ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

NOTICE OF MODIFICATION TO A DEVELOPMENT CONSENT GRANTED ON 19.03.90 UNDER SECTION 101 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979, PURSUANT TO SECTION 96(2) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

I, the Minister for Planning, under Section 96(2) of the Environmental Planning and Assessment Act, 1979, modify the development consent referred to in Schedule 1 by the conditions set out in Schedule 2. I am satisfied that the development to which the development consent, as modified, will relate, is substantially the same development.

The reasons for the imposition of the conditions are:

(i) to permit the modification of the consent to allow for the upgrade of the Coal Handling and Preparation Plant (CHPP) to process coal mined from Glennies Creek Coal Mine and the construction of a coal conveyor between Glennies Creek Mine and the CHPP;

(ii) to minimise any adverse impact that the modified development may cause through noise, visual disturbance, air and water pollution, traffic and subsidence; and,

(iii) to ensure environmental monitoring and reporting requirements are appropriate for the modified development.

Andrew Refshauge MP
Minister for Planning

Sydney, 18 December 2001 DA 86-2889-M4 File No: N90/00631

SCHEDULE 1

Development consent to be modified:

Development consent granted by the Minister for Urban Affairs and Planning on 19 March 1990, pursuant to section 101 of the Environmental Planning and Assessment Act 1979, ("the Act") for a development application (DA 86-2889) made by Camberwell Coal Pty Ltd on behalf of Camberwell Joint Venture for the construction and operation of the Camberwell surface coal mine, associated transport and coal loading facilities, including rail spur line, except as modified by the amendments of that development consent: granted by the Minister for Planning on 22 April 1992, pursuant to section 102 of the Act; granted by the Minister for Planning on 22 December 1994, pursuant to section 102 of the Act; and granted by the Minister for Urban Affairs and Planning on 6 May 1999, pursuant to section 96(2) of the Act.

SCHEDULE 2

Proposed modifications for which development approval is now sought (DA 86-2889-M4):

- To enable the processing and dispatch of coal from Glennies Creek and Camberwell Mines, the upgrade of the Coal Handling and Preparation Plant (CHPP) to increase its capacity from approximately 545 tonnes per hour (tph) to approximately 800tph. The upgrade of the CHPP would involve increasing the ROM coal crushing and conveyor capacity, increasing the capacity of the ROM reclaim conveyors and the installation of large diameter cyclones to replace a jig and smaller cyclones; and

- The construction of a coal conveyor from the Glennies Creek Mine stockpile to the Camberwell CHPP.

The development consent is modified as follows:

Schedule 1

inserting ***an additional section in Schedule 1 after "For the following development", titled "BCA Classification" as follows:***

BCA Classification:	Class 8 – Preparation Plant Class 10a – Coal conveyor

Schedule 2

1. General

(a) ***inserting a new subclause, Condition 1(vi), in Condition 1 as follows:***

"1(vi) Statement of Environmental Effects in support of a Section 96(2) application for the Camberwell Coal Mine, dated 2 July 2001, prepared by HLA-Envirosciences Pty Ltd."

(b) ***inserting a new subclause, Condition 1(vii), in Condition 1 as follows:***

"1(vii) Additional information provided by PJ Murray in response to submissions received on the proposal in a letter dated 29 August 2001."

7. Affected Lands and Residences

(c) ***inserting in Condition 7(ii), after the words "sub-clause 7(i)" the words "or sub-clause 19.1(iv) or sub-clause 19.2(ii)"***

(d) ***inserting in Condition 7(iii), after the words "sub-clause 7(i)" the words "or sub-clause 19.1(iv) or sub-clause 19.2(ii)"***

12. Coal Transportation

(e) ***inserting** a new subclause, Condition 12(iv), in Condition 12 as follows:*

"12(iv) Truck haulage of coal from Glennies Creek Coal Mine to the Camberwell Coal Handling and Preparation Plant shall cease no later than three years from the date of this development consent, except when required in emergency circumstances or during maintenance of the overland conveyor. All coal transported between Glennies Creek Coal Mine and Camberwell Coal Handling and Preparation Plant after three years from the date of this development consent shall be transported by overland conveyor. During conveyor maintenance or in an emergency situation, under which the overland conveyor is not operable, truck haulage of coal may be undertaken along the western haul road. The Applicant shall advise the Director-General and Singleton Shire Council of the need to haul coal by truck along the western haul road once the overland conveyor is in operation."

