



# Ulan Coal Mine Modification 7

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Alternative Biodiversity Offset Area  
State Significant Development Modification Assessment  
(MP 08\_0184 MOD 7)

March 2022



Published by the NSW Department of Planning and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

Title: Ulan Coal Mine Modification 7

Subtitle: Alternative Biodiversity Offset Area

Cover image: *Alternative offset site, Ulan Coal Mine*

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# Executive Summary

Ulan Coal Mine is an underground and open cut coal mine located on Wiradjuri Country near the village of Ulan, approximately 38 kilometres north of Mudgee and 19 kilometres northeast of Gulgong.

The mine's operators, Ulan Coal Mines Pty Limited (UCMPL), is seeking to modify the development consent for the mine (MP 08\_0184) to replace an approved, but as yet unsecured, biodiversity offset site with an alternative biodiversity offset site. The proposed modification has been submitted under section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*.

UCMPL has secured all offsets required under the consent, except for a 10 hectare privately owned parcel, which accounts for approximately 0.6% of the total approved 1,720 hectare offset package for the Ulan Coal Mine. UCMPL has been unable to reach an agreement with the owner of this land and now proposes an alternative offset site to fulfil its obligations under the consent.

The Department made the modification report available on its website from 6 December 2021 and sought advice from the Biodiversity Conservation and Science Directorate (BCS) of the Department and Mid-Western Regional Council (Council).

BCS supported the modification given the biodiversity benefits of the alternative offset site, including:

- a greater area of native vegetation;
- a greater range of Plant Community Types;
- a greater length of cliff line habitat; and
- a maternity roost for the Large-eared Pied Bat (*Chalinolobus dwyeri*) (listed as Vulnerable under the *Biodiversity Conservation Act 2016*).

Council raised no concerns regarding the modification.

The key issue for the modification is whether the proposed offset site would provide a suitable alternative to replace the existing approved offset site. Based on the assessment of the proposed modification and the advice of BCS, the Department considers that the proposed modification would:

- provide greater biodiversity benefits;
- enable all offset obligations under the consent to be finalised; and
- not result in any impacts beyond those that were assessed and approved under the existing consent.

Consequently, the Department is satisfied that the proposed modification is in the public interest and should be approved, subject to minor modifications to the existing conditions of consent to reflect the alternative offset site.

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# 1 Introduction

This report provides the NSW Department of Planning and Environment's (the Department's) assessment of an application to modify the State Significant Development (SSD) consent for Ulan Coal Mine (MP 08\_0184).

The application was lodged on 1 November 2021 by Ulan Coal Mines Pty Limited (UCMPL) (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The modification application seeks to replace an approved, but as yet unsecured, biodiversity offset site with an alternative biodiversity offset site.

## 1.1 Background

Ulan Coal Mine is located on Wiradjuri Country near the village of Ulan, approximately 38 kilometres north of Mudgee and 19 kilometres northeast of Gulgong in the Mid-Western Regional Council local government area (see **Figure 1**). Ulan Coal Mine is operated by UCMPL, which is jointly owned by Glencore Coal Assets Australia Pty Limited and Mitsubishi Development.

