

Notice of Modification

Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.



Mike Young
Executive Director
Energy, Resources and Compliance

Sydney 16 JULY 2020

SCHEDULE 1

The development consent (DA 376-8-2003) for the Bulga Coal Continued Underground Operations Project, granted by the Minister Assisting the Minister for Infrastructure and Planning, on 23 February 2004.

SCHEDULE 2

1. In the list of Definitions, delete the following terms "Applicant", "Construction", "Day", "Department", "Development", "DPI Water", "DRE", "DSC", "Executive Director Mineral Resources", "Feasible", "Land", "Land Acquisition Criteria", "Material harm to the environment", "Mining Operations", "Minister", "Night", "OEH", "Open cut mining operations", "Rehabilitation", "Secretary", "Site", and their definitions and insert the following definitions in alphabetical order:

Aboriginal Object / Place	Has the same meaning as the definition of the term in section 5 of the NP&W Act
Applicant	Bulga Coal Management Pty Ltd, or anyone else who relies on this consent to carry out the development that is subject to this consent
BC Act	<i>Biodiversity Conservation Act 2016</i>
BCD	Biodiversity and Conservation Division within the Department
Construction	All physical works to enable mining operations to be carried out, including demolition and removal of buildings or works, and erection of buildings and other infrastructure permitted by this consent
Day	The period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays
Department	NSW Department of Planning, Industry and Environment
Development	The development as described in the documents listed in condition 2 of Schedule 3
DPIE Crown Lands	Crown Lands Group within the Department
DPIE Water	Water Group within the Department
DS NSW	Dams Safety NSW
EEC	Endangered ecological community, as defined under the BC Act and/or EPBC Act
Environment	Includes all aspects of the surroundings of humans, whether affecting any humans as an individual or in his or her social groupings
EPBC Act	<i>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</i>
Feasible	Means what is possible and practicable in the circumstances
Land	As defined in the EP&A Act, except for where the term is used in the noise and air quality-related conditions in schedule 3 of this consent where it is defined to mean the whole of a lot, or contiguous lots owned by the same landowner, in a current plan registered at the Land Titles Office at the date of this consent
Material harm	Is harm to the environment that: <ul style="list-style-type: none">• involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial; or

	<ul style="list-style-type: none"> results in actual or potential loss or property damage of an amount or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
MEG	Regional NSW – Mining, Exploration and Geoscience
Minimise	Implement all reasonable and feasible mitigation measures to reduce the impacts of the development
Mining operations	The carrying out of mining, including the extraction, processing, stockpiling and transportation of coal on the site and the associated removal, storage and/or emplacement of vegetation, topsoil, overburden, tailings and coarse reject material
Minister	NSW Minister for Planning and Public Spaces, or delegate
Negligible	Small and unimportant, such as to be not worth considering
Night	The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
NP&W Act	<i>National Parks and Wildlife Act 1974</i>
Open cut mining operations	The carrying out of mining operations using open cut mining methods in accordance with the consent for the Bulga Optimisation Project (SSD 4960), as modified
Planning Secretary	Planning Secretary under the EP&A Act or nominee
Public Infrastructure	Infrastructure that provides services to the general public, such as roads, railways, water supply, drainage, sewerage, gas supply, electricity, telephone, telecommunications, etc.
Rehabilitation	The restoration of land disturbed by the development to a good condition to ensure it is safe, stable and non-polluting
RFS	NSW Rural Fire Service
RR	Regional NSW - Resources Regulator
SEE (MOD 7)	Modification application 376-8-2003 MOD 7, and accompanying Statement of Environmental Effects titled <i>Bulga Optimisation Project Modification 3 and Bulga Underground Modification 7</i> , dated September 2019 and prepared by Umwelt (Australia) Pty Ltd, including the associated reports titled <i>Submissions Report</i> dated December 2019, <i>Response to Independent Expert Scientific Committee on Coal Seam gas and Large Coal Mining Development Advice</i> , dated April 2020, and additional information dated 9 and 10 March 2020
Site	The land listed in Appendix 1, including any subdivided lot that may be created from the listed land lots
TfNSW	Transport for NSW
Underground Mining Operations	The carrying out of mining operations using underground mining methods, in accordance with this consent

2. Delete all references to “DPI Water” and replace with “DPIE Water”.
3. Delete all references to “OEH” and replace with “BCD”.
4. Delete all references to “Secretary” and replace with “Planning Secretary”.
5. Delete all references to “RMS” and replace with “TfNSW”.
6. Delete condition 1 of Schedule 3 and replace with:
 1. In addition to meeting the specific performance measures and criteria established under this consent, the Applicant must implement all reasonable and feasible measures to prevent and/or minimise any material harm to the environment that may result from the construction, operation, or rehabilitation of the development.
7. In condition 2 of Schedule 3:
 - (a) delete the word “project” where occurring and replace with “development”;
 - (b) delete the first occurrence of the word “and”;
 - (c) after “EA (MOD 6)” delete the full stop and insert “; and”;
 - (d) add a subparagraph “(h) SEE (MOD 7).”.
8. In condition 2A of Schedule 3:
 - (a) delete the word “project” and replace with “development”.
 - (b) delete the word “approval” and replace with “consent”.
9. In condition 4 of Schedule 3:
 - (a) in subparagraph (a), delete the word “and”;
 - (b) insert the following as a new subparagraph (b):

“(b) any reports, reviews or audits commissioned by the Department regarding compliance with this consent; and”;
- (c) rename subparagraph “(b)” to subparagraph “(c)”.

