

Application to modify a development consent



NSW GOVERNMENT
Department of Planning

Date lodged: ____/____/____

DA modification no. _____
(Office use only)

1. Before you lodge

This form is to be used for applications to modify Part 4 development consents under section 96 or 96AA of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This form is also to be used for Part 4 development consents that are to be modified under section 75W of the Act.

Disclosure statement

Persons lodging modification applications are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years. For more details, including a disclosure form, go to www.planning.nsw.gov.au/donations.

Lodgement

Anyone wishing to lodge an application is recommended to call the Department of Planning to discuss their proposal and modification application requirements prior to lodging their application. You can lodge your completed form, together with attachments and fees at the relevant Department of Planning office listed below. Please lodge Part 4 modification applications with the Department of Planning head office or, for modification applications that are within the Kosciuszko ski resorts area, the Department's Alpine Resorts team.

NSW Department of Planning
Head Office
Ground Floor, 23–33 Bridge Street, Sydney NSW 2000
GPO Box 39 Sydney NSW 2001
Phone: 1300 305 695 Fax: (02) 9228 6555
Email: information@planning.nsw.gov.au

NSW Department of Planning
Alpine Resorts Team
Shop 5A, Snowy River Avenue
PO Box 36, Jindabyne NSW 2627
Phone: (02) 6456 1733 Fax: (02) 6456 1736
Email: alpineresorts@planning.nsw.gov.au

To minimise delay in receiving a decision about your application, please ensure you submit all relevant information to the Department. When your application has been assessed, you will receive a notice of determination.

2. Applicant and contact details

Company/organisation/agency

Bengalla Mining Company Pty Limited

ABN

32 053 909 470

☒ Mr ☐ Ms ☐ Mrs ☐ Dr ☐ Other

First name

Dan

Family name

Janney

STREET ADDRESS

Unit/street no.

Street name

Bengalla Road

Suburb or town

Muswellbrook

State

NSW

Postcode

2333

POSTAL ADDRESS (or mark 'as above')

Locked Mail Bag 5

Suburb or town

Muswellbrook

State

NSW

Postcode

2333

Daytime telephone

02 6542 9500

Fax

02 6542 9599

Mobile

0428 429 525

Email

craig.white2@rtca.riotinto.com.au

3. Property description

Unit/street no. (or lot no. for Kosciuszko ski resorts)

Street or property name

Suburb, town or locality

Postcode

Local government area

Lot/DP or Lot/Section/DP or Lot/Strata no.

Please ensure that you put a slash (/) between lot, section, DP and strata numbers. If you have more than one piece of land, you will need to separate them with a comma e.g. 123/579, 162/2.

See Attachment A.

Note: You can find the lot, section, DP or strata number on a map of the land or on the title documents for the land, if title was provided after 30 October 1983. If you have documents older than this, you will need to contact the NSW Department of Lands for updated details. If the subject land is located within the Kosciuszko ski resorts area, DP and strata numbers do not apply.

4. Details of the original development consent

Briefly describe your approved development in the space below. If the development has been modified previously you must list all previous modifications and the relevant determination date(s).

On 7 August 1995, BMC was granted development consent DA 211/93, which allowed for the "Construction and operation of a surface coal mine, coal preparation plant, rail loop, loading facilities and associated facilities". The development is described in the Bengalla Coal Mine Environmental Impact Statement (Envirosciences, 1993).

DA 211/93 has been modified four times since it was originally granted, including:

MOD 1 - granted on 9 November 2006 for various mine plan alterations as described in the Statement of Environmental Effects Modification to Mining Operations (Hansen Consulting, 2006);

MOD 2 - granted on 6 December 2007 for the extension of mining operations into the Wantana Extension area and minor infrastructure modifications. This modification is described in the Wantana Extension Statement of Environmental Effects (Hansen Bailey, 2007);

MOD 3 - granted on 22 July 2008 for the construction of the remaining section of the Bengalla Link Road and to defer the relocation of the ROM hopper and associated infrastructure. This modification is described in the Bengalla Mine Development Consent Modification Environmental Assessment (Hansen Bailey, 2008); and

MOD 4 - granted on 7 October 2011 for the acceleration of mining operations in the Wantana Extension and implementation of an overburden emplacement strategy. This modification is described in the Bengalla Mine Development Consent Modification Environmental Assessment (Hansen Bailey, 2010).

What was the original development application no.?

DA 211/93

What was the date consent was granted?

7 August 1995

What was the original application fee?

N/A

5. Type of modification

An application under section 96 of the EP&A Act is an application to modify a development consent. Modifications to a development consent can also be made under section 75W of the EP&A Act, or section 96AA for court granted consents.

There are five types of modification applications. Please tick the type of modification application that is being sought:

- ☐ Section 96(1) involving minor error, misdescription or miscalculation.
- ☐ Section 96(1A) involving minimal environmental impact, where the development as originally approved remains substantially the same.
- ☐ Section 96(2) other modification, where the development as originally approved remains substantially the same.
- ☐ Section 96AA modification of consent granted by the Land and Environment Court, where the development as originally approved remains substantially the same.
- ☒ Section 75W modification, involving use of Part 3A processes to modify the Part 4 consent.

