

Cowal Gold Mine – Life of Mine Modification (DA 14/98 Mod 9) Assessment Report

BACKGROUND

Barrick Australia Limited (Barrick) owns and operates the Cowal Gold Mine near West Wyalong in central New South Wales (see Figure 1). The Minister for Urban Affairs and Planning approved the mine following a Commission of Inquiry in February 1999 (See Appendix C). The mine has been operational since April 2005 when mining began. Processing of ore commenced in April 2006.



Figure 1: Project Location

The existing consent has been modified on 8 previous occasions (see Appendix D for a copy of the consolidated conditions of the development consent). Under the modified consent, Barrick is allowed to extract and process up to 7.5 million tonnes (Mt) of ore a year until 30 June 2024.

The modification application approved most recently (Mod 6) is known as the “E42 Modification request”. The original E42 Modification request was the subject of legal proceedings in the Land and Environment Court (‘LEC’) and Court of Appeal in 2008 and 2009, respectively. Barrick subsequently amended the E42 Modification request (the “modified E42 Modification request”). The modified request included a proposed extension in the permitted life of mining operations at the mine by 2 years, from 13 years to approximately 15 years. On 10 March 2010 the Minister approved the modified E42 Modification request, which among other things extended the permitted life of mining operations to 30 June 2024. Prior to this modification, the relevant condition read “[t]he development consent ends on the date which is 21 years from the date of the mining lease approval”, which is indeed 30 June 2024.

Mr Neville “Chappie” Williams has brought further proceedings in the LEC challenging the Minister’s approval of the modified E42 Modification request (“E42 Proceedings”). The E42 Proceedings are listed for hearing commencing on 28 February 2011. Mr Williams’ Points of Claim include an allegation that the Minister’s approval is beyond power because it extended the approval for mining operations beyond the two year period sought by Barrick in the modified E42 Modification request.

PROPOSED MODIFICATIONS

On 22 November 2010, Barrick applied to modify its development consent under section 75W of the *Environmental Planning & Assessment Act 1979* (EP&A Act). The proposed modification (see Appendix B) involves amending the relevant condition of the Cowal mine’s consent to properly reflect the operational life of the mine as expressed in the modified E42 Modification request. Barrick has also sought to clarify the consent’s definition of “mining operations”.

STATUTORY CONTEXT

Part 3A

Under Clause 8J(8)(b) of the *Environmental Planning and Assessment Regulation 2000*, a development consent granted under Part 4 of the EP&A Act is taken to be an approval under Part 3A of the Act for the purposes of modification if the development consent was granted by the Minister under the now-repealed *State Environmental Planning Policy No 34 — Major Employment-Generating Industrial Development* (SEPP 34).

The original development consent was granted by the then-Minister under SEPP 34. Consequently, section 75W of the EP&A Act is the appropriate statutory provision under which the Minister may determine the modification application.

Consent Authority

The Minister was the consent authority for the original development application (DA 14/98) and is therefore the consent authority for the modification application. However, the Executive Director, Major Projects Assessment may determine the application under the Minister’s delegation of 25 January 2010.

Modification

The proposed modification involves two administrative changes to the consent, one which relates to the duration of mining operations, and the other to the definition of mining operations. As each of these would have negligible effects on the approved mining operations and resultant environmental impacts (see below), the Department is satisfied that it can be appropriately considered under section 75W as an application to modify the development consent.

CONSULTATION

The Department is not required to notify or exhibit applications under section 75W of the EP&A Act. Given the minor nature of the proposed modification and the limited environmental impacts, the Department has not undertaken any interagency or public consultation. However, because of the E42 Proceedings, the Department sent a letter to the agent acting for Mr Williams on 9 December 2010, notifying him that this modification application had been lodged.

ASSESSMENT

The Department has assessed the application in accordance with the relevant objects and requirements of the EP&A Act and this assessment is summarised in the table below.