## 1.2 Approval history

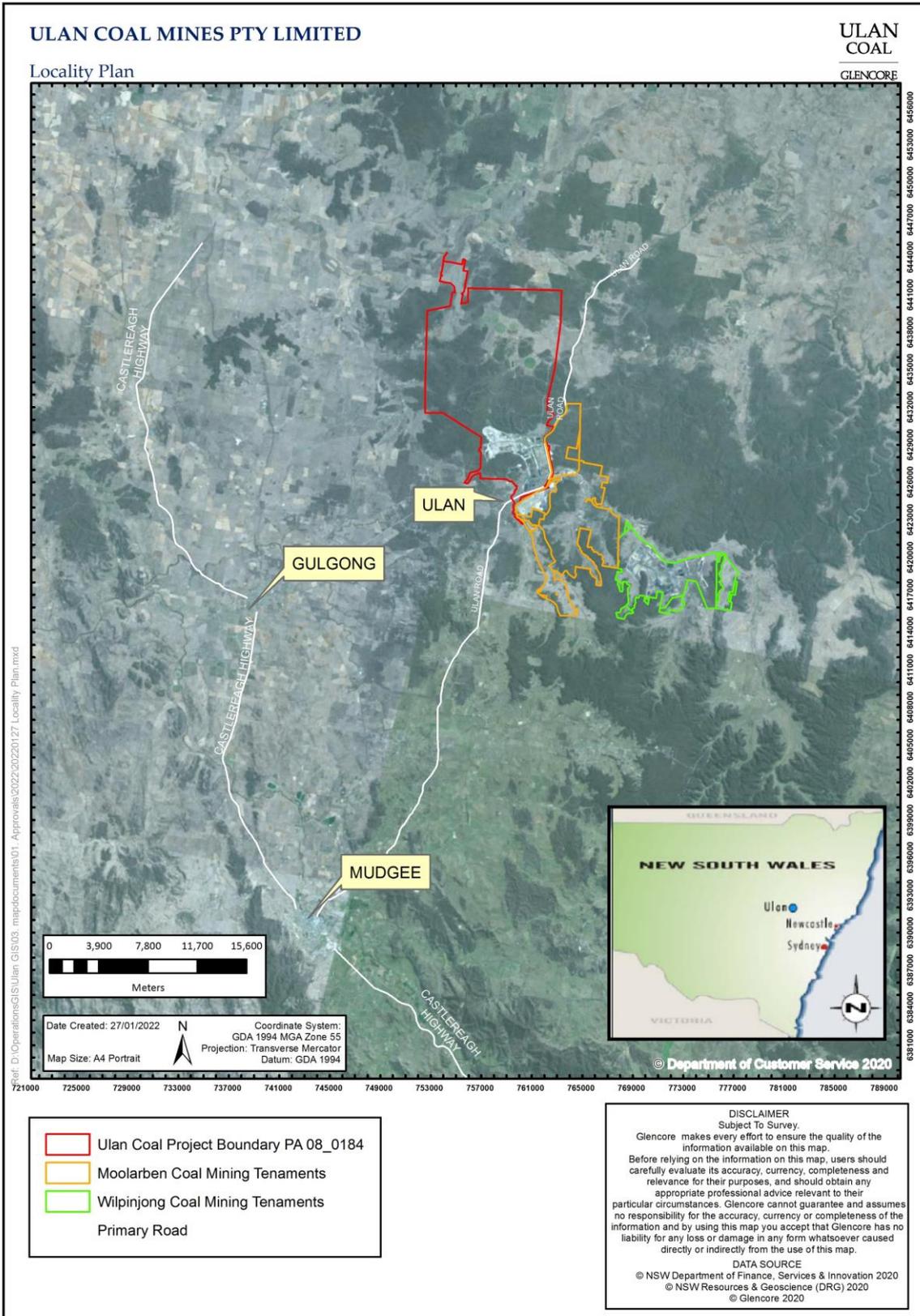
Current operations were approved by the former Minister for Planning under Part 3A of the EP&A Act on 15 November 2010. This consent was upheld by the Land and Environment Court in November 2011, following a merit appeal. The Court's Final Orders were delivered in 2012, which had the effect of updating and replacing the Minister's 2010 approval.

The development consent has been modified on five occasions and one modification is currently under assessment (see **Table 1**).

The modified consent permits the following works:

- extraction of up to 24 million tonnes (Mt) per annum of run-of-mine coal by underground and open cut methods, until 2033;
- upgrade and use of supporting surface facilities, including coal processing, coal handling and transportation systems;
- transport of product coal to export markets; and
- progressive rehabilitation of the site.

The open cut mining operations have ceased, and the mine is now operating only as an underground mine using longwall mining in two mining domains: Ulan West and Ulan No 3.



**Figure 1 | Ulan Coal Mine Locality (Source: Ulan Coal Mines Pty Ltd, 2022)**

**Table 1 | Summary of Modifications**

Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
<b>MOD 1</b>	<ul style="list-style-type: none"> <li>Carry out second workings in the North 1 Underground Mining Area</li> <li>Mine plan refinements including extension of three long wall panels</li> <li>Concrete Batching Plant</li> </ul>	Director General	75W (now repealed)	7 December 2011
<b>MOD 2</b>	<ul style="list-style-type: none"> <li>Remove restrictions on blasting</li> <li>Mine plan refinements including modification of panel geometry of five long wall panels</li> </ul>	Department	75W (now repealed)	29 May 2012
<b>MOD 3</b>	<ul style="list-style-type: none"> <li>Mine plan refinements including extension of longwall panels LW6-12 Ulan West</li> <li>Extract an additional 13Mt of ROM coal</li> <li>Minor changes to surface infrastructure</li> </ul>	Department	75W (now repealed)	14 March 2016
<b>MOD 4</b>	<ul style="list-style-type: none"> <li>Mine plan refinements including extension of longwall panels LW30-33, W7 and W8 at Ulan No 3 and LW 7 and LW 8 at Ulan West</li> <li>Extract an additional 6.4Mt of ROM coal</li> <li>Changes to surface infrastructure</li> </ul>	Independent Planning Commission of NSW	75W (now repealed)	17 July 2019
<b>MOD 5</b>	<ul style="list-style-type: none"> <li>Administrative modification to correct misdescription of the location of approved recovery positions at the southern extent of LW8 and LW6</li> </ul>	Department	4.55(1)	7 August 2022
<b>MOD 6</b>	<ul style="list-style-type: none"> <li>Extension and widening of longwall panels</li> <li>Minor changes to surface infrastructure</li> </ul>	Department	4.55(2)	Under assessment

