

Part 4 Modification Application - EPA Comments



Notice No. - 1558857

EPIC MINING PTY LIMITED
ABN 86 144 713 931 ACN 144 713 931
PO BOX 177
KEMPS CREEK NSW 2178

Attention: Megan Dawson

Notice Number 1558857
File Number EF13/4094
Date 24-Nov-2017

Re: Epic Mining Pty Limited, Luddenham Clay/Shale Quarry
Modification 4 of Development Consent DA 315-7-2003

Issued pursuant to Section 96(2) Environmental Planning and Assessment Act 1979

I refer to the application by Epic Mining Pty Limited to modify development consent DA 315-7-2003 and the accompanying information provided to the Environment Protection Authority (EPA) on 14 September 2016.

The Department of Planning and Environment (DPE) granted development consent DA 315-7-2003 under the *Environment Planning and Assessment Act 1979* to Badger Mining Company Pty Limited with respect to the development of a clay and shale quarry on Lot 3, DP 623799. The NSW Environment Protection Authority (EPA) has issued an environment protection licence (EPL No. 12863) under the *Protection of the Environment Operations Act 1997* for this premises.

A modification of the consent is sought to authorise the relocation of the excavated clay and shale stockpiles to an adjacent site known as 2470 Elizabeth Drive, Luddenham (Lot 281 in DP 571171).

Additional changes proposed as part of this Consent Modification No 4 include:

1. relocation of environmental monitoring and discharge points due to the construction and future operation of the proposed Western Sydney Airport on Commonwealth land
2. review current monitoring and reporting requirements in accordance with previous consultation with both DPE and the EPA
3. modification of the Air Quality Assessment parameters
4. modification of relevant Consent Conditions associated with the Luddenham Quarry Community Consultative Committee
5. review the current noise criteria specified in the Consent.

The EPA note the Proponent's comment in RTS Addendum, dated October 2017:

"Epic has decided that if leaving the composting activities outside this modification application would assist in completing the processing of the application quicker, then it will be considered at a later stage and resolved first with the EPA"

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The EPA has reviewed the application and information provided by the proponent. On the basis that **composting has been removed from the proposed development modification**, the EPA is of the view that the current EPL No. 12863 can be varied to effectively regulate the modified activity. The applicant will need to apply separately to the EPA to vary this licence. Additional licence conditions will be imposed by the EPA as set out in Attachment A.

In assessing the proposal, the EPA has identified a number of environmental issues that DPE may wish to consider in its overall assessment of the application.

- In the proposed changes, it is noted that there are no dust or noise monitoring points on the southern boundary. It is recommended that additional monitoring points are included to ensure that the environmental impacts of the quarry are adequately monitored over the life of the premises. The EPA propose that Condition P1 of the EPL is updated.
- The EPA will consider the submission of an annual noise report once scheduled development works (outlined in proposed condition A1.3) are complete. The EPA note that Condition M8.1 requires the licensee to conduct quarterly monitoring. Condition R4.1 requires the licensee to submit quarterly acoustic assessments.
- The EPA recommends that the proponent prepare an Air Quality Management Plan and submit an annual dust audit which includes the results of all dust monitoring undertaken at the Premises in the last 12 months; assesses monitoring results against key performance indicators; proposes any additional measures to reduce dust emissions and a timetable for their implementation. The EPA propose three new conditions O3.4 and O3.5; condition M3.8 will require the licensee to submit an annual dust audit report.
- The Noise Impact Assessment Report (NIA) provided with Consent Modification No 4 states that the background noise level has increased. However, it is not clear as to whether the background noise monitoring was undertaken without the subject site operating. Acoustic modelling presented within the NIA is based upon the placement of acoustic bunds at 6.0m. These bunds are necessary to achieve the Project Specific Noise Criteria (PSNC). In order for the EPA to consider increasing the background noise limit, the licensee will need to clarify whether the additional noise bund shown in red on Figure 2 and Section 6.1 has been included in the layout map of the noise model shown in Figure 3. Upon receipt of this information the EPA could then consider whether an increased background noise limit is appropriate.

