



Office of Environment & Heritage

Our reference: DOC11/38505 LIC08/570-03
Contact: Kim Jefferson ph:4908 6827

14 SEP 2011

NSW Department of Planning
Major Projects Assessment Mining and Industry Projects
GPO Box 39
SYDNEY NSW 2001
Attention: Ms Naomi Nelson

Dear Ms Nelson

Environmental Assessment Drayton Coal Mine (MP 06_0202 Mod 2) Section 75W Modification

I refer to your letter dated 16 August 2011 seeking comments and recommend conditions of approval from the Office of Environment and Heritage (OEH) regarding the above proposed development. OEH has reviewed the document "*Drayton Mine East Pit Tailings emplacement and explosives storage facility Environmental Assessment*" prepared by Hansen Bailey Environmental Consultants dated July 2011 (the EA).

OEH understands that the proposed modification to the existing approval includes the emplacement of raw tailings within the East Pit void and construction and operation of an explosives storage facility.

OEH has no objection to the proposed development and provides the following comments. OEH's Recommended Conditions of Approval for this project are provided at **Attachment A**.

Aboriginal Cultural Heritage

A review of the EA, the '*Aboriginal Archaeology and Cultural Heritage Assessment of Drayton Mine Extension*' (dated May 2006) and the '*Anglo Coal (Drayton Management) Pty Ltd - Aboriginal Cultural Heritage Management Plan*' (dated October 2008), was undertaken by OEH to assess the potential impacts of the projects on Aboriginal cultural heritage in accordance with OEH's Aboriginal cultural heritage assessment guidelines and the requirements of Part 6 of the *National Parks and Wildlife Act 1974* (NPW Act). The following comments are provided to DP&I and the proponent following this review.

OEH notes that the explosives facility lies in an area containing landforms which have yielded a significant volume of evidence of Aboriginal occupation in the immediate local area. This evidence includes artefact scatters and isolated finds. OEH is aware that some of these sites have been impacted following approval from OEH. However, some sites remain valid, e.g. artefact scatter site # 37-2-1989. OEH considers that it is likely that further evidence of Aboriginal occupation will be found in the project area if the development proceeds.

The Department of Environment, Climate Change and Water is now known as the
Office of Environment and Heritage, Department of Premier and Cabinet

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Aboriginal Cultural Heritage Management Plan

OEH has reviewed the Aboriginal Cultural Heritage Management Plan (ACHMP) and recommends that the ACHMP is updated to ensure the document accurately reflects the 2010 amendments to the NPW Act and associated Aboriginal cultural heritage reforms.

OEH notes that the proponent has not provided details of the specific responsibilities of the registered Aboriginal stakeholders in Section 4.1 of the ACHMP. It is recommended that the specific responsibilities of the Aboriginal representative be incorporated into the ACHMP. This should include, but be not limited to, the communities role in: the cultural heritage training/induction programs, the monitoring and salvaging activities planned to occur during construction, the development of the protocol for the on-going consultation and involvement in the conservation and management of the Aboriginal heritage in the project area, documenting cultural heritage outcomes and providing feedback to the proponent and/or their representatives.

OEH understands that at least 26 Aboriginal sites are likely to be impacted by the Drayton Mine project approval. Sections 4.7.4 and 4.7.10 of the ACHMP note that any Aboriginal objects recovered during proposed salvage and collection processes will be forwarded to the Local Aboriginal Land Council for safe keeping, prior to being reburied within the project area at the completion of all construction activities. It is also noted the proponent anticipates the salvage program to begin during the last half of 2008 and that a Cultural Heritage Management Report is to be finalised within 12 months of the salvage program being undertaken. A search of OEH's AHIMS has revealed that a Care Agreement has not been issued.

The proponent must ensure that these arrangements comply with Section 85A of the NPW Act. If a Care Agreement is sought from OEH, the proponent must provide evidence of the support or otherwise of all registered Aboriginal stakeholder groups. Further, if any Aboriginal sites have now been impacted by the development, the proponent is advised to promptly submit an Aboriginal Site Impact Recording (ASIR) form for each impacted site to OEH's AHIMS Registrar, in accordance with the requirements of Section 89A of the NPW Act.

Legislative Requirements

OEH reminds the proponent that the importance of protecting Aboriginal cultural heritage is reflected in the provisions of the NPW Act. The NPW Act has been amended recently and the proponent is also reminded to ensure they are familiar with the new requirements as they relate to the development and any subsequent assessment processes. Further advice regarding Aboriginal cultural heritage can be found on OEH's web-site at: <http://www.environment.nsw.gov.au/cultureandheritage.htm>.

If you require any further information on this matter please contact Kim Jefferson on (02)49086827.

Yours sincerely



KAREN MARLER
Head Regional Operations Unit – Hunter Region
Environment Protection and Regulation
Office of Environment and Heritage
Department of Premier and Cabinet

ATTACHMENT A - RECOMMENDED CONDITIONS OF APPROVAL FOR SECTION 75W MODIFICATION DRAYTON COAL MINE (MP06 0202 MOD 2)

Note: Although the Environment Protection Authority is now a part of OEH, certain statutory functions and powers continue to be exercised in the name of the EPA. This includes licensing functions under the *Protection of the Environment Operations Act 1997*. In these instances, reference is made to the EPA instead of OEH.

ADMINISTRATIVE CONDITIONS

Works to be undertaken in accordance with information supplied

1. Except as provided by these recommended conditions of approval, the works and activities shall be undertaken in accordance with the proposal contained in:
 - (a) The s75W modification application MP06_0202 MOD 2 submitted to the NSW Department of Planning and Infrastructure;
 - (b) The document "Drayton Mine East Pit Tailings emplacement and explosives storage facility Environmental Assessment" prepared by Hansen Bailey Environmental Consultants dated July 2011.

unless otherwise specified in these conditions of approval.

OPERATIONAL CONDITIONS

Chemical Storage

1. All above ground tanks containing material that is likely to cause environmental harm must be bunded or have an alternative spill containment system in place.
2. All bunds must be impervious and sized to contain at all times 110% of the largest container stored within the bund.
3. All above ground tanks must be designed and constructed in a manner which prevents the ingress of rain or water into the tanks.
4. All tanks must be clearly labelled to identify their contents.

Erosion and Sediment Control

1. Stormwater at all areas of the premises which has the potential to mobilise sediment and other material must be controlled and diverted through appropriate sediment and erosion control and/or pollution control measures/structures to prevent the pollution of waters.
2. Sediment and erosion control and/or pollution control measures/structures must be maintained at all times to prevent the pollution of waters.

ABORIGINAL CULTURAL HERITAGE

1. 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 representatives must be contacted to determine the significance of the object(s). The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) (managed by OEH) and the management outcome for the site included in the information provided to the AHIMS. Please also note that penalties now apply to corporations for failing to fulfil these requirements.

OEH, September 2011