



# Blue Mountains Conservation Society Inc

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**Nature Conservation Saves for Tomorrow**

**December 20, 2013**

**Referral Business Entry Point  
NSW Section  
South-Eastern Australia Environment Assessments  
Environment Assessment and Compliance Division  
Department of the Environment**

**By email: [epbc.referrals@environment.gov.au](mailto:epbc.referrals@environment.gov.au)**

**EPBC Reference #2013/7076  
Revised closure date 23 December 2013  
Centennial Airly Pty Ltd/Capertee/Airly Mine Extension (AME)**

## **Summary**

- (a) The current referral documents are incomplete – the referral should be withdrawn, properly documented, and resubmitted (should the company still wish to proceed).
- (b) The nature of the Airly Mine Extension (AME), even if it were properly documented, should preclude it from being treated as a component of a larger action.
- (c) Mining lease 1331 has little more than incidental pertinence to Centennial's Airly mining operation and the attached conditions. Treating it in any other way is unacceptable.
- (d) The oil shale ruins are of national significance and must be protected from contemporary mining.
- (e) Subsidence of up to 125 mm is incompatible with protecting the cliffs and ecosystems at Genowlan Point – the only foolproof solution is NOT to mine in their vicinity.
- (f) It is unacceptable to discharge any waters (treated or untreated) from the REAs, treatment facilities, or mining operations into catchments feeding the GBMWA without prior investigation and quantification of the discharge chemistry and that of the receiving waters.
- (g) The Airly Mine Extension (AME) proposal should be resubmitted and should, in any case, be a controlled action under the *EPBC Act*

## **1. Introduction**

### **1.1 Submission date as amended**

The Society understands, via the Capertee Valley Environmental Group, that Caitlin Ellis [Assessment Officer, NSW Section, South-Eastern Australia Environment Assessments, Environment Assessment and Compliance Division, Department of the Environment] has amended the closure date for submissions **from December 17 until 23 December 2013. The Society is acting on this information.**

### **1.2 Documents available**

The Department of the Environment's website for the AME has 10 documents available for consideration. They are:

- The Australian Government's Referral of Proposed Action Document – 924 KB
- The Australian Government's EPBC Act Protected Matters Report – 91.1KB
- The NSW Government's Director General's Environmental Assessment Requirements – 67.8 KB
- Schedule of land – 201 KB
- Fig 1 – Regional locality Plan – 873 KB
- Fig 2 – Existing Planning Approvals – 917 KB
- Fig 3 – Extension Project Application Area – 920 KB
- Fig 4 – Proposed Action Area – 1.81 MB
- Fig 5 – Surface Infrastructure – 831 KB
- Fig 6 – Surface Facilities Area – 738 KB

When originally consulted on December 6, then checked on December 19 at about 21.30hrs, and again checked on 20-22/12/13) there were no additional report materials relating to the AME. Furthermore, there is nothing on the website to suggest that this AME, a resubmitted and seemingly inadequate proposal, should be considered in conjunction with any earlier withdrawn proposal, or indeed any approved DA as the AME seeks to modify mining methods and treatment facilities.

The Australian Government's Referral of Proposed Action document states in response to the matter of referring part of a larger action: *"In certain circumstances, the Minister may not accept a referral for an action that is a component of a larger action and may request the person proposing to take the action to refer the larger action for consideration under the EPBC Act (Section 74A, EPBC Act)."* **BMCS strongly believes the nature of the Airly Mine Extension precludes it from being treated as a component of a larger action.**

**In the circumstances, it would seem that the referral should be resubmitted with all the pertinent documents, particularly those which specify such things as mining methods, the reasons why the previous documents were withdrawn, and the nature of any longer term implications for expanding the mining rate.**

### 1.3 Historical (hysterical?) aspects

- December 2010 – the Airly Mine commenced coal production
- November 2012 – NSW Director-General's Environmental Assessment Requirements issued in respect of the Airly Mine Extension Project – it was stipulated that *"If you do not lodge a DA and EIS for the development within 2 years of the issue date of these DGRs, you must consult further with the Director-General in relation to the lodgement requirements."*
- December 2012 – underground operations were suspended due to lack of a 'suitable' market (perhaps reflecting expensive mining conditions?) – the mine was then placed on a care and maintenance footing.
- October 31, 2013 – AME referred to the Federal Department of the Environment for assessment under the EPBC Act.

### 1.4 Other considerations

BMCS is aware of and has read the submissions by Dr Haydn Washington of the Colo Committee and Mr Keith Muir of the Colong Foundation. **BMCS fully supports the content of these submissions and requests that this support be taken into consideration during the assessment process.**

The Colong Foundation, BMCS and the Colo Committee jointly launched the Gardens of Stone Stage 2 (GoS2) Proposal in 2005. An outcome of the still current campaign was reservation of the Airly-Genowlan region (one part of the GoS2 lands) as the Mugii Murum-ban State Conservation Area in March 2011. This was done after extensive discussion with Centennial. **It was fully recognized that the SCA form of reservation was compatible with environmentally sensitive low-impact mining methods.** The originally approved proposal by Centennial seemingly complied with such constraints.

