



Our ref: DOC25/337782  
Your ref: SSD-10269-Mod-1

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Dear Rose-Anne

### **Narrabri Underground Mine Stage 3 – Modification 1**

Thank you for your request via the NSW Planning Portal dated 14 April 2025 to the Conservation Programs, Heritage and Regulation Group (CPHR) of the NSW Department of Climate Change, Energy, the Environment and Water (NSW DCCEEW) inviting comments on the proposed modification 1 to the approved Narrabri Underground Mine Stage 3 (MOD 1).

We have reviewed the Narrabri Underground Mine Stage 3 modification report and the project's development consent (PA10\_0138), which was approved on 23 October 2012. As we understand, the proposed modification includes:

#### **Reductions to the project's impacts**

- Removal of an approved ventilation infrastructure area (15.5 hectares) that is no longer required for the project's operation. We note that the proponent is not seeking to reduce the credit obligation for this area within MOD 1, instead they are proposing to defer reducing the credit obligation until a later date under Condition B40(a).

#### **Amendments to the project's credit obligation**

- Revisions to the project's credit obligation to reflect previous approvals granted by the Department of Planning, Housing and Infrastructure (DPHI), in accordance with condition B40(a-b) of the project's consent.

#### **Modifications to the project's consent conditions**

- Revisions to the project's credit retirement stages, creating separate offsetting stages for areas of predicted subsidence ponding.
- A new consent condition that would allow the proponent to further modify the staging of credit retirement in the future, in agreement with the Planning Secretary.
- Amendments to conditions B39 and B40, permitting the proponent to reduce the associated credit obligation for all ecosystem and species credits, if reducing development impacts for areas approved to be cleared. The consent conditions currently permit this to occur only for ecosystem credits and without needing to submit a formal development modification, in agreement with the Planning Secretary and in consultation with CPHR (formerly BCS).
- Updates to the credit obligation table in the Stage 3 consent to reflect approvals previously granted by DPHI under conditions B40 (a-b) of the project's consent and the proposed revisions to the project's credit retirement stages.

CPHR note the proponent's intention to further amend the Stage 3 credit obligation at a later date, if MOD 1 is approved, under condition B40(a). Given the proponent has proposed to defer reducing

the credit obligation for the 15.5 hectare impact ventilation infrastructure area that is no longer required, we have not received any spatial data or information regarding the credit reduction that would be sought. As such, we cannot comment on the adequacy of any proposed reductions for the associated credit obligation. This matter would still require consultation under the project's consent conditions.

We have also identified that additional clearing of native vegetation and threatened species habitat has occurred under the Narrabri Underground Stage 2 approval (MP08\_0144), totalling approximately 47 hectares as of June 2025. This clearing is located directly adjacent to, and in some areas intersects with, the Stage 3 development footprint. Given the overlap and proximity of these impacts, any future proposals to amend the Stage 3 consent must be carefully considered, as it is highly likely that the habitat suitability of the Stage 3 project area has been significantly compromised from these clearance operations. In particular, the cumulative impacts from the additional clearing on biodiversity values previously assessed under the project's Biodiversity Development Assessment Report (BDAR) should be thoroughly evaluated to justify any proposed reductions to the Stage 3 credit obligation.

Lastly, we have also identified concerns with the proponent's proposed modifications to the project's consent conditions, which would allow flexibility in adjusting the project's staging in addition to the proposed amendments to conditions B39 and B40. For the convenience of DPHI we have provided a review of each proposed amendment to the project's consent conditions in **Attachment C**.

#### **Concurrence under the *Biodiversity Conservation Act 2016***

The *Biodiversity Conservation Amendment (Biodiversity Offsets Scheme) Act 2024* (the BOS Amendment Act) has introduced changes to the *Biodiversity Conservation Act 2016* (BC Act). For major projects, any proposed conditions of consent that do not align with the specified number and class of biodiversity credits in the BDAR must now receive concurrence from the Minister for the Environment. This requirement also applies to project modifications where the proposed changes are inconsistent with the original BDAR.