## 2 Proposed modification

The approved biodiversity offset strategy for Ulan Coal Mine requires UCMPL to secure around 1,720 hectare (ha) of land containing either cliffline habitats, native vegetation or Endangered Ecological Communities to offset the biodiversity impacts of the project.

The status of security for each of the offset areas listed under the consent is summarised in **Table 2**.

**Table 2 | Status of Security for UCMPL's Approved Biodiversity Offset Areas**

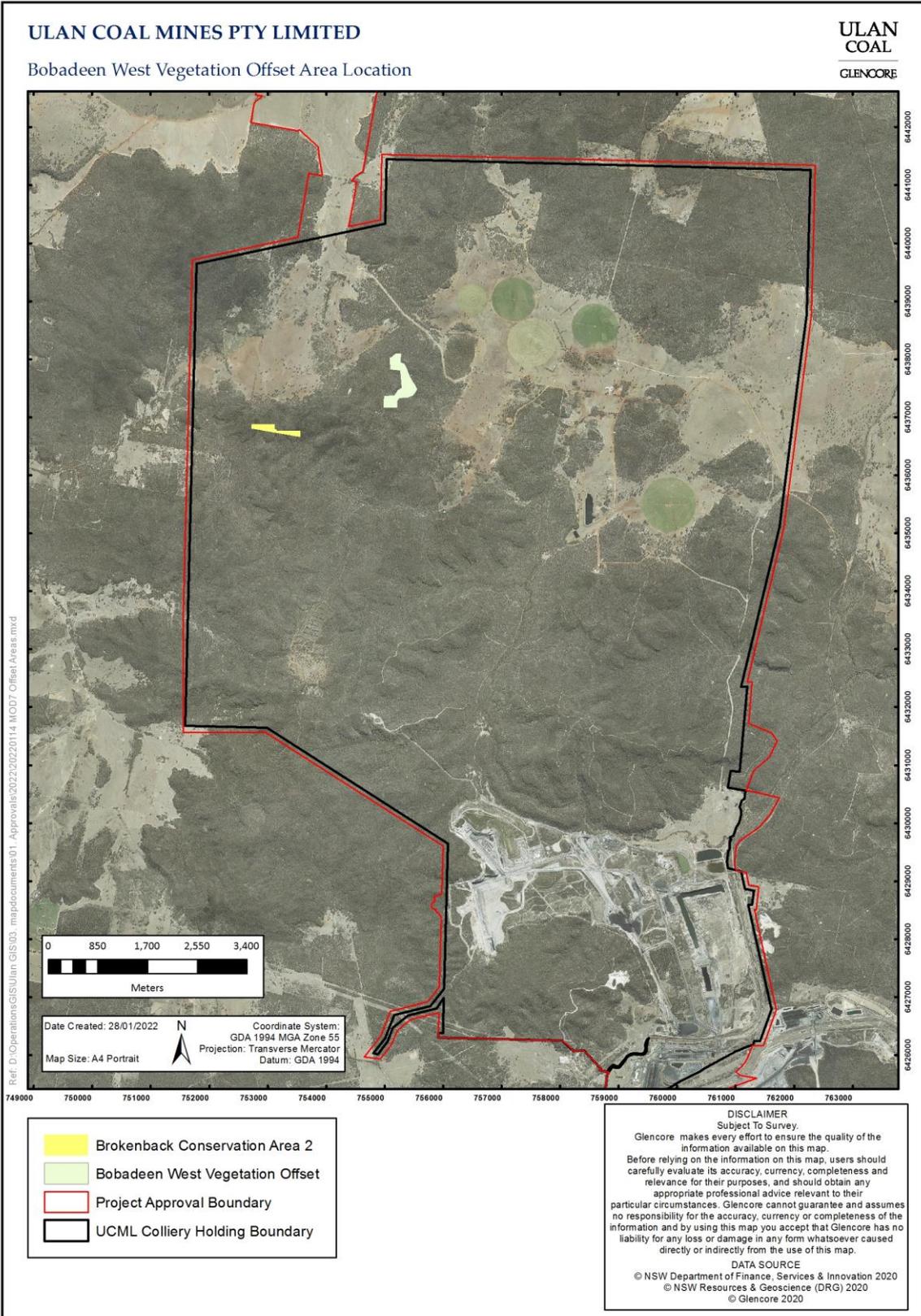
Offset Area	Area (ha)	Security Mechanism	Completion date
Spring Gully Cliffline Conservation Reserve	272.3	Crown Land Reservation – Government Gazettal No 165	6 December 2019
Brokenback Conservation Area (Area 1)	21.9	Voluntary Conservation Agreement	7 May 2019
Brokenback Conservation Area (Area 2)	10	Nil	Not completed
Brokenback Conservation Area (Area 3)	27.7	Crown Land Reservation - Government Gazettal No 165	6 December 2019
Bobadeen Vegetation Offset Area, including Bobadeen East	1369.8	Voluntary Conservation Agreement	7 May 2019
Highett Road <i>Acacia ausfeldii</i> Management Area	19.1	Voluntary Conservation Agreement	7 May 2019

