

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		ABN	
WAMBO COAL PTY LIMITED		000 668 057	
☒ Mr ☐ Ms ☐ Mrs ☐ Dr ☐ Other			
First name		Family name	
LACHLAN		CRAWFORD	
STREET ADDRESS			
Unit/street no.	Street name		
	JERRYS PLAINS ROAD		
Suburb or town	State	Postcode	
WARRIMOO	NSW	2330	
POSTAL ADDRESS (or mark 'as above')			
PMB 1			
Suburb or town	State	Postcode	
SINGLETON	NSW	2330	
Daytime telephone	Fax	Mobile	
02 6570 2206	02 6570 2270	0437 964 837	
Email			
lcrawford@peabodyenergy.com			

3. Property description

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

Street or property name

WAMBO COAL MINE

Suburb, town or locality

Postcode

Local government area

WARRIEWORTH

2330

SINGLETON

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.

Please refer to Annexure 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).

Please refer to Annexure B.

What was the original development application no.?

What was the date consent was granted?

What was the original application fee?

DA 305-7-2003

4/2/2004

—

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).

Please refer to Annexure C.

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.

Please refer to Annexure C.

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.

Please refer to Annexure C.

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)

ZERO ADDITIONAL JOBS

Operational jobs (full time equivalent)

ZERO ADDITIONAL JOBS

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

UNCHANGED

Original application fee

-

Total fees lodged

\$500

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 ☒

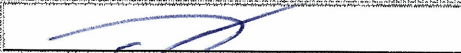
Note: For more details about political donation disclosure requirements, including a disclosure form, go to www.planning.nsw.gov.au/donations

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

CARY CRAWFORD

Date

16/11/10

Signature



Name

LACHLAN CRAWFORD

Date

16/11/2010

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

16/11/2010

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

—

Name, if you are not the applicant

—

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.

Annexure A

**Wambo Coal
Schedule of Land**

Lot 79 DP753792	Lot 181 DP823775
Lot 57 DP753817	Lot 177 DP823775
Lot 160 DP753817	Lot 118 DP753792
Lot 18 DP753817	Lot 95 DP753792
Lot 71 DP753817	Lot 2 DP709722
Lot 161 DP753817	Por 131 DP753792
Lot 49 DP753792	Lot 2 DP616303
Lot 50 DP753792	Lot 1 DP720705
Lot 51 DP753792	Lot 2 DP720705
Lot 52 DP753792	Lot 3 DP720705
Lot 58 DP753792	Lot 4 DP720705
Lot 66 DP753792	Lot 45 DP753792
Lot 67 DP753792	Lot 46 DP753792
Lot 62 DP753792	Lot 4 DP542226
Lot 63 DP753792	Lot 5 DP542226
Lot 64 DP753792	Lot 1 DP241316
Lot C DP33149	Lot 7 DP3030
Lot 22 DP753817	Lot 23 DP3030
Lot A DP33149	Lot 92 DP755267
Lot 79 DP753821	Lot 109 DP753792
Lot 19 DP3030	Lot 110 DP753792
Lot 129 DP755267	Lot 111 DP753792
Lot 22 DP755267	Lot 112 DP753792
Lot 1 DP616303	Lot 103 DP753792
Lot 100 DP753792	Lot 104 DP753792
Lot 101 DP753792	Lot 82 DP548749
Lot 38 DP753792	Lot 83 DP548749
Lot 39 DP753792	Lot 1 DP110084
Lot 60 DP753792	Lot 2 DP110084
Lot 61 DP753792	Lot B DP33149
Lot 1 DP709722	Lot 113 DP753817
Lot 55 DP753792	Lot 2 DP617852
Lot 208 DP 753817	Lot 3 DP 753817
Lot 1 DP 1089682	Lot 10 DP 753817
Lot 5 DP 753817	Lot 11 DP 753817
Lot 6 DP 753817	Lot 22 DP 753817
Lot 4 DP 753817	Lot 73 DP 753817

