

Notice of Modification

Section 75W of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning, I modify the development consent referred to in Schedule 1, as set out in Schedule 2.



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Executive Director
Resource Assessments and Compliance

Sydney

16 August

2018

SCHEDULE 1

The Project Approval (07_0087) for the Bloomfield Coal Project, granted by the then Director General on 3 September 2009, under delegation from the Minister for Planning.

SCHEDULE 2

1. In the list of definitions delete the terms "AEMR", "Biodiversity Offset Strategy", "Department", "Director-General", "DRE", "Material harm to the environment", "Minister", "NOW", "Reasonable and feasible" and "Response to submissions", and their definitions, and insert the following in alphabetical order:

Annual Review	The review required by condition 3 of Schedule 5
BC Act	<i>Biodiversity Conservation Act 2016</i>
BCT	NSW Biodiversity Conservation Trust
Biodiversity Offset Strategy	The Biodiversity Offset Strategy as described in EA (MOD 1) and EA (MOD 4)
Department	Department of Planning and Environment
Dol	Department of Industry - Lands and Water
DRG	Division of Resources and Geoscience within the Department
DSC	Dams Safety Committee
EA (MOD 1)	Modification application 07_0087 Mod 1 and Environmental Assessment titled <i>Extension of the Project Approval Area for out-of-pit overburden emplacement and rehabilitation, alternative haul road and powerline relocation</i> , prepared by Business Environment and dated September 2010, including the Biodiversity Offset Strategy titled <i>Bloomfield Colliery Project Modification (07_0087 MOD 1) – Proposed Offset Strategy</i> , dated 31 March 2011
EA (MOD 2)	Modification application 07_0087 Mod 2 and letter entitled <i>Bloomfield Coal Project – Modification of PA 07_0087</i> , dated November 2011
EA (MOD 3)	Modification application 07_0087 Mod 3 as requested by letter entitled <i>Bloomfield Coal Project – Modification of PA 07-0087</i> and dated 17 December 2012
EA (MOD 4)	Modification application 07_0087 and accompanying Environmental Assessment prepared for the Bloomfield Group entitled <i>Bloomfield Colliery – Life of Mine Extension, Modification 4</i> (January 2018), including the response to submissions dated 14 June 2018
EPA	Environment Protection Authority
Feasible	Means what is possible and practical in the circumstances
Material harm	Is harm that:

- involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or
 - results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
- This definition excludes “harm” that is authorised under either this approval or any other statutory approval’
- Minister
Modification 4
NSW Minister for Planning, or delegate
The modification to the project as described in EA (MOD 4)
- Reasonable
Means applying judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements
- Secretary
Planning Secretary under the EP&A Act, or nominee
2. In the definition for “EA”, following the words “response to submissions”, insert the words “dated 5 February 2009”.
 3. Delete all references to “Director-General” and replace with “Secretary”.
 4. Delete all references to “shall” and replace with “must”, except in condition 3 of Schedule 2.
 5. Delete all references to “DRE” and replace with “DRG”.
 6. Delete all references to “DoP” and replace with “the Department”.
 7. Delete all references to “NOW” and replace with “DoI”.
 8. Delete all references to “AEMR” and replace with “Annual Review”.
 9. Delete condition 2 of Schedule 2 and insert the following:
 2. The Proponent must carry out the project generally in accordance with the:
 - (a) EA, EA (MOD 1), EA (MOD 2), EA (MOD 3) and EA (MOD 4);
 - (b) Biodiversity Offset Strategy; and
 - (c) Statement of Commitments.

Notes:

 - The general layout of the project is shown in Appendix 2; and
 - The Statement of Commitments is reproduced in Appendix 3.
 10. After condition 2 of Schedule 2, insert the following:
 - 2A. The Proponent must carry out the project in accordance with the conditions of this approval.
 11. In condition 4 of Schedule 2, delete paragraphs (a) and (b) and insert the following:
 - (a) any reports, strategies, plans, programs, reviews, audits or correspondence that are submitted in accordance with the conditions of this approval;
 - (b) any reviews, reports or audits undertaken or commissioned by the Department regarding compliance with the conditions of this approval; and
 - (c) the implementation of any actions or measures contained in these documents.
 12. In condition 5 of Schedule 2, delete “2021” and replace with the year “2030”.
 13. After condition 14 of Schedule 2, insert the following:

Evidence of Consultation

 15. Where conditions of this approval require consultation with an identified party, the Proponent must:
 - (a) consult with the relevant party prior to submitting the subject document to the Secretary for approval; and
 - (b) provide details of the consultation undertaken including:
 - the outcome of that consultation, matters resolved and unresolved; and

- details of any disagreement remaining between the party consulted and the Proponent and how the Proponent has addressed the matters not resolved.