The Airly Mine Extension Project seemingly aims to make the mined product competitive within a market where the coal-price has fallen considerably. However, if environmental values are to be compromised purely because of a declining coal-price, the whole concept on which the SCA was declared is effectively invalidated. **If coal can't be mined without excessive environmental damage it should be left in the ground!**

## 2. MNES

### 2.1 General concern

The consent for the mine is scheduled to expire in November 2014, so a new development application is needed prior to that time to ensure operational continuity. It would consequently seem inappropriate to introduce the mining methods and the various other activities intended to take place within the broader lease area (assuming that the withdrawn documents are applicable to the AME) under the guise of the AME.

The obvious concern is that the apparently proposed activities have repercussions not limited to the AME. BMCS therefore considers that, from the viewpoint of a controlled action, it is necessary to re-examine the whole proposal in relation to MNES.

**BMCS emphasises that, in respect of NSW planning legislation and the *EPBC Act*, mining lease 1331 has little more than incidental pertinence. It is but a small component of the Airly mining operation and yet Centennial is treating it as if the tail wags the dog.**

### 2.2 Oil shale ruins on Mt Airly

The Society is strongly of the view that these should be recognized as having National Significance. The miners' dwellings and much of the treatment plant are better preserved than those found at Newnes and Glen Davis, and are a true part of Australia's heritage. Views down-playing their significance are seemingly either steeped in ignorance, or bring to mind the saying about the piper and calling the tune!

If the intention is as previously portrayed in the withdrawn documents, it would seem that in the region of the Shale Mine the proposed mining methods could cause up to 500mm additional subsidence. BMCS totally rejects this approach. **The company should be required to honour its original commitment to NOT extract more than 50% of the coal. It should also be required to limit its operations to ensure that the oil shale ruins experience NO further damage.**

The attitude of the company whereby additional damage is deemed acceptable because there has been past damage is totally out of keeping in a modern society. Past damage is part of the heritage; it is not an invitation for further desecration.

### 2.3 Subsidence and Genowlan Point

The original commitment was that 50% of the coal would be left to ensure the integrity of overlying cliffs. The 'new' commitment is that subsidence would be limited to 100mm±25mm in previously unmined areas, but the commitment regarding the mining of not more than 50% of the coal is not reaffirmed. **It is essential that these matters are clarified.**

The spectacular cliffs and steep talus slopes in the Genowlan Point region demand special consideration as they are arguably the principal scenic asset of the Muggi Murum-ban SCA and also host the critically endangered *Pultenaea sp. Genowlan Point*. Subsidence of up to 125mm has the capacity to cause cliff collapses and potentially compromise the critically endangered species and the Genowlan Point Heathland EEC.

BMCS contends that handling this type of situation by putting faith in a risk-assessment process is totally unsatisfactory. Cliff collapses and their associated impacts are absolute. No amount of risk assessment or the paper it's written on will enable meaningful remediation. No enforceable undertaking or 'offset' commitments can compensate for such wilful destruction. **Either the company must give an unqualified guarantee that there will be NO mining-induced subsidence, or there should be NO mining under these scenically spectacular cliffs.**

### 2.4 Impacts on the Greater Blue Mountains World Heritage Area (GBMWA)

There are two matters of concern related to the Reject Emplacement Areas (REAs), treatment facilities and mine-water discharge:

- The past proposal envisaged clearing 60 ha for the REAs 1 and 2. Of course argument is presented that these locations and clearing are the best options. It would be pretty stupid to argue against what has been determined as best meeting the company's economic and 'convenience' interests.
- Discharges from the REAs and various treatment facilities could pollute stream-systems which enter the GBMWA.

Regarding the first dot-point, nothing is said about what vegetation is to be cleared, although it would appear from Figure 5 that the land has previously been cleared for agricultural purposes. Information on this is essential. Furthermore, REAs are rained upon and heavy falls inevitably cause polluted run-off. This run-off should be collected and treated prior to release to the natural environment. Unfortunately, nothing is said about any such treatment – for example, the capacity of the treatment plant to handle anticipated run-off volumes, the chemistry of the discharge-waters after passing through any treatment plant, and the chemistry and ecology of the receiving stream system.

In relation to dot-point 2, any discharge of mine-water, water from any part of the treatment process, or polluted water from the REAs is likely to be released into Airly Creek and thence into the GBMWH. This aspect is not addressed in the documents on the DP&I website and most assuredly should be! Any waters impacting on a pristine stream system which enters the GBMWH should be a controlled action.

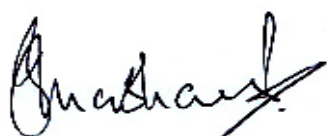
## **2.5 Other considerations**

Because of the inadequacy of the documents placed on the DoE's website and the lack of information regarding aspects such as the mining and various treatment processes, there is little value in spending additional time dealing with the finer points of the AME proposal; even if it were possible to determine what they are!

BMCS assumes that the lack of data is either a monumental stuff-up, or an attempt by the company to bamboozle the Department of the Environment and various special interest groups, or an attempt to short circuit processes in view of the upcoming need for a new development application to cover the entire operation.

## **3. Conclusion**

The AME is poorly documented. It will certainly impact MNES as well as threatening the scenic values of the SCA. The Department of the Environment should treat the proposal as a controlled action and demand answers to the issues not addressed.

A handwritten signature in black ink, appearing to read "Brian Marshall". The signature is stylized and written in a cursive-like font.

***Dr Brian Marshall,  
For the Management Committee.***