



Bengalla Mining Company Pty Limited

Bengalla Road, (Locked Mailbag 5)

Muswellbrook NSW 2333 Australia

A.B.N. 32 053 909 470

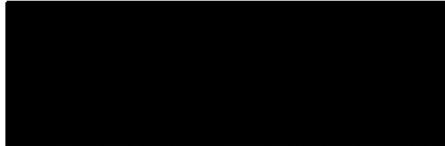
11 July 2018

The Independent Planning Commission
Level 3, 201 Elizabeth Street
Sydney NSW 2000

Application to modify Mount Pleasant Development Consent (DA 92/97) - Modification 3

Bengalla Mining Company Pty Limited (**BMC**) makes the attached submission.

Yours faithfully



Cam Halfpenny
Chief Executive Officer
Bengalla Mining Company



DA 92/97 MOD 3

SUBMISSION TO INDEPENDENT PLANNING COMMISSION

(a) Bengalla Mine

Bengalla Mine is operated by Bengalla Mining Company Pty Limited (**BMC**). Having been originally approved in 1995 it commenced coal production in 1999 and has continued since then progressing westerly away from the town of Muswellbrook. Bengalla Mine employs over 600 people and is approved to produce up to 15 Million tonnes of Run of Mine coal per annum until 2039 (under State significant development consent SSD 5170 granted in 2015).

The approved area for mining for Bengalla Mine includes the coal beneath the (under construction) rail spur, loop and coal loader for Mount Pleasant mine.

(b) The Commitments by the Proponent (MACH Energy Australia Pty Ltd)

BMC notes that the Proponent of DA 92/97 MOD 3 has now publicly committed to the following actions by no later than 31 October 2022 in a Statement of Commitments which is incorporated in its modification application:

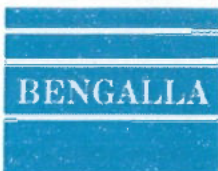
- (i) removing all infrastructure associated with the Development within Mining Lease No. 1645 (ML 1645) south of Wybong Road (other than infrastructure which the operator of the Bengalla Mine agrees in writing can remain in situ);
- (ii) doing all things available to transfer or cause the grant of a mining lease over that part of ML 1645 south of Wybong Road to the operator of Bengalla Mine or its nominee;
- (iii) transferring the freehold land owned by the Proponent within ML 1645 south of Wybong Road to the operator of Bengalla Mine (or its nominee) at rural market value; and
- (iv) releasing any easements for pipeline and rail spur within or in the vicinity of ML 1645 south of Wybong Road which benefit land owned by the Proponent,

(MACH Commitments).

The performance of the MACH Commitments by the Proponent is not subject to the grant of a development consent or any other approvals or access arrangements for long term coal transport infrastructure for the Development and must be satisfied by the Proponent irrespective of the existence of any such approvals or infrastructure.

The Proponent has also requested that a condition to the above effect is included in the development consent for the Mount Pleasant mine by way of replacement of Condition 37 of Schedule 3 (and any future development consent for the Mount Pleasant mine, until the infrastructure has been removed) and requested that a condition to the same effect be included in ML 1645. The imposition of those conditions will reflect the MACH Commitments on the public record.

Additionally, the Proponent has made contractual commitments to BMC to make some additional lands located to the east of its infrastructure available to BMC by 31 December 2019, which will enable Bengalla Mine to advance its operations in accordance with its existing approvals pending removal of the relevant infrastructure by the Proponent (to take place by no later than 31 October



2022).

BMC notes that the Proponent has also lodged DA 92/97 (MOD4) which seeks modification of the Mount Pleasant development consent for:

- (a) a long term rail solution (a rail spur, rail loop, conveyor and rail load-out facility and associated services in an alternative location); and
- (b) a long term location for the Hunter River water supply pump station, water pipeline and associated electricity supply.

The long term rail solution proposed in MOD 4 would be located partly on land owned by BMC and the Bengalla Joint Venture parties but in an area which should not impede the progress of BMC's mining operations. While BMC agrees to support the Proponent's MOD 4 application the performance of the MACH Commitments by the Proponent is not conditional on the approval of MOD 4.

The performance of the MACH Commitments will have the effect of removing the potential impacts on Bengalla Mine which were referred to in the submissions made by BMC.

(c) How the MACH Commitments Resolve BMC's Concerns

Background

In the absence of the MACH Commitments, BMC (and its employees and contractors) were concerned that extending the date for the end of mining operations for Mount Pleasant (as sought by DA 92/97 MOD 3) could potentially have resulted in the Mount Pleasant infrastructure located to the south of Wybong Road remaining in its current location, preventing the orderly continuation of Bengalla Mine in accordance with its development consent SSD 5170.

