



BENGALLA MINE

Response to Submissions Development Consent Modification 3

for
Bengalla Mining Company Pty Limited
November 2016

BENGALLA MINE
DEVELOPMENT CONSENT MODIFICATION 3

RESPONSE TO SUBMISSIONS

Prepared by:

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SINGLETON NSW 2330

1 November 2016

For:

BENGALLA MINING COMPANY PTY LIMITED
LMB 5
MUSWELLBROOK NSW 2333

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BENGALLA MINE DEVELOPMENT CONSENT MODIFICATION 3
RESPONSE TO SUBMISSIONS
for
Bengalla Mining Company Pty Limited

1 INTRODUCTION

This section outlines the status of Bengalla Mine in the approvals process and explains the purpose of this Response to Submissions (RTS) document.

1.1 BACKGROUND

Bengalla Mining Company Pty Limited (BMC) operates the Bengalla Mine (Bengalla) in the Upper Hunter Valley of NSW. Bengalla is situated approximately 130 km north-west of Newcastle and 4 km west of the township of Muswellbrook.

In 2013, BMC sought Development Consent under Division 4.1 of Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to enable continued mining operations at Bengalla for a further 24 years.

On 3 March 2015, BMC was granted Development Consent State Significant Development (SSD-5170) by the Secretary of the Department of Planning and Environment (DP&E). This consent authorised the continued operations at up to 15 Million tonnes per annum (Mtpa) of Run of Mine (ROM) coal until 2039.

The application for development consent was supported by the '*Continuation of Bengalla Mine Environmental Impact Statement*' (Bengalla EIS) (Hansen Bailey, 2013) as modified by the '*Continuation of Bengalla Mine Response to Submissions*' (Hansen Bailey, 2014).

SSD-5170 was initially modified under Section 96 of the EP&A Act on 16 December 2015 (MOD 1) to alter various water management infrastructure and relocate an explosives storage facility.

A second modification under section 96 of the EP&A Act (MOD 2) for alternation to the Main Overburden Emplacement Area and to facilitate access to the Dry Creek Project site was approved on 1 July 2016.

On 13 September 2016, BMC made an application for a modification to SSD-5170 under Section 96(2) of the EP&A Act (MOD 3). This application was supported by the '*Bengalla Mine Development Consent Modification 3 Statement of Environmental Effects*' (SEE) (Hansen Bailey, 2016).

MOD 3 is being sought to facilitate adjustments to the re-positioning of the following approved activities:

- The construction and operation of an explosives facility and reload facility;
- The alignment of the Hunter River pipeline; and
- The emplacement and use of temporary topsoil stockpiles during the mining process.

The MOD 3 SEE was placed on public exhibition from 6 October to 24 October 2016. A total of seven submissions were received by the DP&E following the public exhibition period comprised of one public submission, one industry response and the remainder from regulatory agencies.

1.2 DOCUMENT PURPOSE

This RTS has been prepared by Hansen Bailey on behalf of BMC to support the MOD 3 application for modification to SSD-5170 currently being sought under Section 96(2) of the EP&A Act.

This RTS responds to the submissions received by stakeholders during the public exhibition period.

1.3 DOCUMENT STRUCTURE

This RTS is structured as follows:

- **Section 2** summarises the submissions received from stakeholders;
- **Section 3** provides a comprehensive response to the issues raised;
- **Section 4** provides a conclusion to the RTS;
- **Section 5** lists the abbreviations used within this RTS
- **Section 6** provides a list of reference documents for this RTS; and

Each submission received in relation to MOD 3 is presented in **Appendix A**.

2 SUBMISSION SUMMARY

Seven submissions were received in response to the public exhibition of the MOD 3 SEE (see **Appendix A**).

These comprised five submissions from regulatory agencies, one from a neighbouring mining company (MACH Energy Australia Pty Ltd (MACH)) and one from a member of the public who requested that their details remain confidential.

The following regulatory agencies provided a submission:

- Muswellbrook Shire Council (MSC);
- NSW Environment Protection Authority (EPA);
- Office of Environment and Heritage (OEH);
- Department of Industry – Division of Resources and Energy (DRE); and
- Department of Primary Industries (DPI).

