

Notice of Modification

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

As delegate of the Minister for Planning, the Planning Assessment Commission of NSW modifies the development consent referred to in Schedule 1, as set out in Schedule 2.



Gordon Kirkby (Chair)
Member of the Commission



Annelise Tuor
Member of the Commission



Tony Pearson
Member of the Commission

Sydney

20 December 2017

SCHEDULE 1

The development consent (DA 305-7-2003) granted by the Minister Assisting the Minister for Infrastructure for Planning (Planning Administration) for the Wambo Coal Mine on 4 February 2004.

SCHEDULE 2

1. Delete the 5th bullet point in Proposed Development in Schedule 1, and replace with the following:
 - longwall mining of the Whybrow Seam via the open cut highwall;
2. In the list of definitions in Schedule 2, delete the terms “DPI-Water” and “DRE” and their definitions, and insert the following terms and definitions in alphabetical order:

CLWD	Crown Lands and Water Division of the Department of Industry
DRG	Division of Resources and Geoscience within the Department
Low level cliffs	Low level cliffs as defined in the Subsidence Assessment (Appendix A) of the Environmental Assessment described in condition 2(r) of Schedule 3
South Bates Extension Area	The longwall mining domain described in the documents listed in condition 2(r) of Schedule 3
3. In the list of definitions in Schedule 2, delete the term “Longwall domain” and insert instead “Longwall Domains”.
4. Replace all references to “DRE” with “DRG”.
5. Replace all references to “DPI-Water” with “CLWD”.
6. In condition 2 of Schedule 3:
 - (a) delete the word “and”, following the words “July 2016;”;
 - (b) delete paragraph (r) and replace with the following:
 - (r) the modification application DA 305-7-2003 MOD 17 and accompanying documents entitled *South Bates Extension Modification Environmental Assessment*, dated March 2017, associated Response to Submissions (Parts A and B) dated June and September 2017; and
 - (s) Approved Layout, shown in Appendix 5.
7. In condition 6 of Schedule 3, delete the words “1 March 2032.”, and insert the following:

31 December 2039, except for open cut coal extraction, which may only be undertaken until 31 December 2020.
8. Delete condition 7 of Schedule 3, and replace with the following:
 7. The Applicant must not extract more than:
 - (a) 8 million tonnes of ROM coal a year from the open cut mining operations;
 - (b) 9.75 million tonnes of ROM coal a year from the underground mining operations; and
 - (c) 14.7 million tonnes of ROM coal a year from the development, in total.

9. After condition 12 of Schedule 3, insert the following:

Evidence of Consultation

13. Where consultation with any stakeholder identified in the conditions of this approval is required by any conditions of this approval, the Applicant must:
- (a) consult with the relevant stakeholder prior to submitting the required document to the Secretary for approval;
 - (b) submit evidence of such consultation as part of the relevant document;
 - (c) describe how matters raised by the stakeholder have been addressed and identify any matters that have not been resolved; and
 - (d) include details of any outstanding issues raised by the stakeholder and an explanation of disagreement between any stakeholder and the Applicant.

Compliance

14. The Applicant must ensure that all employees, contractors and sub-contractors are aware of, and comply with, the conditions of this approval relevant to their respective activities.

10. After condition 3 of Schedule 4, insert the following:

3A. The Applicant must reduce visible emissions from methane flares as far as reasonable and feasible.

11. In condition 4 of Schedule 4, replace the footnote reference 'a' in the second row, third column of Table 3 with the footnote reference 'b'.

12. In Table 14A of condition 22 of Schedule 4:

(a) insert the following two rows under the row beginning "Wollombi Brook":

Cliffs	
Low level cliffs	Minor environmental consequences (that is occasional rockfalls, displacement or dislodgement of boulders or slabs, or fracturing that in total do not impact more than 5% of the total face area of such features within the South Bates Extension Area)

(b) insert the following row above the row beginning "Other threatened species, populations or communities":

Central Hunter Valley Eucalypt Forest and Woodland Ecological Community	Minor cracking and ponding of the land surface or other impact. Negligible environmental consequences
---	--

(c) in the row beginning "Other threatened species, populations or communities", delete the word "threatened"

(d) in the row beginning "Other Species" after the word "communities" insert the words "listed under the *Biodiversity Conservation Act 2016* or the *Environment Protection and Biodiversity Conservation Act 1999*".

13. In condition 33 of Schedule 4:

- (a) delete the word "and", following the words "Stony Creeks;"; and
- (b) delete the full stop in paragraph (f) and insert instead:

; and

(g) a program to monitor the water quality of dam discharges from the site.