CPHR has reviewed the proposed amendments to the project's consent conditions, outlined in **Attachment C**. We advise that each amendment would result in:

- revisions to the specified number and class of biodiversity credits in the BDAR; or
- would enhance flexibility for the proponent to offset the project in a manner that diverges from the original BDAR.

As such, if DPHI accepts the proposals in MOD 1 and considers amending the project's consent conditions accordingly, concurrence will be required from the Minister for the Environment. CPHR invites DPHI to discuss this requirement with us further prior to issuing draft conditions of approval.

CPHR's biodiversity recommendations are provided in **Attachment A**, and detailed comments are provided in **Attachment B**. A review of the proposed consent conditions and our comments are provided in **Attachment C**.

If you have any questions about this advice, please do not hesitate to contact Ben Ellis, Principal Project Officer, via [ben.ellis@environment.nsw.gov.au](mailto:ben.ellis@environment.nsw.gov.au) or (02) 8275 1838.

Yours sincerely



**Sarah Carr**  
**Director North West**  
**Conservation Programs, Heritage and Regulation Group**

9 July 2025

Attachment A – CPHR's Comments and Recommendations

Attachment B – CPHR's Detailed Comments

Attachment C – CPHR's Review of Proposed Conditions of Consent

## CPHR's comments and recommendations

### Narrabri Underground Mine Stage 3 – Modification 1

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- 1.1 Ensure Table 3 of the modification report reflects the correct number of koala credits, 6,895 instead of 6,894.
- 2.1 DPHI considers our review of the proposed conditions and recommendations in Attachment C.
- 3.1 No further post-consent targeted surveys and credit recalculations are conducted for threatened species assessed under the Stage 3 BDAR.
- 4.1 Staging of the project is not revised to separate out the indirect impacts of subsidence ponding.
- 5.1 The project's consent is not modified to allow for increased flexibility to amend credit staging outside of a formal modification and review process.
- 6.1 Revise the modification report to accurately reflect the approved reduced project design. This revision should also be updated in Appendix 2 of the Stage 3 consent, if MOD 1 is approved.

CPHR’s recommendations and detailed comments

Narrabri Underground Mine Stage 3 – Modification 1

1. CPHR has verified the modifications to credit recalculations

The proponent has presented an updated credit obligation table in the modification report that reflects a series of post-consent approvals issued by the Department of Planning, Housing and Infrastructure (DPHI) under conditions B40(a) and B40(b) of the project’s consent. These approvals include:

- Post-consent targeted surveys for the glossy-black cockatoo and a reduction of 5,643 glossy-black cockatoo species credits, approved on 10 October 2023.<sup>1</sup>
- Post-consent targeted surveys for the glossy-black cockatoo and a reduction of 5,796 glossy-black cockatoo species credits, approved on 12 December 2024.<sup>2</sup>
- A reduction of 80 hectares of impact and a reduction of an associated 1,616 ecosystem credits, approved on March 2025.<sup>3</sup>

CPHR has reviewed Table 2 and Table 3 of the modification report and can confirm that these tables capture the reduced credit obligation of the approvals issued above. However, there is a minor discrepancy in the revised Phases 6a-6c in Table 3. In separating Phase 6 into 3 separate sub-phases, the amount of koala credits calculated has been incorrectly reduced by 1 credit. This should be rectified in Table 3 of the modification report, noting our recommendations below that Phase 6 is not further staged (See Table 1 below).

Table 1: Incorrect credit calculations between the modification report and approved credit obligation.

Table 3 of Modification Report				Table 6 of Approved Conditions of Consent
Phascolarctos cinereus (koala)	Phase 6a	Phase 6b	Phase 6c	Phase 6
	2,599	4,182	113	6,895
Total	6,894			6,895

Recommendation:

- 1.1 Ensure Table 3 of the modification report reflects the correct number of koala credits, 6,895 instead of 6,894.

