

Notice of Modification

Section 96(2) 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.



Chris Wilson
Executive Director, Major DA Assessments

Sydney

6 October

2009

SCHEDULE 1

The development consent (DA-172-7-2004) for the Werris Creek Coal Mine, granted by the Minister for Infrastructure and Planning on 18 February 2005.

SCHEDULE 2

1. In the table titled "DEFINITIONS" in schedule 2, delete the abbreviations for DECC, DPI, DWE, RTA and SEE and their definitions, and insert in alphabetical order the following:

DECCW	Department of Environment, Climate Change and Water
DII	Department of Industry and Investment
NOW	NSW Office of Water within DECCW
DTI	Department of Transport and Infrastructure
2. Delete all references to "DECC" and replace with "DECCW".
3. Delete all references to "DPI" and replace with "DII".
4. Delete all references to "DWE" and replace with "NOW".
5. In condition 2(f) of schedule 3 delete "(the SEE)".
6. In condition 2 of schedule 3, delete all words after "November 2008;" and replace with the following:
 - (i) *Statement of Environmental Effects for a Modification to the Mining Area and Related Activities at the Werris Creek Coal Mine* prepared by RW Corkery & Co Pty Limited, dated March 2009;
 - (j) *Responses to Submissions for the Statement of Environmental Effects for a Modification to the Mining Area and Related Activities at the Werris Creek Coal Mine* prepared by RW Corkery & Co Pty Limited, dated July and August 2009; and
 - (k) the conditions of this consent.
7. Delete condition 6A of schedule 3.
8. After condition 16 of schedule 4, insert the following:

Additional Noise Mitigation Measures

- 16A If noise monitoring shows the noise generated by the development is equal to or greater than 38 dB(A) $L_{Aeq(15 \text{ minute})}$ at any privately-owned residence (except where a written negotiated noise agreement is in place or the landowner has requested acquisition); then upon receiving a written request from the landowner, the Applicant shall implement reasonable and feasible noise mitigation measures (such as double glazing, insulation, and/or air conditioning) at the residence in consultation with the landowner. If within 3 months of receiving this request from the landowner, the Applicant and the landowner cannot agree on the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the Director-General for resolution.
9. Delete condition 38 of schedule 4 and replace with the following:
38. The Applicant shall implement the Biodiversity Offset Strategy (as summarised in Table 16 and shown in the figure in Appendix 3) in accordance with best practice flora and fauna management, and to the satisfaction of the Director-General.

Component	Location	Size (ha)
White Box Yellow Box Blakely's Red Gum Woodland endangered ecological community (22 ha) and Native Vegetation on Cracking Clay Soils of the Liverpool Plains endangered ecological community (102 ha)	south west of the mine	124
Area remaining from the original "200 ha" offset	south east and east of the open cut	77
Potential Linkage of remnant White Box, rehabilitation and plantings	south and south west of the open cut	129
White Box Yellow Box Blakely's Red Gum Woodland endangered ecological community	"Railway View"	20
Tumbledown Gum Woodland Community	"Railway View"	4.5
Cleared land	"Railway View"	7.5
Total Offset Area		362

Table 16: Biodiversity Offset Strategy

10. In condition 39 of schedule 4, delete "31 December 2009" and replace with "30 June 2010".
11. Delete condition 58 of schedule 4 and replace with the following:

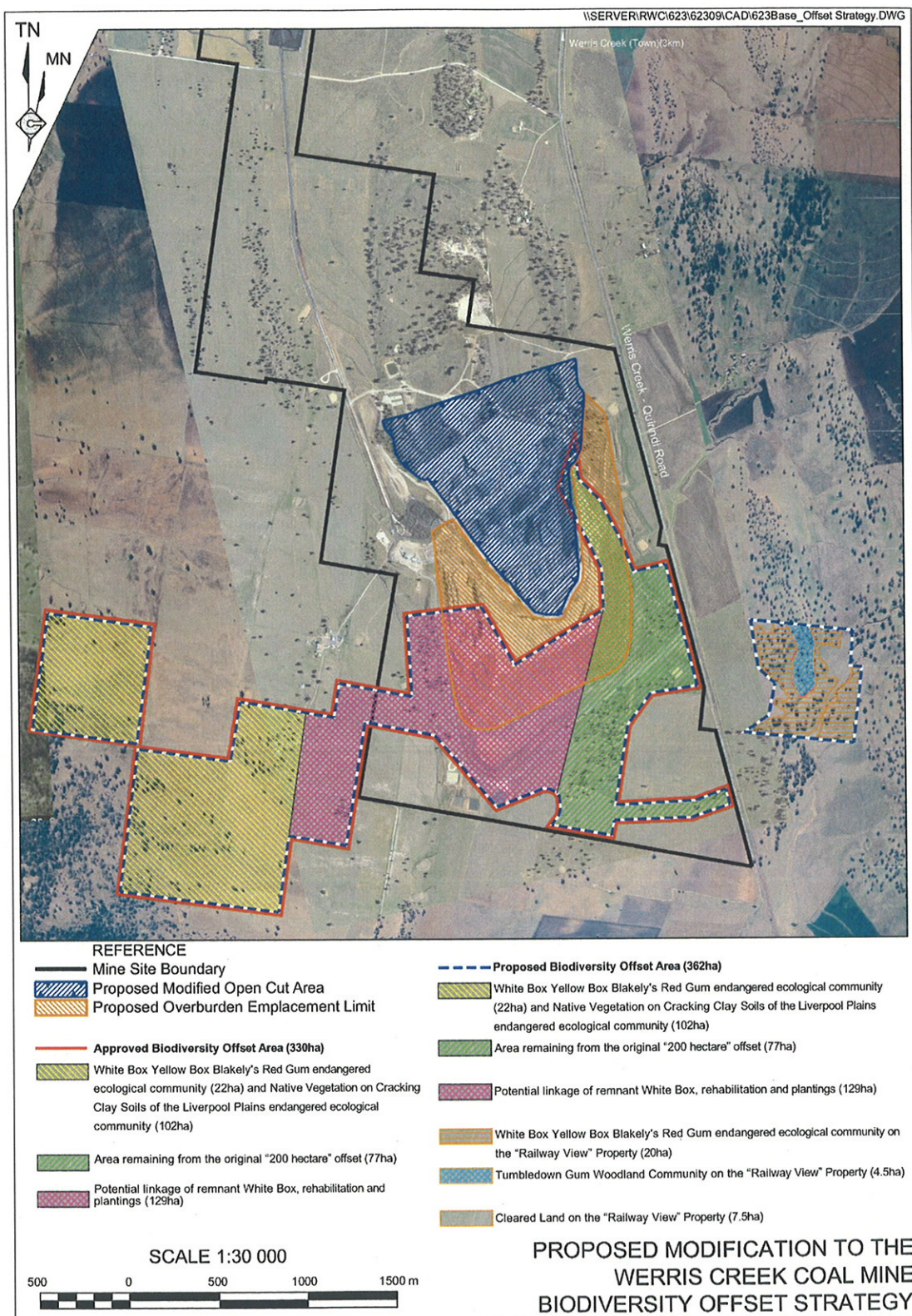
GREENHOUSE GAS EMISSIONS

58. The Applicant shall implement an Energy Savings Action Plan for the project to the satisfaction of the Director-General. This plan must:
- be prepared in accordance with the *Guidelines for Energy Savings Action Plans* (DEUS, 2005), or its latest version;
 - include consideration of energy use by mobile equipment and investigate ways to reduce greenhouse gas emissions generated by the development; including the use of mains electric power to operate equipment associated with the coal processing plant and the rail load-out facility; and
 - be submitted to the Director-General for approval prior to 30 June 2010; and
 - include a program to monitor the effectiveness of measures to reduce energy use on site.

The Applicant must also report on greenhouse gas monitoring and management measures in the AEMR, to the satisfaction of the Director-General.

12. Delete Appendix 3 and replace with the following:

APPENDIX 3 LOCATION OF BIODIVERSITY OFFSET STRATEGY



15. Update the Table of Contents, as required, to reflect the above conditions.