Applicability of Guidelines

- References in the conditions of this approval to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this approval.
- However, consistent with the conditions of this approval and without altering any limits or criteria in this approval, the Secretary may, when issuing directions under this approval in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

Compliance

- The Proponent must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this approval relevant to activities they carry out in respect of the project.
- In conditions 1, 4, 16 and 19 of Schedule 3, delete references to “OEH” and replace with “EPA”.
- Delete the notes to Table 1 of condition 1 of Schedule 3 and replace with:

Note: To interpret the locations in Table 1, see Appendix 2.

- In condition 4 of Schedule 3:
 - delete the words “and implement” after the word “prepare”; and
 - after paragraph (b) insert the following:

The Proponent must implement the Noise Monitoring Program as approved by the Secretary.

- In condition 13 of Schedule 3, delete the paragraph beginning with “If the matter cannot” and ending with “(see Appendix 5).”.
- In condition 14 of Schedule 3:
 - delete the words “and implement” after the word “prepare”; and
 - after paragraph (b) insert the following:

The Proponent must implement the Blast Monitoring Program as approved by the Secretary.

- In condition 15 of Schedule 3, delete Tables 4, 5 and 6, including the headings and note, and insert the following:

Table 4: Air quality criteria

Pollutant	Averaging Period	Criterion
Particulate matter < 10 µm (PM ₁₀)	Annual	a,c 25 µg/m ³
Particulate matter < 10 µm (PM ₁₀)	24 hour	b 50 µg/m ³
Particulate matter < 2.5 µm (PM _{2.5})	Annual	a,c 8 µg/m ³
Particulate matter < 2.5 µm (PM _{2.5})	24 hour	b 25 µg/m ³
Total suspended particulates (TSP)	Annual	a,c 90 µg/m ³
^d Deposited dust	Annual	b 2 g/m ² /month a 4 g/m ² /month

Notes:

^a Total impact (i.e. incremental increase in concentrations due to the development plus background concentrations due to all other sources).

^b Incremental impact (i.e. incremental increase in concentrations due to the project on its own).

^c Excludes extraordinary events such as bushfires, prescribed burning, dust storms, fire incidents or any other activity agreed by the Secretary.

^d Deposited dust is to be assessed as insoluble solids as defined by Standards Australia, AS/NZS 3580.10.1:2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulate Matter - Deposited Matter - Gravimetric Method.

- In condition 16 of Schedule 3:

- a) delete the words “and implement” after the word “prepare”; and
- b) after paragraph (b) insert the following:

The Proponent must implement the Air Quality Monitoring Program as approved by the Secretary.

21. In condition 19 of Schedule 3:

- a) delete the words “and implement” after the word “prepare”; and
- b) after paragraph (c) insert the following:

The Proponent must implement the Water Management Plan as approved by the Secretary.

22. In condition 21 of Schedule 3, delete the reference to “OEH” and replace with “DECC”.

23. Delete condition 25, including the heading and insert the following:

Rehabilitation Objectives and Commitments

25. The Proponent must rehabilitate the site to the satisfaction of DRG and the Secretary. This rehabilitation must be generally consistent with the proposed rehabilitation activities described in the documents listed in condition 2 of Schedule 2 and comply with the objectives in Table 5.

