



Bulga Optimisation Project Modification 4 and Bulga Underground Modification 8

Annual Review Reporting Period and Meteorological Monitoring Modification
State Significant Development Modification Assessment
(SSD 4960 MOD 4 and DA 376-8-2003 MOD 8)

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Cover image: Aerial view of the Bulga Coal Complex surface facilities (Bulga Coal 2020)

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1 Introduction

1.1 Background

The Bulga Coal Complex (the Complex) is an open cut and underground coal mining operation located within the Singleton Local Government Area, approximately 15 kilometres southwest of Singleton, in the Upper Hunter Valley (see **Figure 1**). The Complex is owned and operated by Bulga Coal Management (BCM), on behalf of the Bulga Joint Venture which is majority owned by Glencore Coal Pty Ltd.



Figure 1 | Regional context map

1.2 Approval history

Current operations at the Complex are approved under two separate development consents:

- SSD 4960 for the Bulga Optimisation Project which comprises open cut mining and offsite coal transport and was granted by the NSW Planning Assessment Commission on 1 December 2014, as delegate for the then Minister for Planning; and
- DA 376-8-2003 for Bulga Underground operations which was granted by the then Minister Assisting the Minister for Infrastructure and Planning (Planning Administration) on 23 February 2004.

SSD 4960 has since been modified on three occasions, while DA 376-8-2003 has been modified on seven occasions.

2 Proposed modifications

On 21 January 2022, Glencore submitted applications to modify both SSD 4960 and DA 376-8-2003 under Section 4.55(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Together the modifications involve:

- changing the reporting period requirement for the Annual Review (as outlined in condition 5 of Schedule 5 of SSD 4960 and condition 4 of Schedule 6 of DA 376-8-2003) from financial year to calendar year to align with site environmental monitoring regimes; and
- formalising the method for determining the frequency and strength of temperature inversions using the sigma theta method in accordance with the *NSW Noise Policy for Industry* (EPA, 2017) (NPfI) in consultation with the EPA.

A detailed description of the modifications are provided in the Modification Reports accompanying the applications (see **Appendix A**).

3 Statutory context

3.1 Scope of modifications

Under section 4.55(1) of the EP&A Act, SSD 4960 and DA 376-8-2003 cannot be modified unless the consent authority is satisfied that the modified proposals are to correct minor errors, misdescriptors or miscalculations.

As the proposed modifications involve only administrative amendments, and all key aspects of the approved developments would remain unchanged, the Department considers that the modifications would result in negligible changes to previously assessed and approved impacts.

Consequently, the Department considers that the modifications are administrative in nature and SSD 4960 and DA 376-8-2003 may be modified under section 4.55(1) of the EP&A Act.

3.2 Consent authority

Although the Minister for Planning is the consent authority for the applications, the Director, Resource Assessments, may determine the applications under the Minister's delegation dated 26 April 2021, as there were fewer than 15 unique objections, Singleton Council (Council) did not object to the proposed modifications and Glencore have not disclosed any reportable political donations.

3.3 Mandatory matters for consideration

Environmental Planning Instruments

The following environmental planning instruments apply to the modifications:

- *State Environmental Planning Policy (State and Regional Development) 2011;*
- *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (the Mining SEPP); and*
- *Singleton Local Environmental Plan 2013.*

The Department has considered the proposed modifications against the relevant provisions of these instruments. The Department considers that the proposed modifications can be carried out in a manner that is generally consistent with the aims, objectives and provisions of these instruments.

Objects of the EP&A Act

The consent authority must consider the objects of the EP&A Act when making decisions under the Act. The Department has assessed the proposed modifications against the relevant objects of the EP&A Act.

The reasons for granting consent for the original application

In accordance with section 4.55(3) of the EP&A Act, in determining these modifications, the Department has taken into consideration the reasons for the Minister's decision on the Bulga Optimisation Project (SSD 4960) (dated 1 December 2014) and the Bulga Underground (DA 376-8-2003) (dated 23 February 2004). In determining the original SSD 4960 and DA 376-8-2003, the Minister concluded that the benefits of the projects outweighed the impacts, subject to adherence to strict conditions. Consistent with this decision, the Department considers that the benefits of the modifications outweigh the impacts.

4 Engagement

4.1 Department's engagement

Clause 117(3B) of the *Environmental Protection and Assessment Regulation 2000* (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1) modifications with minimal environmental impacts. Despite this, the modification reports were made publicly available on the Department's website and were referred to the NSW Environment Protection Authority (EPA) to seek its advice. A copy of the EPA's advice is included in **Appendix A2**.

4.2 Advice from public authorities

The EPA did not object or raise any concerns to the proposed modifications, and did not provide any recommended conditions. The EPA noted that the modifications are administrative in nature, pose no threat to the environment, and that use of the sigma theta method is consistent with the NPfI.

5 Assessment

In assessing the merits of the proposed modifications, the Department considered the existing conditions of consent, the modification applications, and the applicable requirements of the EP&A Act. In accordance with section 4.55(1A) and (3) of the EP&A Act, the matters for consideration set out in section 4.15(1) of the EP&A Act have been considered.