No submissions from the non-government organisations were received.

All aspects of the submissions have been addressed within this RTS.

3 SUBMISSIONS

*This section responds to the submissions received, as identified in **Section 2**. A response to issues identified by each agency is provided below.*

3.1 MUSWELLBROOK SHIRE COUNCIL

3.1.1 Summary

“...It appears to Council that each of the three changes to the existing consent are minor in nature, which cover temporary matters and will not change any item on the site, post closure. They will also not have any effects off the mine site.

There were no matters raised in this Modification that are of concern to Council, and so no recommendations are required by Council in response to this review.”

3.1.2 Response

Noted.

3.2 NSW ENVIRONMENT PROTECTION AUTHORITY

3.2.1 Summary

“...The EPA understands that the Modification seeks to remove the limitations on the following matters such that these activities can occur anywhere within the disturbance boundary:

- *the fixed location of explosives and reload facility as the current location will be impacted by the Mt Pleasant rail spur, noting that the new location would be in accordance with the Explosives Australian Standard;*
- *the location of the pipeline that extracts water from the Hunter River for mine use; and*
- *the location of soil stockpiles.*

The EPA advises that Bengalla Mining Company Pty Limited (Bengalla) hold Environment Protection Licence 6538 (the licence) for the premises and that the licence would not require any variation should Modification 3 be approved. The EPA has no further comments in relation to the proposed Modification 3 as any environmental impacts of the proposed changes would be in minor and sufficiently addressed by the current conditions on the licence.”

3.2.2 Response

Noted.

3.3 NSW OFFICE OF ENVIRONMENT & HERITAGE

3.3.1 Summary – Aboriginal Cultural Heritage & Biodiversity

“...Since the proposed modification involves the placement of items and activities within the already approved disturbance footprint of the mine, their impacts on Aboriginal cultural heritage, flooding / floodplain management and threatened biodiversity have already been considered and addresses. Therefore the OEH has no further comment to make on this proposal, nor any additional recommended conditions of approval.”

3.3.2 Response

Noted.

3.4 NSW DIVISION OF RESOURCES AND ENERGY

3.4.1 Summary- Rehabilitation

“...The Division provides the following comments:

Based on a review of the information provided in the ‘Bengalla Mine, Development Consent, Modification, Statement of Environmental Effects, dated September 2016.

The Division considers that sustainable rehabilitation outcomes may be achieved as a result of the consent conditions and obligations imposed upon the project by the Consent Authority and that any identified risks to attaining the approved land use outcomes, post- mining, can be effectively regulated through consistent conditions imposed on the mining authorities issued under the Mining Act 1992.

The Division has reviewed the current consent conditions (SDD-5170 MOD2) related to rehabilitation and recommends that should the Project be approved, the existing conditions 44 (Rehabilitation Objectives), 45 (Progressive Rehabilitation) and 46 (Rehabilitation Management Plan) be retained.

The Division supports the approval of the project.”

3.4.2 Response

Noted.

3.5 NSW DEPARTMENT OF PRIMARY INDUSTRIES

3.5.1 Summary

“...DPI has reviewed the application and Statement of Environmental Effects and has no further comments at this time.”

3.5.2 Response

Noted.

3.6 MACH ENERGY AUSTRALIA PTY LTD

3.6.1 Summary - Mount Pleasant Project Development

“...Located adjacent to the Bengalla Mine, MACH Energy wishes to confirm that it has no objection to the Bengalla Mine Company’s Development Consent Modification 3, which is being sought under Section 96(2) of the Environmental Planning & Assessment Act 1979.

MACH Energy trusts that the Department will condition any approval of Bengalla Mine Company’s Development Consent Modification 3 application so that any proposed positioning of the explosives facility and reload facility; alignment of the Hunter River Pipeline and topsoil stockpiles would not restrict MACH Energy’s ability to develop any component of the Mount Pleasant Operation. An example is the approved rail and conveyor transport options and their associated supporting infrastructure. However, the restriction should equally apply to the entirety of the Mount Pleasant Operations particularly those activities permitted to occur at the southern boundary of ML 1645 or any other shared boundary with the Bengalla Mine.”