Table 5: Rehabilitation Objectives

Feature	Objective
All areas of the site affected by the project	<ul style="list-style-type: none"> • Safe, stable and non-polluting • Fit for the intended post-mining land use/s
Areas proposed for native ecosystem re-establishment	<ul style="list-style-type: none"> • Restore self-sustaining native woodland ecosystems characteristic of vegetation communities found in the local area. • Establish areas of self-sustaining: <ul style="list-style-type: none"> – riparian habitat, within any diverted and/or re-established creek lines and retained water features; – potential habitat for threatened flora and fauna species; and – wildlife corridors, as far as is reasonable and feasible.
Areas proposed for agricultural land	<ul style="list-style-type: none"> • Establish/restore grassland areas to support sustainable agricultural activities • Achieve the nominated land capability classification
Other land affected by the development	<ul style="list-style-type: none"> • Restore ecosystem function, including maintaining or establishing self-sustaining ecosystems comprised of local native plant species (unless DRG agrees otherwise)
Final Landform	<ul style="list-style-type: none"> • Stable and sustainable for the intended post-mining land use/s • Integrated with surrounding natural landforms • Incorporate micro-relief and drainage lines that are consistent with surrounding topography, to the greatest extent practicable • Maximise surface water drainage to the natural environment (excluding final void catchment)
Final voids	<ul style="list-style-type: none"> • Designed as long term groundwater sinks to maximise ground water flows across back filled pits to the final void • Minimise to the greatest extent practicable: <ul style="list-style-type: none"> – the size and depth of final voids; – the drainage catchment of final voids; – any high wall instability risk; and – the risk of flood interaction
Creek restoration works	<ul style="list-style-type: none"> • Engineered to be hydraulically and geomorphologically stable • Incorporate erosion control measures based on vegetation and engineering revetments • Incorporate structures for aquatic habitat • Revegetate with suitable native species
Surface infrastructure of the development	<ul style="list-style-type: none"> • To be decommissioned and removed, unless DRG agrees otherwise
Rehabilitation materials	<ul style="list-style-type: none"> • Materials from areas disturbed under this consent (including topsoils, substrates and seeds) are to be recovered, managed and used as rehabilitation resources, to the greatest extent practicable
Water quality	<ul style="list-style-type: none"> • Water retained on the site is fit for the intended post-mining land use/s • Water discharged from the site is suitable for receiving waters

Feature	Objective
	and fit for aquatic ecology and riparian vegetation
Community	<ul style="list-style-type: none"> • Ensure public safety • Minimise adverse socio-economic effects associated with mine closure

Note: The rehabilitation objectives detailed in 5 apply to the entire site, including all landforms constructed under either this approval or previous consents. However, they do not require any additional earthmoving works to be undertaken for landforms that have been approved and constructed prior to Modification 4 or under previous consents.

- 25A. The Proponent must rehabilitate the site progressively, that is, as soon as reasonably practicable following disturbance. All reasonable steps must be taken to minimise the total area exposed at any time. Interim stabilisation and temporary vegetation strategies must be employed when areas prone to dust generation, soil erosion and weed incursion cannot be permanently rehabilitated.

Note: It is accepted that some parts of the site that are progressively rehabilitated may be subject to further disturbance at some later stage of the development.

24. In condition 26 of Schedule 3:
- delete the words “and implement” after the word “prepare”;
 - insert the words “, DoI and Council” after the word “OEH”; and
 - after paragraph (b) insert the following:

The Proponent must implement the Landscape Management Plan as approved by the Secretary.

25. After condition 28 of Schedule 3, insert the following:

Tailings Dam Embankment

- 28A. Prior to any decision to construct the embankment as described in EA (MOD 4), the Proponent must submit relevant details to the DSC.

26. In condition 29B of Schedule 3:
- delete the words “and implement” after the word “prepare”; and
 - after paragraph (b) insert the following:

The Proponent must implement the Biodiversity Offset Management Plan as approved by the Secretary.

27. After condition 29C of Schedule 3, insert the following:

Biodiversity Credits

- 29D. Prior to works commencing for the widening of the haul road and upgrade of the watercourse as described in EA (MOD 4), the Proponent must retire 10 ecosystem credits as listed in the credit profile in Appendix D of EA (MOD 4) in consultation with OEH and in accordance with the Biodiversity Offsets Scheme of the BC Act, to the satisfaction of the BCT and OEH.

Note: The listed credits were calculated in accordance with Framework for Biodiversity Assessment of the NSW Biodiversity Offset Policy for Major Projects (OEH, 2014) and may need to be converted to reasonably equivalent ‘biodiversity credits’, within the meaning of the BC Act, to facilitate retirement.