10. In the note to condition 5 of Schedule 3, delete “Executive Director Mineral Resources” and replace with “RR”
11. After condition 7A of Schedule 3, insert the following:
 - 7B. The Applicant may undertake mining operations 24 hours per day, 7 days per week.
12. In condition 9 of Schedule 3:
 - (a) in subparagraph (a), delete the word “and”;
 - (b) insert the following as a new subparagraph (b):
 - “(b) the relevant requirements of AS 3959-2009 Construction of buildings in bush fire-prone areas; and”;
 - (c) rename subparagraph “(b)” to subparagraph “(c)”.
13. In the notes to condition 9 of Schedule 3 delete:
 - (a) the words “Part 4A” and replace with “Part 6”; and
 - (b) the words “section 15 of the Mine Subsidence Compensation Act 1961” and replace with “section 21 of the Coal Mine Subsidence Compensation Act 2017”
14. In condition 11 of Schedule 3 after the words “on the site,” delete the word “are” and replace with “or any equipment used off site for monitoring the performance of the development, is”.
15. Delete condition 11A and condition 11B of Schedule 3.
16. After condition 12 of Schedule 3, insert the following:

PROTECTION OF PUBLIC INFRASTRUCTURE

13. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
 - (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
 - (b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

Note: This condition does not apply to any damage to public infrastructure subject to compensation payable under the Coal Mine Subsidence Compensation Act 2017, or to any damage to roads caused as a result of general road usage.

EVIDENCE OF CONSULTATION

14. Where conditions of this consent require consultation with an identified party, the Applicant must:
 - (a) consult with the relevant party prior to submitting the subject document; and
 - (b) provide details of the consultation undertaken including:
 - (i) the outcome of that consultation, matters resolved and unresolved; and
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

COMPLIANCE

15. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

APPLICABILITY OF GUIDELINES

16. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of inclusion (or later update) in the condition.
17. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, in respect of ongoing monitoring and management obligations, agree to or require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

CROWN LAND

18. The Applicant must consult with DPIE – Crown Lands prior to undertaking any development on Crown Land or Crown Roads.

Notes:

- Under section 265 of the Mining Act 1992, the Applicant is required to enter into a compensation agreement with DPIE – Crown Lands prior to undertaking any mining operations or related activities on Crown land or Crown roads within a mining lease.

- Under section 141 of the Mining Act 1992, the Applicant is required to enter into an access arrangement with DPIE – Crown Lands prior to undertaking any prospecting operations on Crown land or Crown roads within an exploration licence.

17. Delete condition 1 of Schedule 4 and insert the following

1. Upon receiving a written request for acquisition from the landowner of the land listed in Table 1, the Applicant must acquire the land in accordance with the procedures in Conditions 9 and 10 of Schedule 5.

Table 1: Land subject to acquisition upon request

Property 195 - Kennedy	149 – E. McInerney
Property 217s - Russell	150 – E. McInerney

Notes:

- For more information on the numerical references to land used in this condition, see the figures in Appendix 2.

18. In condition 2 of Schedule 4:

- (a) delete “a Subsidence Management Plan to the DRE” and replace with “an Extraction Plan to the Planning Secretary”; and
- (b) delete the words “Conditions 9-11” and replace with “Conditions 9 and 10”.

19. In condition 6 of Schedule 4:

- (a) delete the words “, to the satisfaction of the Executive Director Mineral Resources”; and
- (b) in the notes, delete the words “*Mine Subsidence Compensation Act 1961*”, and insert “*Coal Mine Subsidence Compensation Act 2017*”.

20. In condition 7 of Schedule 4:

- (a) where occurring, delete “Executive Director Mineral Resources” and replace with “Planning Secretary”; and
- (b) after “SANSW” insert “or the RR”.

21. Delete condition 7A, and its heading, and replace with the following:

- 7A. The Applicant may carry out first workings within the approved underground mining areas of the site, other than in accordance with an approved Extraction Plan, provided that:
 - (a) the first workings are designed to remain stable and non-subsiding in the long term, except insofar as they may be impacted by approved second workings, and
 - (b) the Resources Regulator is notified at least 90 days prior to the works being carried out and they raise no objections.

Note: The intent of this condition is not to require an additional approval for first workings, but to ensure that first workings are built to geotechnical and engineering standards sufficient to ensure long term stability, with negligible resulting direct subsidence impacts.

22. In condition 7B of Schedule 4:

- (a) in subparagraph (i) delete the word “DRE” and replace with “the RR”;
- (b) in subparagraph (i) delete the words “and DRE”; and
- (c) after subparagraph (k), delete the words “The Applicant must implement the approved plan as approved from time to time by the Secretary” and replace with “The Applicant must implement the Extraction Plan as approved by the Planning Secretary”; and
- (d) Delete the note to condition 7B of Schedule 4.

23. In condition 7E of Schedule 4, delete “The Applicant must implement the approved plan as approved from time to time by the Secretary” and replace with “The Applicant must implement the Gas Drainage Management Plan as approved by the Planning Secretary”.

