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19 January 2017

Mr Howard Reed
Director, Resource Assessments
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Howard,

Re: South East Open Cut Project Approval (PA 08_0182) – Administrative Modification of Conditions

We refer to correspondence between MinterEllison (on our behalf dated 9 December 2015) and the Department (Ref: 16/01013 dated 8 January 2016) concerning the conditions of approval for the Ashton Coal Mine – South East Open Cut Project (PA 08_0812) (the Project) which impose obligations, or require compliance, at a time prior to the physical commencement of the Project.

In its correspondence of 8 January 2016, the Department indicated that it would consider amending the approval upon receiving an application to modify the Project to amend these conditions to address the concerns raised by MinterEllison.

This letter is provided as formal application under Section 75W of the *Environmental Planning and Assessment Act 1979* to modify PA 08_0812.

1. PROPOSED MODIFICATION

1.1. Notification of Commencement of Development

The following condition notifying of the commencement of development is requested to be included in Schedule 2 Administrative Conditions:

COMMENCEMENT OF DEVELOPMENT UNDER THIS APPROVAL

The Proponent shall:

- (a) notify the Secretary in writing of the date of commencement of development under this approval; and*
- (b) may only commence development under this approval once the Secretary has agreed in writing that all prerequisites to the commencement of development under this approval have been met.*

Note: The prerequisites under the approval include the approval of management plans etc that are required to be approved prior to the commencement of construction. Any conditions requiring the Proponent to acquire any property do not operate until the notice under this condition has been issued to the Secretary.

A precedent for the inclusion of a similar condition was set by the Planning Assessment Commission in its approval (November 2015) of the Warkworth Continuation Project (SSD-6464) and the Mt Thorley Continuation Project (SSD-6465).

1.2. Removal of Time Obligations Not Linked to Project Commencement

Yancoal requests the suspension of any condition specifying a date or inferring fulfillment of an obligation designed to control the impact of the development until such time as Yancoal elects to commence the development under PA 08_0182.

Annexure A Tables A and B provide a list of relevant conditions (PA 08_0812 Schedule 2 and 3) and commitments (PA 08_0812 Appendix 3) that are proposed to be amended.

For each relevant condition the following additional wording is proposed to be included (Annexure A Table A):

This condition only has effect following the issuing of the notice by the Proponent under condition [X] Commencement of Development Under This Approval.

In the case of commitments, the requested revised timing is as stated in Annexure A Table B.

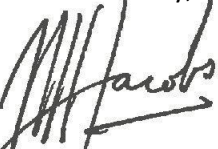
2. CONSULTATION

Ashton has discussed the proposed modification (as set out above) with the following key stakeholders:

- The Aston Coal Project Community Consultative Committee (CCC), at its 29 November 2016 meeting;
- The owner of Property 129, (in a face-to-face meeting) on 22 December 2016; and
- The owner of Property 182, (via telephone) on 23 December 2016.

Please don't hesitate to contact me should you require further information or clarification on any of the above.

Yours sincerely,



Mark Jacobs
General Manager Environment and Community
Yancoal Australia Limited

Enclosure: Annexure A

ANNEXURE A

Table A: Pre-conditions to Undertaking Activities on Site

Schedule	Condition	Requirement
2	12	The proponent shall reconstruct the 132kV and 66kV transmission lines within the alignment shown on the relevant plan in Appendix 2 to the satisfaction of the Secretary. In constructing the transmission lines, ... <i>This condition only has effect following the issuing of the notice by the Proponent under condition [X] Commencement of Development Under This Approval</i> . [To be inserted at appropriate location]
3	1	Upon receiving a written request for acquisition from an owner of the land listed in Table 1, the Proponent shall acquire the land in accordance with the procedures in conditions 7-8 of Schedule 4. <i>This condition only has effect following the issuing of the notice by the Proponent under condition [X] Commencement of Development Under This Approval</i> [To be inserted at appropriate location]
3	2A	In the alternative to the owners of Property 130 and 182 (being a property listed in Table 1) making a request to the Proponent to acquire Property 130 and 182 in accordance with Condition 1 in Schedule 3 the owners of Property 130 and 182 may make a request in writing to the Proponent to: ... <i>This condition only has effect following the issuing of the notice by the Proponent under condition [X] Commencement of Development Under This Approval</i> To be inserted at appropriate location]
3	3	Upon receiving a written request from the owner of any residence on the land listed in Tale 1 or Table 2, the Proponent shall implement additional reasonable and feasible noise and/or dust mitigation measures (such as double glazing, insulation, air filters, first-flush roof water drainage system and/or air conditioning) at the residence in consultation with the owner. ... <i>This condition only has effect following the issuing of the notice by the Proponent under condition [X] Commencement of Development Under This Approval</i> [To be inserted at appropriate location]
3	14	If the Proponent receives a written request for a property inspection, or to have a previous property inspection updated, from the owner of any privately-owned land within 2 kilometres of any approved blasting operations, the Proponent shall: ... <i>This condition only has effect following the issuing of the notice by the Proponent under condition [X] Commencement of Development Under This Approval</i> . [To be inserted at appropriate location]