Issue	Consideration														
<p>Condition 1.2(i) of Schedule 2</p>	<p>Barrick is seeking to modify its consent to change the date for completion of mining operations from 30 June 2024 to 31 December 2019. The purpose of this request is to reflect the request originally made in the modified E42 Modification request, ie for a two year extension to the previously approved operational mine life, from 13 years to 15 years.</p> <p>The modified E42 Modification request was previously assessed by the Department on the basis that a two year extension of the mining operation was sought. The consent requires that mining operations are conducted in accordance with the environmental assessment (EA) supporting the modified E42 Modification request, which includes a mining operations life of 15 years. However, Condition 1.2(i) was amended so as to allow, at least on its face, the carrying out of mining operations until 30 June 2024, which is the date at which Barrick's mining lease expires.</p> <p>The Department notes that a 15 year mine life from the date of mining operations commencement in April 2005 would actually conclude in April 2020 (see below).</p> <table data-bbox="408 1144 1390 1211"> <tr> <td>Date:</td> <td>4/2005</td> <td>4/2006</td> <td>4/2010</td> <td>4/2015</td> <td>4/2019</td> <td>4/2020</td> </tr> <tr> <td>Elapsed Time (Years):</td> <td>0</td> <td>1</td> <td>5</td> <td>10</td> <td>14</td> <td>15</td> </tr> </table> <p>An extension to April 2020 would be a literal fulfilment of the application made in the modified E42 Modification request, for a 15 year mine life. However, the current application only seeks an extension to 31 December 2019. The Department supports the current application, which leads to an approved mine life of approximately 14 years and 8 months.</p> <p>As a 15 year mine operational life was assessed and approved by the Minister when determining the modified E42 Modification request, the Department is satisfied that this amendment would not change any environmental impacts of the mine from those previously assessed.</p>	Date:	4/2005	4/2006	4/2010	4/2015	4/2019	4/2020	Elapsed Time (Years):	0	1	5	10	14	15
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<p>Definitions in Schedule 2</p>	<p>Barrick is seeking to change the definition of "mining operations" from <i>"includes all ore extraction, processing and transportation activities carried out on site"</i> to <i>"means ore extraction, and processing activities"</i>. It argues that this change would remove any ambiguity associated with the inclusive term and permit activities such as the continued transport operations associated with rehabilitation after 2019.</p> <p>The current definition is directed towards transportation of ore, mineral concentrates and the like, which are clearly part of mining operations (or ancillary to such operations). The Department also notes that condition 1.2(i) of schedule 2 of the consent (where the permitted life of "mining operations" is established), includes a note which provides for all activities other than "mining operations" to be able to continue after the allowed operational life, in order to permit activities such as rehabilitation. The Department therefore considers that the current consent already permits transportation activities which are related to or ancillary to rehabilitation (such as transport of rehabilitation materials, equipment and personnel).</p> <p>Nonetheless, the Department proposes a minor clarification to the definition, such that it reads <i>"includes all ore extraction, ore processing and related transportation activities carried out on site"</i>.</p>														

CONCLUSION

The Department has assessed the modification application and supporting information on the proposal in accordance with the relevant requirements of the EP&A Act, including the objects of the Act and the principles of ecologically sustainable development.

The Department has also taken into consideration previous environmental assessments for the mine, including the EIS and the Commission of Inquiry Report for the original development consent and documents associated with subsequent modification applications and requests. The Department is satisfied that these documents and previous assessments do not have a direct bearing on this modification application (other than as considered above) and that sufficient information to enable the application to be determined has been considered and is either provided or referred to within this assessment report.

Based on this assessment, the Department considers that the proposed modification more consistently reflects the development the subject of the E42 Modification as previously assessed and approved. Given the modification that is proposed to condition 1.2(i) is of a minor administrative nature and would not alter the impacts of the approved development, the Department is satisfied that the impacts of the modification would be negligible.

RECOMMENDATION

It is recommended that the Executive Director, Major Projects Assessment, as delegate of the Minister:

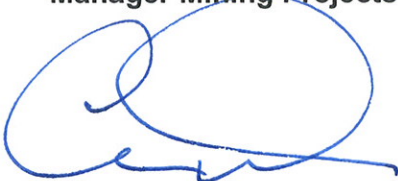
- **consider** the findings and recommendations of this report;
- **determine** that the proposed modification falls within the scope of section 75W of the EP&A Act;
- **approve** the application under section 75W, subject to conditions;
- **sign** the notice of modification in Appendix A.



Howard Reed 11.1.11
Manager Mining Projects



David Kitto 11/1/11
**Director
Mining & Industry Projects**



Chris Wilson 17.1.11
Executive Director, Major Projects Assessment

APPENDIX A. NOTICE OF MODIFICATION

APPENDIX B. MODIFICATION APPLICATION AND REQUEST

See the attached documents

APPENDIX C. ORIGINAL DEVELOPMENT CONSENT

See the attached document

APPENDIX D. CONSOLIDATED DEVELOPMENT CONSENT

See the attached document