24. In condition 7F of Schedule 4, delete “The Applicant must implement the approved plan as approved from time to time by the Secretary” and replace with “The Applicant must implement the Service Boreholes Management Plan as approved by the Planning Secretary”.

25. After condition 7F of Schedule 4, insert the following:

Exploration Activities and Surface Infrastructure

7G. Prior to carrying out exploration activities on the site under this consent that would cause temporary surface disturbance or the construction and/or upgrade of minor surface infrastructure on the site, the Applicant must prepare an Exploration Activities and Minor Surface Infrastructure Management Plan for the development to the satisfaction of the Planning Secretary. This Plan must:

- (c) be prepared by a suitably qualified and experienced person/s whose appointment has been endorsed by the Planning Secretary;
- (d) be prepared in consultation with MEG and BCD;
- (e) include a description of the measures to be implemented for:
 - (i) managing exploration activities;
 - (ii) managing construction and operation of minor surface infrastructure and associated access tracks;
 - (iii) consulting with and compensating affected landowners;
 - (iv) assessing noise, air quality, traffic, biodiversity, heritage, public safety and other impacts;
 - (v) beneficial re-use or flaring of drained hydrocarbon gases, wherever practicable;
 - (vi) avoiding significant impacts and minimisation of impacts generally;
 - (vii) avoiding threatened species, populations or their habitats and EECs;
 - (viii) minimising clearance and disturbance of native vegetation;
 - (ix) minimising and managing erosion and sedimentation; and
 - (x) rehabilitating disturbed areas.

The Applicant must implement the Exploration Activities and Minor Surface Infrastructure Management Plan as approved by the Planning Secretary.

26. After the subheading “SURFACE & GROUND WATER” in Schedule 4, delete the note.

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

Water Supply

10A. The Applicant must ensure that it has sufficient water for all stages of the development, and if necessary, adjust the scale of the development to match its available water supply.

Note: Under the Water Act 1912 and/or the Water Management Act 2000, the Applicant is required to obtain necessary water licences for the development, including during rehabilitation and post mine closure.

10B. The Applicant must report on water extracted from the site each year (direct and indirect) in the Annual Review, including water taken under each water licence for the development. The Applicant must also report on any water transferred to/from the site each year (direct and indirect) in the Annual Review, including water taken under water licences that apply to other mining operations.

28. Delete conditions 22 and 23 of Schedule 4 and insert the following:

22. The Applicant must ensure that all reasonable and feasible avoidance and mitigation measures are implemented so that the particulate matter emissions generated by the Bulga mining complex do not exceed the criteria listed in Table 3 at any residence on privately-owned land.

Table 3: Air quality criteria

Pollutant	Averaging period	Criterion
Particulate matter < 10 µm (PM ₁₀)	Annual	^{a, c} 25 µg/m ³
	24 hour	^b 50 µg/m ³
Particulate matter < 2.5 µm (PM _{2.5})	Annual	^{a, c} 8 µg/m ³
	24 hour	^b 25 µg/m ³
Total suspended particulate (TSP) matter	Annual	^{a, c} 90 µg/m ³
^d Deposited dust	Annual	^b 2 g/m ² /month ^a 4 g/m ² /month

Notes:

^a Total impact (i.e. incremental increase in concentrations due to the development plus background concentrations due to all other sources).

^b Incremental impact (i.e. incremental increase in concentrations due to the development on its own).

^c Excludes extraordinary events such as bushfires, prescribed burning, dust storms, fire incidents or any other activity agreed by the Planning Secretary.

^d Deposited dust is to be assessed as insoluble solids as defined by Standards Australia, AS/NZS 3580.10.1:2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulate Matter - Deposited Matter - Gravimetric Method.

23. The air quality criteria in Table 3 do not apply if the Applicant has an agreement with the owner/s of the relevant residence or land to exceed the air quality criteria, and the Applicant has advised the Department in writing of the terms of this agreement.
29. In the heading of condition 24 of Schedule 4, before "Operating Conditions" insert "Air Quality".
30. In condition 24 of Schedule 4:
- (a) delete the words "best practice air quality management on site, including";
 - (b) delete the word "dust" and replace with "particulate matter (including PM₁₀ and PM_{2.5})"; and
 - (c) delete the word "approval in subparagraph (c) and replace with "consent".
31. Delete condition 24A of Schedule 4 and insert the following:
- 24A. The Applicant must prepare a detailed Air Quality & Greenhouse Gas Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:
- (a) be prepared by a suitably qualified and experienced person/s whose appointment has been endorsed by the Planning Secretary;
 - (b) be prepared in consultation with the EPA and submitted to the Planning Secretary for approval by the end of March 2014;
 - (c) describe the measures that would be implemented to ensure compliance with the relevant conditions of this consent, including consideration of applying a real-time air quality management system that employs both reactive and proactive mitigation measures;
 - (d) describe the measures that would be implemented to minimise the release of greenhouse gas emissions from the site; and
 - (e) include an air quality monitoring program undertaken in accordance with the *Approved Methods for Sampling and Analysis of Air Pollutants in New South Wales* (DEC, 2007) that uses a combination of real-time monitors and supplementary monitors to evaluate the performance of the development, and includes a protocol for determining exceedances with the relevant conditions of this consent.
- The Applicant must implement the Air Quality & Greenhouse Gas Management Plan as approved by the Planning Secretary.
32. Delete condition 25 of Schedule 4.
33. In note 1 to Table 10, delete the words "2001, ".
34. In note 1 to Table 11, delete the words "2001, ".
35. Delete condition 28B of Schedule 4, including its heading, and insert the following:

Construction Noise

- 28B. Approved construction works (including gas drainage well construction) must be undertaken during standard construction hours (7am to 6pm, Monday to Friday and 8am to 1pm on Saturdays, excluding Sundays and Public Holidays), unless otherwise agreed by the Planning Secretary.

