



BENGALLA MINE

RESPONSE TO SUBMISSIONS
Development Consent
Modification 2

for
Bengalla Mining Company Pty Limited
June 2016

BENGALLA MINE
DEVELOPMENT CONSENT MODIFICATION 2

RESPONSE TO SUBMISSIONS

Prepared by:

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9 June 2016

For:

BENGALLA MINING COMPANY PTY LIMITED
LMB 5
MUSWELLBROOK NSW 2333

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BENGALLA MINE DEVELOPMENT CONSENT MODIFICATION 2
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.

On 15 April 2016, BMC made a second application for a modification to SSD-5170 under section 96(2) of the EP&A Act (MOD 2). This application was supported by the *Bengalla Mine Development Consent Modification Statement of Environmental Effects* (SEE) (Hansen Bailey, 2016).

MOD 2 is being sought to facilitate:

- Alterations to the approved height of the Main Overburden Emplacement Area (OEA) to improve visual amenity from primary viewing locations in and surrounding the township of Muswellbrook and Denman Road, in two selected locations (Visual Relief Areas);
 - The Northern Relief Area constructed to a maximum height of Reduced Level (RL) 300;
 - The Southern Relief Area constructed to a maximum height of RL 290; and
- Establishment of a new gravel access road from Wybong Road to the Dry Creek Diversion Project Construction Site Office being a former homestead (Homestead Access).

MOD2 SEE was placed on public exhibition from 29 April to 13 May 2016. A total of nine submissions was received by the DP&E following the public exhibition period. DP&E had additional minor queries which have been addressed in this RTS.

No submissions from the general public or non-government organisations were received. Further, none of the submissions received objected to MOD2.

1.2 DOCUMENT PURPOSE

This RTS has been prepared by Hansen Bailey on behalf of BMC to support the 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 response to submissions in support;
- **Section 4** provides a comprehensive response to the issues raised;
- **Section 5** provides a conclusion to the RTS;
- **Section 6** lists the abbreviations used within this RTS; and
- **Section 7** outlines materials referenced within this RTS.

Each stakeholder submission received in relation to MOD 2 is presented in **Appendix A**.

2 SUBMISSIONS RECEIVED

Nine submissions were received in response to the public exhibition of the MOD 2 SEE (see **Appendix A**). These comprised eight agency submissions and one in support from the Muswellbrook Chamber of Commerce. Additionally, DP&E requested additional items of information.

The following agencies provided a submission:

- DP&E;
- Muswellbrook Shire Council (MSC);
- Department of Industry, Resources and Energy (DRE);
- Department of Primary Industries (DPI);
- Dams Safety Committee (DSC);
- NSW Environment Protection Authority (EPA);
- Office of Environment and Heritage (OEH);
- Australian Rail Track Corporation (ARTC); and
- Transport – Roads and Maritime Services.

No submissions from the general public or non-government organisations were received. None of the submissions received objected to MOD2.

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

3 SUBMISSIONS IN SUPPORT

This section responds to the submissions in support identified in Section 2.

3.1 MUSWELLBROOK CHAMBER OF COMMERCE

I refer to the Statement of Environmental Effects prepared by Hansen Bailey April, 2016 and confirm that the Muswellbrook Chamber of Commerce supports the application for the above modification.

The Bengalla Mining Company has a long record of environmentally responsible development and is a valued member of this Chamber. The Company is also a respected Muswellbrook business making substantial contributions to the local economy and community projects for over 20 years.

The Chamber has reviewed the SEE and agrees with the conclusions stated therein. It has been noted for some time that the level appearance of the Main Overburden Emplacement was not ideal. It has an engineered appearance rather than that of a natural landform. The proposed modification will rectify this and blend the Emplacement into the natural vista from critical viewing points.

It appears that the modification works can be carried out with minimal detrimental environmental impacts and the Chamber relies on the Departments scrutiny of the details in this regard. It is the Chamber's view that any short term minor increases in noise, dust and visual amenity are more than offset by the long term benefits. It is expected in years to come that the emplacement will be viewed as part of the natural landscape.

The final landform of this emplacement, and all rehabilitated mine land, is of vital importance to the business community especially in the tourism, hospitality and rural sectors. As our economy transitions over coming decades, it is becoming more important that rehabilitated land is put to good commercial use without detracting from the predominantly rural nature of our district. The Chamber is satisfied that the proposed modification will achieve this goal.

The Chamber looks forward to the Departments determination of Bengalla Mining Company's application and trusts that the conditions of consent will assist with the timely and economical completion of the project.

Response

Noted.