3.6.2 Response

BMC notes that MACH Energy (the owner of Mt Pleasant Project) does not object to MOD 3.

Condition 5 of Schedule 2 of the Mt Pleasant Development Consent DA 92/97 states that:

“The Applicant may carry out mining operations on the site until 22 December 2020.”

The notation below this condition further states that:

“Under this consent, the Applicant is required to rehabilitate and carry out additional undertakings to the satisfaction of both the Director-General and the Executive Director, Mineral Resources in DRE. Consequently this consent will continue to apply in all other respects – other than the right to conduct mining operations – until the rehabilitation of the site and these additional undertakings have been carried out satisfactorily.” [Emphasis added].

Although it is noted that the Mount Pleasant Project has not yet been constructed, provided that the operator of Mount Pleasant Project removes any constructed infrastructure, rehabilitates those areas disturbed and provides access to BMC to the area of ML 1645 within a reasonable timeframe after 22 December 2020 (as is required under the development consent for Mount Pleasant Project), BMC as operator of the Bengalla Mine and the operator of the Mount Pleasant Project will be able to carry out their respective developments as approved and fulfil their respective obligations under each of the relevant development consents.

3.7 CONFIDENTIAL PUBLIC SUBMISSION

3.7.1 Summary – Environmental Monitoring Data

“...Apparently, under their current conditions of consent, Bengalla Mining Company Pty Ltd is not required to provide ongoing monitoring data regarding the impact of dust, and noise on the community and the effect their business has on the community’s water. This is an intolerable situation. It suggests that neither the company nor the department is concerned with the health and wellbeing of the local community.

On a number of occasions I have requested information about Bengalla’s monitoring data and each time I have been surprised that both the company and Department of Planning and Environment advised me that Bengalla is not required to provide ongoing monitoring data to either the department or community.

My concern is that monitors, in the same area from different mines, cannot be compared. This then questions the accuracy of the data and the cumulative impact on the community. I believe the people, living in this community, have the right to truthful, accurate and regular up to date information allowing them to see and understand the big picture where it affects their general amenities and health. Dust is a particular problem within the community and we would require information from 24hr monitors and the high volume air samplers.

Therefore, I request that, if this modification is approved, Bengalla's conditions of consent should include the requirement to provide, both the Department of Planning and Environment and the local community, ongoing monitoring data of the impacts on the community resulting from dust and noise emissions as well as the effects on our surface water and the water table.”

3.7.2 Response

Noted. Under the conditions of SSD-5170 and Environment Protection Licence (EPL) 6538, BMC is required to undertake environmental compliance monitoring of air quality, noise, blasting and surface water (on discharge of mine water from site under the Hunter River Salinity Trading Scheme) against regulatory impact criteria. This data is made publically available on a monthly basis on the BMC website, in the Bengalla Annual Reviews and is presented at Bengalla Community Consultative Committee meetings on a quarterly basis.

Additionally, under the existing conditions of Bengalla’s development consent (SSD 5170) the proponent is required to notify affected landowners when there is an exceedance of the project specific impact levels set out in the development consent.

These provisions in the development consent are seen as being more precise and more reflective of actual impacts and therefore more appropriate than any general obligation to provide raw data which, without context, can be misunderstood.

BMC will continue to undertake the environmental compliance monitoring required under SSD-5170 and EPL 6538 and make the relevant monitoring results available to the public. Given the nature of impacts assessed in the MOD 3 SEE, BMC does not propose to undertake additional environmental monitoring should the modification be approved.

4 CONCLUSION

Following public exhibition of the MOD 2 SEE, seven submissions were received by the DP&E. No submissions received have objected to the modification application. All matters raised in the submissions received have been addressed within this RTS.

The MOD 3 SEE and this RTS confirm that the proposed adjustments to the positioning of approved activities on site will not have any material deleterious environmental impacts beyond those which are already approved under SSD-5170.