Note: If the proposed modification will lead to the consented development being not 'substantially the same' (except in the case of a proposed modification under section 75W) then you will need to submit a new development application.

6. Extent of modification

Will the modified development be substantially the same as the development that was originally approved?

No ☐ Please submit a new development application.

Yes ☐ Please provide evidence that the development will remain substantially the same. (If you need to attach additional pages, please list below the material attached).

N/A

Note: Question 6 does not apply to proposed modifications under section 75W.

7. Description of modification

- In the case of a section 96(1) application, indicate the nature of the minor error, misdescription or miscalculation in the space below.
- In the case of a section 96(1A), section 96(2) or section 96AA application describe the impact of the modification in the space below. A statement of environmental effects will need to accompany the application, which includes an assessment of the development as proposed to be modified in accordance with section 79C(1) of the EP&A Act. Provisions of the *Heritage Act 1977* may also apply for works to a heritage item or works adjoining a heritage item.
- In the case of a section 75W application under clause 8J(8) of the Environmental Planning and Assessment Regulation 2000, a development consent in force immediately before the commencement of Part 3A of the Act may be modified under section 75W as if the consent were an approval under that Part. However, approval from the Minister is required to lodge a section 75W application. **Applicants should contact the Department first if they are considering applying for a modification under section 75W.**

Regardless of the type of modification, please state below the specific conditions of consent to be modified, deleted or additional conditions request, and details of any other changes being sought.

The Modification is required to facilitate the necessary geotechnical investigations (including test pits and boreholes) to complete the detailed design for the proposed relocation and creation of future water reticulation facilities as described in the Bengalla Mine Development Consent Modification Environmental Assessment (Hansen Bailey, 2014).

Note: If your proposal is within Kosciuszko ski resorts area, please attach a copy of the Interim Lease Variation Approval received from the Department of Environment and Climate Change to your application.

8. General terms of approval from State agencies

If the original development application was classified as integrated development and required approval from one or more State agencies, list them in the space below and their respective general terms of approval. Depending on the type of modification, it may be necessary to refer the modification application to the approval body.

N/A

9. Number of jobs to be created

Please indicate the number of jobs the proposed development will create. This should be expressed as a proportion of full time jobs over a full year, (e.g. a person employed full time for 6 months would equal 0.5 of a full time equivalent job; six contractors working on and off over 2 weeks equate to 2 people working full time for 2 weeks, which equals approximately 0.08 of an FTE job).

Construction jobs (full time equivalent)

0

Operational jobs (full time equivalent)

0

10. Application fee

Part 15 of the Environmental Planning and Assessment Regulation 2000 sets out how to calculate the fees for an application for modification of a development consent. If your development needs to be advertised to the public you may also need to include an advertising fee.

Note: Advertising fees attract GST, all other fees do not.

Please contact the Department in order to calculate the fee for your modification application.

Estimated cost of the development

\$41,575

Original application fee

Unknown

Total fees lodged

\$5,000

11. Political donation disclosure statement

Persons lodging modification applications are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years. Disclosure statements are to be submitted with your application.

Have you attached a disclosure statement to this application?

Yes ☒

No ☐

Note: For more details about political donation disclosure requirements, including a disclosure form, go to www.planning.nsw.gov.au/donations.

12. Owner's consent

The owner(s) of the land to be developed must sign the application. If you are not the owner of the land, you must have all the owners sign the application. If the land is Crown land, an authorised officer of the NSW Department of Lands must sign the application. **An original signature must be provided.**

As the owner(s) of the above property, I/we consent to this application:

Signature

Name

Date

Signature

Name

Date

Note: For applications within the Kosciuszko ski resorts area, the approval of the lessee rather than the owner is required.

13. Applicant's signature

The applicant, or the applicant's agent, must sign the application. Only an original signature will be accepted (photocopies or faxed copies will not be accepted).

Signature



Date

2 June 2014

In what capacity are you signing if you are not the applicant

General Manager

Name, if you are not the applicant

Dan Janney

14. Privacy policy

The information you provide in this application will enable the Department, and any relevant state agency, to assess your application under the *Environmental Planning and Assessment Act 1979* and other applicable state legislation. If the information is not provided, your application may not be accepted.

If your application is for designated development or advertised development, it will be made available for public inspection and copying during a submission period. Written notification of the application will also be provided to the neighbourhood. You have the right to access and have corrected any information provided in your application. Please ensure that the information is accurate and advise the Department of any changes.

ATTACHMENT A

BENGALLA MINING COMPANY DA211/93 MODIFICATION 5 SCHEDULE OF LAND

Lot	DP	Owner
5	801249	Bengalla Mining Company
4	801249	Mt Pleasant
1	998477	Mt Pleasant
2	998477	Mt Pleasant
3	998477	Mt Pleasant
8	821183	Bengalla Mining Company
43	792447	Bengalla Mining Company
105	1148907	Bengalla Mining Company
103	1148907	Bengalla Mining Company
100	1148907	Bengalla Mining Company
102	1148907	Bengalla Mining Company