4 AGENCY SUBMISSIONS

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

4.1 DEPARTMENT OF PLANNING AND ENVIRONMENT

4.1.1 Overburden Emplacement Capacity

The SEE identifies the proposed relief areas as containing some 10 Mbcm of overburden material, which would be sourced from the areas between the existing Main OEA and the reinstated Dry Creek, and would reduce the elevation of the final landform by approximately 1.5 metres. Please provide further clarification on the significance of and implications for decreasing the elevation to the east of Dry Creek?

Response

Approved operations allow for the development of the Main OEA to a maximum height of RL 270. As Bengalla progresses west, from approximately Year 8 to Year 24 the landform gradually slopes down from RL 270 to approximately RL 190 facilitating the future reinstatement of Dry Creek.

The changes as proposed in MOD 2 to the maximum height of part of the Main OEA when compared to the currently approved landform (up to RL 270) represent a 30 m and 20 m increase for the Northern and Southern Visual Relief Areas, respectively.

As stated in Section 3.4 of the MOD 2 SEE the development of the Visual Relief Areas will not result in the excavation of any additional overburden material. Therefore, a decrease in elevation on average of approximately 1.5 m from the area west of the Visual Relief Areas and east of the future reinstatement of Dry Creek (the Area) will occur.

Consistent with the Bengalla EIS, the primary objective of the final landform and rehabilitation at Bengalla is to continue the development of an undulating, free-draining landform (excluding the final void) with a land capability that supports the nominated final land use for the site.

It is anticipated that an average decrease in final landform height of approximately 1.5 m in the Area will be minor when compared to the currently approved mine plans as presented in the Bengalla EIS and Mod 2 SEE. The contours associated with these plans provide detail to 10 m contour intervals. A variation of approximately 1.5 m would not be easily distinguishable at this scale.

Further, Condition 44 of Schedule 3 of SSD-5170, requires BMC to ensure that the final landform *“is designed to incorporate natural micro-relief and natural drainage lines ... to integrate with surrounding landforms”*. It will be necessary to create a landform in the Area that may be different in places being both higher and lower than currently anticipated to incorporate micro relief and natural drainage lines. In this regard a reduction in total material to be placed in the Area will still allow Bengalla to provide the required micro relief.

The approximate 1.5 m overburden average reduction in height over the Area when considered in relation to the current mine plans and the requirement for micro relief will not be easily discernible or affect the delivery of an undulating, free-draining (excluding the final void) and stable final landform.

4.1.2 Water Management

Please describe how you would manage surface water flows associated with the amended landform.

Response

Addressed in **Section 4.3.4**.

4.2 MUSWELLBROOK SHIRE COUNCIL

4.2.1 Landform Alteration

Muswellbrook Shire Council supports the creation of mine overburden dumps that have minimal limitations that could prevent a viable ongoing land use post mining and to provide a landform that is visually consistent with its surrounding ground. The SEE provided indicates that the additional height will provide an improved visual profile when viewed from a number of points around the mine. Council supports this improvement.

Further Council accept it is neither reasonable nor feasible to lower portions of the existing emplacement to achieve a similar result.

Muswellbrook Shire Council has reviewed the SEE with respect to possible short term concern that may be created in the construction of the additional height of the proposed emplacement. The SEE indicates the matters that could be of concern to nearby residents of the Bengalla mine are within the levels predicted for the approved development. Therefore Council has no objections to the proposed works to create the additional height.

Response

Noted.

4.2.2 Homestead Access

Muswellbrook Shire Council has reviewed the proposal to establish a new gravel road off Wybong Road. Council has no objections to the proposal; however consent under Section 138 of the Roads Act 1993 will be required. Council notes the proximity of the proposed driveway to a culvert under Wybong Road and proposed guardrail which should be considered when applying for the Roads Act consent.

Response

Noted.

4.2.3 Bengalla Link Road Maintenance

As a part of our review for this Modification it has come to our attention that Consent conditions regarding the Bengalla Link Road maintenance of the Bengalla Continuation SSD Approval do not replicate the requirements of the former Consent (as modified).

The most recent Modification (5) of the former Consent DA 211 /93 Schedule 3 Condition 32 states:

The Applicant Shall:

- (a) *Be responsible for the costs of maintenance of Bengalla Link Road from Denman Road to the Western Limit of the 1 in 100 year flood level for the life of the mine or as otherwise agreed by Council; and*
- (b) *Maintain signs giving at least 24 hours' notice of road closure on Wybong Road and Bengalla Link Road. The location and the wording of these signs are to be approved by Council.*

It is our understanding that Consent DA 211 /93 has not yet been surrendered, and so is still valid. It is due for surrender by the end of June 2016.

We ask that Schedule 3 Condition 32 requirements be included in the conditions for Modification 2 to maintain the requirements that the Bengalla mine has to maintain the Link road.