* * *

for
HANSEN BAILEY



Dianne Munro
Principal



James Bailey
Director

5 ABBREVIATIONS

Abbreviation	Description
BMC	Bengalla Mining Company Pty Limited
DP&E	NSW Department of Planning & Environment
DPI	Department of Primary Industries
DRE	Department of Industry – Division of Resources and Energy (DRE)
EIS	Environmental Impact Statement
EP&A Act	Environmental Planning & Assessment Act 1979
EPA	Environment Protection Authority
EPL	Environment Protection Licence
ha	Hectares
Hansen Bailey	Hansen Bailey Environmental Consultants
km	Kilometre
LGA	Local Government Area
Mtpa	Million tonnes per annum
MOP	Mining Operations Plan
MSC	Muswellbrook Shire Council
Mtpa	Million tonnes per annum
OEH	Office of Environment & Heritage
ROM	Run-of-mine
RTS	Response to Submissions
SEE	Modification 2 Statement of Environmental Effects
SSD	State Significant Development

6 REFERENCES

- Hansen Bailey (2013), *Continuation of Bengalla Mine Environmental Impact Statement* prepared for Bengalla Mining Company Pty Limited, September 2013.
- Hansen Bailey (2014), *Continuation of Bengalla Mine Response to Submissions*.
- Hansen Bailey (2015a), *Bengalla Mine Development Consent Modification Statement of Environmental Effects (SSD-5170 Modification 1)*.
- Hansen Bailey (2015b), *Bengalla Mine Development Consent Modification Response to Submissions*.
- Hansen Bailey (2016), *Bengalla Development Consent Modification Statement of Environmental Effects*.
- Hansen Bailey (2016), *Bengalla Mine Response to Submissions, Development Consent Modification 2*.
- Hansen Bailey (2016), *Bengalla Development Consent Modification 3 Statement of Environmental Effects*.
- NSW EPA (2016), *Environment Protection Licence 6538*.

APPENDIX A
Stakeholder Submissions

21 October 2016

Mr Matthew Sprott
Team Leader, Resource Assessments
Dept of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Dear Matt,

Bengalla Coal Mine Modification 3 SEE Comment

I refer to an application from Hansen Bailey on behalf of the Bengalla Mining Company ("the Proponent") for Modification 3 of the Bengalla approval SSD 5170. I am pleased to provide the following submission on behalf of Muswellbrook Shire Council with respect to the Proponent's Statement of Environmental Effects dated September 2016. Council appreciates the opportunity to comment.

The proposal involves:

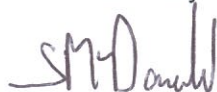
- Changes and removal of the construction envelope for the explosives facility and reload facility;
- Changes and removal of the envelope for the alignment of the Hunter River pipeline. The pumping station is not to be relocated; and
- Changes and removal of identified locations of temporary topsoil stockpiles.

It appears to Council that each of the three changes to the existing consent are minor in nature, which cover temporary matters and will not change any item on the site, post closure. They will also not have any effect off the mine site.

There were no matters raised in this Modification that are of concern to Council, and so no recommendations are required by Council in response to this review.

Council appreciates the opportunity to comment and would be pleased to provide additional information if requested.

Yours faithfully



Steve McDonald
General Manager

(jb)



DOC16/534411, EF13/2634

Department of Planning and Environment
GPO BOX 39
SYDNEY NSW 2001

Attention: melanie.hollis@planning.nsw.gov.au

Dear Ms Hollis

BENGALLA CONTINUATION PROJECT SSD 5170 MODIFICATION 3

I refer to your email to the Environment Protection Authority (EPA) on 30 September 2016 requesting comments on the Bengalla Continuation Project Modification 3 SSD 5170. The application is detailed in the document titled "*Bengalla Mine Development Consent Modification 3 - Statement of Environmental Effects*" (SEE) dated September 2016, prepared by Hansen Bailey.

The EPA understands the Modification seeks to remove the limitations on the following matters such that these activities can occur anywhere within the disturbance boundary:

- the fixed location of the explosives and reload facility as the current location will be impacted by the Mt Pleasant rail spur, noting that the new location would be in accordance with the Explosives Australian Standard;
- the location of the pipeline that extracts water from the Hunter River for mine use; and
- the location of soil stockpiles.

