

# 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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Director Resource Assessments

Sydney

1 September 2017

### SCHEDULE 1

The development consent (DA 49/94) granted by the Minister for Urban Affairs and Planning on 19 October 1995 for the construction and operation of surface coal mine extensions at Rix's Creek Coal Mine.

### SCHEDULE 2

1. In condition 1 of Schedule 2:
  - a) delete the word "and" at the end of sub-paragraph (ix);
  - b) at the end of sub-paragraph (x), delete the full stop and replace with "; and"; and
  - c) insert the following sub-paragraph:
    - (xi) the modification application DA 49/94 MOD 9 and accompanying documents from Bloomfield Collieries Pty Ltd titled *Environmental Assessment for Proposed Modifications to Rix's Creek DA 49/94 N90/00356 (Mod 9) and Rix's Creek North Open Cut Project 08\_0102 (Mod 7)*, and *Rix's Creek – (DA 49/94 Mod 9) and Rix's Creek North (DA 08\_0102 Mod 7) Response to Submissions*.
2. In condition 3 of Schedule 2, delete the words "Division of Resources and Energy (DRE)" and replace with "Division of Resources and Geosciences within the Department (DRG)".
3. Delete all references to "DRE" and replace with "DRG".
4. Delete condition 18D of Schedule 2 and replace with:

18D. The Applicant must immediately notify the Secretary (using the contact name, email address and phone number provided by the Department from time to time) and any other relevant agencies of any incident.

Within 7 days of the date of the incident, the Applicant must provide the Secretary and any relevant agencies with a detailed report on the incident, and such further reports as may be requested. This report must include the time and date of the incident, details of the incident, measures implemented to prevent re-occurrence and must identify and non-compliance with this consent.
5. After condition 18E of Schedule 2, insert the following:

#### Evidence of Consultation

- 18F. Where consultation with any public authority is required by the conditions of this consent, the Applicant must:
- (a) consult with the relevant public authority prior to submitting the required document to the Secretary for approval;
  - (b) submit evidence of this consultation as part of the relevant document;

- (c) describe how matters raised by the authority have been addressed and any matters not resolved; and
  - (d) include details of any outstanding issues raised by the authority and an explanation of disagreement between any public authority and the Applicant.
6. At the end of condition 26 of Schedule 2, insert the words "The Applicant must implement these recommendations, to the satisfaction of the Secretary."
  7. In condition 28 of Schedule 2, after the word "Secretary.", insert the words "The Applicant must notify the Department in writing of any such review being undertaken. Where this review leads to revisions in any such document, then within 6 weeks of the review the revised document must be submitted for the approval of the Secretary."
  8. In condition 29 of Schedule 2:
    - a) at the beginning of the second paragraph insert the words "The Secretary may approve a revised strategy, plan or program required under this consent, or the staged submission of any of these documents, at any time."; and
    - b) after the second paragraph insert the following:
 

While any strategy, plan or program may be submitted on a staged basis, the applicant will need to ensure that the operations associated with the development are covered by suitable strategies, plans or programs at all times.

If the submission of any strategy, plan or program is to be staged; then the relevant strategy, plan or program must clearly describe the specific stage/s of the development to which the strategy, plan or program applies; the relationship of this stage/s to any future stages; and the trigger for updating the strategy, plan or program.
  9. After condition 30 of Schedule 2, insert the following:

#### **INDEPENDENT REVIEW**

31. If a land-owner considers the project to be exceeding the relevant criteria in Schedule 2, they may ask the Secretary in writing for an independent review of the impacts of the development on their land.
 

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.

If the Secretary is satisfied that an independent review is warranted, within 2 months of the Secretary's decision, the Applicant must:

  - (a) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Secretary, to:
    - consult with the landowner to determine their concerns;
    - conduct monitoring to determine whether the development is complying with the relevant criteria in Schedule 2; and
    - if the development is not complying with that criteria, identify measures that could be implemented to ensure compliance with the relevant criteria; and
  - (b) give the Secretary and landowner a copy of the independent review; and

comply with any written requests made by the Secretary to implement any findings of the review.