



Office of
Environment
& Heritage



Your reference: SSD 4962
Our reference: DOC12/25859; FIL12/6291
Contact: Robert Gibson, 4908 6851

Mr Paul Freeman
Department of Planning and Infrastructure
Mining and Industry Projects
GPO Box 39
SYDNEY NSW 2001

Dear Mr Freeman

RE: TASMAN MINE EXTENSION PROJECT (SSD 4962)

Reference is made to the letter from the Department of Planning and Infrastructure (DP&I) of 26 June 2012 to the Office of Environment and Heritage (OEH) requesting comment and recommended conditions of consent for the Tasman Mine Extension Project. OEH understands that this is a State Significant Development (SSD) under Part 4, Division 4.1 of the *Environmental Planning and Assessment Act 1979*.

OEH has reviewed the 'Tasman Extension Project Environmental Impact Statement Main Report' and relevant appendices for the likely impacts of the proposed development on Aboriginal Cultural Heritage issues and on threatened biodiversity. Based on this review comments and recommended conditions of consent are provided in **Attachment 1**.

If you have any questions about this matter then please phone Mr. Robert Gibson, Regional Biodiversity Conservation Officer, on 4908 6851.

Yours sincerely

13 AUG 2012

RICHARD BATH
Head – Hunter Planning Unit
Conservation and Regulation, North East



Enclosure: Attachment 1 - Comments and Recommended Conditions of Approval for the Proposed Tasman Extension Project (SSD 4962)

ATTACHMENT 1

COMMENTS AND RECOMMENDED CONDITIONS OF APPROVAL FOR THE PROPOSED TASMAN EXTENSION PROJECT (SSD 4962)

OEH has reviewed the Environmental Assessment (EA) for Aboriginal cultural heritage issues and Threatened Biodiversity. Comments and recommended conditions of approval are provided below.

Aboriginal Cultural Heritage Assessment

OEH acknowledges that the Aboriginal cultural heritage assessment has been undertaken in accordance with OEH's Aboriginal cultural heritage assessment requirements. The results of the Aboriginal cultural heritage assessment for the project area are also acknowledged. OEH supports the specific recommendations provided in Section 4.10.3 of the EIS and the recommendations in Section 11.0 of the 'Aboriginal Cultural Heritage Assessment' to manage any Aboriginal cultural heritage values associated within the project area.

OEH has no additional concerns with the Aboriginal cultural heritage assessment for the project application and recommends that the following conditions of approval for Aboriginal cultural heritage are reflected in any approval conditions for the project.

Threatened Biodiversity Assessment

The proposed Tasman Extension Project would clear about 11.2 hectares of native remnant woody vegetation, including about 8.9 hectares of Lower Hunter Spotted Gum - Ironbark Forest endangered ecological community (EEC) and about 417 plants of the threatened Heath Wrinklewort (*Rutidosis heterogama*). These may be offset by some of the following actions:

- An offset of at least 22.5 hectares of native bushland (including at least 18 hectares of remnant Lower Hunter Spotted Gum – Ironbark Forest EEC);
- Translocation of Heath Wrinklewort plants on the development site and the raising of new plants from harvested seed to establish about 417 Heath Wrinklewort plants beside an adjacent metapopulation to the south-east of the proposed new mine pit top; and
- The provision of funding for on-going management of the Sugarloaf State Recreation Area and for two research projects into Heath Wrinklewort.

OEH notes that full details of offsetting measures have not been provided in the final EA (Page 7-8 in the Main Report of the EIS). OEH's offsetting policies stipulate that offsets are agreed before prior to the impact occurring (Principle 8; DECC, 2011). Therefore many of OEH's concerns about the proposed offset for this development remain. These are outlined in OEH's correspondence of 14 June 2012.

The proposed translocation and research worked planned for the Heath Wrinklewort may lead to a successful outcome and may be done in addition to the provision of an offset containing the same number of plants of this species, however, OEH does not consider translocation to be an appropriate alternative to the provision of a biodiversity offset. This is due to there being no guarantee of success, particularly in the medium to long-term of translocated Heath Wrinklewort plants or propagules. As a consequence OEH includes a recommended condition of approval with regards to biodiversity offsets that is provided below:

RECOMMENDED AMENDED CONDITIONS OF APPROVAL FOR ABORIGINAL CULTURAL HERITAGE

1. The proponent must continue to consult with and involve all the registered local Aboriginal parties for the project in the ongoing management of the Aboriginal cultural heritage values. Evidence of this consultation must be collated and provided to the consent authority upon request.

2. The proponent must develop a Heritage Management Plan (HMP) for the project area to detail procedures for managing the Aboriginal cultural heritage values of the project area. The HMP is to be implemented in consultation with the registered Aboriginal parties. The plan must also detail the involvement and responsibilities of the Aboriginal stakeholders in the implementation of all cultural heritage management actions; details of the responsibilities of all other stakeholders; an access protocol; details of all mitigation and management strategies (including further investigations); procedures for the identification and management of previously unrecorded sites (including human remains); details of an appropriate keeping place agreement with local Aboriginal community parties for any Aboriginal objects salvaged through the development process; details of the Aboriginal Cultural Heritage Education Program for all contractors and personnel associated with construction activities; and compliance procedures in the unlikely event that non-compliance with the HMP is identified.
3. In the event that surface disturbance identifies a new Aboriginal object, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and the registered Aboriginal parties must be contacted to determine the significance of the object(s) and to develop an appropriate management strategy in accordance with the HMP. The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) (managed by the OEH) and the management outcome for the site included in the information provided to the AHIMS.
4. If human remains are located in the event that surface disturbance occurs, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police are contacted immediately. No action is to be undertaken until the Police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact the OEH's Environment Line on 131 555 and representatives of the local Aboriginal community. No works are to continue until the OEH provides written notification to the proponent.
5. An Aboriginal Cultural Heritage Education Program must be developed for the induction of all personnel and contractors involved in the construction activities on site. Records are to be kept of which staff/contractors were inducted and when for the duration of the project. The program should be developed and implemented in collaboration with the local Aboriginal community.

RECOMMENDED AMENDED CONDITIONS OF APPROVAL FOR THREATENED BIODIVERSITY

1. That the clearance of threatened species, populations or communities, or their habitats, for this development must be offset in accordance with OEH offsetting policy; either the 'Principles for the use of biodiversity offsets in NSW' (DECC, 2011) or the 'NSW OEH interim policy on assessing and offsetting biodiversity impacts of Part 3A, State significant development and State significant infrastructure projects (OEH, 2011).

References

DECC (2011) Principles for the use of biodiversity offsets in NSW. 17 June 2011. NSW Department of Environment and Climate Change, Sydney. www.environment.nsw.gov.au/biocertification/offsets.htm

OEH (2011) NSW OEH Interim policy of assessing and offsetting biodiversity impacts of Part 3A, State significant developments (SSD) and State significant infrastructure (SSI) projects. 25 June 2011. NSW Office of Environment and Heritage, Sydney.