(f) ***inserting** a new subclause, Condition 12 (v), in Condition 12 as follows:*

"12(v) Use of the western haul road (loading and truck haulage of coal) is limited to between:

- 7am to 10pm Monday to Saturday; and
- 8am to 10pm on Sundays and public holidays."

19. Off-Site Effects

(g) ***deleting** Condition 19 and **replacing** it with the following:*

"19.1 Noise Level Criteria

(i) The Applicant shall ensure that noise emissions from the operation of the mine and associated activities shall not exceed the noise limits in Table 1 below at the nominated residences.

Table 1: Noise levels for Camberwell Coal Mine at Sensitive Receivers $L_{eq(15\ min)}$, dB

Residence[1]	**$L_{eq(15\ min)}$, dB**
Mordey, Noble	41
Lambkin, Watling, Oxford, G. Hall, Proctor, Richards	39
Egan, Payne	36

Note 1. – These limits do not apply to residences within the Current Zone of Affectation (Dulwich and Tisdell).
2. – The noise emission levels in Table 1 apply during winds (0-3m/s) at 10m height above ground level and temperature inversions up to 3°C/100m.
3. - For the purpose of the noise criteria in Table 1, 5dBA must be added to the measured level if the noise is substantially tonal or impulsive in nature. Where two or more of these characteristics are present the maximum addition to the measured noise level is limited to 10dBA.

(ii) The area of noise affectation during mining operations is defined by demonstrated exceedence of noise levels at the nominated residences shown in Table 2 below.

Table 2: Noise Affectation Criteria

Residence[1]	**$L_{eq(15\ min)}$, dB**
Mordey, Noble	46
Lambkin, Watling, Oxford, G. Hall, Proctor, Richards	44
Egan, Payne	41

Note 1. – These limits do not apply to residences within the Current Zone of Affectation (Dulwich and Tisdell).

(iii) In the event that a landowner or occupier considers that noise from the project at their dwelling is in excess of the noise levels depicted in Table 1, or that a landowner considers that the noise levels depicted in Table 2 are being exceeded over more than 25% of their vacant land and the Director-General is satisfied that an investigation is required, the Applicant shall upon the receipt of a written request:

- consult with the landowner or occupants affected to determine their concerns;
- make arrangements for appropriate independent noise investigations in accordance with the noise management plan, and to the satisfaction of the Director-General, to quantify the impact and determine the source of the effect;
- modify the mining activity in accordance with a noise reduction plan prepared as part of the noise management plan, if exceedences are demonstrated to result from the mine related activity. This shall include:
  - introduction of additional controls, either on noise emission from individual sources on the site or on site operations or modify operations, to ensure that the criteria in the Table 1 above are achieved;
  - with the agreement of the landowner, undertaking of noise control at the dwelling to achieve acceptable internal noise levels;
  - entrance into an agreement with the landowner or provide such other forms of benefit or amelioration as may be agreed between the parties as providing acceptable compensation for the noise levels experienced;
- conduct follow up investigations to the satisfaction of the Director-General, where necessary.

Note: Vacant land in this condition means the whole of the lot in a current plan registered at the Land Titles Office as at the date of this consent that does not have a dwelling situated on the lot and is permitted to have a dwelling on that lot.

(iv) If the independent noise investigations in sub-clause (iii) above confirm that noise limits in Table 2 are being exceeded, the Applicant shall at the written request of the owner acquire the relevant property. Acquisition shall be in accordance with the procedures set out in Condition 7(ii).

