

Department of Planning and Environment



Mr Stephen Barry
Planning Director
Independent Planning Commission of NSW
GPO Box 3415
SYDNEY NSW 2000

14 December 2023

Subject: Airly Mine Modification 5 – Response to Request for Information

Dear Mr Barry

I refer to your letter dated 7 December 2023, requesting information for the Independent Planning Commission's consideration of Airly Mine Modification 5 (SSD 5581).

The Department's response is attached.

If you have any more questions, please contact me on [REDACTED].

Yours sincerely

[REDACTED]

Jessie Evans
Director
Energy and Resource Assessments

Table 1: Department’s response to the Commission’s letter of 7 December 2023

Commission’s Questions	Department’s Response
<p>1. <u>Modification Power</u></p> <p>The NSW Court of Appeal made potentially relevant findings with respect to the Commission’s power to decide the modification in <i>Ku-ring-gai Council v Buyozo Pty Ltd [2021] NSWCA 177</i>, including that the power in s 4.55(1A) of the <i>Environmental Planning and Assessment Act 1979</i> to modify a consent can only be exercised if the modification will effect some change to the development the subject of the development consent. Can the Department please confirm that this power has been enlivened by the Application and on what grounds?</p>	<ul style="list-style-type: none"> • The Department did consider the mentioned court case when accepting and assessing the modification. The Department’s internal assessment and consideration concluded that the proposed modification would constitute a change to the physical development. • Nevertheless, the Department requested additional information from Centennial (attached). Centennial states that Modification 5 to the Airly Mine Consent is different to the modification that was the subject of <i>Ku-ring-gai Council v Buyozo Pty Ltd [2021] NSWCA 177</i> (Buyozo) as Modification 5 seeks to effect some change to the development by increasing the number of employees working at the mine. • The proposed modification has some minor environmental impacts in terms of traffic, noise, greenhouse gases, water use and wastewater. The modification in Buyozo had no such impacts. • The proposed changes to the rehabilitation conditions would also affect some (limited) change to the development consent, in terms of reporting and management. • The Department agrees with Centennials conclusions and considers that the modification power in section 4.55(1A) has been enlivened by Modification 5.
<p>2. <u>Employment increase</u></p>	<ul style="list-style-type: none"> • Airly mine operates a 12-hour day and night shift roster.

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<p>Can the Department please confirm how the extra 35 workers are intended to be utilised (with respect to traffic and other impacts) – e.g. more/larger teams within existing shift hours as opposed to additional shifts at different hours?</p>	<ul style="list-style-type: none"> • Centennial has advised that the additional workers would mainly be accommodated to fill gaps in these rosters on weekends and during night shifts which would in turn facilitate safer and more efficient mining operations. • Additional workers may also be utilised for specific mining tasks that could be outside normal shift rosters. • Traffic impacts would be distributed largely within the current shift roster times.
<p>3. <u>Mine closure water management</u></p> <p>With respect to the proposed change to Schedule 4 Condition 27 (Rehabilitation Management Plan) and the consequent removal of clause (e) of the condition requiring a Closure Groundwater Monitoring and Management Plan, can the Department please confirm how the objectives of clause (e) would be addressed under the recommended conditions for Mod 5?</p>	<ul style="list-style-type: none"> • Condition 7(iii) of Schedule 3, requires the development of an Water Management Plan as part of the Extraction Plan. • This requires a groundwater monitoring plan to monitor and report of groundwater inflows and to describe mitigation management strategies and adaptive management strategies in the event of exceedances. • The Extraction Plan assessment process at Airly is also underpinned by a review of a specific independent expert Panel. The Department may also choose to engage the Independent Expert Advisory Panel for Mining for specific concerns on the Extraction Plan. • Condition 13 of Schedule 4 requires a site Water Management Plan which includes assessment of impacts on groundwater springs, seeps, inflows and plans to respond to any exceedances of performance measures associated with groundwater • Centennial are also required to meet the rehabilitation objectives outlined in Condition 25 of Schedule 4. • The Department considers that these conditions largely cover the current requirements of a Closure Groundwater Monitoring and Management Plan and could be considered more robust due to the involvement of independent experts.

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<p>4. <u>Assessment Report</u></p> <p>The version of the Department's Assessment report provided to the Commission on 24 November 2023 contains a number of broken hyperlinks (see paragraphs 1, 5 and 26). Can the Department please provide an updated copy with working links?</p>	<p>An updated version of the report has been uploaded to the Department's website and is attached.</p>
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