The Applicant may undertake construction works outside of these hours provided that:

- (a) the combined operational and construction noise from the development does not exceed the operational noise criteria under conditions 30 and 30A of this Schedule; or
 - (b) the Applicant has an agreement with the owner/s of the relevant residence/land to generate higher noise levels, and the Applicant has advised the Department in writing of the terms of this agreement; or
 - (c) an alternative temporary limit has been approved by the Planning Secretary for specific works.
- 28C. In order to seek an alternative temporary construction noise limit under Condition 28B that exceeds the levels identified in conditions 30 and 30A of this Schedule, the Applicant must submit a Construction Noise Work Protocol to the Planning Secretary for approval, prior to undertaking the nominated construction works. This protocol must:

- (a) be prepared to the satisfaction of the Planning Secretary;
- (b) be prepared in consultation with the EPA and any landowners who may be affected by the proposed variation; and
- (c) address the relevant requirements of the Interim Construction Noise Guideline.

The Applicant may only undertake construction activities that require a Construction Work Noise Protocol, in accordance with an approved Construction Noise Work Protocol as approved by the Planning Secretary.

36. Delete condition 29 of Schedule 4.

37. In condition 30 of Schedule 4:

- (a) delete the words "Except for the noise generated by gas drainage well construction for the Blakefield North Mine" and replace with "Except for noise affected land listed in Table 1";
- (b) delete the words ", or on more than 25 percent of any privately-owned land"; and
- (c) delete the words "In the event that, in the opinion of the Secretary, open cut mining operations at the Complex have been substantially completed, then condition 1 of Appendix 5 has effect in place of this condition." And replace with the following:
"However, the noise criteria in Table 13 do not apply if the Applicant has a written agreement with the relevant landowner to exceed the noise criteria, and the Applicant has advised the Department in writing of the terms of this agreement."; and
- (d) Delete the word "exceedence" where it occurs in the notes of condition 30 of Schedule 4 and insert "exceedance".

38. After condition 30 of Schedule 4 insert the following:

30A. At the direction of the Planning Secretary, Table 13 above must be replaced with the Table in Appendix 5.

Note: This direction will be given following the construction of the proposed noise and visual bund under SSD 4960 to a height of 150 m AHD or the start of year 7 of development under SSD 4960, whichever occurs sooner.

39. Delete condition 31 of Schedule 4 and insert the following:

- 31. Upon receiving a written request from the landowner of any residence on land listed in Table 1 (unless the landowner of that land has requested acquisition), the Applicant must implement additional noise mitigation measures such as double glazing, insulation, and/or air conditioning at any residence on the land in consultation with the landowner.

These additional mitigation measures must be reasonable and feasible and directed towards reducing the noise impacts of the development on the residence. The Applicant must notify all landowners that they are entitled to receive additional noise mitigation measures in accordance with this condition, to the satisfaction of the Planning Secretary.

If within 3 months of receiving such a 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 Planning Secretary for resolution.

40. Delete conditions 32B and 32C of Schedule 4, along with their headings and notes, and insert the following:

Noise Operating Conditions

32B. The Applicant must:

- (a) implement all reasonable and feasible measures to minimise the construction, operational and road noise of the development;
- (b) progressively upgrade and replace its mobile equipment fleet;
- (c) operate a comprehensive noise management system on site that uses a combination of predictive meteorological forecasting and real-time noise monitoring data to guide the day-to-day planning of mining operations and the implementation of both proactive and reactive noise mitigation measures to ensure compliance with the relevant conditions of this consent; and
- (d) monitor and report on compliance with the relevant noise conditions of this consent, to the satisfaction of the Planning Secretary.

Noise Management Plan

32C. The Applicant must prepare a Noise Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:

- (a) be prepared by a suitably qualified expert whose appointment has been approved by the Planning Secretary, and submitted to the Planning Secretary for approval by 31 March 2014;
- (b) describe the measures that would be implemented to ensure compliance with the relevant conditions of this consent;

- (c) describe the proposed noise management system in detail;
- (d) include a noise monitoring program that:
 - evaluates and reports on:
 - the effectiveness of the noise management system;
 - compliance against the noise criteria in this consent; and
 - compliance against the noise operating conditions;
 - includes a program to calibrate and validate the real-time noise monitoring results with the attended monitoring results over time (so the real-time noise monitoring program can be used as a trigger for further attended monitoring where there is a risk of non-compliance with the noise criteria in this consent); and
 - defines what constitutes a noise incident, and includes a protocol for identifying and notifying the Department and relevant stakeholders of any noise incidents; and
- (e) include a Construction Noise Work Protocol as required under Condition 28C of this Schedule (including for gas drainage well construction for the Blakefield North Mine) featuring:
 - the Applicant's commitments to reasonable and feasible noise mitigation;
 - a work schedule that clearly identifies work that would lead to an exceedance of the Noise Assessment Impact Criteria in Table 13 of this Schedule;
 - a protocol for notifying affected receivers of the expected severity and duration of such exceedance(s) well in advance of work commencing;
 - a protocol for monitoring and evaluating noise emissions during work; and
 - a response protocol that will be immediately followed to reduce noise emissions if the work leads to noise impacts from the Bulga Mining Complex that exceed:
 - $L_{Aeq\ 15\ min}$ 50 dB during the day at any privately-owned receiver;
 - $L_{Aeq\ 15\ min}$ 39 dB during the evening or night at any receiver; and
 - $L_{Aeq\ 1\ min}$ 51 dB during the evening or night at any receiver.