14. After condition 33 of Schedule 4, insert the following:

33A. Within 3 months of the approval of Modification 17, or as otherwise agreed with the Secretary, the Applicant must, in consultation with CLWD, revise the Surface Water Monitoring Program to:

- (a) include installation of an up-stream flow gauge site on North Wambo Creek;
- (b) complete a geomorphic context statement for North Wambo Creek; and
- (c) undertake a pre-subsidence survey and energy profile analysis, and develop pre-subsidence channel profiles for both cross sectional and long profiles.

The Applicant must complete the installation of the flow gauge and the other actions required under this condition and implement a program to regularly monitor flows in North Wambo Creek within 12 months of the Secretary's approval of the revised Surface Water Monitoring Program.

15. After condition 34A of Schedule 4, insert the following:

34B. Within 3 months of the approval of Modification 17, or as otherwise agreed with the Secretary, the Applicant must revise the Ground Water Monitoring Program, in consultation with CLWD, to include the installation of:

- (a) clustered monitoring bores for the South Bates Extension Area, located in proximity to the Hunter Lowland Redgum Forest along North Wambo Creek, and characterise the geological and hydrological systems in the vicinity of this vegetation community, including an assessment of the presence and extent of any shallow groundwater; and
- (b) monitoring vibrating wire piezometers, located above the South Bates Extension Area, both within and beyond the areas with potential for connective cracking.

The Applicant must complete the installation of the bores and piezometers required under this condition and establish a program to continually monitor them within 12 months of the Secretary's approval of the revised Ground Water Monitoring Program.

16. After condition 35 of Schedule 4, insert the following:

35A. The Applicant must take into account the results of data collected pursuant to the implementation of condition 29 and conditions 33 to 35 in any Extraction Plan for the South Bates Extension Area or the Longwall Domains.

17. After condition 36 of Schedule 4, insert the following:

Groundwater Dependent Ecosystem Study

36A. Within 12 months of the approval of Modification 17, or as otherwise agreed with the Secretary, the Applicant must commission and provide to the Secretary for approval, a Groundwater Dependent Ecosystem Study report. This study must:

- (a) be prepared by suitably qualified and experienced person/s whose appointment has been endorsed by the Secretary;
- (b) be developed in consultation with CLWD;
- (c) adopt any available data collected from the revised Groundwater Monitoring Program;
- (d) provide advice on the likely level of groundwater dependence of the vegetation in the South Bates Extension Area given current groundwater levels and expert knowledge of the vegetation communities in the region;
- (e) in the event it is considered that vegetation communities in the vicinity of the South Bates Extension Area are groundwater dependent (either entirely or partially), provide advice on the likelihood that subsidence associated with the South Bates Extension Area could cause adverse impacts and how any such impacts would manifest;
- (f) consider to what degree the cumulative impacts of adjacent mining operations may have already impacted groundwater dependent vegetation across the South Bates Extension Area;
- (g) provide any recommendations regarding the revised Ground Water Monitoring Program required under condition 34B, and in particular provide any recommendations that would assist in assessing the potential fracture interconnections between surface water resources and hard rock aquifers that may impact on groundwater dependent vegetation; and
- (h) include a management and/or remediation program that describes measures that could be implemented to ensure compliance with the performance measures in Table 14A for any groundwater dependent endangered ecological community.

36B. The Applicant must take into account the findings of the Groundwater Dependent Ecosystem Study and not less than 2 years of monitoring results obtained under condition 34B in the preparation of any Extraction Plan for Longwalls 23 – 25.

18. Delete 51 of Schedule 4, including the heading, and insert instead:

Aboriginal Cultural Heritage Management Plan

51. The Applicant must develop a management plan to manage Aboriginal cultural heritage in Remnant Woodland Enhancement Area A (referred to in condition 41 above) within 12 months of entering into a conservation agreement over that Area, or as otherwise agreed by the Secretary. The management plan must be:

- (a) prepared by suitably qualified and experienced person/s whose appointment has been endorsed by the Secretary;
- (b) developed in consultation with OEH and the Aboriginal communities; and

(c) approved by the Secretary.

The Applicant must implement the management plan as approved by the Secretary.

19. After condition 62 of Schedule 4, insert the following:

62A. Prior to commencing second workings in the South Bates Extension Area, the Applicant must complete an Archival Recording of the Whynot Homestead and Outbuildings, and submit copies of the Archival Recording to Council and relevant local historical societies.