Response

BMC's operates in accordance with SSD-5170 (as modified). SSD-5170 (as modified) Schedule 2, Condition 2 (a) states:

"2 The Applicant shall:

- a. Carry out the development generally in accordance with the EIS and SEE (Mod 1);"*

Relevant extracts from the Bengalla EIS in relation to the Bengalla Link Road maintenance (Hansen Bailey, 2013) include:

"Section 4.7 – Mine Access

BMC will remain responsible for the life of the Project for the costs of the maintenance of the Bengalla Link Road to the Bengalla Mine Access Road (subject to MSC's responsibilities as the roads authority under the Roads Act 1993 (Roads Act))."

“Section 8.13.4 Mitigation and Management (Traffic and Transport)

BMC will continue to be responsible for the costs of the maintenance of the Bengalla Link Road to the Bengalla Mine Access Road for the life of the Project. BMC will also ensure that all road signs are maintained and provide at least 24 hrs of notice of road closure on Wybong Road and Bengalla Link Road.”

BMC has an existing commitment regarding the maintenance of the Bengalla Link Road from the Denman Road intersection to the Bengalla Mine Access Road (beyond the western limit of the 1 in 100 year flood limit). This existing commitment negates the need to change SSD-5170 as requested.

BMC has a long history of maintaining and contributing financially to the maintenance of the road network nearby to Bengalla. BMC has provided funding associated with the upgrade and maintenance of the existing road network as part of its, Voluntary Planning Agreement (VPA) and Development Consent conditions through contributions to the upgrade of Thomas Mitchell Drive since Bengalla was first approved in 1995.

The alignment of the Bengalla Link Road (Stage 1 and Stage 2) was funded and constructed by BMC in consultation with MSC and the Roads and Maritime Services (RMS).

4.3 DEPARTMENT OF INDUSTRY, DIVISION OF RESOURCES & ENERGY

4.3.1 Rehabilitation

NSW Department of Industry, Division of Resources & Energy (the Division) has reviewed the Statement of Environmental Effects (SEE) for the Bengalla Mine Development Consent Modification Project dated April 2016. The Division review has been limited to the information relating to rehabilitation and mine closure. No other comments are required.

Response

Noted.

4.3.2 Final Landform

The Visual Relief Areas and revised conceptual final landform have been designed to provide a landform that improves visual integration with the surrounding natural landscape.

The SEE includes the primary objective of the final landform and rehabilitation at Bengalla to develop an undulating, free-draining landform (excluding the final void) with a land capability to support the nominated final land use for the site.

The proposed landform intends to sustain the post mining land use of dense woodland vegetation (Condition 44). Final landforms are consistent with and complement the topography of the surrounding region to minimise the visual prominence of the final landforms in the post mining landscape.

Response

Noted.

4.3.3 Post Mining Land Use

No comments.

Response

Noted.

4.3.4 Water Management

There are limited details on the impact that the proposed modification will have on rehabilitation (Section 7) including mitigation measures.

It is recommended that the applicant submit further information so the Division can assess and determine that sustainable rehabilitation outcomes can be achieved. The additional information will need to include:

1. *Further detail in regard to the impact that the proposed modification will have on the existing adjacent rehabilitation areas. Key questions to be addressed include:*
 - *What mitigation measures are proposed to manage the risk to rehabilitation?*
 - *How will water management infrastructure be designed to reduce the impact to the adjacent rehabilitation areas?*

Response

As stated in Section 3.4 of the MOD 2 SEE construction of the Visual Relief Areas has been designed to integrate with the existing operations from approximately Year 4 to approximately Year 9 of operations as approved in SSD-5170.

The Visual Relief Areas proposed by MOD 2 will not result in the development of any additional catchment and as such no new structures will be required to manage surface water runoff. The currently established Main OEA landform provides adequately for the management of surface water east of active overburden emplacement. Water will continue to be directed across established rehabilitation (via existing and/or extended swale drains and drop down structures) into sedimentation dams or directed west into the mine water management system.

Future surface water management infrastructure to the west of the existing Main OEA will be designed using the SSD-5170 “*Rehabilitation Objective Table 15 - Mine site*” which provides “*Final landforms designed to incorporate natural micro relief and natural drainage lines, which, where reasonable and feasible, further avoid straight run drainage drop structures, to integrate with surrounding landforms.*”

BMC's existing Water Management Plan (BMC, 2015) outlines the principles associated with surface water management onsite and is based on the following key principles:

- Minimise use of fresh water from external sources (Bengalla has a current allocation from the Hunter River);
- Diversion of clean surface water runoff away from areas disturbed by mining activities;
- Collection of surface water runoff from areas disturbed by mining activities and associated works (dirty water) in catch drains and direction to sediment traps and settling dams;
- Collection of runoff from industrial areas (saline water) in catch drains;
- Transfer of open cut pit water (saline water) to storage dams for reuse as mine water supply; and
- Minimal discharge of surplus mine water off-site (i.e. promote recycling of captured water).