The EPA advises that Bengalla Mining Company Pty Limited (Bengalla) hold Environment Protection Licence 6538 (the licence) for the premises and that the licence would not require any variation should Modification 3 be approved. The EPA has no further comments in relation to the proposed Modification 3 as any environmental impacts of the proposed changes would be minor and sufficiently addressed by the current conditions on the licence.

If you require any further information regarding this matter please contact Natasha Ryan on (02) 4908 6833.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Michael Howat'.

24/10/16

MICHAEL HOWAT
A/Head Regional Operations Unit - Hunter
Environment Protection Authority

Contact officer: NATASHA RYAN
(02) 4908 6833
hunter.region@epa.nsw.gov.au



DOC16/500429-2
SSD 5170 MOD 3

Ms Melanie Hollis
Planning Officer, Resource Assessments
Department of Planning and Environment
melanie.hollis@planning.nsw.gov.au

Dear Ms Hollis

Bengalla Continuation Project - Modification 3

I refer to your e-mail dated 30 September 2016 inviting the Office of Environment and Heritage (OEH) to review the Statement of Environmental Effects for the Bengalla Continuation Project Modification 3 (SSD 5170 MOD 3). OEH understands that the proposed modification involves the construction and operation of an explosives and reload facility; the re-alignment of the Hunter River pipeline; and the emplacement and use of temporary soil stockpiles during the mining process.

Since the proposed modification involves the placement of items and activities within the already approved disturbance footprint of the mine, their impacts on Aboriginal cultural heritage, flooding / floodplain management and threatened biodiversity have already been considered and addressed. Therefore OEH has no further comment to make on this proposal, nor any additional recommended conditions of approval.

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

Yours sincerely

25 OCT 2016

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



OUT16/38859

Melanie Hollis
Planning Officer
Resource Assessments, Planning Services
Department of Planning & Environment
GPO Box 39 SYDNEY NSW 2001

melanie.hollis@planning.nsw.gov.au

Dear Ms Hollis

Bengalla Continuation Project – Modification 3 Statement of Environmental Effects Exhibition

I refer to your email dated 30 September 2016 inviting the Department of Industry, Division of Resources & Energy (the Division) to provide comments on the Bengalla Continuation Project – Modification 3 (the Project) Statement of Environmental Effects (SEE).

The Division understands that the Bengalla Mining Company (BMC) proposes changes seeking to enable greater flexibility for the operation within the Approved Disturbance Boundary (ADB) and accommodate a rail line associated with the nearby Mount Pleasant Project which will traverse the existing Explosives Storage Facility Envelope. The proposed modifications are summarised as follows:

- construct a reload and explosive storage facility within the ADB
- reposition the Hunter River pipeline within the ADB
- situate topsoil stockpiles as needed within the ADB.

The proposal does not require any changes to production rates and quantities, the existing method of mining, destination of ROM coal, position of existing infrastructure or ADB. Based on the aforementioned factors and intention to locate these activities entirely within the assessed area (ADB) risks to rehabilitation are considered negligible.

The Division provides the following comments:

Based on a review of the information provided in the '*Bengalla Mine, Development Consent, Modification, Statement of Environmental Effects*', dated September 2016.

The Division considers that sustainable rehabilitation outcomes may be achieved as a result of the consent conditions and obligations imposed upon the project by the Consent Authority and that any identified risks to attaining the approved land use outcomes, post-

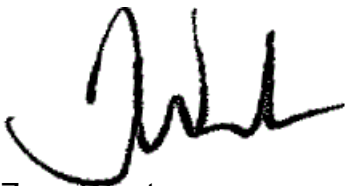
mining, can be effectively regulated through consistent conditions imposed on the mining authorities issued under the *Mining Act 1992*.

The Division has reviewed the current consent conditions (SDD-5170 MOD2) related to rehabilitation and recommends that should the Project be approved, the existing conditions 44 (Rehabilitation Objectives), 45 (Progressive Rehabilitation) and 46 (Rehabilitation Management Plan) be retained.

