



Office of Environment & Heritage

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SSD 4974

Miss Jessie Evans
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Department of Environment and Planning
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Dear Miss Evans

RE: WALLARAH 2 COAL PROJECT – AMENDED DEVELOPMENT APPLICATION (SSD 4974)

I refer to your e-mail dated 20 July 2016 seeking advice from the Office of Environment and Heritage (OEH) on the amended Development Application (DA) for the proposed Wallarah 2 Coal Project. OEH understands that the amended DA involves the following:

1. removal of the previously proposed rail loop;
2. re-location of the rail spur and train load out facility to the eastern side of the Main Northern Rail Line;
3. a conveyor system to deliver product coal from a stockpile at the proposed Tooheys Road surface facilities site to the new location of the train load out facility; and
4. realignment of a sewer connection.

Further, OEH understands that the amended DA does not change any of the following:

1. mining area, mining methods and maximum production rate;
2. coal handling or rail loading methods;
3. other surface infrastructure (i.e. other than coal loading and dispatch infrastructure listed above);
4. construction schedule;
5. operational and construction workforce; or
6. capital investment value.

OEH has reviewed the amended DA in relation to Aboriginal cultural heritage and threatened biodiversity matters. OEH notes that the current mine plan excludes 11 longwall panels in the far west of the original mine plan area. However, it is noted that although it is not specifically mentioned or mapped, the current mine plan still undermines part of the Jilliby State Conservation Area. Landholder's consent will be required from the Minister administering the *National Parks and Wildlife Act 1974* once the final mine plan details are known. Further details, including recommended conditions of consent, are provided in **Attachment 1**.

If you require any further information regarding this matter please contact Robert Gibson, Regional Biodiversity Conservation Officer, on 4927 3154.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Bath', with a long horizontal flourish extending to the right.

6 SEP 2016

RICHARD BATH

Senior Team Leader Planning, Hunter Central Coast Region
Regional Operations

Enclosure: Attachment 1

ATTACHMENT 1: OEH REVIEW OF THE WALLARAH 2 COAL PROJECT – AMENDED DEVELOPMENT APPLICATION (SSD 4974)

The Office of Environment and Heritage (OEH) reviewed the report, 'Wallarah 2 Coal project: Amendment to Development Application SSD 4974 for Wyong Area Coal Joint Venture', prepared by Hansen Bailey, and dated July 2016. OEH's review focused on Aboriginal cultural heritage, and threatened biodiversity matters. These are discussed below.

ABORIGINAL CULTURAL HERITAGE ASSESSMENT

OEH has reviewed the Aboriginal Cultural Heritage Assessment - Addendum report prepared by Ozark Environmental and Heritage Management Pty Limited (Ozark 2016, Appendix H), dated June 2016, and the associated recommended conditions for this project.

Recommendations for the Aboriginal cultural heritage management of the Addendum Study Area are as follows:

Recommended conditions of consent for Aboriginal cultural heritage management:

1. The proponent must 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. The proponent must update the existing Aboriginal Cultural Heritage Management Plan (ACHMP) for the project area in consultation with the registered Aboriginal parties to detail procedures for managing all Aboriginal cultural heritage values associated with the project area. This process must be undertaken prior to commencing any ground disturbance or development works subject to the development.
2. Survey Unit 3 (as identified in Ozark 2016) should be inspected by a suitably qualified archaeologist and registered Aboriginal party representatives prior to commencing any ground disturbance or development works subject to the development. The results of this inspection should be incorporated into the ACHMP with suitable management recommendation as required.
3. In the event that ground disturbance locates previously unidentified Aboriginal object/s within the project area, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and representatives of the local Aboriginal community must be contacted to determine the nature, extent and significance of the finds. The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) and the management outcome for the site included in the information provided to AHIMS. The proponent must consult with representatives of the local Aboriginal community, and the archaeologist to develop an appropriate management strategy for all objects/sites which complies with the requirements of the *National Parks and Wildlife Act 1974*.
4. If any human remains are located, all works must halt in the immediate area to prevent any further impact to the remains. The NSW Police are to be contacted immediately. No action is to be undertaken until the NSW Police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact OEH's Environment Line on 131 555 and representatives of the local Aboriginal community. No works are to continue until OEH provides written notification to the proponent.
5. All Aboriginal sites impacted by the project must have an Aboriginal Site Impact Recording form completed and be submitted to OEH's AHIMS Register within three months of being impacted.
6. An Aboriginal Cultural Education Induction 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 registered Aboriginal parties.