Annexure B

DA 305-7-2003 Modification Description	Determination Date
Letter from Wambo Coal Pty. Ltd. to the Department, dated 24 October 2003, and titled <i>Wambo Development Project – Development Application Amendment (DA 305-7-2003-i)</i> .	2004
Statement of Environmental Effects titled <i>Wambo Development project – Wambo Seam Underground Mine Modification</i> , dated January 2005, and prepared by Wambo Coal Pty Ltd.	May 2005
<i>Wambo Development Project – Modification of DA 305-7-2003-I</i> , dated 24 October 2005.	January 2006
<i>Wambo Development Project – Modification of DA 305-7-2003-I</i> ; dated 23 January 2006.	April 2006
<i>Wambo Development Project – Modification of DA 305-7-2003-I</i> ; dated 27 July 2006.	October 2006
<i>Wambo Coal Mine Modification Statement of Environmental Effects</i> ; dated September 2006.	January 2007
<i>Wambo Coal Mine Statement of Environmental Effects on Proposed Modification</i> , dated March 2009.	June 2009
<i>Wambo Coal Mine Modification Statement of Environmental Effects</i> , dated June 2009.	August 2009

Annexure C

4th August 2010

Minister for Planning
c/- Director of Major Development Assessment
Department of Planning
The Western Gallery
Level 4, 23-33 Bridge Street
SYDNEY NSW 2000

Attention: David Kitto

Dear David,

RE: WAMBO COAL MINE – DEVELOPMENT CONSENT MODIFICATION APPLICATION

Wambo Coal Pty Ltd (WCPL) requests the Minister for Planning modify Development Consent (DA 305-7-2003) for the Wambo Coal Mine (WCM) under Section 96(1A) of the *Environmental Planning and Assessment Act, 1979* as outlined below. The proposed modification would require WCPL to prepare an Extraction Plan for all underground operations at the WCM, rather than a Subsidence Management Plan which is currently required by Condition 22 of Schedule 4.

EXTRACTION PLAN

Condition 22 of Development Consent (DA 305-7-2003) currently requires the preparation of a Subsidence Management Plan for all underground mining operations at the WCM, viz.:

SUBSIDENCE

Note: this development will be regulated under the new approval process for managing the impacts of coal mining subsidence under the Mining Act 1992.

Subsidence Management Plan

22. Before carrying out any underground mining operations that will potentially lead to subsidence of the land surface, the Applicant shall prepare a Subsidence Management Plan for those operations in accordance with the DII documents:
- New Approval Process for Management of Coal Mining Subsidence - Policy; and
 - Guideline for Applications for Subsidence Management Approvals
- to the satisfaction of the Director-General of DII.

WCPL proposes that Condition 22 of Development Consent (DA 305-7-2003) be replaced with the condition below.

22. SUBSIDENCE

First Workings

The Proponent shall not carry out first workings in the mining area that are not consistent with the approved mine plan without the written approval of the Director-General.

Second Workings - Extraction Plan

The Proponent shall prepare and implement an Extraction Plan for all second workings in the mining area to the satisfaction of the Director-General. This plan must:

- (a) be prepared by a team of suitably qualified and experienced experts whose appointment has been endorsed by the Director-General;*
- (b) be approved by the Director-General before the Proponent is allowed to carry out the second workings covered by the Extraction Plan;*
- (c) include a detailed plan for the second workings, which has been prepared to the satisfaction of DII, and provides for adaptive management;*
- (d) include detailed plans of any associated surface construction works;*
- (e) include the following to the satisfaction of DII:*
 - a coal resource recovery plan that demonstrates effective recovery of the available resource;*
 - predictions of the subsidence effects and subsidence impacts of the extraction plan; and*
 - a Subsidence Monitoring Program to:*
 - validate the subsidence predictions; and*
 - analyse the relationship between the subsidence effects and subsidence impacts of the Extraction Plan and any ensuing environmental consequences;*
- (f) include a:*
 - Site Water Management Plan in accordance with Condition 30 of Schedule 4;*
 - Surface Water Monitoring Program in accordance with Condition 33 of Schedule 4;*
 - Ground Water Monitoring Program in accordance with Condition 34 of Schedule 4;*
 - Surface Water and Ground Water Response Plan in accordance with Condition 35 of Schedule 4;*
 - Surface & Sub-surface Investigation Program in accordance with Condition 36 of Schedule 4;*
 - Flora & Fauna Management Plan in accordance with Condition 44 of Schedule 4; and*
 - Wambo Homestead Complex Management Plan in accordance with Condition 57 of Schedule 4.*