The Applicant must implement the Noise Management Plan as approved by the Planning Secretary.

Notes:

- *The management responses to be followed in the event that noise emissions are nearing or exceeding the noise criteria in this consent should be staged in a manner that is commensurate with the level of noise emissions that may occur.*
- *Management responses should include relocating, modifying and/or ceasing operations until the exceedance is addressed and rectified. In the event of a breach of the noise criteria in this consent, noise traces for the offending period should be forwarded to the Department and EPA as soon as practicable following the event.*

41. Delete condition 33 of Schedule 4 and insert the following:

- 33. During the life of the development, the Applicant must ensure that there is a suitable meteorological station operating in the vicinity of the site that:
 - (a) complies with the requirements in the *Approved Methods for Sampling of Air Pollutants in New South Wales* (DEC, 2007) guideline; and
 - (b) is capable of measuring meteorological conditions in accordance with the *NSW Industrial Noise Policy* (EPA, 2000), unless a suitable alternative is approved by the Planning Secretary following consultation with the EPA.

42. Delete condition 38 of Schedule 4, and its heading, and insert the following:

Heritage Management Plan

- 38. The Applicant must prepare a Heritage Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:
 - (a) be prepared in consultation with BCD, the Aboriginal community, and be submitted to the Planning Secretary for approval by the end of March 2014; and
 - (b) include a program/procedures for:
 - minimising disturbance to Aboriginal sites as far as is reasonable and feasible;
 - salvage, excavation and/or management of Aboriginal sites and potential archaeological deposits within the project disturbance area;
 - protection and monitoring of Aboriginal sites outside the project disturbance area;
 - managing the discovery of any new Aboriginal objects or skeletal remains during the development; and
 - ongoing consultation and involvement of the Aboriginal communities in the conservation and management of Aboriginal cultural heritage on the site.

The Applicant must implement the Heritage Management Plan as approved by the Planning Secretary.

43. In condition 44 of Schedule 4:
- (a) delete the words “over the next 3 years, including the procedures to be implemented”; and
 - (b) delete the words “The Applicant must implement the approved plan as approved from time to time by the Secretary” and replace with “The Applicant must implement the Biodiversity Management Plan as approved by the Planning Secretary”.
44. In condition 49A of Schedule 4, delete “The Applicant must implement the approved plan as approved from time to time by the Secretary” and replace with “The Applicant must implement the Construction Traffic Management Plan as approved by the Planning Secretary”.
45. In condition 58 of Schedule 4 delete subparagraphs (b) and (c) and replace with the following:
- (b) assist the Rural Fire Service and emergency services to the extent practicable if there is a fire in the vicinity of the site; and
 - (c) provide for asset protection in accordance with the relevant requirements in the *Planning for Bushfire Protection* (RFS, 2019) guideline.
46. In condition 60 of Schedule 4 delete the words “to the satisfaction of the Executive Director Mineral Resources.” and replace with “in accordance with the conditions imposed on the mining lease(s) associated with the development under the *Mining Act 1992*”.
47. In Table 17 of condition 60 of Schedule 4:
- (a) delete the words “Executive Director Mineral Resources” where occurring and insert “RR”;
 - (b) in the row entitled “Mine site (as a whole)”, insert a second line under the objective “Safe, stable & non-polluting” as follows:
“Final Land Use compatible with surrounding land uses”;
 - (c) in the row entitled “Portals and vent shafts”, delete the word “Retain” and replace with “Consider opportunities to retain”; and
 - (d) in the row entitled “Built features damaged by mining operations”, delete the words “*Mine Subsidence Compensation Act 1961*” and insert “*Coal Mine Subsidence Compensation Act 2017*”.
48. In the notes to Table 17 of condition 60 of Schedule 4, delete the words “a Subsidence Management Plan” and replace with “an Extraction Plan”.
49. After condition 61 of Schedule 4, insert the following:
- Rehabilitation Management Plan**
62. The Applicant must prepare a Rehabilitation Management Plan for the development in accordance with the conditions imposed on the mining lease(s) associated with the development under the *Mining Act 1992*. This plan must:
- (a) be prepared in consultation with the Department, DPIE Water, BCD, Council and the CCC;
 - (b) be prepared in accordance with any relevant RR guideline and be consistent with the rehabilitation objectives in Table 17;
 - (c) describe how the rehabilitation of the site would be integrated with the implementation of the requirements of conditions 43 and 43A of this Schedule;
 - (d) include detailed performance and completion criteria for evaluating the performance of the rehabilitation of the site, and triggering remedial action (if necessary);
 - (e) describe the measures that would be implemented to ensure compliance with the relevant conditions of this consent, and address all aspects of rehabilitation including mine closure, final landform, and final land use;
 - (f) provide for detailed mine closure planning, including measures to investigate and facilitate post-mining beneficial land uses for the site;
 - (g) include interim rehabilitation where necessary to minimise the area exposed for dust generation;
 - (h) include a program to monitor and report on the effectiveness of the measures, and progress against the detailed performance and completion criteria; and
 - (i) build to the maximum extent practicable on the other management plans required under this consent.
50. In the subheading of Schedule 5 that commences with the words “Additional Procedures”, delete the words “for air quality, noise management and subsidence management”
51. In condition 2 of Schedule 5 delete “quarterly” and replace with “regular”.