(v) If continued complaints and noise investigations confirm that noise limits in Table 1 are being exceeded, but are less than the noise levels in Table 2, the Applicant shall continue to negotiate with the landowner until an acceptable resolution is reached.

(vi) Further independent investigations shall cease if the Director-General is satisfied that the relevant consent limits or EPA amenity criteria are not being exceeded and are unlikely to be exceeded in the future.

(vii) For the purpose of noise measurement, the L_{Aeq} noise level must be measured or computed over the required period using "FAST" response on the sound level meter. Noise from the premises is to be measured or computed at the most affected point on the residential boundary or within 30m of the dwelling where the dwelling is more than 30m from the boundary to determine compliance with this condition.

19.2 Air Quality

(i) In the event that a landowner or occupier, whose residence or vacant land is not within the area of affectation, considers that dust from the project at their dwelling or over more than 25% of their vacant land is in excess of the relevant EPA dust amenity criteria, and the Director-General is satisfied that an investigation is required, the Applicant shall upon the receipt of a written request:

- consult with the landowner or occupants affected to determine their concerns;
- make arrangements for appropriate independent dust investigations in accordance with the Dust Management Plan, and to the satisfaction of the Director-General, to quantify the impact and determine the source of the effect;
- modify the mining activity in accordance with a Dust Management Plan if exceedences are demonstrated to result from the mine related activity. This shall include:
    - introduction of additional controls, either of dust generation from individual sources on the site or on site operations or modify operations, to ensure that the dust criteria are achieved; and / or,
    - enter into an agreement with the landowner or provide such forms of benefit or amelioration as may be agreed between the parties as providing acceptable compensation for the dust levels experienced.
- conduct follow up investigations to the satisfaction of the Director-General, where necessary.

> **Note:** Vacant land in this condition means the whole of the lot in a current plan registered at the Land Titles Office as at the date of this consent that does not have a dwelling situated on the lot and is permitted to have a dwelling on that lot.

(ii) If the independent dust investigations in sub-clause (i) above confirm that dust limits are in excess of the relevant EPA dust amenity criteria, the Applicant shall at the written request of the owner acquire the relevant property. Acquisition shall be in accordance with the procedures set out in Condition 7(ii).

(iii) Further independent investigations shall cease if the Director-General is satisfied that the relevant consent limits or relevant EPA dust amenity criteria are not being exceeded and are unlikely to be exceeded in the future.

19.3 Off-site effects

In the event that the impact of dust and/or noise from the mining operations at residences that are both:
(i) outside the area of affectation; and / or
(ii) not subject to the provisions of subclauses 19.1 and 19.2,
is in excess of the amenity criteria of the Environment Protection Authority, the Applicant shall undertake such works as may be required by the Environment Protection Authority to mitigate those impacts or alternatively to purchase the affected land on a mutually agreed basis or by reference to clause 7 herein, to the satisfaction of the Environment Protection Authority."

(h) ***<u>inserting</u> a new Condition, Condition 27, as follows:***

"27. <u>Noise Management Plan</u>

The Applicant shall, within three months of the date of this development consent, prepare a Noise Management Plan to the satisfaction of the Director-General. The Plan shall particularly focus on noise associated with the rail loading facility, and rail and truck transport. The Plan shall include but not be limited to:

(i) details and timeframes for implementation of noise reduction techniques to be implemented to reduce noise emissions from the site to meet project specific noise levels;
(ii) details of measures to manage potential noise impacts from the mine, particularly noise associated with the rail loading facility and rail and truck transport;
(iii) a noise monitoring protocol to assess compliance with noise limits;
(iv) procedures for a noise monitoring program for the purpose of undertaking independent noise investigations;
(v) the procedure to notify property owners and occupiers likely to be affected by noise from the mine;
(vi) a protocol for handling noise complaints that includes recording, reporting and acting on complaints;
(vii) appropriate mechanisms for community consultation;

(viii) measures to be used to reduce the impact of intermittent, low frequency and tonal noise (including truck reversing alarms); and

(ix) measures to be taken to document any higher level of impacts or patterns of temperature inversions, and detail actions to quantify and ameliorate enhanced impacts if they lead to exceedence of the relevant noise criteria."