Note: In accordance with Condition 7A of Schedule 3, the preparation and implementation of Extraction Plans for second workings may be staged, with each plan covering a defined area of second workings.

As a result of the modification to Condition 22, WCPL proposes that Condition 37 of Schedule 4 also be amended. Condition 37 states:

- 37. Prior to seeking approval from the DII for each set of longwall panels (excluding the first set of longwall panels), unless the Director-General directs otherwise, the Applicant shall commission a suitably qualified person, whose appointment has been approved by the Director-General, to conduct an independent audit of the subsidence, surface water, and ground water impacts of the development. This audit shall:**
- (a) review the monitoring data for the development;**
 - (b) identify any trends in the monitoring data;**
 - (c) examine the subsidence, surface water, and ground water impacts of the development;**
 - (d) compare these impacts against the relevant impact assessment criteria and predictions in the EIS; and, if necessary;**
 - (e) recommend measures to reduce, mitigate, or remediate these impacts.**

WCPL proposes that Condition 37 be amended as follows:

37. Prior to seeking approval from the DoP for each Extraction Plan, unless the Director-General directs otherwise, [text to continue as per the above condition]

PERFORMANCE MEASURES

Performance measures are proposed to be included in Development Consent (DA 305-7-2003). A summary of the proposed performance measures and the basis for each them are provided below.

WCPL proposes the inclusion of the following new condition:

PERFORMANCE MEASURES

The Proponent shall ensure that underground mining associated with the project does not cause any exceedances of the performance measures in Table 1.

Table 1: Subsidence Impact Performance Measures

Watercourses	
Wollombi Brook	No subsidence impacts on Wollombi Brook. Controlled Release of Excess Site Water has occurred in accordance with EPL requirements.
Biodiversity	
Wollemi National Park	No subsidence impacts on the Wollemi National Park escarpment.
Warkworth Sands Woodland community	Minor cracking and ponding of the land surface within the Warkworth Sands Woodland community.
White Box, Yellow Box, Blakely's Red Gum Woodland/Grassy White Box Woodlands community	Minor cracking and ponding of the land surface within the White Box, Yellow Box, Blakely's Red Gum Woodland/Grassy White Box Woodlands community.
Heritage	
Wambo Homestead Complex	No adverse heritage impacts on the Wambo Homestead Complex structures as a result of mine subsidence without the express approval of the Heritage Council and/or the Minister.
Built Features	
Built Features	Safe, serviceable and repairable, unless the owner agrees otherwise in writing.

Watercourses

Wollombi Brook is a major tributary of the Hunter River and drains an area of approximately 1,950 km². From its headwaters in the Hunter Range, Wollombi Brook generally flows northward joining the Hunter River near Singleton. Section 4.2 of the EIS provided the following assessment of potential subsidence-related impacts on Wollombi Brook:

Subsidence would be restricted to the areas above and immediately adjacent to the extracted longwall panels. The distance by which the subsidence extends laterally is typically in the order of half the depth of the coal seam below the land surface.

The Project underground mines would be constrained and designed such that subsidence does not impact on Wollemi National Park or Wollombi Brook.

In relation to excess site water, the controlled release of site water would occur in accordance with the Wambo Coal Mine Environment Protection Licence (EPL) requirements and using salinity credits held by WCPL under the Hunter River Salinity Trading Scheme. Water released to the Hunter River is regulated by the Hunter River Salinity Trading Scheme to ensure that salinity levels in the river do not exceed target levels required to meet beneficial uses. The EPL includes conditions relevant to the quality and quantity of discharge water, as well as requirements for monitoring consistent with the requirements of the Hunter River Salinity Trading Scheme.