If the development consent and ML 1645 for Mount Pleasant incorporates an absolute commitment to remove the Mount Pleasant infrastructure by 31 October 2022, that will enable the continuation of Bengalla Mine in accordance with its existing Development Consent (SSD 5170), and the elimination of the potential impacts of DA 92/97 MOD 3 on Bengalla Mine.

Scope of Development

By making the commitments and imposing the conditions on the development consent and mining lease consistent with the MACH Commitments, the following matters are addressed to BMC's satisfaction:

(i) Impacts on Bengalla Mine

The absence of assessment of impacts on Bengalla Mine from the potential stopping of the mine is no longer relevant because the performance of the MACH Commitments which will be attached to and form part of the approvals (development consent and mining lease) for the Mount Pleasant Mine eliminates those impacts. Accordingly, all the provisions of *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* which relate to incompatibility with existing approved mining in the vicinity of the development and resource recovery are no longer relevant.

(ii) Incompatibility

If the development consent DA 92/97 incorporates the MACH Commitments then, based upon the known timing of development of Bengalla Mine (under SSD 5170), the relevant Mount Pleasant infrastructure will be removed in time to ensure the orderly continuation of Bengalla Mine (including rehabilitation) as described in SSD 5170 on and from 31 October 2022.

(iii) Scope

The scope of the change to DA 92/97 proposed by DA 92/97 MOD 3 is significantly reduced because it no longer has the potential for a material impact on Bengalla Mine (because the existence of the MACH Commitments mean it cannot cause Bengalla Mine to stop). Accordingly, in BMC's view, the Department may consider the application as a modification.

(iv) Water Discharge to Bengalla Mine

It is understood from the Responses to Submissions made by the Proponent of DA 92/97 MOD 3 that it is not seeking approval under MOD 3 to discharge water from the Mount Pleasant Mine into the Bengalla Mine or any of its facilities.

BMC also notes from the Proponent's modelling of water use and water production at the Mount Pleasant Mine (as outlined in its MOD 3 application) and the Proponent's subsequent clarification to the Department that it will not seek any approvals for water discharge from the Mount Pleasant Mine for the initial years of operation.

BMC understands from the Proponent that in later years, when water produced at the Mount Pleasant Mine is projected to increase, necessitating water discharges from the Mount Pleasant Mine, that the Proponent will apply to discharge waters to the Mount Pleasant Discharge Dam and its associated infrastructure (approved as part of SSD 5170 for the Bengalla Continuation Project but not yet constructed) and from there to the Hunter River in accordance with the *Hunter River Salinity Trading Scheme*. The Mount Pleasant Discharge Dam is a proposed mine water dam, with a safe storage capacity of approximately 300 million litres, to be connected to existing Mount Pleasant dam "RW1" by pipeline, together with associated channels, drains and spillways.

BMC understands that the Proponent will seek approval to use the Mount Pleasant Discharge Dam and associated infrastructure as part of the Mount Pleasant Mine water management system and that approval to use the Mount Pleasant Discharge Dam will be sought as part of DA 92/97 MOD 3.

The freehold title to, and mining lease over, the land on which the Mount Pleasant Discharge Dam is to be constructed are held by BMC and the Bengalla Joint Venture parties, who have agreed¹ to transfer the mining lease in the relevant area to the Proponent to provide tenure for the Mount Pleasant Discharge Dam and grant easements for the pipelines to that dam.

¹ Via an existing private commercial agreement between one another.



Bengalla Mining Company Pty Limited

Bengalla Road, (Locked Mailbag 5)

Muswellbrook NSW 2333 Australia

A.B.N. 32 053 909 470

(d) Conclusion

By incorporating the MACH Commitments (including to remove the relevant infrastructure by a fixed date of 31 October 2022):

- i. into the Proponent's statement of commitments for the Mount Pleasant development consent;
- ii. as a condition of the Mount Pleasant development consent; and
- iii. as a condition of ML 1645,

the relevant approvals for the Mount Pleasant Mine will stand alone, incorporating all obligations of the Proponent. There will no longer be a need to consult extraneous documents (such as a Deed of Undertaking with the Minister for Resources) in order to understand the full extent of the Proponent's obligations, and to ensure that the development which is approved addresses all relevant potential impacts on Bengalla Mine and is performed on its approved terms.

In summary, BMC supports DA 92/97 MOD 3 on the basis that the Proponent has made the MACH Commitments and that those commitments are incorporated into the development consent and the mining lease for the Mount Pleasant Mine.

Dated 11th July 2018



Cam Halfpenny
For and on behalf of Bengalla Mining Company