28. In condition 31 of Schedule 3:
- delete the words “and implement” after the word “prepare”; and
 - after paragraph (c) insert the following:

The Proponent must implement the Aboriginal Cultural Heritage Management Plan as approved by the Secretary.

29. After condition 31 of Schedule 3, insert the following:

Historic Heritage Condition Surveys

- 31A. Within 2 months of approval of Modification 4, the Proponent must undertake condition surveys of the:
- Buttai No 1 and No 2 reservoirs; and
 - Buttai Cemetery (Wilfred Elliot Private Cemetery), including any memorial headstones, graves, fences and trees, to the satisfaction of the Secretary.

Historic Heritage Conservation Management Plan

- 31B. The Proponent must prepare a Historic Heritage Conservation Management Plan for the Buttai No 1 and No 2 reservoirs and the Buttai Cemetery, to the satisfaction of the Secretary: This plan must:
- be prepared by a suitably qualified and experienced person/s;
 - be prepared in consultation with OEH, Hunter Water, Council and relevant landowners;
 - be prepared in accordance with Heritage Council of NSW guidelines (where relevant);
 - outline the results of the condition surveys required under condition 31A of Schedule 3;
 - include a program for the regular monitoring of the condition of the No 1 and No 2 reservoirs throughout the life of the project; and
 - include a contingency plan in the case of any damage to the No 1 or No 2 reservoirs, or Buttai Cemetery caused by Modification 4.

The Proponent must implement the Historic Heritage Conservation Management Plan as approved by the Secretary.

30. In condition 33 of Schedule 3:
- delete the words "and implement" after the word "prepare"; and
 - after paragraph (c) insert the following:

The Proponent must implement the Energy Savings Action Plan as approved by the Secretary.

31. In condition 1 of Schedule 4:
- delete the words "within 2 weeks" and insert the words "as soon as practicable and no longer than 7 days"; and
 - after the second reference to "Schedule 3" insert the words "and publish the results on its website".

32. In condition 3 of Schedule 4, following sub-paragraph (c), insert the following:

If the Secretary is not satisfied that an independent review is warranted, the Secretary will notify the landowner in writing of that decision, and the reasons for that decision, within 21 days of the request for a review.

33. In condition 1 of Schedule 5:
- delete the words "and implement" after the word "prepare";
 - in the first bullet point in paragraph (f) delete the words "copies of" and insert the words "references to"; and
 - after paragraph (f) insert the following:

The Proponent must implement the Environmental Management Strategy as approved by the Secretary.

34. In condition 3 of Schedule 5, delete the reference to "EA" and insert the words "documents listed in condition 2 of Schedule 2".

35. In condition 5 of Schedule 5:
- delete the words "*Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects (Department of Planning, 2007, or its latest version)*" and replace with "*Department's Community Consultative Committee Guidelines: State Significant Projects (2016)*"; and
 - delete the note and replace with the following:

Notes:

- The CCC is an advisory committee only.
- In accordance with the guidelines, the committee should comprise an independent chair and appropriate representation from the Proponent, Council and the local community.
- The CCC may also be combined with any similar CCC for the Donaldson Coal Mine or the Abel Coal Mine.

36. In condition 7(b) of Schedule 5, following the words "relevant agencies", insert the words "and the CCC".
37. Delete condition 8 of Schedule 5 and insert the following:

8. Within three months of commencing an Independent Environmental Audit, or within another timeframe agreed by the Secretary, the Proponent must submit a copy of the audit report to the Secretary, and any other NSW agency that requests it, together with its response to any recommendations contained in the audit report, and a timetable for the implementation of the recommendations. The recommendations must be implemented to the satisfaction of the Secretary.

Monitoring and Environmental Audits

- 8A. Any condition of this approval that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification, compliance report and independent audit.

Note: *For the purposes of this condition, as set out in the EP&A Act, “monitoring” is monitoring of the project to provide data on compliance with the approval or on the environmental impact of the project, and an “environmental audit” is a periodic or particular documented evaluation of the project to provide information on compliance with the approval or the environmental management or impact of the project.*

38. In Appendix 3, under table reference 2.2, delete the number “12” and replace with the number “21”.
39. In Appendix 4 delete the figure and insert the following:





Figure 2: Proposed final landform – Abel Underground Mine resumes operation

40. Delete Appendix 5.
41. Update the Table of Contents to reflect the above changes.