UCMPL has secured all offsets required under the consent, with the exception of a 10 ha privately owned portion of Brokenback Conservation Area (Area 2), which accounts for approximately 0.6% of the total approved offset package for the Ulan Coal Mine.

UCMPL has been unable to reach an agreement with the owner of this land and now proposes an alternative offset site to fulfil its obligations under the consent.

An alternative offset site, referred to as the Bobadeen West Vegetation Offset Area, has been identified by UCMPL. The location of Brokenback Conservation Area (Area 2) and the Bobadeen West Vegetation Offset Area are shown in **Figure 2**.

UCMPL is seeking to modify Schedule 3, Condition 41 of the consent to replace the unsecured 10 ha portion of the Brokenback Conservation Area (Area 2) with the 22 ha Bobabeen West Vegetation Offset Area.



**Figure 2|** Location of Brokenback Conservation Area 2 and Bobadeen West Vegetation Offset (Source: UCML)

## 3 Statutory context

### 3.1 Scope of modification

The modification application was lodged under Section 4.55(1A) of the EP&A Act.

The Department has reviewed the scope of the modification application and is satisfied that the application can be characterised as a modification involving minimal environmental impact as the proposal:

- would not increase the environmental impacts of the project as approved;
- is substantially the same development as originally approved; and
- would not involve any further disturbance outside the already approved disturbance areas for the project.

Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

### 3.2 Consent authority

The Minister for Planning is the consent authority for the application under section 4.5(a) of the EP&A Act. However, the Director, Resource Assessments may determine the application under the Minister's delegation dated 26 April 2021 as no public objections were received, Mid-Western Regional Council (Council) did not object to the proposed modification and UCMPL did not disclose any reportable political donations.

### 3.3 Mandatory matters for consideration

The Department conducted a comprehensive assessment of the project against the mandatory matters for consideration as part of the original assessment of MP 08\_0184. The Department considers this modification application does not result in significant changes that would alter the mandatory matters for consideration under section 4.15 of the EP&A Act and conclusions made as part of the original assessment.

## 4 Engagement

The EP&A Act does not require exhibition or notification of an application to modify a consent under section 4.55(1A). Notwithstanding, the Department made the modification report available on its website from 6 December 2021 and sought advice from the Biodiversity Conservation and Science Directorate (BCS) of the Department and Council.

BCS confirmed its support for the modification given the biodiversity benefits, time elapsed since the cessation of mining and minor subsidence impacts.

Council advised that the modification does not give rise to any additional matters that need to be reconsidered or reassessed by Council.

Agency advice is provided as **Appendix A2**.

## 5 Assessment

The key issue for the Department's consideration is whether the Bobadeen West Vegetation Offset Area would provide a suitable alternative offset to replace the approved Brokenback Conservation Area (Area 2).

The Bobadeen West Vegetation Offset Area contains 22.48 ha of native vegetation assessed as being in good condition and approximately 0.9 km of cliffline habitat. The site has been subject to historical subsidence, with mining activities completed in the area in December 2018. Post mining monitoring concluded that subsidence impacts within the proposed offset area were generally minor in nature and imperceptible, with no discernible change in vegetation condition observed when compared to control sites. No further subsidence impacts are expected.