<sup>1</sup> Department of Planning Housing and Infrastructure (2023) Narrabri Underground Mine Stage 3 – Biodiversity Credit Reduction [Letter to Whitehaven Coal Limited](#)

<sup>2</sup> Department of Planning Housing and Infrastructure (2024) Narrabri Underground Mine Stage 3 – Biodiversity Credit Reduction [Letter to Whitehaven Coal Limited](#)

<sup>3</sup> Department of Planning Housing and Infrastructure (2025) Narrabri Underground Mine Stage 3 – Biodiversity Credit Reduction. [Letter to Whitehaven Coal Limited](#)

## 2. The proposed increased flexibility to recalculate credits when reducing impacts should be to the satisfaction of CPHR

Condition B40(a) of the Stage 3 consent currently permits the proponent to apply for reductions to the credit obligation for ecosystem credits, if development impacts have been reduced. Condition B40(b) permits the proponent to apply for reductions to the credit obligation for glossy-black cockatoo species credits if undertaking post-consent targeted surveys. Both conditions allow for this to occur outside of a formal modification process, in consultation with CPHR and with the agreement of the Planning Secretary.

The proponent has proposed amending condition B40(a) to permit future reductions in the credit obligation for all ecosystem and species credits, if development impacts are reduced. The proposed conditions still require agreement from the Planning Secretary and consultation with CPHR.

Although construction for the approved Stage 3 project has not yet commenced, the approved credit obligation has already been significantly reduced via a complex process of manual credit recalculations to account for post-consent surveys and design modifications (as detailed above). Outside of this, additional clearing of native vegetation and threatened species habitat, both within and adjacent to the Stage 3 development footprint, has occurred. As we understand this clearing has been undertaken in accordance with the Narrabri Stage 2 approval (MP08\_0144). The proponent has also indicated their intention to apply for further credit recalculations if MOD 1 is approved.

We emphasise that post-consent amendments need to be assessed on a case-by-case basis and more significant alterations to credit obligations, or in different project scenarios, may require a different method of assessment and recalculation i.e., reopening via the Biodiversity Assessment Method Calculator (BAM-C) and/or amendments to the approved Biodiversity Development Assessment Report (BDAR) to capture revised impacts.

If DPHI considers increasing flexibility for the proponent to reduce their credit obligation outside of a formal modification process for condition B40(a), we recommend that these applications be made to the satisfaction of CPHR, and with agreement from the Planning Secretary, rather than in consultation with CPHR. Noting our recommendation below that no further flexibility is granted for post-consent targeted surveys or project staging. Recommended conditions have been provided in **Attachment C**.

### Recommendation:

- 2.1 DPHI considers our review of the proposed conditions and recommendations in **Attachment C**.

## 3. Future credit recalculations should not include post-consent surveys for threatened species

CPHR has identified ongoing land clearing operations within the Stage 3 extension project area. Approximately 47 hectares of native vegetation and threatened species habitat have been cleared to date. As we understand this has been undertaken in accordance with the Narrabri Stage 2 approval (MP08\_0144) (Figure 1). This clearing activity:

- includes areas not assessed in the Stage 3 BDAR
- occurs directly adjacent to, and in some areas intersects with, the Stage 3 development footprint
- has taken place while the proponent has been undertaking post-approval targeted surveys for the glossy-black cockatoo, potentially compromising the integrity of those surveys.

Under Condition B40(b) of the Stage 3 consent, the biodiversity credit obligation for the glossy-black cockatoo may be reduced if post-consent surveys demonstrate that the original credit

requirement was overestimated. However, the recent clearing permitted under the Stage 2 approval has extended into habitat areas assessed in the Stage 3 BDAR. This has likely impacted the habitat for the glossy-black cockatoo and other threatened species within the Stage 3 footprint due to:

- direct loss of habitat from vegetation removal
- degradation of adjacent habitat through edge effects
- additional indirect impacts and disturbance from noise, dust, and light spill associated with clearing operations.