52. In condition 3 of Schedule 5:
- (a) after the words “Condition 1” delete the full stop and insert “and the tenants of any mine-owned land.”;
 - (b) delete subparagraph (a) and replace with the following:
 - (a) all existing and future tenants are advised in writing about:
 - air quality impacts likely to occur at the residence during the operational life of the mine; and
 - the potential health and amenity impacts associated with exposure to particulate matter; and give them a copy of the NSW Health fact sheet entitled “*Mine Dust and You*” (NSW Health, 2017);
53. Delete condition 4 of Schedule 5 and insert the following:
4. If a landowner considers the development to be exceeding the impact assessment criteria in Schedule 4, then he/she may ask the Planning Secretary in writing for an independent review of the impacts of the development on his/her land.
- If the Planning Secretary is satisfied that an independent review is warranted, then within 3 months of the Planning Secretary’s decision, the Applicant must:
- (a) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Planning Secretary, to:
 - consult with the landowner to determine his/her concerns;
 - conduct monitoring to determine whether the development is complying with the relevant impact assessment criteria in Schedule 4; and
 - if the development is not complying with these criteria then identify the measures that could be implemented to ensure compliance with the relevant criteria; and
 - in cases where there is an exceedance of any air quality criteria, and more than one mine is responsible for the exceedance, determine the relative share of each mine regarding the impact of the development; and
 - (b) give the Planning Secretary and landowner a copy of the independent review.
54. In condition 9 of Schedule 5
- (a) in subparagraph (b) of the first series of subparagraphs, delete the words “Singleton local government area” and replace with “Singleton, Cessnock or Muswellbrook local government areas”; and
 - (b) in subparagraph (d) of the second series of subparagraphs, delete the words “and the Secretary”.
55. Delete condition 10 of Schedule 5 and insert the following:
10. The Applicant must pay all reasonable costs associated with the land acquisition process described in condition 9 above, including the costs associated with obtaining Council approval for any plan of subdivision (where permissible), and registration of this plan at the Office of the Registrar-General.
56. In condition 1 of Schedule 6:
- (a) after the words “non-compliance” delete the semicolon and insert “and any incident; and”; and
 - (b) delete the words “The Applicant must implement the approved strategy as approved from time to time by the Secretary” and insert “The Applicant must implement the Environmental Management Strategy as approved by the Planning Secretary”.
57. In condition 4 of Schedule 6 delete the word “calendar” where occurring and insert “financial”.
58. After condition 5 of Schedule 6 insert the following:

Updating & Staging Strategies, Plans or Programs

- 5A. The Applicant may at any time submit revised strategies, plans or programs for the approval of the Planning Secretary. With the agreement of the Planning Secretary, the Applicant may also submit any strategy, plan or program required by this consent on a staged basis.

With the agreement of the Planning Secretary, the Applicant may prepare a revision or stage of any strategy, plan or program required under this consent without undertaking consultation with all parties nominated under the applicable condition in this consent.

Notes:

- *While any strategy, plan or program may be submitted on a staged basis, the Applicant must ensure that the existing operations on site are covered by suitable strategies, plans or programs at all times.*
- *If the submission of any strategy, plan or program is to be staged, then the relevant strategy, plan or program must clearly describe the specific stage to which the strategy, plan or program applies, the relationship of this stage to any future stages, and the trigger for updating the strategy, plan or program.*

Management Strategies, Plans or Programs

- 5B. With the approval of the Planning Secretary, the Applicant may integrate any strategy, plan, program, report, review or audit required by this consent with any similar strategy, plan, program, report, review or audit for other components of the Bulga Mining Complex.
59. Delete condition 6 of Schedule 6 and insert the following:
60. In condition 6 of Schedule 6:
- (a) insert the word “Department’s” before the words “Community Consultative Committee (CCC) Guidelines”; and
 - (b) delete the words “Department of Planning, ”.
61. Delete condition 7 of Schedule 6, and its subheading, and insert the following:

Incident Notification

7. The Applicant must immediately notify the Department and any other relevant agencies immediately after it becomes aware of an incident. The notification must be in writing to compliance@planning.nsw.gov.au and identify the development (including the development application number and name) and set out the location and nature of the incident.