As stated in Section 8.1 of the MOD 2 SEE the existing Bengalla Mining Operations Plan (BMC, 2015) will be updated in accordance with *ESG3: Mining Operations Plan (MOP) Guidelines, September 2013* (DRE, 2013) in consultation with the relevant agencies to incorporate changes arising from MOD 2.

4.3.5 Rehabilitation Commitments

Response

Noted.

4.3.6 Other Issues

Response

Noted.

4.4 DEPARTMENT OF PRIMARY INDUSTRIES

4.4.1 Modification Review

Comment has been sought from relevant divisions of DPI. The Department has no further comments at this time.

Response

Noted.

4.5 DAMS SAFETY COMMITTEE

4.5.1 Prescribed Dams

The DSC regulates mining around the three prescribed dams on site at Bengalla, these being the existing Bengalla Stage Discharge Dam, the Clean Water Dam currently under construction and the future Dirty Water Dam, however the proposed project modifications do not impact the areas around the dams and so therefore the DSC has no comments at this stage.

Response

Noted.

4.6 ENVIRONMENTAL PROTECTION AUTHORITY

4.6.1 Air Quality

The EPA has reviewed the Air Quality Impact Assessment (AQIA) completed by Todoroski Air Sciences for the modification. A comparison of the estimated total annual dust emissions in Year 4 and Year 8 for the approved mining operation and the proposed modification indicate that emissions would increase by approximately 2.0% and 2.5% respectively relative to the approved operations in those two years of operations.

While air emissions are predicted to increase by this relatively minor amount, the EPA is satisfied that these additional air quality impacts can be managed under existing conditions of the Environment Protection Licence (EPL) 6538.

Response

Noted.

4.6.2 Noise

The EPA has reviewed the Acoustic Impact Assessment (AIA) completed by Bridges Acoustics for the modification. The AIA concludes that under prevailing weather conditions, predicted noise levels from the modification do not appreciably change from the currently approved noise levels and in all cases, remain below the predicted noise levels in Year 1 reported in the Continuation of Bengal/a Mine Environmental Impact Statement (Hansen Bailey, 2013).

The EPA is satisfied that noise arising from the modification can be managed under the existing conditions of EPL 6538.

Response

Noted.

4.6.3 Water Quality

The EPA has reviewed the report and considers that the modification is unlikely to result in any significant water quality impacts and that the modification can be accommodated by the currently approved water management regime at the premises and the conditions of EPL 6538.

Response

Noted.

4.6.4 Environment Protection Licence

The EPA is satisfied that the modification will not result in any significant environmental impacts above those already approved for the existing mining operations. The EPA has no objection to the modification proceeding as described in the report. If any changes to EPL 6538 are required (for example to modify the definition of the licenced premises) as a result of the modification, the proponent will need to make a separate application to the EPA to vary the EPL.

Response

Noted.

4.7 OFFICE OF ENVIRONMENT AND HERITAGE

4.7.1 Aboriginal Cultural Heritage, Threatened Biodiversity and Flooding

OEH has undertaken a review of the relevant sections of the Statement of Environmental Effects for the Bengalla Mine Development Consent Modification, prepared by Hansen Bailey for Bengalla Mining Company Pty Limited (dated 26 April 2016). The review focused on possible impacts of the proposed changes on Aboriginal cultural heritage, threatened biodiversity and flooding. In this case the likely impacts to those matters are negligible and do not trigger the need for additional comment from OEH.

OEH therefore does not recommend any additional consent conditions or changes to current consent conditions for this project.

Response

Noted.

4.8 AUSTRALIAN RAIL TRACK CORPORATION

4.8.1 ARTC's EPL 3142

Bengalla Mining Company is aware of, and will adhere to all conditions contained within ARTC's EPL 3142 when working near the rail corridor, in particular sections O4 relating to noise mitigation and working hours, and R2 relating to incidents of environmental harm.

Response

Noted.

4.8.2 Project Boundaries

Any amendments to current Project Boundaries adjacent to the Ulan Main Line must consider future duplication of the tracks including potential upgrades by Bengalla Mine Company to ARTC existing infrastructure and corridor access.

Response

Noted. The MOD 2 SEE proposes no change to the existing BMC Project Boundary.

4.8.3 Gravel Access Road

The proposed new gravel road is on BMC's land with no impact to ARTC.

Response

Noted.

4.9 TRANSPORT ROADS AND MARITIME SERVICES

Roads and Maritime understands the modification involves changes to the maximum height of the approved Main Overburden Emplacement Area to provide visual relief from Muswellbrook and Denman Road as well as the construction of a new gravel access road to an existing site office off Wybong Road.

Roads and Maritime has reviewed the information provided and raises no objection to or requirements for the proposed modification as it is considered there will be no significant impact on the nearby classified (State) road network.

Response

Noted.