Based on the above impact assessment, the following performance measures are proposed:

No subsidence impacts on Wollombi Brook.

Controlled Release of Excess Site Water has occurred in accordance with EPL requirements.

Stony Creek, North Wambo Creek and Wambo Creek are ephemeral and/or semi-perennial streams that flow eastwards into Wollombi Brook. Stony Creek, North Wambo Creek and Wambo Creek have been disturbed by historical cattle grazing activities. Earthworks have been conducted to re-contour the stream channel and banks of Stony Creek and Wambo Creek to remediate subsidence effects from previous underground mining operations at the Wambo Coal Mine. Development Consent (DA 305-7-2003) also permits the development of a water control structure across North Wambo Creek and a channel to facilitate the passage of flows around the perimeter of the open cut mine and associated mine waste rock emplacement areas.

Figure 4.2 of the Wambo Development Project Environmental Impact Statement (WCPL, 2003) (the EIS) illustrates the predicted subsidence impacts on Stony Creek, North Wambo Creek and Wambo Creek including the potential for surface cracking, ponding, erosion along flow paths and sedimentation.

In consideration of the existing environment and approved Project impacts, no performance measures are proposed for Stony Creek, North Wambo Creek or Wambo Creek.

Biodiversity

Section 4.8.1 of the EIS provided the following assessment of potential subsidence-related impacts on vegetation:

Potential impacts of subsidence of relevance to flora include surface cracking, erosion and ponding of surface water in areas where isolated depressions form. Disturbance to the land surface and associated cracking, erosion and isolated ponding is however predicted to be minimal. Any such impacts are considered to be capable of repair through the implementation of appropriate mitigation measures.

Increased areas of ponding are expected to occur along and adjacent to the lower reaches of North Wambo Creek and Wambo Creek (Figure 4-2). Some of these areas are likely to become wetlands over time. As a result, a change in flora species composition and structure would be expected to occur as the creation of wetland habitat provides greater opportunities for wetland species.

There would be no subsidence of the adjoining Wollemi National Park escarpment or Wollombi Brook (Appendix O).

Section 4.8.1 of the EIS provided the following assessment of potential subsidence-related impacts on the Warkworth Sands Woodland community:

Approximately 105 ha of Warkworth Sands Woodland are located above the Project underground mining operations area. Potential impacts of underground mining activities on the Warkworth Sands Woodland primarily relate to the potential for minor surface cracking as a result of subsidence. Due to the depth of the Arrowfield and Bowfield Seams to the east of Wollombi Brook only minor surface cracking would be expected (Figure 4-2). The northern portions of the longwall panels in this area are overlain by tertiary-sands that due to their mobility would be expected to in-fill any cracks rapidly (Appendix O). As a result, it is not expected that subsidence would significantly impact the Warkworth Sands Woodland community in this area.

Figure 42 of the EIS described the potential subsidence impacts in the Warkworth Sands Woodland community as including:

B1 – Potential for Surface Cracking and Isolated Ponding.

C – Potential for Minor Surface Cracking.

Section 4.8.1 of the EIS provided the following assessment of potential subsidence-related impacts on the White Box, Yellow Box, Blakely's Red Gum Woodland/Grassy White Box Woodlands community:

Of the 21 ha mapped by Orchid Research (2003), approximately 4 ha are located above Project underground mining areas. Potential impacts of underground mining activities relate to the potential for subsidence to cause surface cracking and to alter existing surface drainage patterns which may result in isolated ponding in some areas. Disturbance to the land surface and to the Box-Gum Woodland as a result of surface cracking and ponding is however predicted to be minimal given the depth of the underground workings. Notwithstanding this, surface monitoring would be conducted to confirm the above. In the event that monitoring indicates the need for remediation, these works would be undertaken (Section 4.2.2).

Based on the above impact assessment, the following performance measures are proposed:

No subsidence impacts on the Wollemi National Park escarpment.

