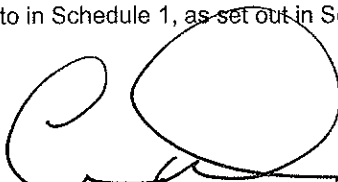


Notice of Modification

Section 96(2) of the *Environmental Planning and Assessment Act 1979*

I, modify the development consent referred to in Schedule 1, as set out in Schedule 2.



Chris Wilson
Executive Director
Major DA Assessments
(as delegate for the Minister for Planning)

Sydney 27.8.09

2009

SCHEDULE 1

The development consent (DA 49/94) granted by the Minister for Urban Affairs and Planning on 19 October 1995 for the construction and operation of surface coal mine extensions at Rix's Creek Coal Mine.

SCHEDULE 2

1. In condition 1, delete all words after "14 April 2004;" and replace with:

- (vi) the modification application "Rix's Creek Mine Cut and Cover Tunnel, New England Highway: Statement of Environmental Effects", prepared by Sinclair Knight Merz and dated May 2009; and
- (vii) the conditions of this consent.

If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any inconsistency.

2. In condition 3, delete all words after "Requirements of the" and replace with:

Department of Environment, Climate Change and Water (DECCW), Department of Industry and Investment (DII) and Roads and Traffic Authority (RTA), are fully met.

3. Delete all references to "DMR" and replace with "DII".

4. Delete all references to "EPA" and replace with "DECCW".

5. In condition 6 (ii), delete "LAWC" and replace with "DECCW".

6. In condition 19 (iii), delete "LAWC" and replace with "Office of Water" and delete "NPWS".

7. Delete condition 9, and replace with the following:

Traffic Management

9. The Applicant shall prepare and implement a Traffic Management Plan for the development, to the satisfaction of the Director-General. The Plan must:
- (i) be submitted to the Director-General for approval prior to commencement of construction of the cut and cover tunnel;
 - (ii) be prepared in consultation with the RTA and Singleton Shire Council;
 - (iii) include procedures for regular monitoring of compliance with this plan; and
 - (iv) include a Construction Traffic Management Plan for the construction of the cut and cover tunnel, including:
 - traffic control measures for vehicle movements along the New England Highway;

- measures that would be implemented to minimise traffic and road safety impacts during the period when traffic is diverted onto a side track, and
- vehicle speed limits, particularly through the diversion.

9A. The Applicant shall ensure that the cut and cover tunnel meets all RTA design requirements and shall obtain all necessary approvals from the RTA prior to commencing construction.

8. Insert the following after condition 14:

Greenhouse Gas Emissions

14A. The Applicant shall implement all reasonable and feasible measures to minimise:

- energy use associated with the development; and
- greenhouse gas emissions produced by the development, to the satisfaction of the Director-General.

9. Delete condition 15 and replace with:

Water Management Plan

15. The Applicant shall prepare and implement a Water Management Plan for the development to the satisfaction of the Director-General. This Plan must:

- be prepared in consultation with the Office of Water by a suitably qualified expert whose appointment has been approved by the Director-General;
- be submitted to the Director-General by 31 March 2010; and
- include:
 - a site water balance for the development, which includes details of sources and security of water supply, on site water use and management and off site water transfers and investigates and describes measures to minimise water use by the development.
 - details on the diversion of Rix's Creek, including updates on monitoring and rehabilitation;
 - a surface water monitoring program with:
 - detailed baseline data of surface water flows and quality in the watercourses that could be affected by the development;
 - surface water impact assessment criteria, including trigger levels for investigating potentially adverse surface water impacts of the development;
 - a program to monitor surface water flows and quality in the watercourse that could be affected by the development.
 - a groundwater monitoring program with:
 - detailed baseline data of groundwater levels, yield and quality in the region, and privately owned groundwater bores, which could be affected by the development;
 - groundwater impact assessment criteria, including trigger levels for investigating any potentially adverse groundwater impacts of the development; and
 - a program to monitor:
 - groundwater inflows to the open cut mining operations; and
 - impacts of the development on the regions aquifers, any groundwater bores, and surrounding watercourses, including monitoring to the western boundary of the mine lease ; and
 - a surface and groundwater response plan which describes the measures and/or procedures that would be implemented to:
 - respond to any exceedances of the surface water and groundwater assessment criteria;
 - offset the loss of any baseflow to the surrounding watercourse and/or associated creeks caused by the development;
 - compensate landowners of privately-owned land whose water supply is adversely affected by the development; and
 - mitigate and/or offset any adverse impacts on groundwater dependent ecosystems or riparian vegetation.