An assessment of the biodiversity values within the proposed offset area was undertaken by Ecological Australia and included as part of the Modification Report (see **Appendix A1**). The assessment concludes that the Bobadeen West Vegetation Offset Area would meet or exceed the offset requirements of the consent and relevant Commonwealth approval (EPBC 2009/5252).

BCS has provided advice to the Department supporting the alternative offset area, noting that it:

- contains a greater area of native vegetation (22.48 ha) compared to Brokenback Conservation Area (Area 2) (10.29 ha);
- provides a greater range of Plant Community Types (5 PCT's) compared to Brokenback Conservation Area (Area 2) (3 PCTs);
- contains approximately 0.9 km of cliff line habitat compared to 0.8 km within Brokenback Conservation Area (Area 2); and
- contains a maternity roost for the Large-eared Pied Bat (*Chalinolobus dwyeri*) (listed as Vulnerable under the *Biodiversity Conservation Act 2016*).

The Department notes that the Commonwealth Department of the Agriculture, Water and the Environment has approved a variation to EPBC 2009/5252 permitting the use of the alternate offset site under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

Given the biodiversity benefits of the proposed alternate offset area and elapsed time since the cessation of mining (i.e. subsidence impacts have settled), the Department considers the Bobadeen West Vegetation Offset Area to be a suitable alternative offset to replace Brokenback Conservation Area (Area 2).

## 6 Evaluation

The Department has assessed the modification application in accordance with the relevant statutory requirements, having regard to the approved project, the documents provided with the modification application and agency advice.

The Department accepts that UCMPL has secured the vast majority (more than 99%) of its offset obligations under MP 08\_0184 and is satisfied that reasonable efforts have been made to secure the final outstanding offset area listed under the consent. However, in the absence of an agreement with the landowner to secure the final offset area, the Department agrees that it is appropriate to pursue an alternative offset that would enable UCMPL to fully meet its offset obligations within a reasonable timeframe.

The Department considers that despite having been subject to historical subsidence, the Bobadeen West Vegetation Offset Area is a suitable alternative offset that provides greater biodiversity benefits compared to the approved Brokenback Conservation Area (Area 2).

The Department considers that it is in the public interest for UCMPL to finalise its offset obligations in a timely manner, and notes that the alternative offset site is owned by UCMPL, thereby enabling it to be secured without further delays associated with landowner negotiations. A condition has been recommended requiring the alternative offset site be secured by 30 June 2023.

Overall, the Department considers that the proposed modification would:

- provide greater biodiversity benefits;
- enable all offset obligations under the consent to be finalised; and
- not result in any impacts beyond those that were assessed and approved under the existing consent.

Consequently, the Department is satisfied that the proposed modification is in the public interest and should be approved, subject to minor modifications to the existing conditions of consent to reflect the alternative offset site.

The Department has drafted a Notice of Modification (see **Appendix B**) and a consolidated version of the development consent as modified (see **Appendix C**).

## 7 Recommendation

It is recommended that the Director, Resource Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **determines** that the application MP 08\_0184 MOD 7 falls within the scope of section 4.55(1A) of the EP&A Act;
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification;
- **agrees to modify** the consent MP 08\_0184; and
- **signs** the attached Notice of Modification (**Appendix B**).

Recommended by:



23/03/2022

**Gabrielle Allan**

Team Leader  
Resource Assessment

Recommended by:



23/03/2022

**Kristina Robinson**

Environmental Assessment Officer  
Resource Assessment

## 8 Determination

The recommendation is **Adopted** by:



23/03/2022

**Jessie Evans**

Director Resource Assessments

as delegate of the Minister for Planning

# Appendices

## Appendix A – List of referenced documents

A1 – Modification Report: Refer to folder “Modification Application” on the Department’s website at <https://www.planningportal.nsw.gov.au/major-projects/project/42106>

A2 – Agency Advice: Refer to folder “Agency Advice” on the Department’s website at <https://www.planningportal.nsw.gov.au/major-projects/project/42106>

## Appendix B – Notice of Modification

See the Department’s website at: <https://www.planningportal.nsw.gov.au/major-projects/project/42106>

## Appendix C – Consolidated Consent

See the Department’s website at: <https://www.planningportal.nsw.gov.au/major-projects/project/42106>