

Notice of decision

DA 504-00 MOD 6

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development modification
Application number and project name	DA504-00-Mod-6 Clarence Coal Modification 6
Applicant	Centennial Coal Company Limited
Consent Authority	Minister for Planning and Public Spaces

Decision

The Director – Resource Assessments under delegation from the Minister for Planning and Public Spaces has, 4.55(2) of the *Environmental Planning and Assessment Act 1979* (**the Act**) modified the consent subject to the recommended conditions.

A copy of the instrument of modification, conditions and the Department of Planning, Industry and Environment's assessment report is available at <https://www.planningportal.nsw.gov.au/major-projects/project/30996>.

Date of decision

20 August 2021

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the reasons given by the consent authority for the grant of the original consent;
- the objects of the Act;
- the considerations under s 7.14(2), 7.16(3) and 7.17(2) of the Biodiversity Conservation Act 2016 (NSW);
- all information submitted with the modification application during the assessment and information considered in the Department's Assessment Report;
- the findings and recommendations in the Department's Assessment Report;
- the submissions made concerning the modification, including advice provided by government agencies; and
- the views of the community about the project (see Attachment 1).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The decision maker was satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted was modified.

The key reasons for granting the modification are as follows:

- the modification would assist in enhancing rehabilitation outcomes for Charbon Colliery without compromising the rehabilitation outcomes for Clarence Coal;
- the modification is permissible with consent, and is consistent with NSW Government policies;
- the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards. This includes limiting the hours of excavation and stockpiling of coarse coal reject material to minimise potential noise impacts on the community, and managing acid mine drainage risks by establishing a screening process for coarse coal reject material prior to transport to Charbon; and
- the issues raised by the community during consultation and in submissions have been considered and, where appropriate, adequately addressed through recommended conditions of consent.
- weighing all relevant considerations, the modification is in the public interest.

Attachment 1 – Consideration of Community Views

The Department exhibited the modification from 8 October 2020 until 21 October 2020 (14 days) and received two submissions, including one objection.

The key issues raised by the objection and considered in the Department's Assessment Report and by the decision maker include climate change and impacts on the environment. Other issues raised were not directly relevant to the modification and are addressed in detail in the Department's Assessment Report. Centennial's Submissions Report has also responded to the issues raised.

<i>Issue</i>	<i>Consideration</i>
<i>Poor environmental record</i> the company has a poor environmental record, including contamination of the Sydney Water catchment and Blue Mountains National Park.	<i>Assessment</i> - The environmental performance of the company is regulated by the Department through regular monitoring and reporting, incident reporting and independent audit to inform any necessary regulatory action <i>Conditions</i> - No additional conditions are required.
<i>Impacts of subsidence</i> Removal of further coal will damage the water table and result in subsidence in the Gardens of Stone and hanging swamps.	<i>Assessment</i> - The modification does not propose any additional coal extraction and would not result in additional subsidence. <i>Conditions</i> - No additional conditions are required.
<i>Climate change</i> Burning fossil fuels adds to climate change	<i>Assessment</i> - The modification would result in a negligible increase in greenhouse gas emissions associated with the transfer of coal reject by train to Charbon. <i>Conditions</i> - No additional conditions are required.
<i>Number of modifications</i> The number of modifications to this project indicate poor planning.	<i>Assessment</i> - The Department is satisfied that the development as modified would remain substantially the same as the originally approved project and is therefore able to be modified under Section 4.55(2) of the Act. <i>Conditions</i> - No additional conditions are required.
<i>Bushfire impacts</i> The area has been impacted by bushfire and needs time to recover.	<i>Assessment</i> - The modification does not propose any activities on bushfire affected land and would not impact bushfire recovery in the region. <i>Conditions</i> - No additional conditions are required.