



**Office of
Environment
& Heritage**

Your reference
Our reference:
Contact:

SSD 7538
DOC17/88977
Andrew Fisher
Ph. 6022 0623

Ms Elle Donnelley
A/Senior Planner - Resource Assessments
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms Donnelley

RE: Broken Hill North Mine – Environmental Impact Statement Exhibition (SSD 7538)

I refer to your email dated 2 February 2017 seeking comment from the Office of Environment and Heritage (OEH) on the Environmental Impact Statement (EIS) for the Broken Hill North Mine (SSD 7538).

We have reviewed the exhibited EIS against the Secretary's Environmental Assessment Requirements (SEARs) provided by the Department of Planning and Environment on 6 May 2016. We note that there are some limitations with the biodiversity assessment, however we recommend that development be approved as the project is unlikely to have a significant impact on biodiversity or Aboriginal cultural heritage (ACH). Detailed comments are provided in **Attachment A**.

The EIS does not fully address SEARs for biodiversity assessment as it has not been documented how the Framework for Biodiversity Assessment has been used to assess the impacts of the development. Despite this, OEH considers that the site is highly disturbed and the vegetation that is to be cleared is planted, so we support the conclusion that it is unlikely that the proposal will have a significant impact on species or communities listed under the *Threatened Species Conservation Act 1995*.

OEH support the conclusion that the proposed development activities are unlikely to harm or impact ACH values identified during the heritage assessment. We note that Management and Mitigation Measures defined in the EIS are mostly adequate however consider further refinement is necessary to ensure that no additional harm occurs to any ACH encountered during works associated with this proposal.

We also note that the historic heritage assessment was undertaken in accordance with NSW Heritage Branch guidelines (4.1 Methodology). However, your request has also been forwarded to OEH's Heritage Division by email and we recommend that you formally seek comment from Heritage Council by submitting this to the Heritage Division directly at heritage@heritage.nsw.gov.au.

If you have any questions regarding this matter please contact Andrew Fisher 6022 0623 or by email on andrew.fisher@environment.nsw.gov.au.

Yours sincerely

PETER EWIN
Senior Team Leader Planning
South West Region
Regional Operations
Office of Environment and Heritage

ATTACHMENT A – Detailed comments for the Broken Hill North Mine Environmental Impact Statement (SSD 7538)

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Biodiversity

The EIS does not meet the Secretary's requirements for biodiversity assessment. However the site is highly disturbed and the vegetation that is to be cleared is planted, so OEH supports the conclusion that it is unlikely that the proposal will have a significant impact on species or communities listed under the *Threatened Species Conservation Act 1995* (TSC Act).

The Secretary's requirements for biodiversity assessment included an assessment of the likely impacts of the development in accordance with the Framework for Biodiversity Assessment (FBA). The BioBanking Assessment Methodology (BBAM) was used to assess the landscape value of vegetation in the study area (Ecological Assessment, Table 3-1), but the FBA (which incorporates components of the BBAM) has not been applied any further. OEH would expect the FBA to be followed for this major project and documented in the EIS. Although the EIS states that the native vegetation to be cleared is planted (Ecological Assessment, p 6-22 and p 6-45), the impacts on native vegetation (FBA section 9.2.4) and impacts on threatened species (FBA section 9.2.5) should be assessed in accordance with the FBA. If no further consideration of impacts is required after this assessment, then this should be clearly stated in the EIS (e.g. in section 4.9.8), rather than inferred.

Given the requirement for the FBA to be used, it is of concern that formal floristic surveys were not conducted (Ecological Assessment, p 6-21). Instead photographs were taken of the flora present and these were later identified by the Principal Ecologist, which presupposes that all plant species on the site were found by someone who is not an ecologist. It is stated that Dr Jodie Benton carried out the field survey, but details of her licensing and qualifications are not provided (Ecological Assessment, Table 2-1).

A Yellow-bellied Sheath-tail-Bat was recorded using a mine shaft on the site. This species is listed as vulnerable under the TSC Act. OEH questions the statement in the Executive Summary (p 6-6) that the "Number of bat calls was low, which indicates a low number of bats are roosting in the mine shaft and by extension a local viable population of bats does not rely on the mine shaft for breeding purposes". The field survey was conducted in mid-June 2016 which as identified in the Ecological Assessment (p 6-22) may have resulted in a reduction in bat activity and thus a low number of bats being recorded. Despite this, OEH supports the conclusion that the proposed recommencement project at this site will not significantly impact on this species.

Aboriginal cultural heritage

OEH notes that both a desktop assessment and visual inspection were undertaken, inclusive of an AHIMS search (2 March 2016), which identified no previous recorded ACH and no ACH across the mine site during inspection (Heritage Assessment – Part 5: Specialist Consultant Studies Compendium 5). The visual inspection also confirmed high levels of ground disturbance within the proposed activity area and considers harm to ACH as being unlikely which is consistent with our assessment. While OEH support this conclusion and consider it has been supported by adequate evidence, we recommend that as a condition of approval that any proposed ground disturbance activities must be confined to the areas assessed and should the impact area change or increase, then further ACH assessment will be required.

We also accept Recommendations 6-10 (p 5-56) regarding ACH and while the Aboriginal Heritage Unanticipated Finds Protocol (Appendix 2) is appropriate, a minor adjustment is required to ensure compliance with legislation in place to protect ACH in NSW. We recommend inclusion of the following process should ACH be encountered during proposed works:

If any Aboriginal object is discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the proponent must:

1. *Not further harm the object;*
2. *Immediately cease all work at the particular location;*
3. *Secure the area so as to avoid further harm to the Aboriginal object;*
4. *Notify OEH as soon as practical on 131555, providing any details of the Aboriginal object and its location; and*
5. *Not recommence any work at the particular location unless authorised in writing by OEH.*

In the event that skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access and NSW Police and OEH contacted.