(i) ***<u>inserting</u> a new Condition, Condition 28, as follows:***

"28. <u>Dust Management Plan</u>

The Applicant shall, within three months of the date of this development consent, prepare a Dust Management Plan detailing air quality safeguards and procedures for dealing with dust emissions to the satisfaction of the Director-General. The Plan shall particularly focus on dust impacts associated with the haulage of ROM coal and coal loading related activities. The Plan shall include but not be limited to:

(i) a dust monitoring protocol to assess compliance with EPA dust amenity criteria;

(ii) details of measures to manage potential dust impacts from the mine, particularly dust associated with coal loading and haulage of ROM coal;

(iii) specifications of the procedures for the dust monitoring program for the purpose of undertaking independent dust investigations;

(iv) the procedure to notify property owners and occupiers likely to be affected by dust from the mine;

(v) a protocol for handling dust complaints that include recording, reporting and acting on complaints;

(vi) appropriate mechanisms for community consultation;

(vii) mitigation measures to be employed to minimise dust emissions;

(viii) equipment to be available and used to control dust generation;

(ix) methods to determine when and how the mine operation is to be modified to minimise the potential for dust emissions, if the relevant criteria are exceeded; and

(x) identification of longer term strategies directed towards mitigating dust levels that exceed the relevant EPA dust amenity criteria."

(j) ***<u>inserting</u> a new Condition, Condition 29, as follows:***

"29. <u>Erosion and Sediment Control Plan</u>

The Applicant shall update the Erosion and Sediment Control Plan for Camberwell Mine to the satisfaction of the Director-General, to incorporate the issues associated with the construction of the coal conveyor. The Plan shall be updated and implemented prior to the commencement of construction of the overland conveyor. The Plan shall include but not be limited to:

(i) details of temporary and permanent sediment and erosion control systems to be used during both mine construction and operation, including for earthworks associated with landscaping;

(ii) details of the proposed measures to maximise the retrieval of topsoil for subsequent use in the rehabilitation program;

(iii) consideration and management of erosion and sedimentation of surface watercourses/waterbodies, including all creeklines within the DA areas;

(iv) a program for reporting on the effectiveness of the sediment and erosion control systems and performance against objectives contained in the approved Erosion and Sediment Control Management Plan, and EIS and SEE."

(k) ***inserting a new Condition, Condition 30, as follows:***

"30. Community Consultative Committee

(i) The Applicant shall:

(a) establish a Community Consultative Committee (CCC). Selection of representatives shall be to the satisfaction of the Director-General in consultation with the Applicant and Singleton Shire Council. The CCC shall comprise two (2) representatives of the Applicant (including the Environmental Officer), one (1) representative of Singleton Shire Council, and four (4) community representatives. The CCC shall be chaired by Singleton Shire Council.

(b) Representatives from relevant government agencies or other individuals may be invited to attend meetings as required by the Chairperson. The CCC may make comments and recommendations about the preparation and implementation of environmental management plans, monitor compliance with conditions of this consent and other matters relevant to the operation of the mine during the term of the consent. The Applicant shall ensure that the CCC has reasonable access to the necessary plans for such purposes. The Applicant shall consider the recommendations and comments of the CCC and provide a response to the CCC and Director-General.

(ii) The Applicant shall, at its own expense:

(a) nominate two (2) representatives (including the Environmental Officer) to attend all meetings of the CCC;

(b) provide to the CCC regular information on the progress of work and monitoring results;

(c) promptly provide to the CCC such other information as the Chair of the CCC may reasonably request concerning the environmental performance of the development;

(d) provide access for site inspections by the CCC; and

(e) provide meeting facilities for the CCC, and take minutes of CCC meetings. These minutes shall be available for public inspection at Singleton Shire Council within 14 days of the meeting, or as agreed by the CCC.

