



Mr Samuel Tarabori
Operations Manager
Epic Mining Pty Ltd
PO Box 177
KEMPS CREEK NSW 2178

Dear Mr Tarabori

**Luddenham Clay/Shale Quarry – Modification 4 (DA 315-7-2003 MOD 4)
Request for Revised Response to Submissions**

I refer to your email of 24 January 2017 submitting the Response to Submissions (RTS) for Luddenham Clay/Shale Quarry Modification 4 (DA 315-7-2003 MOD 4). The purpose of the RTS was to respond to the issues raised by the nine government agencies who commented on the Environmental Assessment (EA) and to respond to the Department's request for further information dated 19 October 2016.

The Department has reviewed the RTS and sought advice from key agencies on the adequacy of the RTS. Following this review and consultation period, the Department considers the RTS does not adequately address all issues raised.

The Department requests that you prepare and submit a revised RTS that further addresses the comments in **Attachment A**. The Department also emphasises that Epic Mining must confirm with the Department before deciding when requests are unreasonable or irrelevant to the modification and when they do not warrant a response in the RTS. The Department also considers that some of the comments in the RTS regarding positions of other agencies are inaccurate and unhelpful.

The Department further acknowledges that while it is typically acceptable to use a tried assessment methodology that has been used in previously approved modifications for Luddenham Quarry, it does not guarantee that the methodology remains appropriate for this modification nor does it waive the Department's or other agency's right to comment on or disagree with the methodology used.

If you wish to discuss this matter, please contact Megan Dawson on 9274 6391.

Yours sincerely,

Howard Reed
Director
Resource Assessments

24.2.17

Attachment A

1. Noise

The Department shares a number of concerns raised by the Environment Protection Authority (EPA) regarding the noise impact assessment (NIA). The EPA's primary submission of 13 October 2016 raised a number of issues with the NIA. The Department understands that Epic Mining and the EPA met on 17 November 2016 to discuss the insufficiencies of the NIA and what further analysis would be required in the RTS to satisfy the EPA that potential noise impacts have been adequately assessed. EPA reiterated its advice in a letter dated 22 November 2016.

Epic Mining submitted an RTS on 24 January 2017. Following review of this document, EPA advised on 3 February 2017 that the RTS did not sufficiently address the concerns raised. The unresolved matters were referred to the Department's noise specialist for resolution.

The Department's noise specialist agrees there are a number of issues with the NIA. Overall, the proposed modification is relatively simple, however the lack of an adequate NIA makes it difficult to assess.

It is recognised that noise sources within the project area are unlikely to change from the existing situation, however there is a significant change in the extent of noise impacts. This is due to both the proposed relocation of composting and stockpiling activities on site and the continued change in surrounding land use related to the upcoming construction of the Western Sydney Airport and the general growth in the Liverpool area.

Considering the above, the Department requests, in the first instance, that the background noise levels be re-established. The background noise levels are likely to have increased over recent years, so it is necessary to re-measure these so that appropriate project specific noise levels can be calculated. This may well give the project higher limits and reduce the need for such extensive barriers. The noise measurements must be undertaken by a qualified noise specialist who is a member of the Australian Acoustical Society.

Until this work is completed the Department is unable to provide further comment on the noise predictions and the suitability of the noise barriers. Generally, the Department does not encourage the construction of bunds where they are not warranted, particularly along highly trafficked corridors.

The Department requests that Epic Mining provide the Department and the EPA with the updated background noise levels for review, before revising the NIA in line with agreed background noise levels.

2. Composting

The Department considers that the RTS did not satisfactorily answer or address the compost related comments in the EPA's submission of 13 October 2016 or the EPA's letter of 22 November 2016. Instead Epic Mining generally argued that the requested information had already been provided or that the requests were unreasonable. The Department's further consideration of the matter is provided below.

The Department notes that small scale composting activities on Lot 1 DP 838361 were approved under Modification 3 for use in on-site rehabilitation and landscaping. Nonetheless, the Department disagrees with Epic Mining's statement in the RTS that it is unreasonable to reassess composting activities in this modification application. As this modification relates to relocating composting activities to Lot 3 DP 623799, the Department considers it necessary to reassess the environmental impacts related to composting at the new location.

The Department acknowledges that the level of assessment for this ancillary development differs to the EPA's requirements for an Environmental Protection Licence (EPL) variation under the *Protection of the Environment Operation Act 1997* (POEO Act). Nevertheless, the Department looks to the EPA for expert advice and guidance on the matter.