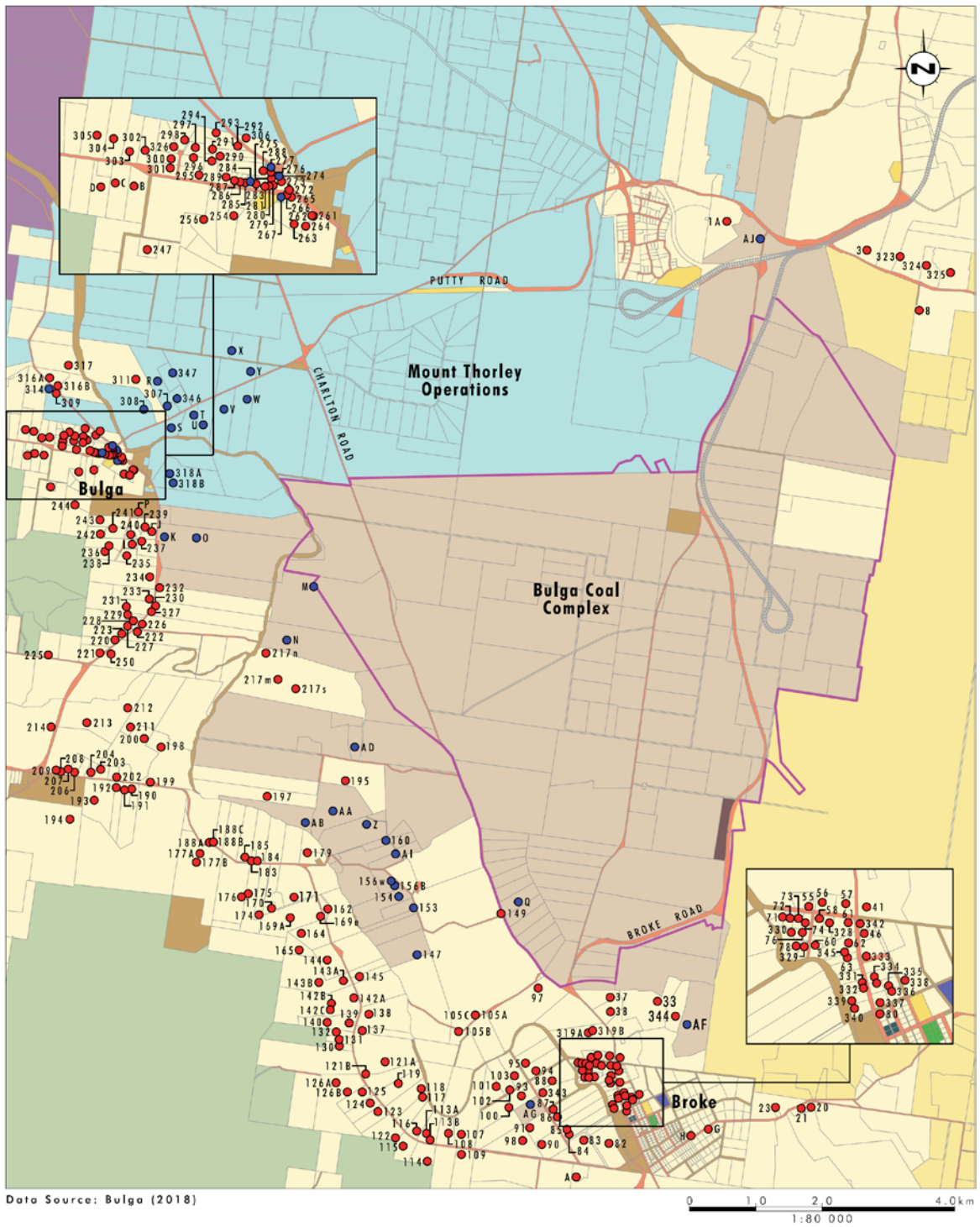
Non-Compliance Notification

- 7A. Within seven days of becoming aware of a non-compliance, the Applicant must notify the Department of the non-compliance. The notification must be in writing to compliance@planning.nsw.gov.au and identify the development (including the development application number and name), set out the condition of this consent that the development is non-compliant with, why it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.
- Note:** *A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.*
62. In condition 10 of Schedule 6:
- (a) after the second occurrence of “Planning Secretary” insert “, and any other NSW agency that requests it”; and
 - (b) after the words “address the recommendations.” insert “The recommendations must be implemented to the satisfaction of the Planning Secretary.
63. After condition 10 of Schedule 6 insert the following:

Monitoring and Environmental Audits

- 10A. Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification, compliance report and independent audit.
- Note: For the purposes of this condition, as set out in the EP&A Act, “monitoring” is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an “environmental audit” is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.*
- 10B. Noise and/or air quality monitoring under this consent may be undertaken at suitable representative monitoring locations instead of at privately-owned residences or other locations listed in Schedule 4, providing that these representative monitoring locations are set out in the respective management plan/s.

64. Delete the figure in Appendix 2 and replace with the following:



- Legend**
- | | | |
|---|---|---|
| Project Area | Defence | Singleton Council leased to BCM |
| ● Mine Owned Residence | Glencore | Government Authority |
| ● Private Residence | Private | |
| ● AGL Energy | Singleton Council | |
| Anglican Church Trustee | Telstra | |
| Broke Public School | Wambo | |
| Bulga Community Centre | Yancoal | |
| Crown Land | National park | |

**Land Ownership
and Receptor Locations**

65. In condition 1 of Appendix 4 delete the words “Tables 12 and 13 of the conditions and Table 18 of Appendix 5” and insert “Table 12 of Schedule 4”.
66. In condition 3 of Appendix 4 delete the word “approval” and replace with “consent”.
67. Delete condition 1 of Appendix 5, including its subheading and notes, and insert the following;