(iii) If required by the CCC, the Applicant shall establish a trust fund or other funding arrangement that may be agreed between the Applicant and CCC, to be managed by the Chair of the CCC to facilitate the functioning of the CCC, and pay $2000 per annum to the fund for the duration of mining in the DA area, or as otherwise reasonably directed by the Director-General. The monies are to be used only if required for the engagement of consultants to interpret technical information and the like. The annual payment shall be indexed according to the Consumer Price Index (CPI) at the time of payment. The first payment shall be made by the date of the first CCC meeting. A record of the finances of the trust fund during each year shall be provided to the Director-General and Applicant by the Chair on each anniversary of the first payment. Any unspent monies shall be returned to the Applicant each year.

(iv) As an alternative to the establishment of a CCC for the Camberwell Coal Mine, the Applicant may consider the establishment of a joint CCC with the Glennies Creek Coal Mine to address issues associated with both the Camberwell Coal Mine and Glennies Creek Coal Mine. In considering the establishment of a joint CCC, the Applicant shall consult with Glennies Creek Coal Mine and Singleton Shire Council concerning the structure of the CCC. Any arrangement for a joint CCC under this condition shall be made in consultation with Glennies Creek Coal Mine and Singleton Shire Council, and to the satisfaction of Singleton Shire Council and the Director-General.

(l) ***inserting** a new Condition, Condition 31, as follows:*

"31. Western Haul Road Drainage

The Applicant shall ensure that drainage for the western haul road is compatible with the water management system for the clean water diversion written by Hannan Environmental Management."

(m) ***inserting** a new Condition, Condition 32, as follows:*

"32. Statutory Requirements

(i) The Applicant shall ensure that all statutory requirements including but not restricted to those set down by the Local Government Act 1993, Protection of the Environment Administration Act 1991, Protection of the Environment Operations Act 1997, Rivers and Foreshores Improvement Act 1948, Water Act 1912, National Parks and Wildlife Act 1974, and all other relevant legislation, Regulations, Australian Standards, Codes, Guidelines and Notices, Conditions, Directions, Notices and Requirements issued pursuant to statutory powers by the Singleton Shire Council, Environment Protection Authority, Department of Mineral Resources, National Parks and Wildlife Service, Department of Land and Water Conservation, Roads and Traffic Authority, NSW Agriculture, and NSW Fisheries, are fully met.

(ii) Detailed plans and specifications relating to the design and construction of each structural element associated with the proposed development are to be submitted to the Principal Certifying Authority prior to the construction of each particular building or structure. Such plans and specifications must be accompanied by certification provided by a practicing professional structural engineer or an accredited certifier certifying the structural adequacy of the proposed building design and compliance with the Building Code of Australia.

(iii) Upon completion of building works and prior to the issue of an occupation certificate, a certificate/s prepared by a suitably qualified person or a compliance certificate/s issued by an accredited certifier, is to be submitted to the Principal Certifying Authority certifying that the following building components, where relevant, have been completed in accordance with approved plans and specifications:

- footings;
- concrete structures, including ground floor and any subsequent floors, retaining walls and columns;
- framing and roof structure;
- fire protection coverings to building elements required to comply with the Building Code of Australia; and
- mechanical ventilation.

The certificate/s shall demonstrate at what stage of construction inspections were undertaken."

(n) ***<u>inserting</u> as a Note at the end of the Conditions of Consent the following:***

"All references within this consent to the State Pollution Control Commission should be read as references to the Environment Protection Authority, and all references within this consent to the Department of Water Resources or the Soil Conservation Service should be read as references to the Department of Land and Water Conservation, and all references within this consent to the Department of Minerals and Energy should be read as references to the Department of Mineral Resources, and all references within this consent to Shortland County Council should be read as references to Singleton Shire Council, and all references within this consent to the Director should be read as references to the Director-General."