20. Replace Appendix 1 with the following:

Lot Number	Deposited Plan Number	Tenure Type
1	DP110084	Freehold
1	DP1089682	Freehold
1	DP114970	Freehold
1	DP709722	Freehold
1	DP720705	Freehold
1	DP241316	Freehold
1	DP616303	Freehold
1	DP1177768	Freehold
1	DP1174490	Local Government Authority
100	DP753792	Freehold
101	DP753792	Freehold
103	DP753792	Freehold
104	DP753792	Freehold
109	DP753792	Freehold
110	DP753792	Freehold
111	DP753792	Freehold
112	DP753792	Freehold
113	DP753817	Freehold
118	DP753792	Freehold
129	DP755267	Freehold
131	DP1089157	Freehold
160	DP753817	Freehold
161	DP753817	Freehold
170	DP823775	Crown
175	DP823775	Crown
18	DP753817	Freehold
2	DP1085145	Freehold
2	DP110084	Freehold
2	DP709722	Freehold
2	DP616303	Freehold
2	DP617852	Freehold
2	DP720705	Freehold
2	DP1174490	Freehold
208	DP753817	Freehold
22	DP753817	Freehold
220	DP1135537	Freehold
23	DP3030	Freehold
3	DP720705	Freehold
3	DP1177768	Freehold
3	DP1085145	Freehold
38	DP753792	Freehold
39	DP753792	Freehold

Lot Number	Deposited Plan Number	Tenure Type
4	DP1085145	Freehold
4	DP542226	Freehold
4	DP720705	Freehold
45	DP753792	Freehold
46	DP753792	Freehold
49	DP753792	Freehold
5	DP542226	Freehold
5	DP1085145	Freehold
50	DP753792	Freehold
51	DP753792	Freehold
52	DP753792	Freehold
55	DP753792	Freehold
57	DP1074788	Freehold
58	DP753792	Freehold
60	DP753792	Freehold
61	DP753792	Freehold
62	DP753792	Freehold
63	DP753792	Freehold
64	DP753792	Freehold
66	DP753817	Freehold
67	DP753817	Freehold
7	DP3030	Freehold
71	DP753817	Freehold
79	DP1074787	Freehold
79	DP753821	Freehold
82	DP548749	Freehold
83	DP548749	Freehold
92	DP755267	Freehold
95	DP753792	Freehold
A	DP33149	Freehold
B	DP33149	Freehold
C	DP33149	Freehold
1	DP732501	Freehold
2	DP732501	Freehold
3	DP732501	Freehold
4	DP732501	Freehold
5	DP732501	Freehold
6	DP732501	Freehold
3	DP753817	Freehold
4	DP753817	Freehold
5	DP753817	Freehold
6	DP753817	Freehold
10	DP753817	Freehold
73	DP753817	Freehold

Roads

1. Wambo Mine Road.
2. Road within Lot 1 DP 616303.
3. Road bounded by Lot 220 DP1135537, Lot 83 DP548749, Lot 23 DP3030, Lot 129 DP 755267, Lot 1 DP110084, Lot 1089682 and Lot 1 DP114970.

4. Bounded by Lots 92 & 129 DP 755267.
5. Bounded by Lots 4 & 5 DP542226, Lot 2 DP616303, Lots 2 & 3 DP720705 and Lot 3 1177768.
6. Bounded by Lot 2 DP616303, Lot 5 DP542226, Lot 4 DP720705 and Lots 45 & 46 DP753792.
7. Bounded by Lot 1 DP1174490, Lots 2, 3 & 4 DP1085145 and Lot 175 DP823775.
8. Bounded by Lots 62, 63, 64, 95 & 118 DP753792, Lot 1 DP 1177768 and Lot 2 DP1174490.
9. Bounded by Lot 79 DP1074487, Lot 170 DP823775, Lots 49-51, 58, 118 DP753792, Lot 2 DP1085145 and Lot 2 DP1174490.
10. Bounded by Lot 79 DP1074487, Lots 18, 160 & 161 DP753817 and Lots 49, 50 & 52 DP753792.
11. Bounded by Lot A DP33149, Lots 22, 66 & 71 DP753817 and Lot 2 DP 1174490.
12. Adjoining to the East and North of Lot 79 DP753821.
13. Wambo Road.
14. Road within Lot 208 DP753817.
15. Bounded by Lot A DP33149 and Lots 3, 4, 5, 6 & 113 DP753817.
16. Adjoining to the West and South of Lot 22 DP753817.

Wollombi Brook

1. Bounded by Lot 220 DP1135537, Lot 83 DP548749, Lot1 DP110084, Lot 1 DP241316 and Lot 7 DP3030.
2. Bounded by Lot 1 DP1089682 and Lots 1, 2, 3, 4, 5 & 6 DP732501.

21. Replace Appendix 5 with the following:

APPENDIX 5 APPROVED LAYOUT