Given these impacts, we consider it highly likely that the habitat suitability of the Stage 3 project area has been significantly compromised from clearance operations, and the likelihood of detecting threatened species previously assessed as present within the Stage 3 BDAR has been substantially reduced. Therefore, CPHR do not support the continuation of post-consent targeted surveys and credit reductions for any threatened species assessed under the Stage 3 BDAR.





**Figure 1 Narrabri Underground Stage 3 development footprint and clearing undertaken for Stage 2**

Recommendation:

- 3.1 No further post-consent targeted surveys and credit recalculations are conducted for threatened species assessed under the Stage 3 BDAR.

**4. The proposed revisions to credit staging could lead to non-compliance with the *Biodiversity Conservation Act 2016* (BC Act) and the project's consent conditions**

The proponent has proposed to modify the staged credit retirement for the project, separating areas of predicted subsidence ponding from the overall impacts of the project. This has the potential to result in impacts from subsidence ponding occurring prior to these impacts being offset.



Table 7 of the conditions of consent requires the retirement of biodiversity credits prior to the commencement of any impacts, including land clearance and longwall mining (defined by each stage of the development). This accords with the requirements detailed in section 7.14(4) of the BC Act. The impacts of predicted subsidence ponding have been included within each stage, as these impacts will occur indirectly from longwall mining activities.

The timing of ponding impacts occurring will be dependent on several factors that cannot be accurately predicted, such as rates of subsidence activity post-underground mining and rainfall patterns. This presents a risk that the impacts of ponding may occur before the offsetting of these impacts has been undertaken. As such, creating separate offsetting stages specifically for indirect subsidence ponding would not be appropriate.

#### Recommendation:

- 4.1 Staging of the project is not revised to separate the indirect impacts of subsidence ponding from the direct impacts of vegetation clearance.

### 5. Future amendments of credit staging should be assessed on their merit and compliance with the timing provisions of the BC Act

The proponent has proposed to include a new condition in the project's consent that would allow for future adjustments of the staged offsetting for the project, without applying for a formal modification. This is:

*"With the agreement of the Planning Secretary, the Applicant may adjust the staging of surface disturbance and the associated credit requirements in Table 5 and Table 6".*

As identified above, we consider it necessary that any proposal to amend the staging of credit retirement be considered on its merit, its potential to create increased or additional impact on threatened species and their habitats, and its compliance with the timing requirements of the BC Act. As such, we recommend that any future proposed modifications to credit staging be applied for via a formal modification and review process.

#### Recommendation:

- 5.1 The project's consent is not modified to allow for increased flexibility to amend credit staging outside of a formal modification and review process.

### 6. Clarification is required in the modification document that past impact reductions have been removed from the project design

The modification document references an approval provided by DPHI in March 2025 to reduce the project's impacts by removing several development components e.g. access tracks, boreholes, etc. However, the figures in the submitted modification report still include these as approved project components (See Figure 2).

It is important that the modification report and Appendix 2 of the Stage 3 consent accurately reflects the modified project design, so that impacts and the associated credit obligation can be tracked through time.