Minor cracking and ponding of the land surface within the Warkworth Sands Woodland community.

Minor cracking and ponding of the land surface within the White Box, Yellow Box, Blakely's Red Gum Woodland/Grassy White Box Woodlands community.

Aboriginal Heritage

Section 4.13 of the EIS indicated that consent would be sought under Section 90 of the *National Parks and Wildlife Act, 1974* to cover the life of the mine to allow for staged archaeological works. Conditions 51 to 56 were included in Schedule 4 of the Development Consent to address Aboriginal heritage. As a result, no performance measures in relation to Aboriginal heritage are proposed.

European Heritage

Condition 57 of Development Consent (DA 305-7-2003) requires:

An application under section 60 of the Heritage Act must be submitted to and approved by the Heritage Council prior to the commencement of any development on land within the State Heritage Register listing boundary for the Wambo Homestead Complex. In this regard a mine management plan shall be required to accompany the application which demonstrates that the proposed underground mining shall not have adverse heritage impacts on the WHC due to land subsidence.

Based on the requirements of Condition 57 of Development Consent (DA 305-7-2003), the following performance measure is proposed:

No adverse heritage impacts on the Wambo Homestead Complex as a result of mine subsidence without the express approval of the Heritage Council and/or the Minister.

Built Features

Section 4.2.4 of the EIS provided the following assessment of potential subsidence-related impacts on built features:

Improvements located in the Project underground mining areas which would potentially be impacted by subsidence include:

- one rural 11 kV feeder powerline west of Wollombi Brook;
- stock dams located on WCPL owned property; and
- fencing on both WCPL owned and privately owned properties.

All roads within the areas potentially affected by subsidence are owned and managed by WCPL. No public roads would be affected by subsidence.

There are no occupied dwellings in the Project underground mining areas. Parcels of land in the Project underground mining areas owned by other landholders which may be impacted by subsidence include:

- Warkworth Mining Limited (Property No. 8 – Figure 1-6) - east of Wollombi Brook.
- H. Upward (Property No. 9 – Figure 1-6) - east of Wollombi Brook.
- A.J. Long (Property No. 24 – Figure 1-6) - west of Wollombi Brook.

Based on the above, the following performance measure for built features is proposed:

Safe, serviceable and repairable, unless the owner agrees otherwise in writing.

Annual Reporting

Condition 5 of Schedule 6 of Development Consent (DA 305-7-2003) currently requires the preparation of an Annual Environmental Management Report, viz.:

ANNUAL REPORTING

5. The Applicant shall submit an AEMR to the Director-General and the relevant agencies. This report must:
- (a) identify the standards and performance measures that apply to the development;
 - (b) include a summary of the complaints received during the past year, and compare this to the complaints received in the previous 5 years;
 - (c) include a summary of the monitoring results on the development during the past year;
 - (d) include an analysis of these monitoring results against the relevant:
 - ☐ impact assessment criteria;
 - ☐ monitoring results from previous years; and
 - ☐ predictions in the EIS;
 - (e) identify any trends in the monitoring over the life of the development;
 - (f) identify any non-compliance during the previous year; and
 - (g) describe what actions were, or are being, taken to ensure compliance.

WCPL proposes that Condition 37 be amended as follows:

5. The Applicant shall submit an Annual Review to the Director-General and the relevant agencies. This report must: [text to continue as per the above condition]

WCPL requests that the Minister for Planning assesses the proposed modifications to Development Consent (DA 305-7-2003) under Section 96(1A) of the *Environmental Planning and Assessment Act, 1979*.

WCPL considers that the proposed modification would result in substantially the same development (as the development for which consent was originally granted) as it would not alter the WCM. In addition, the proposed modification would result in minimal environmental impact as it would not result in a change in the potential impacts of the WCM.

Please call the undersigned (02 6570 2217 or 0417 263004) should you have any queries.

Regards,



Neville McAlary

General Manager
Underground Operations
Peabody Australia

4/8/10.