5 CONCLUSION

Following public exhibition of the MOD 2 SEE, eight submissions from agencies and one from the Muswellbrook Chamber of Commerce were received by the DP&E. DP&E also had minor, additional queries.

No further submissions from the general public or non-government organisations were received.

No submissions received have objected to the modification application. All matters raised in the submissions received have been addressed within this RTS.

The MOD 2 SEE and this RTS confirm that the final landform changes proposed and the other minor Modification elements sought will not have any material deleterious environmental impacts beyond those which are already approved.

Further, BMC has now designed landform and rehabilitation improvements that relieves the level appearance of the Main OEA.

* * *

for
HANSEN BAILEY



Jason Martin
Senior Environmental Scientist



James Bailey
Director

6 ABBREVIATIONS

Abbreviation	Description
ARTC	Australian Rail Track Corporation
Area	Describes west of the Visual Relief Areas and east of the future reinstatement of Dry Creek
BMC	Bengalla Mining Company Pty Limited
DP&E	NSW Department of Planning & Environment
DPI	Department of Industry, Division of Resources & Energy
DRE	NSW Industry and Investment, Division of Resources and Energy
DSC	Dams Safety Committee
EIS	Environmental Impact Statement
EP&A Act	Environmental Planning & Assessment Act 1979
EPA	Environment Protection Authority
EPL	Environmental Protection Licence
ha	Hectares
Hansen Bailey	Hansen Bailey Environmental Consultants
km	Kilometre
LGA	Local Government Area
M	Million
MOP	Mining Operations Plan
MSC	Muswellbrook Shire Council
Mtpa	Million tonnes per annum
OEA	Overburden Emplacement Area
OEH	Office of Environment & Heritage
ROM	Run-of-mine
RL	Reduced level
RTS	Response to Submissions
SEE	Modification 2 Statement of Environmental Effects
SSD	State Significant Development

7 REFERENCES

- Bengalla Mining Company Pty Ltd (2015), *Bengalla Mining Company Mining Operations Plan 2015 – 2021*.
- Bengalla Mining Company Pty Ltd (2015), *Water Management Plan*.
- Division of Resources and Energy (2013), *ESG3: Mining Operations Plan (MOP) Guidelines*.
- 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*.

APPENDIX A
Stakeholder Submissions

Department of Planning & Environment
Attention : Director – Resources Assessments
GPO BOX 39,
Sydney 2000.

Dear Director,

RE – Bengalla Mine Development Consent Modification.

I refer to the Statement of Environmental Effects prepared by Hansen Bailey April, 2016 and confirm that the Muswellbrook Chamber of Commerce supports the application for the above modification.

The Bengalla Mining Company has a long record of environmentally responsible development and is a valued member of this Chamber. The Company is also a respected Muswellbrook business making substantial contributions to the local economy and community projects for over 20 years.

The Chamber has reviewed the SEE and agrees with the conclusions stated therein. It has been noted for some time that the level appearance of the Main Overburden Emplacement was not ideal. It has an engineered appearance rather than that of a natural landform. The proposed modification will rectify this and blend the Emplacement into the natural vista from critical viewing points.

It appears that the modification works can be carried out with minimal detrimental environmental impacts and the Chamber relies on the Departments scrutiny of the details in this regard. It is the Chamber's view that any short term minor increases in noise, dust and visual amenity are more than offset by the long term benefits. It is expected in years to come that the emplacement will be viewed as part of the natural landscape.

The final landform of this emplacement, and all rehabilitated mine land, is of vital importance to the business community especially in the tourism, hospitality and rural sectors. As our economy transitions over coming decades, it is becoming more important that rehabilitated land is put to good commercial use without detracting from the predominantly rural nature of our district. The Chamber is satisfied that the proposed modification will achieve this goal.

The Chamber looks forward to the Departments determination of Bengalla Mining Company's application and trusts that the conditions of consent will assist with the timely and economical completion of the project.

Yours sincerely,



Michael J. Kelly
PRESIDENT



Enquiries

Please ask for Steve McDonald

Direct 02 6549 3700

Our reference

Your reference

11 May 2016

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

Dear Matt,

Bengalla Coal Mine Modification 2 SEE Comment

I refer to an application from Hansen Bailey on behalf of the Bengalla Mining Company ("the Proponent") for Modification 2 of the Bengalla approval SSD 5170. We make the following submission on behalf of Muswellbrook Shire Council ("Council") with respect to the Proponents Statement of Environmental Effects (SEE) dated April 2016. Council appreciates the opportunity for comment.

The proposal involves:

- Changes to the maximum height of the approved Main Overburden Emplacement Area to provide visual relief from Muswellbrook and Denman Road; and
- Establishment of a new gravel access road to an existing site office off Wybong Road.