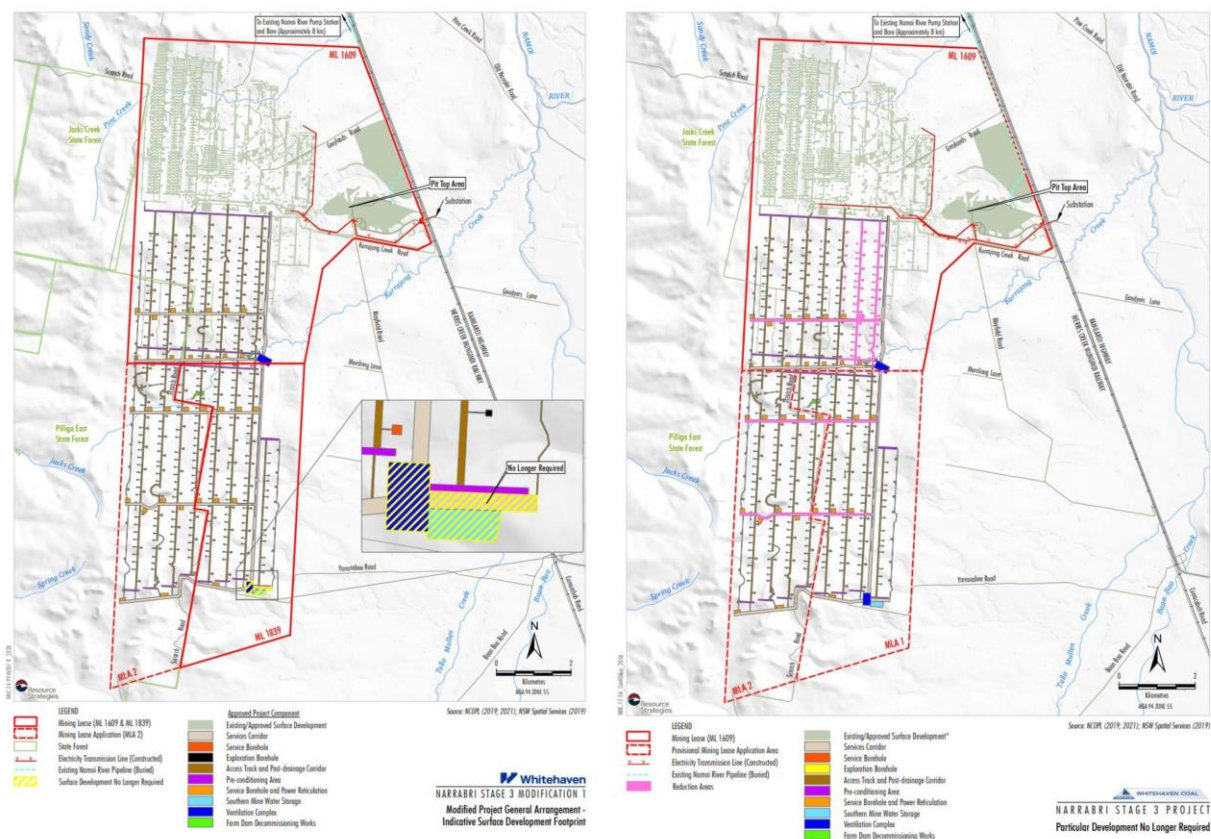


Figure 1

**Figure 2: Comparison of modification report figure (left) and project design approved by DPHI in March 2025 (Right). Areas in pink have been removed from the project design.**

**Recommendation:**

- 6.1 Revise Figure 2 of the modification report to accurately reflect the approved reduced project design. This revision should also be updated in Appendix 2 of the Stage 3 consent, if MOD 1 is approved.