<i>Location</i>	<i>Day</i> <i>L_{Aeq} (15 min)</i>	<i>Evening</i> <i>L_{Aeq} (15 min)</i>	<i>Night</i> <i>L_{Aeq} (15 min)</i>	<i>Night</i> <i>L_{A1} (1 min)</i>
While open cut mining operations under SSD 4960 are operating concurrently				
95,142A, 143B, 164, 165, 195, 217s	36	36	36	45
All other privately-owned residences	35	35	35	45
Following completion of open cut mining operations under SSD 4960				
All privately-owned residences	35	35	35	45

68. Delete the figure in Appendix 6 and replace with the following:

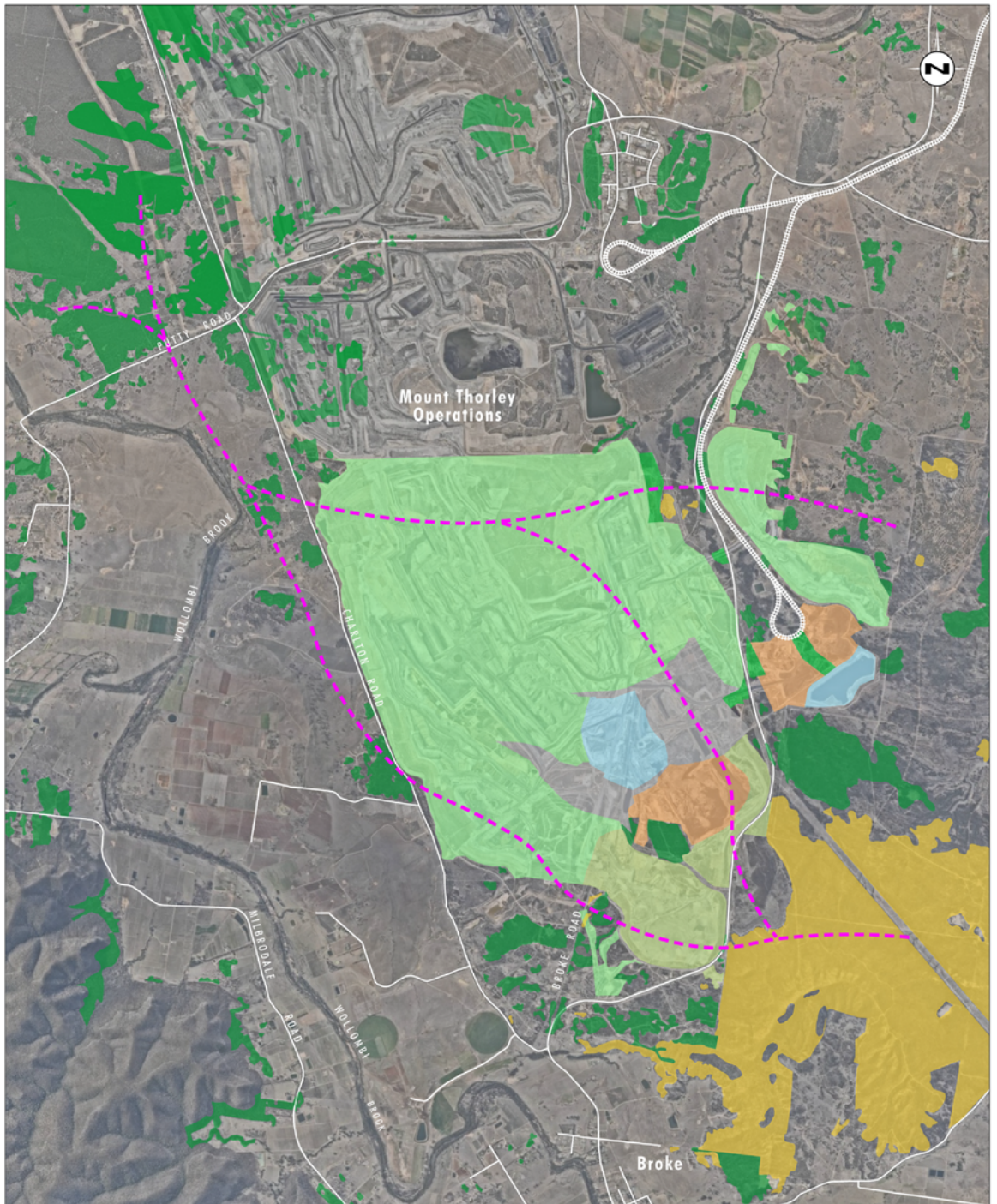


Image Source: Nearmap (Sep 2018)
 Data Source: BCM (2019), Hunter Valley Remnant Vegetation (2005)

0 1.0 2.0 3.0 km
 1:70 000

Legend

Rehabilitation Communities

- Central Hunter Grey Box - Ironbark Woodland
- Central Hunter Ironbark - Spotted Gum - Grey Box Forest
- Central Hunter Swamp Oak Forest
- Potential Agricultural Area
- Void - Pasture/Low Shrubs
- Water
- Potential Ecological Corridors

Remnant Vegetation

- Central Hunter Grey Box - Ironbark Woodland
- Central Hunter Ironbark - Spotted Gum - Grey Box Forest

Rehabilitation Vegetation Communities

69. Update the Table of Contents to reflect the above changes.

**End of modification
 (DA376-8-2003 MOD 7)**