Given the modifications are administrative in nature and do not involve any physical changes to the projects, they would not cause any physical environmental impacts beyond those already approved. Notwithstanding, the Department has considered the practical implications associated with the proposed changes to reporting periods, and alternative methodology for determining temperature inversion strength and frequency.

5.1 Changes to reporting periods

The Complex currently performs compliance monitoring on a calendar year basis. However, both SSD 4960 and DA 376-8-2003 currently require the Annual Review to report on the environmental performance of the project over the previous financial year. The proposed modification to allow the Annual Review to report on a calendar year basis, in order to align with compliance monitoring, would not pose any environmental, social or economic impacts, nor would it affect data collection, quality or validity. It would however would allow for a more streamlined and efficient approach to reporting across the Complex.

5.2 Determination of Inversion strength and frequency

The Complex currently performs its meteorological and noise monitoring in accordance with the Industrial Noise Policy (INP), as required by the relevant conditions of consent in SSD 4960 and DA 376-8-3006 . In 2017, the INP was superceded by the NPfI, however, reference to the INP remained in both SSD 4960 and DA 376-8-2003.

While the use of the sigma theta method is accepted under both policies, the NPfI is more stringent with regard to predicting the strength and frequency of temperature inversions. The modifications would allow for contemporisation of certain elements of both consents, by allowing the applicant to apply the sigma theta method and specific stability category inversion conditions detailed in the NPfI when determining appropriate meteorological conditions for compliance monitoring.

The alternative to utilisation of the sigma theta method and stability categories under the NPfI would involve the purchase and installation of additional, specialised monitoring equipment. This would come at significant expense to the company, along with potentially negative visual impacts to nearby residences, with no practical environmental or social benefit. The modifications would allow for continued use of the existing meteorological monitoring equipment, and avoidance of any potential negative visual impacts. As stated in Section 4.2, the EPA has confirmed that use of the sigma theta method is appropriate.

6 Evaluation

The Department has carefully assessed the potential impacts associated with the modifications in accordance with the relevant statutory requirements, having regard to the approved projects, previous modifications and documentation provided for the applications.

The Department considers that the modifications are administrative in nature and do not involve any physical changes to the approved projects. Overall, the Department considers that there would be no potential environmental, social or economic impacts beyond those already assessed and approved. The Department sought advice from the EPA, which indicated it had no concerns regarding the modifications.

The Department considers that the proposed modifications would allow for reporting efficiencies and provide further clarity on applying the appropriate meteorological conditions when assessing compliance with noise criteria across the Complex. The modifications would allow for the utilisation of existing meteorological monitoring equipment and avoid potential visual impacts that may have otherwise resulted from the installation of new meteorological monitoring equipment.

Overall, the Department considers that the proposed modifications should be approved, subject to conditions.

The Department has drafted a recommended Notice of Modification for SSD 4960 and DA 376-8-2003 (see **Appendix B**) and a consolidated version of the development consents, as they are proposed to be modified (see **Appendix C**).

7 Determination

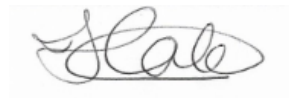
It is recommended that the Director, Resource Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **determines** that the applications Bulga Optimisation Project Modification 4 (SSD 4960 MOD 4) and Bulga Underground Modification 8 (DA376-8-2003 MOD 8) fall within the scope of section 4.55(1) 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 modifications;
- **modifies** the consents (SSD 4960 and DA376-8-2003); and
- **signs** the attached approval of the modifications (**Appendix B**).

Recommended by:



Sarah Clibborn
Senior Environmental Assessment Officer
Resource Assessments



Tegan Cole
Senior Environmental Assessment Officer
Resource Assessments

The recommendation is **Adopted / Not adopted** by:



24/02/2022

Stephen O'Donoghue
Director Resource Assessments
as delegate of the Minister for Planning

Appendices

Appendix A – List of Documents

A1 - Modification Report: Refer to folder “Modification Application” on the Department’s website at

Bulga Coal Optimisation Modification 4 (SSD 4960 MOD 4):

<https://www.planningportal.nsw.gov.au/major-projects/project/42961>

Bulga Underground Modification 8 (DA376-8-2003 MOD 8):

<https://www.planningportal.nsw.gov.au/major-projects/project/43041>

A2 – Agency Advice: Refer to folder “Agency Advice” on the Department’s website at

Bulga Coal Optimisation Modification 4 (SSD 4960 MOD 4):

<https://www.planningportal.nsw.gov.au/major-projects/project/42961>

Bulga Underground Modification 8 (DA376-8-2003 MOD 8):

<https://www.planningportal.nsw.gov.au/major-projects/project/43041>

Appendix B – Notice of Modification

See the Department’s Major Project’s website at

Bulga Coal Optimisation Modification 4 (SSD 4960 MOD 4):

<https://www.planningportal.nsw.gov.au/major-projects/project/42961>

Bulga Underground Modification 8 (DA376-8-2003 MOD 8):

<https://www.planningportal.nsw.gov.au/major-projects/project/43041>

Appendix C – Consolidated Consent

See the Department’s Major Project’s website at

Bulga Coal Optimisation Modification 4 (SSD 4960 MOD 4):

<https://www.planningportal.nsw.gov.au/major-projects/project/42961>

Bulga Underground Modification 8 (DA376-8-2003 MOD 8):

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