Council received documentation directly from Hansen Bailey on Thursday 28th April. We placed information on display in the Council office as requested, and it will remain on display until Friday 13th May.

Muswellbrook Shire Council supports the creation of mine overburden dumps that have minimal limitations that could prevent a viable ongoing land use post mining and to provide a landform that is visually consistent with its surrounding ground. The SEE provided indicates that the additional height will provide an improved visual profile when viewed from a number of points around the mine. Council supports this improvement. Further Council accept it is neither reasonable nor feasible to lower portions of the existing emplacement to achieve a similar result.

Muswellbrook Shire Council has reviewed the SEE with respect to possible short term concern that may be created in the construction of the additional height of the proposed emplacement. The SEE indicates the matters that could be of concern to nearby residents of the Bengalla mine are within the levels predicted for the approved development. Therefore Council has no objections to the proposed works to create the additional height.

Muswellbrook Shire Council has reviewed the proposal to establish a new gravel road off Wybong Road. Council has no objections to the proposal; however consent under Section 138 of the Roads Act 1993 will be required. Council notes the proximity of the

proposed driveway to a culvert under Wybong Road and proposed guardrail which should be considered when applying for the Roads Act consent.

As a part of our review for this Modification it has come to our attention that Consent conditions regarding the Bengalla Link Road maintenance of the Bengalla Continuation SSD Approval do not replicate the requirements of the former Consent (as modified).

The most recent Modification (5) of the former Consent DA 211/93 Schedule 3 Condition 32 states:

The Applicant Shall:

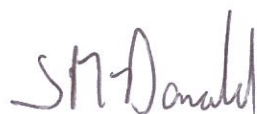
- (a) Be responsible for the costs of maintenance of Bengalla Link Road from Denman Road to the Western Limit of the 1 in 100 year flood level for the life of the mine or as otherwise agreed by Council; and
- (b) Maintain signs giving at least 24 hours notice of road closure on Wybong Road and Bengalla Link Road. The location and the wording of these signs are to be approved by Council.

It is our understanding that Consent DA 211/93 has not yet been surrendered, and so is still valid. It is due for surrender by the end of June 2016.

We ask that Schedule 3 Condition 32 requirements be included in the conditions for Modification 2 to maintain the requirements that the Bengalla mine has to maintain the Link road.

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

Yours faithfully



Steve McDonald
GENERAL MANAGER



OUT16/19626

Ms Megan Dawson
Planning Officer
Resource Assessments
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Email: megan.dawson@planning.nsw.gov.au

Dear Ms Dawson

**Bengalla Continuation Project – Mod 2 (SSD 5170 MOD 2)
Review of Statement of Environmental Effects**

I refer to your email of 28 April 2016 regarding an application from Bengalla Mining Company Pty Ltd for the Bengalla Continuation Project – Modification 2 in the Muswellbrook Shire Council local government area.

NSW Department of Industry, Division of Resources & Energy (the Division) has reviewed the Statement of Environmental Effects (SEE) for the *Bengalla Mine Development Consent Modification* Project dated April 2016. The Division review has been limited to the information relating to rehabilitation and mine closure. No other comments are required.

ISSUE 1 – Rehabilitation domains

No comments.

ISSUE 2 - Final landform

The Visual Relief Areas and revised conceptual final landform have been designed to provide a landform that improves visual integration with the surrounding natural landscape.

The SEE includes the primary objective of the final landform and rehabilitation at Bengalla to develop an undulating, free-draining landform (excluding the final void) with a land capability to support the nominated final land use for the site.

The proposed landform intends to sustain the post mining land use of dense woodland vegetation (Condition 44). Final landforms are consistent with and complement the topography of the surrounding region to minimise the visual prominence of the final landforms in the post mining landscape.

ISSUE 3 – Post mining land use

No comments.

ISSUE 4 – Water management

There are limited details on the impact that the proposed modification will have on rehabilitation (Section 7) including mitigation measures.

It is recommended that the applicant submit further information so the Division can assess and determine that sustainable rehabilitation outcomes can be achieved. The additional information will need to include:

1. Further detail in regard to the impact that the proposed modification will have on the existing adjacent rehabilitation areas. Key questions to be addressed include:
 - What mitigation measures are proposed to manage the risk to rehabilitation?
 - How will water management infrastructure be designed to reduce the impact to the adjacent rehabilitation areas?

ISSUE 5 – Rehabilitation commitments

No comments.

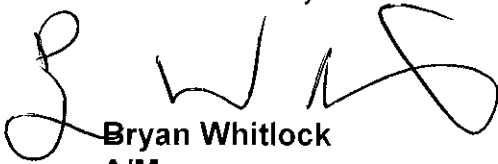
ISSUE 6+ – Other issues of concern

No comment

Based on the review of the Bengalla Continuation Project – Modification 2 the Division recommends that further information be provided by Bengalla Mining Company Pty Ltd in order for Division to assess and determine that sustainable rehabilitation outcomes can be achieved as a result of the project.