The EPA recommends that DPE consider the following in drafting conditions of consent in relation to any proposed changes to the background noise limit.

- it is not appropriate to include construction criteria for existing quarries, especially in this case as the equipment used to form the bunds is the same equipment used for operation. The EPA recommend that DPE consider allocating a time-frame for high noise generating activity.
- The predicted noise levels under prevailing meteorological conditions (N-NE wind) are up to 7dBA above the proposed increased noise limit at receiver R2 (to the west of the site). The EPA would not approve of such an increase. The EPA recommend that DPE consider a negotiated agreement subject to the provisions of the Industrial Noise Policy.
- The EPA will consider imposing an additional noise limit on the licence to reflect the difference between the background acoustic environments on the Northern and Western boundaries.
- It is expected that a significant amount of material will be required to construct the acoustic bunds. Importation of this material can be managed through an Environment Protection Licence. The EPA recommend that DPE place an upper limit on the importation of Virgin Excavated Natural Material, or other appropriate material for the purpose of constructing the acoustic bunds. The EPA will update current Condition L4.1 to include an appropriate waste material for use in bund walls. The quality of material required (Authorised Amount) will be determined during the licence variation process. Importation of waste material may trigger the waste levy as defined under s88 of the *Protection of the Environment Operations Act 1997*.
- It is noted that the 2 Ha Irrigation Paddock, as defined in the Current Water Use Arrangements (Table 6.1) of the Environmental Assessment Report, will be taken out of the surface water balance in place of the Composting

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Area. It is expected that any excess water could be balanced by draining water into the quarry pit during periods of inclement weather.

- The EPA will require an updated diagram demonstrating the relationship between all proposed sediment and erosion controls during the construction and operational phases of the site. Current condition O4.1 requires the licensee to maintain a Stormwater Management Plan. An additional condition O4.3 is proposed to control impacts around Scheduled Development Works.

In the event that the proposal is further modified, either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, the EPA requests that the Department of Planning and Environment consult with EPA about the changes before modifying the consent. This will enable EPA to determine whether the proposed licence conditions need to be modified in light of the changes.

If you have any questions, or wish to discuss this matter further please contact Tenille Lawrence on (02) 9995 6207.

Yours sincerely

A handwritten signature in black ink that reads 'Erin Barker'.

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«NoticeAuthorisingOfficer»

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(by Delegation)

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Administrative conditions

A1. What the Licence Authorises and Regulates

A1.3 This licence authorises the carrying out of scheduled development worked listed below at the premises listed in A2 including; receipt and use of waste material for the establishment of haul roads, hard-stand, construction of sediment dams.

A1.4 The construction of acoustic mitigation berms located between the site activities and the properties adjacent to the premises (amenity berms) must be undertaken in the manner and location specified in the Modification of the Development Consent. The construction of the acoustic mitigation berms must be completed prior to the stockpiling of excavated material

A4. Information supplied to the EPA

A4.1 Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:

- a) the development application DA 315-7-2003 the environmental assessment report ***'Environmental Assessment Report, Luddenham Clay & Shale Quarry, Epic Mining Pty Limited, 275 Adams Road, Luddenham, NSW***, dated 25 August 2016 submitted to Department Planning and Environment on 15 September 2016 [EPA ref. DOC16/312820]
- b) all additional documents supplied to the EPA in relation to the development, including:
 - Response to Submission dated January 2017 EPA Ref. [DOC16/462924].
 - Response to Submissions dated October 2017 EPA Ref. [DOC17/549907].

A5. Fit and Proper Person

A5.1 The applicant must, in the opinion of the EPA, be a fit and proper person to hold a licence under the *Protection of the Environment Operations Act 1997*, having regard to the matters in .83 of that Act.