The Division supports the approval of the project.

Should you have any enquires regarding this matter please contact Steve Cozens, Senior Project Officer, Royalty & Advisory Services on 9842 8573.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Zane West', written in a cursive style.

Zane West

Manager Royalties & Advisory Services



Department of Primary Industries

OUT16/39366

Ms Melanie Hollis
Resource Assessments
NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Melanie.hollis@planning.nsw.gov.au

Dear Ms Hollis

DPI response to request for comment on proposed Modification to Bengalla Continuation Project Modification 3 (SSD 5170 MOD 3)

I refer to your email of 30 September 2016 to the Department of Primary Industries (DPI) in respect to the above matter. Comment has been sought from relevant divisions of DPI. Views were also sought from NSW Department of Industry - Lands that are now a division of the broader Department and no longer within NSW DPI.

DPI has reviewed the application and Statement of Environmental Effects and has no further comments at this time.

Any further referrals to DPI can be sent by email to landuse.enquiries@dpi.nsw.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M Isaacs'.

Mitchell Isaacs
Director, Planning Policy & Assessment Advice
24 October 2016

DPI appreciates your help to improve our advice to you. Please complete this three minute survey about the advice we have provided to you, here:

<https://goo.gl/o8TXWz>

17 October 2016

Minister for Planning
c/- Major Project Assessment
Dept of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

via electronic submission on 17 October 2016

Attention: Melanie Hollis

RE: Submission – Bengalla Continuation Project Mod 3 [SSD-5170]

MACH Energy Australia Pty Ltd completed the acquisition of Mount Pleasant from Rio Tinto on 04 August 2016. Located adjacent to the Bengalla Mine, MACH Energy wishes to confirm that it has no objection to the Bengalla Mine Company's Development Consent Modification 3, which is being sought under Section 96(2) of the *Environmental Planning & Assessment Act 1979*.

MACH Energy trusts that the Department will condition any approval of Bengalla Mine Company's Development Consent Modification 3 application so that any proposed positioning of the explosives facility and reload facility; alignment of the Hunter River Pipeline and topsoil stockpiles would not restrict MACH Energy's ability to develop any component of the Mount Pleasant Operation. An example is the approved rail and conveyor transport options and their associated supporting infrastructure. However, the restriction should equally apply to the entirety of the Mount Pleasant Operations particularly those activities permitted to occur at the southern boundary of ML1645 or any other shared boundary with the Bengalla Mine.

Yours sincerely



Scott Winter
Managing Director

Melanie Hollis

From: [REDACTED]
Sent: Monday, 24 October 2016 10:58 PM
To: Melanie Hollis
Subject: Submission Details [REDACTED]

Confidentiality Requested: yes

Submitted by a Planner: no

Disclosable Political Donation: no

[REDACTED]

[REDACTED]

Muswellbrook, NSW
2333

Content:

While I am not objecting to Modification 3 of the Bengalla Continuation Project I do believe this is an ideal opportunity to amend Bengalla's conditions of consent.

Apparently, under their current conditions of consent, Bengalla Mining Company Pty Ltd is not required to provide ongoing monitoring data regarding the impact of dust, and noise on the community and the effect their business has on the community's water. This is an intolerable situation. It suggests that neither the company nor the department is concerned with the health and wellbeing of the local community.

On a number of occasions I have requested information about Bengalla's monitoring data and each time I have been surprised that both the company and the Department of Planning and Environment advised me that Bengalla is not required to provide ongoing monitoring data to either the department or the community.

My concern is that monitors, in the same area from different mines, cannot be compared. This then questions the accuracy of the data and the cumulative impact on the community. I believe the people, living in this community, have the right to truthful, accurate and regular up to date information allowing them to see and understand the big picture where it affects their general amenities and health. Dust is a particular problem within the community and we would require information from 24hr monitors and the high volume air samplers.

Therefore, I request that, if this modification is approved, Bengalla's conditions of consent should include the requirement to provide, both the Department of Planning and Environment and the local community, ongoing monitoring data of the impacts on the community resulting from dust and noise emissions as well as the effects on our surface water and the water table.