Erosion and Sediment Control Plan

15A. The Applicant shall prepare and implement an Erosion and Sediment Control Plan. This Plan must:

- be consistent with the requirements of the *Managing Urban Stormwater: Soils and Construction Manual* (Landcom 2004, or its latest version);
- identify activities that could cause soil erosion and generate sediment;
- describe measures to minimise soil erosion and the potential for transport of sediment to downstream waters;

- (iv) describe the location, function, and capacity of erosion and sediment control structures; and
- (v) describe what measures would be implemented to monitor and maintain the structures over time.

10. Insert the following after condition 16:

Landscape Management

- 16A. The Applicant shall prepare and implement a detailed Landscape Management Plan for the development to the satisfaction of the DII and Director-General. This plan must:
- (i) be prepared in consultation with DECCW, the Office of Water and Singleton Shire Council by suitably qualified expert/s whose appointment/s have been approved by the Director-General;
 - (ii) include a:
 - Rehabilitation Management Plan to be submitted for approval by the Director-General by 31 March 2010;
 - Final Void Management Plan to be submitted for approval by the Director-General by 31 December 2011; and
 - Mine Closure Plan to be submitted for approval by the Director-General by 31 December 2011.

Rehabilitation Management Plan

- 16B. The Rehabilitation Management Plan must include:
- (i) the objectives for rehabilitation of the site of the development;
 - (ii) a description of the short, medium, and long term measures that would be implemented to rehabilitate the development and the remnant vegetation and habitat on the site;
 - (iii) detailed performance and completion criteria for the rehabilitation of the site;
 - (iv) a detailed description of how the performance of the rehabilitation of the mine would be monitored over time to achieve the stated objectives;
 - (v) a detailed description of what measures would be implemented over the next 3 years, including the procedures to be implemented for:
 - minimising and rehabilitating disturbed areas;
 - protecting vegetation and soil outside the disturbance areas;
 - undertaking pre-clearance surveys;
 - managing impacts on fauna;
 - landscaping the site to minimise visual impacts;
 - conserving and reusing topsoil;
 - collecting and propagating seed for rehabilitation works;
 - salvaging and reusing material from the site for habitat enhancement;
 - controlling weeds and feral pests;
 - controlling access; and
 - bushfire management;
 - (vi) a program to monitor the effectiveness of these measures, and progress against the performance and completion criteria;
 - (vii) a description of the potential risks to successful rehabilitation and/or revegetation, and a description of the contingency measures that would be implemented to mitigate these risks; and
 - (viii) details of who is responsible for monitoring, reviewing, and implementing the plan.

Final Void Management

- 16C. The Final Void Management Plan must:
- (i) incorporate design criteria and specifications for the final void based on verified groundwater modelling predictions and a re-assessment of post-mining groundwater equilibration;
 - (ii) assess the potential interactions between creeks on the site and the final void; and
 - (iii) describe what actions and measures would be implemented to:
 - minimise any potential adverse impacts associated with the final void; and
 - manage and monitor the potential impacts of the final void.

Mine Closure Plan

- 16D. The Mine Closure Plan must:
- (i) define the objectives and criteria for mine closure;
 - (ii) investigate options for the future use of the site, including the final void/s;
 - (iii) investigate ways to minimise the adverse socio-economic effects associated with mine closure, including reduction in local employment levels;
 - (iv) describe the measures that would be implemented to minimise or manage the ongoing environmental effects of the development; and

(v) describe how the performance of these measures would be monitored over time.

11. In condition 21 (i), delete the words "representative of three (3) government agencies (LAWC, EPA, DMR)".

12. Insert the following after condition 26:

Waste

27. The Applicant shall:

- (i) monitor the amount of waste generated by the development;
 - (ii) investigate ways to minimise waste generated by the development;
 - (iii) implement reasonable and feasible measures to minimise waste generated by the development;
 - (iv) ensure irrigation of treated wastewater is undertaken in accordance with DECCW's *Environmental Guideline for the Utilisation of Treated Effluent*; and
 - (v) report on waste management and minimisation in the Annual Environmental Management Plan Report,
- to the satisfaction of the Director-General.