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Nature Conservation Saves for Tomorrow

20th July, 2014

Mining and Industry Projects
NSW Department of Planning & Infrastructure
GPO Box 39
Sydney NSW 2001

Coalpac's Invincible Mine Extension (07_0127 MOD 4) and
Cullen Valley Mine Extension (DA 200-5-2003 MOD 2)

Supplementary Comment **on 'Coalpac's Response to Submissions'** **as prepared by Hansen Bailey, June 2014**

1. Explanation for supplement

This brief supplement relates to **Aboriginal Heritage** concerns.

In its principal response Section 9, BMCS stated:

"This is contentious at the present time. BMCS is seeking independent assessment and has also requested assessment by OEH and the local Mingaan community. Additional information will be provided when it becomes available."

The independent assessment is now available.

2. Independent assessment

After further consultation with the Mingaan Wiradjuri Corporation, BMCS decided to engage a consultant, **Michael Jackson, Archaeologist, of Jackson Ward Archaeology**, to examine the cave-art site referred to in Section 1(a) of the Lithgow Environment Group's (LEG) submission on the Cullen Valley and Invincible Modifications, dated 28 April, 2014¹. Michael Jackson identified this site as **Ben Bullen Shelter 01**.

He has completed this work and registered two sites with AHIMS being **45-1-2782 and 45-1-2783**; they are accessible to Planning & Environment

This information has been sent to OEH. It is sufficient to note that several 'red' hands, a 'white' hand, and various stone artefacts occur; **it is unquestionably an Aboriginal site.**

BMCS understands that OEH has also assessed the sites.

¹https://majorprojects.affinitylive.com/public/f11b9df7111e3f6bfacc1484539aeca5/LEG%20Submission%202014%20Mods_%2028%20May%202012.pdf

3. Hansen Bailey's Report (HBR) June 2014

3.1 HBR Executive Summary and Main Text

HBR Executive Summary pvi states:

"The Cave Art Site noted in multiple submissions from Lithgow Environment Group, Colong Foundation for by a qualified archaeologist from AECOM on 13 May 2014...The Cave Art Site in question was previously inspected in December 2010 and no hand stencil was present at the site at that time.

This 2014 assessment confirmed that the site identified by Lithgow Environment Group members is a maximum of 3.5 years in age and is a modern replica of a traditional Aboriginal hand stencil (AECOM, 2014). AECOM therefore recommend that the site should not be added to the AHIMS database as it is not a traditional Aboriginal cave art site and is not considered to be of heritage significance."

HBR Main Text pp108-109 provide additional information about the Cave Art Site, as derived from derived from Appendix K by AECOM K, which will be examined more closely in Section 3.2. However, two paragraphs on p109 are reproduced here, as they convey Coalpac's rejection of LEG's work and imply that LEG provided other SIGs with misleading information.

"Based on the findings and recommendations from Archaeological specialists as outlined in their assessments discussed above, Coalpac does not agree that the AACH Impact Assessment lacks 'veracity' or 'credibility' as claimed by LEG, other organisations and some individuals in their submissions on the Modifications EA.

The reporting of Cullen Valley Cave Art Site 1 by LEG as a traditional Aboriginal cave art site of heritage significance and its attempt to register this site on the AHIMS database has likely contributed to the number of submissions referring to this matter. Unfortunately these organisations and individuals that have commented on this matter appear to have been provided with inaccurate and incorrect information about the site."

Clearly, from what is reported in Section 2 (above), LEG correctly identified a site and forwarded the appropriate information to OEH as stipulated in its submission².