Should you have any enquires regarding this matter please contact Steve Cozens, Senior Project Officer on (02) 9842 8573.

Yours sincerely



Bryan Whitlock
A/Manager
Royalties & Advisory Services

16/5/16



Department of Primary Industries

OUT16/19283

Ms Megan Dawson
Resource Assessments
NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

megan.dawson@planning.nsw.gov.au

Dear Ms Dawson

**DPI response to request for comment on the Statement of Environmental
Effects for proposed Modification to
Bengalla Continuation Project (SSD 5170 MOD 2)**

I refer to your email dated 28 April 2016 to the Department of Primary Industries in respect to the above matter. Comment has been sought from relevant divisions of DPI. The Department 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
12/5/2016



11 May, 2016

Megan Dawson,
Planning Officer
Resource Assessments,
Department of Planning & Environment
GPO Box 39, Sydney NSW, 2001

Our ref: 10.121.046

Your ref: SSD 5170 MOD 2

megan.dawson@planning.nsw.gov.au

Dear Megan,

Bengalla Continuation Project (SSD 5170) MOD 2

Thank you for the opportunity to comment on Bengalla Continuation Project SSD 5170 MOD 2, regarding changes to the maximum height of the Main Overburden Emplacement Area and establishment of a new gravel access road to an existing site office off of Wybong Rd.

The DSC regulates mining around the three prescribed dams on site at Bengalla, these being the existing Bengalla Stage Discharge Dam, the Cleanwater Dam currently under construction and the future Dirtywater Dam, however the proposed project modifications do not impact the areas around the dams and so therefore the DSC has no comments at this stage.

If you have any queries in this regard please contact Bill Ziegler on 9842 8077 or bill.ziegler@damsafety.nsw.gov.au.

Yours faithfully,

Bill Ziegler
Manager Mining Projects

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Our reference: DOC16/235059; EF13/2634
Contact: Kurt Sorensen (02) 4908 6827
Electronic correspondence to: hunter.region@epa.nsw.gov.au

NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Attention: Ms Megan Dawson

Dear Ms Dawson

**BENGALLA MINING COMPANY PTY LIMITED
CONTINUATION PROJECT – SSD 5170 MODIFICATION 2**

I refer to your email to the Environment Protection Authority (EPA) dated 28 April 2016, inviting the EPA to make a submission regarding the Bengalla Continuation Project - Modification 2 (SSD-5170 MOD 2).

The modification involves:

- Alterations to the approved height of the Main Overburden Emplacement Area to improve visual amenity from primary viewing locations in and surrounding the township of Muswellbrook and Denman Road, in two selected locations (Visual Relief Areas):
 - The Northern Relief Area constructed to a maximum height of Reduced Level 300; and
 - The Southern Relief Area constructed to a maximum height of Reduced Level 290.
- Establishment of a new gravel access road from Wybong Road to the Dry Creek Diversion Project Construction Site Office being a former homestead (Homestead Access).

The EPA has reviewed the modification as detailed in the report titled '*BENGALA MINE DEVELOPMENT CONSENT MODIFICATION Statement of Environmental Effects*' (the report) dated April 2016 and provides the following comments.

Air Quality

The EPA has reviewed the Air Quality Impact Assessment (AQIA) completed by Todoroski Air Sciences for the modification. A comparison of the estimated total annual dust emissions in Year 4 and Year 8 for the approved mining operation and the proposed modification indicate that emissions would increase by approximately 2.0% and 2.5% respectively relative to the approved operations in those two years of operations.

PO Box 488G Newcastle NSW 2300
Email: hunter.region@epa.nsw.gov.au
117 Bull Street, Newcastle West NSW 2302
Tel: (02) 4908 6800 Fax: (02) 4908 6810
ABN 43 692 285 758
www.epa.nsw.gov.au

While air emissions are predicted to increase by this relatively minor amount, the EPA is satisfied that these additional air quality impacts can be managed under existing conditions of the Environment Protection Licence (EPL) 6538.

Noise

The EPA has reviewed the Acoustic Impact Assessment (AIA) completed by Bridges Acoustics for the modification. The AIA concludes that under prevailing weather conditions, predicted noise levels from the modification do not appreciably change from the currently approved noise levels and in all cases, remain below the predicted noise levels in Year 1 reported in the *Continuation of Bengalla Mine Environmental Impact Statement* (Hansen Bailey, 2013).

The EPA is satisfied that noise arising from the modification can be managed under the existing conditions of EPL 6538.

Water Quality

The EPA has reviewed the report and considers that the modification is unlikely to result in any significant water quality impacts and that the modification can be accommodated by the currently approved water management regime at the premises and the conditions of EPL 6538.