Schedule	Condition	Requirement
3	39	The Proponent shall implement the Biodiversity Offset Strategy as outlined in Table 15 and as described in the EA (and shown conceptually in Appendix 5), to the satisfaction of the Secretary. ... <i>This condition only has effect following the issuing of the notice by the Proponent under condition [X] Commencement of Development Under This Approval</i> [To be inserted at appropriate location]
3	61	The Proponent shall ensure that the agricultural productivity and production of non-operational project-related land is maintained or enhanced. ... <i>This condition only has effect following the issuing of the notice by the Proponent under condition [X] Commencement of Development Under This Approval</i> . [To be inserted at appropriate location]

Table B: Revised Commitment Timing (Appendix 3 Statement of Commitments)

Appendix	Commitment	Requirement	Amended Timing
3	D2	Measures to minimise dust impacts on residents of Ashton owned properties: Make air quality monitoring data available to tenants.	Upon commencement of development of the Project
3	C1	Additional property acquisition of affected Camberwell village residents: In addition to property acquisition requirements within the Project Approval where requested by any affected property owner within Camberwell village, Ashton will enter into purchase negotiations in accordance with the properly acquisition conditions of the Project Approval.	Upon commencement of development of the Project
3	O8	Vegetation corridor: Enhance and manage a corridor of vegetation approximately 100 metres wide (i.e. ~20m both sides of creek) along the length of Glennies Creek adjacent to the SEOC Project area, equating to an area of approximately 35 ha.	Within 3 years of commencing mining operations, subject to landownership authority
3	Q2	Management of offset areas: The management of offset areas will include: ▪ Fencing to exclude cattle as required to remove grazing pressure. ▪ Control of feral animals where practical. ▪ Weed management program to reduce competition and encourage growth of native species in the understorey. ▪ Fallen timber and branches within the disturbance area will be relocated to the offset areas to provide additional nesting and foraging habitat, or beneficially used within the Ashton Project area. ▪ As a priority species to be used in any revegetation will include locally occurring species such as Narrow-leaved Ironbark (<i>Eucalyptus crebra</i>), Grey Box (<i>E. moluccana</i>), Forest Red Gum (<i>E. tereticornis</i>), Grey Gum (<i>E. punctata</i>), Gorse Bitter Pea (<i>Daviesia ulicifolia</i>), Western Golden Wattle (<i>Acacia decora</i>), Fan Wattle (<i>A. amblygona</i>) and Silver-stemmed Wattle (<i>Acacia parviflora</i>). ▪ Fallen hollow logs and branches will be retained and relocated for habitat. ▪ Searches for Speckled Warbler nests to determine habitat range of this population and to establish an appropriate monitoring strategy to ensure its long term viability in the area. ▪ Baseline assessment of the community and habitat values of the offset area. ▪ Identification of environmental weeds to be targeted in the weed management plan. ▪ An ongoing monitoring program.	Within 3 years of commencing mining operations, subject to landownership authority

Appendix	Commitment	Requirement	Amended Timing
3	X3	Enhancement of vegetation connectivity: Enhance vegetation connectivity in an east to west direction and north to south along Glennies Creek.	Within 3 years of commencing mining operations, subject to landownership authority
3	Z1	Prepare a Camberwell Village Enhancement Plan: Prepare a Camberwell Village Enhancement Plan in consultation with the residents of the village, Singleton Council and the DP&I, including a description of how the plan will be implemented and funded.	Within 5 years of commencing mining operations.