3.2 HBR Appendix K, AECOM Inspection of Rock Art Sites (HBR AppK)

HBR AppK p1: *"The main purpose of this study was to compare the location of the hand stencil as reported by LEG in their submission...with the previous inspection of the area carried out in 2010 and determine the significance of the reported rock art."*

HBR AppK Section 3 p5 identified the site as Cullen Valley Art Site 1 and noted that LEG recorded this site on the 6th April 2014. AECOM emphasised that a hand stencil in this location had not previously been reported or recorded as confirmed by an AHIMS database search (AHIMS Extensive Search #134835), but that AECOM (13 May 2014) found *"A single two tone pigmented left hand stencil...in the centre of the back wall of the overhang"* and *"No other rock art motifs of this type were observed in or around this location."*

Furthermore, it was stated that (HBR AppK Section 4 p12): *"Cullen Valley Art Site 1 is likely to be a modern replica of a traditional Aboriginal hand stencil...made in the last 3.5 years, maximum...is not considered significant and no further recommendations are required for this site..."* And it *"...should not be added to the AHIMS database as representing a traditional Aboriginal cave art site."*

However, BMCS notes that between the commencement of AppK Section 3 and the end of Section 4, the following aspects were either disregarded or showed little commitment to task:

- Although much space (AppK Sections 3.1 and 3.2.2 pp5-7) was devoted to establishing that the previous inspection on Dec 9 2010 did not see the 'white' hand stencil, but would have done so had it been there, **AECOM also missed the adjacent 'red' hand stencils and the crystalline quartz and chert artefacts on the floor of the cave.** Thus, in their own words (AppK p5): *"There was no rock art or artefactual*

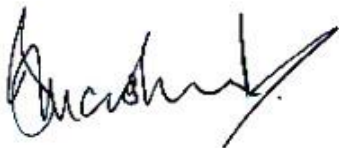
²https://majorprojects.affinitylive.com/public/f11b9df7111e3f6bfacc1484539aeca5/LEG%20Submission%202014%20Mds_%2028%20May%202012.pdf

material noted by either AECOM archaeologists or Aboriginal representatives during the inspection of this overhang in 2010.”

- AppK Section 3.3 p11 reports an additional examination on 13 May 2014 in relation to “...faded rock art motifs”. AECOM³ states: “...while suggestive, it is difficult to conclude that these are examples of rock art...the sites are not clearly visible with the naked eye and inconclusive with enhanced photo imagery.” **This is an extraordinary statement when their own plates show reasonable examples of ‘red’ (ochre) hand stencils. Furthermore, AECOM failed to identify the stone artefacts which might have changed its opinion about the merits of this cave-art site.**

4. Conclusions

- Irrespective of the contentious ‘white’ hand stencil, which some experts think is less than 3.5 years old and others believe the age is substantially older (perhaps in keeping with the ‘red’ hands), **there is no doubt that Cullen Valley Art Site 1 and others in close proximity are true examples of Aboriginal Heritage.**
- Given that AECOM (2010 inspection) **at least** missed the ‘red’ hand stencils and the crystalline quartz and chert artefacts in the Cullen Valley Art Sites, and may have missed the ‘white’ hand stencil, **BMCS has little confidence in AECOM’s investigations and inevitably asks what else has been missed?**
- Given that AECOM (2014 inspection), despite seeing the ‘red’ hand stencils, still did not observe the crystalline quartz and chert artefacts at Cullen Valley Art Site 1 and deemed the site of insufficient significance to merit any further action, **BMCS has no confidence in AECOM’s investigations and calls for a thorough independent evaluation of Aboriginal Heritage in the areas covered by the open-cut and highwall modification proposals at Cullen Valley and Invincible.**
- Despite the Cullen Valley Art Site 1 and others in close proximity being within the highwall area of the Cullen Valley modification proposal, HBR p109 believes that the sites will not be impacted; **BMCS rejects this belief and asks why Aboriginal Heritage should be placed at risk?**



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

³ Without interpretative comment, it is noteworthy that the inspection party on 13 May comprised Luke Kirkwood (Principal Archaeologist, AECOM), Ben Eastwood (Environmental Manager, Coalpac) and Ian Follington (CEO, Coalpac).