THREATENED BIODIVERSITY ASSESSMENT (APPENDIX F)

OEH has reviewed the amended DA in relation to changed development footprint, the offset package and impacts on Jilliby State Conservation Area (SCA). The revised DA reduces the disturbance footprint of the Toohey's Road site by 26 hectares (ha) (from 89 ha to 63 ha), as the rail loop is no longer required. This reduces the amount of clearance of several native plant communities, some of which are endangered ecological communities. However, the offset package remains unchanged and this provides a higher offset ratio than the one described in the original Environmental Impact Statement (EIS).

Proposed longwall panels west of the current project area

The new EIS has a map of the mine layout for the current DA (Figure 2 of the Main Report of the EIS) which includes 11 longwall panels in the far west of the project area that are identified as 'Potential Future Mining Areas'. These 11 longwall panels were part of the original mine plan when the first development application for the mine was lodged in 2006. However, during the assessment of this proposal the Planning Assessment Commission (PAC) (November, 2010), the PAC recommended against secondary extraction (i.e. longwall mining) under Jilliby SCA, at least not until after a comprehensive assessment of surface features and mine subsidence impacts and effects had been conducted to the satisfaction to the Director General of the Department of Planning and Environment (DPE). Further, the PAC recommended that any changes to the proposed mine layout would first require a comprehensive assessment to the satisfaction to the Director General of DPE.

While the proponent may seek a subsequent development application to undertake longwall mining in these western portions underlying Jilliby SCA, OEH requests that longwalls not be shown in the 'Future Mining Areas' section of the map because:

- (a) there is no certainty that these longwalls will be approved in the future;
- (b) if longwalls are proposed in the future, their dimensions and location may be different; and
- (c) OEH notes the position taken by DPE that should mining proceed in the western section, sensitive areas need to be avoided.

Given this position, OEH believes that the location of the unapproved longwalls should not be shown and that only the 'boundary' of the area intended for further development should be indicated.

Securing offset land

Chapter 6 of the EIS for the revised DA includes a description of the proposed offset package for the Wallarah 2 Coal Mine. However, unlike the Preliminary Assessment Report for this project it does not include details of the mechanism(s) that may be used to secure the offset land, or when the offset package would be secured. Several options for securing the offset package have already been discussed with the proponent and these are included as one of OEH's recommended conditions of consent (see below).

Landowner's consent for proposed mining under Jilliby State Conservation Area

The mine plan for the modified DA includes longwall mining under part of Jilliby SCA. That is despite the removal of 11 longwall panels in the far west of the original mine plan. The undermining of national park estate requires landholder's consent from the Minister administering the *National Parks and Wildlife Act 1974*. Such consent would only be considered once the final form of the project is known.

Recommended conditions of consent for threatened biodiversity:

Following OEH's review of the proposed change to the development application for the Wallarah 2 project OEH recommends the following conditions of consent:

1. Biodiversity offsets must be secured within 12 months of any consent being granted by an appropriate permanent mechanism, such as:
 - a. a Biobanking Agreement under Part 7A of the *Threatened Species Conservation Act 1995*;
 - b. dedication of land under the *National Parks and Wildlife Act 1974*;
 - c. a Trust Agreement under the *Nature Conservation Trust Act 2001*; or
 - d. a Property Vegetation Plan registered on title under the *Native Vegetation Act 2003*.
2. The proponent will require landholder's consent from the Minister administering the *National Parks and Wildlife Act 1974* prior to being allowed to mine under Jilliby State Conservation Area.

