



**Office of
Environment
& Heritage**

Your reference: DA 251-09-01 Mod 13
Our reference: DOC17-512797
Contact: Simon Stirrat
(03) 5051 6218

Ms Rose-Anne Hawkeswood
Senior Planning Officer
Department of Planning & Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Ms Hawkeswood

RE: Ginkgo Mineral Sands Mine Mod 13 (DA 251-09-01 Mod 13) Exhibition

I refer to your email dated 16 October 2017 seeking advice from the Office of Environment and Heritage (OEH) regarding the Ginkgo Mineral Sands Mine Modification 13. This response is in regard to statutory matters relating to application of the *National Parks and Wildlife Act 1974* and the *Biodiversity Conservation Act 2016* (BC Act).

OEH has reviewed the documents and is satisfied that the offset, prepared using the Framework for Biodiversity Assessment, is adequate to address the impacts proposed within Modification 13 which will require an additional 114 hectares of clearing. We support the consolidation of most offsets into a single large area (proposed Offset Area 8) and the inclusion of significant areas of Black Oak-Pearl Bluebush Woodland. OEH recognises that proposed Offset Area 7 has been selected to meet the offset requirement for Black Box Woodland but note that it is small and isolated and for that reason have additional management issues compared to an area connected to the existing large offsets. For this area, the proponent will need to ensure that fencing used to protect the area does not impact on the movement of terrestrial fauna through the site or result in unnecessary clearing associated with fencing.

OEH supports the proposal to incorporate management of the proposed offsets into the overall offset management program for the Ginkgo and Snapper mines. The proponent will need to ensure that the current version of Murray Basin Mines Offset Management Plan is updated to reflect the latest information about vegetation communities and threatened species *viz.* Bolam's mouse (*Pseudomys bolami*), interior blind snake (*Anilius endoterus*) and grey falcon (*Falco hypoleucos*). Given the increased area and additional species, we consider it appropriate that we be provided a copy of the Management Plan for review once it has been updated to address the additional offset areas.

OEH recognises that the protection mechanism that has been proposed is the consistent with the existing offsets implemented for the previous approvals. However, OEH is aware that a regulation is being prepared for the *Crown Lands Management Act 2016* which may allow for the future conversion of Western Lands Leases to freehold. While we are not suggesting that the proponent is proposing this path, it does create some uncertainty around the long-term protection of these offsets, that are intended to remain in-perpetuity. In the absence of detailed information on the process involved with converting a Western Lands Lease with conservation conditions to freehold, we recommend the consideration of options to ensure the long-protection of all the offsets utilising this mechanism for the Ginkgo Mineral Sands Mine. Options to achieve this include:

1. A condition within the modified approval stating that if the current or future lessee opts to convert the lease to freehold, that another suitable offset mechanism must be put in place to ensure the in-perpetuity protection of the offset area. This may include Biodiversity Stewardship Agreement or Conservation Agreement, or similar mechanism under current or future legislation.
2. A commitment from the proponent to implement such an action as identified above if the Western Land Lease is converted in the future.

While our preference would be the first option as it would guarantee the long-term implementation of these offsets, we recognise the uncertainty around the process means that this may not be the appropriate response. We are happy to discuss this further with yourselves and the proponent, particularly if you obtain further detail from the Department of Industry, Crown Lands and Water who are preparing the Crown Lands Management Regulation.

In relation to Aboriginal Cultural Heritage (ACH) OEH makes the following observations:

1. The mine extension proposed in Modification 13 is within the current consent area for (s87 Permit No. 1811 and s90 Consent No. 1810).
2. Comparing the Aboriginal Heritage Information Management System (AHIMS) against Figures 3b and 13, we concur that three registered Aboriginal objects were within the modification; AHIMS # 39-3-0039 (Ginkgo Isolated Find 15), AHIMS # 39-3-0041 (Ginkgo Isolated Find 17) and AHIMS # 39-3-0042 (Ginkgo Isolated Find 18). These sites, were salvaged by Cupper (2007) under the Permit and Consent.
3. There are no other known and recorded sites within the modification area. It is understood as a backup measure there will be a pre-clearance activity as contained within the Murray Basins Mineral Sands Cultural Heritage Management Plan (CHMP - GHD 2015).
4. Should any unanticipated finds be made during pre-clearance or operation stage, the proponent should implement the measures identified in the CHMP and conditions of consent s87 Permit No. 1811 and s90 Consent No. 1810.
5. It is noted that the figures within Modification 13 identify a feature 'Ginkgo Mine Potable Water Pipeline (Not Constructed)'. It is not clear from the document whether this is within the original approval or subsequent modifications, or if this infrastructure proposed in a future modification. We believe this is not included within the current consent area for the Ginkgo Mine and so would require assessment of ACH if it was to be constructed.

If you require further information about this matter please contact Simon Stirrat on (03) 5051 6218 or at simon.stirrat@environment.nsw.gov.au.

Yours sincerely

 3/11/17

PETER EWIN
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