegetation where possible. Notwithstanding, we recommend that details of a suitable like-for-like biodiversity offset in accordance with an appropriate methodology be provided for the 0.45 hectares of Cumberland Plain Woodland Threatened Ecological Community to be cleared along the pipeline alignment, consistent with the intent of the NSW Biodiversity Offsets Policy for Major Projects.

We request that details of the offset be provided prior to approval of the modification, in order to demonstrate that a 'maintain or improve' outcome in accordance with the Director-General's Requirements can be met. We also recommend that the Commonwealth Department of the Environment be contacted to ascertain if a variation to existing EPBC Act approvals are required as a result of the modification.

The archaeological assessment is reasonable in relation to the assessment of disturbance along most of the proposed pipeline easement. However, some more detail is required in relation to the consultation with the Aboriginal community and the procedure for managing any Aboriginal objects found during the works. Detailed comments are attached containing this advice.

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

Yours sincerely

CHRIS PAGE

**Senior Team Leader, Planning (Illawarra)
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Attachment A: OEH Detailed Comments on Bulli Seam Operations Project Mod 2 (PA08_150)

ATTACHMENT A: OEH DETAILED COMMENTS ON BULLI SEAM OPERATIONS PROJECT MOD 2 (PA08_150)

1. Biodiversity & Offsets

Biodiversity offsets for the approved Bulli Seam Operations (BSO) and Dendrobium major projects are required to be implemented in accordance with Schedule 4 Conditions 18 and 19 of the BSO approval and Schedule 3 Condition 14 of the Dendrobium approval respectively. Both the BSO and Dendrobium major projects pre-date implementation of the NSW Biodiversity Offsets Policy for Major Projects and underpinning Framework for Biodiversity Assessment, including the *Addendum for Upland Swamps Impacted by Longwall Mining Subsidence* which is imminent.

Schedule 2 Condition 14 of the BSO approval, as added by PA 08_0150 Mod 1, also provides a mechanism whereby a strategic offset site comprising conservation values greater than both projects may be secured up-front. The Strategic Biodiversity Offset report prepared by South 32 (March 2016) proposes to secure biodiversity offsets for the approved Stage 4 Emplacement Area in the BSO and upland swamps at Dendrobium projects through the transfer of a 598 hectare parcel of land at Maddens Plains into the National Parks estate. Ideally this offset should be secured before additional modifications are approved, as it only offsets clearing and subsidence impacts associated with the approved projects.

The currently proposed modification comprises a gas pipeline that largely traverses the alignment of Brooks Point Road, impacting approximately 0.45ha of regenerating Cumberland Plain Woodland within the project footprint. Cumberland Plain Woodland (CPW) is listed as a Critically Endangered Ecological Community (CEEC) under both the NSW Threatened Species Conservation Act 1995 and Commonwealth Environment Protection & Biodiversity Conservation Act 1999.

The proponent's flora and fauna assessment for the proposed modification (Biosis, 2016) states that the NPWS mapping (2002) identified part of the native vegetation on site as being Shale Sandstone Transition Forest (SSTF), which is also a CEEC under both NSW and Commonwealth legislation. The assessment has validated the SSTF as being within CPW CEEC, however there is no detailed description on the validation and justification for the change.

We recognise that the proposed alignment has been designed to avoid impacts on native vegetation where possible. The assessment concludes that the proposed modification is unlikely to result in a significant impact upon threatened species, populations or ecological communities and their habitats, including CPW CEEC. Notwithstanding this conclusion, we recommend that a suitable like-for-like biodiversity offset be provided for the 0.45 hectares of CPW CEEC to be cleared, consistent with the intent of the Offset Policy for Major Projects. The proponent should provide details of this offset in accordance with an appropriate methodology prior to approval of the modification, in order to demonstrate that a 'maintain or improve' outcome in accordance with the Director-General's Requirements can be met.

We also suggest that the proponent refer the project modification to the Commonwealth Department of Environment, if this has not already occurred, in order to determine whether a variation to the Controlled Action approval for the project under the EPBC Act is required.

2. Aboriginal Cultural Heritage

Archaeological assessment

The archaeological assessment (Niche 2016) relies heavily on the classification of most of the proposed impact area has been disturbed to the extent that archaeological deposits and Aboriginal objects will not have survived. This is a reasonable assessment given the disturbed nature of the road easement within which the majority of the proposed pipeline runs.

However, there are less disturbed portions of the easement at the south eastern and western ends of the easement that run through cleared paddocks. In these sections, the disturbance to the land has been much lower. Archaeological sites, in particular stone artefact scatters, are routinely found within cleared paddocks in this region. While no landscape features have been identified as being likely to contain archaeological deposit, the low ground surface visibility through these sections and the low levels of prior disturbance mean that there is an increased potential for Aboriginal objects to be impacted by the pipeline in these areas.

Niche (2016, p. 36) advises that work should stop if Aboriginal objects are found during the works. We support this recommendation, and note the requirement under section 89A of the National Parks and Wildlife Act 1974 to register all Aboriginal objects on the AHIMS database.

If there are any changes to the alignment of the construction easement, or the impact area of the construction works including any stockpiling and laydown areas, the proponent must ensure that the alignment has been assessed for the potential to impact Aboriginal objects. This is especially relevant given the recorded sites in close proximity to the easement.

Aboriginal community consultation

Niche (2016, p. 7) report that consultation has been in accordance with the consultation protocol developed by Biosis (2012) that has formed part of the approvals process to date. Niche (2016, p. 7) state that consultation has been conducted with identified organisations and individuals identified through this process. However, no evidence of how this process has been conducted is provided.

Recommendations

Clarification of the following matters is needed:

- Provide evidence that consultation with the Aboriginal stakeholders occurred as described in section 5.1.2 of the Heritage Management Plan (Biosis, 2012, p. 24). Evidence may include a consultation log and copies of correspondence sent to the stakeholders.
- Confirmation of the representatives engaged for the archaeological survey, as there is discrepancy between the groups represented in the list in section 2 (Niche, 2016, p. 4), the list of registered parties for consultation provided in section 5 (Niche, 2016, p. 7) and the list of parties consulted under the Heritage Management Plan (Biosis 2012: 20).
- The Niche (2016) recommendation to stop work if Aboriginal objects are identified during works should be integrated into the Construction Management Plan or equivalent for the proposed works.
- If unanticipated finds are identified then the procedure in section 9.1 of the Heritage Management Plan (Biosis, 2012, p. 32) should be followed.

References

- Biosis. 2012. Bulli Seam Operations Project: Heritage Management Plan. Report to BHP Billiton Illawarra Coal, dated August 2012.
- Niche Environment and Heritage (Niche 2016b). 2016. Bulli Seam Operations, Mine Safety Gas Management Project, Aboriginal Cultural Heritage Assessment. Prepared for South 32 Illawarra Coal, dated June 2016.