## CPHR's review of proposed condition of consent

## Narrabri Underground Mine Stage 3 – Modification 1 - Proposed Conditions of Consent

Approved Condition of Consent (Development Approval - PA10_0138)		Proposed Condition/Amendment (Modification Report)	CPHR Comments	Recommended Condition
B39	<i>The Applicant must retire the biodiversity credits specified in Table 5 and Table 6 in accordance with the timetable set out in Table 7 and in accordance with the Biodiversity Offsets Scheme of the BC Act.</i>	<b>Subject to condition B40</b> , the Applicant must retire the biodiversity credits specified in Table 5 and Table 6 in accordance with the timetable set out in Table 7 and in accordance with the Biodiversity Offsets Scheme of the BC Act.	<p>The modification report does not adequately explain the necessity of linking Condition B39 with Condition B40 through the addition of the wording '<i>subject to condition B40</i>'.</p> <p>Condition B39 serves as an overarching condition for the project's offsetting requirements and compliance with the <i>Biodiversity Conservation Act 2016</i> (BC Act). It not only specifies the number and class of credits to be retired but also outlines the timing requirements for offsetting and required compliance with the Biodiversity Offsets Scheme (BOS). These elements should not be contingent upon the modifying conditions detailed in Condition B40.</p> <p><b>Please note that this proposed amendment to the conditions of consent would require concurrence from the Minister for the Environment in accordance with s.7.14 of the BC Act.</b></p>	<p>No changes are made to condition B39.</p> <p>Instead, the biodiversity credit requirement in Tables 5 and 6 should be modified to reflect the impact reductions proposed in MOD 1.</p>
B40	<i>If the Applicant:</i> (a) <i>Identifies that it will not proceed with a particular development (eg shortening or not developing particular longwalls or reducing the</i>	<i>If the Applicant:</i> (a) <i>identifies that it will not proceed with particular development (eg shortening or not developing particular longwalls or reducing the area of surface disturbance); and/or</i>	<i>If DPHI deems it appropriate to increase flexibility for the proponent to reduce their credit obligation outside of a formal modification process, it is our recommendation that an application is made to the satisfaction of CPHR and with agreement from the Planning Secretary.</i>	<i>If the Applicant:</i> <del>(a)</del> <i>identifies that it will not proceed with particular development (eg shortening or not developing particular longwalls or reducing the</i>

	<p>area of surface disturbance); and/or</p> <p>(b) Undertakes further targeted surveys for the Glossy-black Cockatoo that demonstrate that the credits required in Table 6 for that species exceed the impact of the development,</p> <p>then the Applicant may seek the agreement of the Planning Secretary (following consultation with BCS) to reduce the associated ecosystem credits specified in Table 5 and/or the number of Glossy-black Cockatoo credits specified in Table 6 equivalent to the number of credits that would be no longer required.</p>	<p>(b) undertakes further targeted surveys for the Glossy-black Cockatoo that demonstrate that the credits required in Table 6 for that species exceed the impact of the development,</p> <p>then the Applicant may seek the agreement of the Planning Secretary (following consultation with BCS) to reduce the associated ecosystem credits specified in Table 5 and/or the number of <del>Glossy-black Cockatoo</del> species credits specified in Table 6, equivalent to the number of credits that would be no longer required.</p>	<p>This approach would allow for the proposed changes to the conditions of consent while generally aligning with the BOS Amendment Act.</p> <p>Separately, we do not support the continuation of post-consent targeted surveys and credit reductions for any threatened species assessed under the Stage 3 BDAR. CPHR considers it highly likely that the habitat suitability of the Stage 3 project area has been compromised from Stage 2 clearance operations, and the likelihood of detecting threatened species previously assessed as present within the Stage 3 BDAR has been substantially reduced.</p> <p><b>Please note that this proposed amendment to the conditions of consent would require concurrence from the Minister for the Environment in accordance with s.7.14 of the BC Act.</b></p>	<p>area of surface disturbance); and/or</p> <p><del>(b) undertakes further targeted surveys for the Glossy-black Cockatoo that demonstrate that the credits required in Table 6 for that species exceed the impact of the development,</del></p> <p>then the Applicant may <b>make an application to the satisfaction of CPHR and with seek the agreement of the Planning Secretary (following consultation with BCS)</b>, to reduce the associated ecosystem credits specified in Table 5 and/or the number of <del>Glossy-black Cockatoo</del> species credits specified in Table 6, equivalent to the number of credits that would be no longer required.</p>
N/A	New proposed condition	<p>With the agreement of the Planning Secretary, the Applicant may adjust the staging of surface disturbance and the associated credit requirements in Table 5 and Table 6.</p>	<p>As outlined in our advice above, revisions to credit staging could lead to non-compliance with the timing provisions of the consent conditions and requirements of the BC Act. As such, any future alterations of credit staging should be assessed on its merit and compliance with the timing provisions of the BC Act.</p> <p><b>Please note that this proposed addition to the conditions of consent would require concurrence from the Minister for the Environment in accordance with s.7.14 of the BC Act.</b></p>	<p>The new proposed condition is not included in the modified conditions of consent.</p>