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Discharges to Air and Water and Applications to Land

P1.1 The following points referred to in the table below are identified in this licence for the purpose of monitoring and/or setting of limits for any application of solids or liquids to the utilisation area,

| EPA ID | Type of Monitoring Point | Location Description |
|--------|-----------------------------|--|
| 1 | Dust Monitoring | Dust Deposition Gauge Coordinates 288909 (E) 624690 (N) |
| 2 | Dust Monitoring | Dust Deposition Gauge Coordinates 288810 (E) 6249588 (N) |
| 3 | Dust Monitoring | Dust Deposition Gauge Coordinates 288832 (E) 6249940 (N) |
| 4 | Dust Monitoring | Dust Deposition Gauge Coordinates 289205 (E) 6249682 (N) |
| 5 | Dust Monitoring | Additional Dust Deposition Gauge on Southern Boundary |
| 6 | Effluent Quality Monitoring | Outlet from site to Oaky Creek Coordinates 289160 (E) 6249975 (N) |
| 7 | Upstream Water Quality | At Oaky Creek, 20m south of southern boundary Coordinates 289200 (E) 6249110 (N) |
| 8 | Noise Monitoring | Noise Monitoring Coordinates 288909 (E) 6249690 (N) |
| 9 | Noise Monitoring | Noise Monitoring Coordinates 288810 (E) 6249588 (N) |
| 10 | Noise Monitoring | Noise Monitoring Coordinates 289137 (E) 6250048 (N) |
| 11 | Noise Monitoring | Noise Monitoring Coordinates 289205 (E) 6249682 (N) |
| 12 | Noise Monitoring | Additional Noise Monitor on Southern Boundary |
| 13 | Weather Station | Meteorological Station Coordinates 289386 (E) 6249718 (N) |

Limit conditions

L4. Waste

L4.1 The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, re-processing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the *Protection of the Environment Operations Act 1997*.

| Code | Waste | Description |
|------|--|---|
| | General or Specific Exempted Waste | |
| | Waste | |
| | Virgin Excavated Natural Material or other approved material | Quantity of waste for use in bund walls is to be determined during application to vary the Environment Protection Licence |

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L4.2 This condition only applies to the storage, treatment, processing, re-processing or disposal of waste at the premises if it requires an environment protection licence under the *Protection of the Environment Operations Act 1997*.

O3. Dust

O3.4 The licensee must develop and maintain an air quality management plan. The objective of the plan is to ensure that the operation minimises or eliminates dust as required by condition O3.1 and O3.4.

The plan must set out proactive and reactive strategies for managing dust, including strategies for deploying dust suppression.

The plan must include, but need not be limited to:

- a. key performance indicator(s)
- b. monitoring method(s)
- c. location, frequency and duration of monitoring
- d. record keeping
- e. response mechanisms and
- f. compliance reporting.

O3.5 The results of any air sampling produced as part of the air quality management plan outlined in Condition O3.5 must be recorded and produced to any authorised officer of the EPA on request.

O4. Stormwater/sediment control - Construction Phase

O4.3 An Surface Water Management Plan (SWMP) must be prepared and implemented. The plan must describe the measures that will be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during **construction activities**.

The SWMP should be prepared in accordance with the requirements for such plans outlined in *Managing Urban Stormwater: Soils and Construction* (available from the Department of Housing).

M8 Other monitoring and recording conditions

M8.3 As part of the Annual Return reporting conditions, the Licensee must submit a Dust Audit Report to the EPA. The Dust Audit Report must:

- a) provide a summary of any dust complaints received and actions taken to reduce dust emissions where complaints are verified;
- b) include results of all dust monitoring undertaken at the Premises in the last 12 months;
- c) assess monitoring results against key performance indicators developed in the Air Quality Management Plan and impact assessment criteria set out in the *Approved Methods for the Modelling and Assessment of Air Pollutants (2016)*;
- d) if environmental performance fails impact assessment criteria, propose additional measures to reduce dust emissions and a timetable for their implementation.