Environment Protection Licence

The EPA is satisfied that the modification will not result in any significant environmental impacts above those already approved for the existing mining operations. The EPA has no objection to the modification proceeding as described in the report. If any changes to EPL 6538 are required (for example to modify the definition of the licenced premises) as a result of the modification, the proponent will need to make a separate application to the EPA to vary the EPL.

Please contact Kurt Sorensen on (02) 4908 6827 if you require any further information regarding this matter.



13.5.16

KAREN MARLER
Head Regional Operations Unit – Hunter
Environment Protection Authority



Office of
Environment
& Heritage

DOC16/206729-2
SSD 5170 - MOD2

Ms Megan Dawson
Planning Officer
Resource Assessments, Planning Services
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms Dawson

RE: BENGALLA CONTINUATION PROJECT - MODIFICATION 2 (SSD 5170 MOD 2)

I refer to your email dated 28 April 2016 seeking comment on the above project. The Office of Environment and Heritage (OEH) understands that this project is a modification to a State Significant Development (SSD 5170) under Part 4, Division 4.1 of the *Environmental Planning and Assessment Act 1979* and that it involves:

- an increase to the maximum height of the approved Bengalla Mine Main Overburden Placement Area to provide visual relief from Muswellbrook and Denman Road
- establishment of a new gravel access road to an existing site office off Wybong Road.

OEH has undertaken a review of the relevant sections of the Statement of Environmental Effects for the Bengalla Mine Development Consent Modification, prepared by Hansen Bailey for Bengalla Mining Company Pty Limited (dated 26 April 2016). The review focused on possible impacts of the proposed changes on Aboriginal cultural heritage, threatened biodiversity and flooding. In this case the likely impacts to those matters are negligible and do not trigger the need for additional comment from OEH. OEH therefore does not recommend any additional consent conditions or changes to current consent conditions for this project.

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

Yours sincerely



10 MAY 2016

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

NSW Department of Planning & Infrastructure
GPO Box 39
SYDNEY NSW 2001

Email: megan.dawson@planning.nsw.gov.au

16 May 2016

Dear Megan

Exhibition Notice – Bengalla Modification (SSD 5170 MOD 2)

Thank you for your correspondence dated 28 April 2016 regarding the abovementioned matter.

Subsequently, I advise that ARTC representatives have perused the application and note the following;

- Bengalla Mine Company is aware of, and will adhere to all conditions contained within ARTC's EPL 3142 when working near the rail corridor, in particular sections O4 relating to noise mitigation and working hours, and R2 relating to notification of any incidents of environmental harm.
- Any amendments to the current Project Boundaries adjacent to the Ulan Main Line must consider future duplication of the tracks including potential upgrades by Bengalla Mine Company to ARTC existing infrastructure and corridor access.
- The proposed new gravel road is on BMC's land with no impact to ARTC.

Bengalla Mine Company should assess any additional train movements on ARTC's network associated with the proposed continued operations project in accordance with the Rail Infrastructure Noise guideline.

A copy of the guidelines can be found by following the below link:

<http://www.epa.nsw.gov.au/resources/noise/20130018eparinq.pdf>

Should you have any further enquiries with regard to this matter please do not hesitate to contact the undersigned.

Yours sincerely



Teena Renés
Property Manager, Newcastle



2 June 2016

CR2016/001838
SF2012/004164
KAP

Director – Resource Assessments
Planning Services, Department of Planning Environment
GPO Box 39
SYDNEY NSW 2001

Attention Megan Dawson,

DENMAN ROAD (MR209): SECTION 96(2) APPLICATION, LOT: 2 DP: 663773 BENGALLA ROAD, BENGALLA (SSD 5170 MOD 2)

Reference is made to your email received 29 April 2016, notifying Roads and Maritime Services (Roads and Maritime) of the abovementioned application, exhibited from 29 April 2016 to 13 May 2016, seeking to modify the current consent for Bengalla mine.

Roads and Maritime understands the modification involves changes to the maximum height of the approved Main Overburden Emplacement Area to provide visual relief from Muswellbrook and Denman Road as well as the construction of a new gravel access road to an existing site office off Wybong Road.

Roads and Maritime response

Roads and Maritime has reviewed the information provided and raises no objection to or requirements for the proposed modification as it is considered there will be no significant impact on the nearby classified (State) road network.

On the Minister's determination of this matter, it would be appreciated if a copy of the modification of the Project Approval is forwarded to Roads and Maritime for record and / or action purposes. Should you require further information please contact Hunter Land Use on 4924 0688 or by email at development.hunter@rms.nsw.gov.au

Yours sincerely

A handwritten signature in blue ink that reads 'Kylie-Anne Pont'.

Kylie-Anne Pont
A/ Manager Land Use Assessment
Hunter Region

Roads and Maritime Services