



Office of  
Environment  
& Heritage

DOC17/35925-1  
SSD 6300

Mr Thomas Watt  
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Department of Planning and Environment  
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Dear Mr Watt


**Rix's Creek Extension Project (SSD 6300)**

I refer to your e-mail dated 23 January 2017 seeking advice on the report titled *Rix's Creek Continuation of Mining Project: Response to Submissions Addendum* (21 December 2016). This report provides an assessment of the additional 40.98 hectare area (the Addendum Area) of the project that was not covered in the Environmental Impact Statement (EIS) that was prepared last year. The Office of Environment and Heritage (OEH) notes that the Department of Planning and Environment has requested additional information from the proponent, which is expected around mid-February, and has sought OEH's comments on the addendum report in the interim.

OEH has previously advised the Department and the proponent of the information requirements for the project, including the Addendum Area so that the project remains consistent with the requirements of the Upper Hunter Strategic Assessment (UHSA). OEH addressed the addendum report against the incomplete sections of the assessment addressed in both letters, and has found that most require more information. Further details are provided in **Attachment A**.

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

Yours sincerely



6 FEB 2017

**RICHARD BATH**  
**Senior Team Leader Planning, Hunter Central Coast**  
**Regional Operations**

Enclosure: Attachment A

## **ATTACHMENT A: OEH REVIEW OF THE RIX'S CREEK CONTINUATION OF MINING PROJECT: RESPONSE TO SUBMISSIONS ADDENDUM**

Following the review of the EIS for the Rix's Creek Continuation of Mining Project, OEH identified four parts of the threatened biodiversity assessment for which additional information was requested. In addition, the 40.98 hectare Addendum Area of the proposed development footprint was found to have not been assessed for biodiversity values. Given that this project is being undertaken under the UHSA specific assessment and procedural requirements must be met for the entire project footprint. OEH outlined those requirements in a letter to the Department dated 1 December 2016 (our reference DOC16/549616-1). OEH provided specific assessment requirements for the Addendum Area to the proponent in a letter dated 18 November 2016 (our reference DOC16/537754-1). The addendum report provided recently by the proponent was assessed against OEH's dot points in both letters to determine if the project assessment meets all UHSA requirements. At this stage only item 6 (below) has been met. Several of the other points require minor changes or minimal additional information for them to be completed and consistent with requirements of the UHSA. This information is summarised below for each dot point:

1. That the proponent must identify native vegetation in the project area that meets the definition of the (Commonwealth) *Environment Protection and Biodiversity Conservation Act 1999* listed 'Central Hunter Valley eucalypt forest and woodland Critically Endangered Ecological Community. This must be presented as an area calculation and map.

Figure 1 does not clearly explain the areas that correspond to the Central Hunter Valley eucalypt forest and woodland. The area of Central Hunter Valley eucalypt forest and woodland has not been stated so this requirement has not yet been met.

2. Clarification is required on the requirements of planned mitigation and mine site rehabilitation for the life of the mine project under the UHSA. This includes consideration of the *Guidelines for the mitigation of coal mining impacts on biodiversity* have been applied (industry best practice, proportion of cost of the total project that is dedicated to biodiversity protection, and the risk of failure of mitigation measures).

Table 4 in the addendum report provides a list of mitigation measures. However, it is unclear if the proposed mitigation measures have been developed by applying the *Guidelines for the Mitigation of Coal Mining Impacts on Biodiversity, Upper Hunter Strategic Assessment*. The report must include details of how the proponent has applied the mitigation guidelines.

Table 4 should not include the purchase of ecosystems offsets or any other type of offset as a mitigation measure.

3. Demonstration of 'reasonable steps' having been undertaken to seek land-based offsets before the proponent may consider paying on the Offsets Fund.

Section 2.2.1 (Offsetting) of the addendum report states that 'reasonable steps' to source offsets were taken "*in accordance with the Guidelines for the Mitigation of Coal Mining Impacts on Biodiversity, Upper Hunter Strategic Assessment (OEH, 2016)*". The 'reasonable steps' are a requirement of the UHSA, but are not found in the Mitigation Guidelines. Therefore, OEH recommends that the proponent changes the wording to "*...in accordance with the Upper Hunter Strategic Assessment*".

4. Reviewing and re-running the Biodiversity Certification Assessment Methodology (BCAM) calculation of the vegetation in the development footprint to include the Addendum Area and address apparent errors in the calculation presented in the EIS.

The addendum report presented OEH's updated BCAM calculations of the whole project site, and the Addendum Area that was provided in a letter to the proponent in a letter dated 18 November 2016. It was intended that the proponent would re-run the BCAM assessment using this letter as a guide so as to become familiar with the process and to check the details of the calculation. The



proponent is asked to clarify if they did indeed re-run the tool, and if so, to provide a copy of their calculation and the output files.

5. The report must consider and describe all reasonable measures to avoid impacts on biodiversity and will provide reasons why impacts cannot be further avoided.

The addendum report has not described any avoidance considerations in relation to the revised footprint and has not provided reasons why impacts on biodiversity cannot be further avoided.

Section 2.2.1 (Management Measures) of the addendum report lists the purchase of ecosystems credits as part of the approach to avoid, reduce and mitigate potential impacts to biodiversity. OEH does not regard the purchase of ecosystem credits as corresponding to any of these measures.

6. The report components that relate to the BCAM must be prepared by an accredited assessor.

Section 2.2.1 of the addendum report states that the report has been prepared by an accredited assessor. Thus this requirement has been met.

7. Ensure that all information requirements listed in Appendix A of the *Biodiversity Certification Operational Manual (2015)*, available from the OEH website, are met.

The addendum report has not adequately demonstrated that all information requirements listed in Appendix A of the *Biodiversity Certification Operation Manual (2015)* have been met. The addendum report should make reference to each requirement, listing where in the EIS or in the addendum report it has been addressed.

