

Notice of Modification

Section 75W of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure, I modify the project approval referred to in Schedule 1, as set out in Schedule 2.



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Director Mining and Industry Projects
Department of Planning and Infrastructure

Sydney 15 MARCH

2013

SCHEDULE 1

The development consent (DA 41-03-99) granted by the Minister for Urban Affairs and Planning for the Bulga Open Cut Coal mine on 23 December 1999.

SCHEDULE 2

1. In Schedule 2, under Government Authorities, delete the definitions for NPWS and RTA and insert the following definition in alphabetical order:

RMS – *Roads and Maritime Services*

2. Delete all references to RTA and replace with RMS.
3. In condition 1.2(a) of Schedule 2, delete the word "and" from paragraph (ix) and delete paragraph (x), and insert the following:
- (x) the document titled *Bulga Open Cut Western Mining Limit Modification Environmental Assessment*, dated September 2012, including its statement of commitments, and the associated Response to Submissions, dated 18 January 2013; and
 - (xi) conditions of this consent.
4. After condition 3.5 of Schedule 2, insert the following:

3.5A – Additional Vegetation Offsets

By the end of December 2014, the Applicant shall:

- (a) provide an area that is, in the opinion of the Director-General, suitable in its quantity and vegetation community to offset the clearing of 1.2 hectares of *Central Hunter Grey Box – Ironbark Derived Native Grassland*;
 - (b) make suitable arrangements to manage, protect and provide long-term security for this area, to the satisfaction of the Director-General.
5. In condition 6.3.3 of Schedule 2:
- a. amend Table 6 by way of adding the text shown in the table below in bold underline, and deleting the text shown in the table below in bold strikethrough:

Residence/Land	Day	Evening	Night	
	<u><i>L_{Aeq}(15 min)</i></u>	<u><i>L_{Aeq}(15 min)</i></u>	<u><i>L_{Aeq}(15 min)</i></u>	<u><i>L_{A1}(1 min)</i></u>
249	40	40	40	45
8, 195	39	39	39	45
157, 179, 307	38	38	38	45
<u>237, 239, 261, 262</u>	<u>38</u>	<u>38</u>	<u>37</u>	<u>45</u>
<u>232, 234, 235, 240</u>	<u>38</u>	<u>38</u>	<u>36</u>	<u>45</u>

Residence/Land	Day	Evening	Night	
	$L_{Aeq}(15\text{ min})$	$L_{Aeq}(15\text{ min})$	$L_{Aeq}(15\text{ min})$	$L_{A1}(1\text{ min})$
1, 2s, 154, 237, 239 , 250, 252, 261, 262 , 308	37	37	37	45
232, 241, 243, 263, 264, 265, 266, 267, 272, 273, 274, 275, 276, 277, 279, 280, 281, 283, 284, 288	37	37	36	45
229, 230A, 230B, 231, 233, 236, 238, 242	<u>37</u>	<u>37</u>	<u>35</u>	<u>45</u>
97, 153, 163, 169e, 171, 183, 184, 197, 217s, 217m, 217n, 234, 235, 240, 263, 264, 266, 267, 272, 273, 274, 276, 279, 280, 282, 285, 311	36	36	36	45
33, 156w, 222, 223, 226, 227, 228, 230, 244, 254, 256, 281, 286, 287, 289, 290, 291, 292, 293, 294, 295, 306	36	36	35	45
All other privately owned land, excluding the land listed in Table 4.	35	35	35	45

- b. delete the second paragraph from the notes below Table 6, and insert instead:
- For the purposes of this condition an “exceedence” is considered to have occurred when valid attended noise data from compliance monitoring (collected in accordance with the requirements in Appendix 3) indicates that noise generated by the Bulga Coal Complex has exceeded any of the criteria set out in Table 6.
 - Appendix 3 sets out the meteorological conditions under which these criteria apply, and the requirements for evaluating compliance with these criteria.
6. In condition 6.3.4 of schedule 2:
- after “195” in the second dot point, insert in numerical order: “, 232, 234, 235, 237, 239, 240, 261, 262”; and
 - delete the word “2010” and insert instead “2013”.
7. In condition 6.3.7, delete all words after “fleet;”, and insert the following:
- investigate methods to statistically analyse (for example, by using regression analysis) real-time noise and meteorological data to improve noise impact forecasting and to facilitate statistically-based compliance reporting; and
 - report the investigation, implementation and effectiveness of these measures in the AEMR, to the satisfaction of the Director-General.
8. After Appendix 2, insert the following:

APPENDIX 3 NOISE COMPLIANCE ASSESSMENT

Applicable Meteorological Conditions

- The noise criteria in Table 6 of the conditions are to apply under all meteorological conditions except the following:
 - during periods of rain or hail;
 - average wind speed at microphone height exceeds 5 m/s;
 - wind speeds greater than 3 m/s measured at 10 m above ground level; or
 - temperature inversion conditions greater than 3°C/100 m.

Determination of Meteorological Conditions

- Except for wind speed at microphone height, the data to be used for determining meteorological conditions shall be that recorded by the meteorological station located on the site.

Compliance Monitoring

- Attended monitoring is to be used to evaluate compliance with the relevant conditions of this approval.

4. Unless otherwise agreed with the Director-General, this monitoring is to be carried out in accordance with the relevant requirements for reviewing performance set out in the *NSW Industrial Noise Policy* (as amended from time to time), in particular the requirements relating to:
 - a. monitoring locations for the collection of representative noise data;
 - b. meteorological conditions during which collection of noise data is not appropriate;
 - c. equipment used to collect noise data, and conformity with Australian Standards relevant to such equipment; and
 - d. modifications to noise data collected, including for the exclusion of extraneous noise and/or penalties for modifying factors apart from adjustments for duration.