The Department understands that on 20 February 2017, the EPA sent clarification questions to Epic Mining regarding the current composting activities on Lot 1 DP 838361 as Epic Mining is currently banned from receiving raw mulch or compost on the premises. While these questions concern the EPL, they also relate to this modification. Following resolution of these areas of clarification, the EPA and the Department will be in a better position to discuss what is/isn't reasonable to address in this modification.

Regardless of what is addressed in the modification application, the Department reiterates Epic Mining's responsibilities under the POEO Act and notes that planning approval of composting activities does not guarantee the activities will also be permitted under an EPL.

3. Traffic

On 3 February 2017 the Department requested Epic Mining prepare a traffic assessment. This traffic assessment must be included in the revised RTS. For completeness, the Department's previous request is summarised below.

The Department notes that the traffic impact assessment in the 2003 Environmental Impact Statement (EIS) was based on a maximum of 80 product truck movements per day (40 return trips). However, the Department understands that truck movements are sporadic due to the nature of product sales and occasionally there are high demand days when truck movements are nearly double these maximum. In addition to this, the Department is aware that additional third party trucks enter the site to use Epic Mining's weighbridge.

Considering these facts, the Department requested that Epic Mining undertake a traffic assessment to demonstrate that Elizabeth Drive can accommodate the increased truck movements (as compared to those assessed in the EIS). The assessment should consider potential impacts of the increased truck movements on existing traffic flows along Elizabeth Drive and the intersection treatment of the driveway with Elizabeth Drive. The assessment should be based on the predicted maximum number of truck movements, including all heavy vehicles (product, mulch, third party, etc).

4. Aboriginal Cultural Heritage

With reference to Section 2.2(3) of the RTS, the Department requests that Epic Mining reconsider its proposal to install a fence between the riparian zone and the eastern boundary earth berm. A fence next to a 5 metre high earth berm is considered unnecessary. Instead please explain how the earth berm would serve as a security barrier to ensure that any unidentified artefacts in the riparian zone remain undisturbed by the development.

5. Agency submissions on the RTS

The Department requests the revised RTS further consider the three agency submissions provided in **Attachment B**.

The Department notes that most of the remaining comments from the Department of Primary Industries (DPI) and Division of Resources & Energy (DRE) can be resolved through conditions of consent. However, the following matters need to be further clarified in the revised RTS.

- **Mining titles:** Considering the advice from DRE, please confirm if a mining purposes lease is required for the northern product stockpiles. In Section 2.3 of the RTS please also include an update on the status of Mining (Mineral Owner) Lease Application 3.
- **Final land use:** Considering the final land use advice from DPI and DRE, please update the response in Section 2.3 of the RTS.
- **Layout Plans:** Building on the advice from DPI, please provide an updated proposed site layout that shows the 40 metre riparian exclusion zone and the Aboriginal exclusion area. Please also differentiate between the main access road off Elizabeth Drive and the light vehicle employee driveway off Adams Road.

The Department also notes that Liverpool City Council considered the RTS did not sufficiently address its concerns regarding potential contaminated land, onsite sewage management, flood risk and water quality. The Department's consideration and advice on these matters are provided below.

- **Contaminated land:** Please ensure the revised RTS includes an adequate Stage 1 – Preliminary Site Investigation of the land in accordance with *State Environmental Planning Policy No 55 – Remediation of Land*.
- **Onsite sewage management system:** Please update the response in Section 2.7 of RTS to address Council's comments.
- **Flood risk:** The Department agrees with Council that the RTS has not sufficiently assessed the potential flood impacts from relocating the composting/stockpiling activities. Please provide an adequate assessment of these potential impacts.

- **Water Quality Modelling:** In its primary submission of 14 October 2016, Council raised concerns with the capacity of the proposed water management system to accommodate prolonged rainfall events and the consequent risk that stormwater run-off could discharge into Oaky Creek. Because of this, Council requested that Epic Mining undertake appropriate water quality modelling and provide appropriate water quality treatment facilities in accordance with the guidelines for Water Sensitive Urban Design (WSUD) to satisfy the water quality control requirements in Liverpool Development Control Plan 2008. The Department agrees with Council that there was no clear response to this matter in the RTS. The Department requests that Epic Mining adequately respond to the concerns raised.

In the first instance Epic Mining should demonstrate that the proposed sediment ponds have adequate capacity to accommodate prolonged rainfall events in accordance with *Managing Urban Stormwater: Soils and Construction, Volume 2E Mines and Quarries* (DECC, 2008). If Epic Mining is unable to demonstrate available capacity, then additional water quality modelling should be undertaken to ensure any stormwater run-off into Oaky Creek meets the water quality control requirements in Liverpool Development Control Plan 2008.