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**Private and confidential**

Mr Sam Haddad  
Director – General  
Department of Planning & Infrastructure  
GPO Box 39  
Sydney NSW 2001

Attention: Mr David Kitto  
18 October 2013

Dear Sirs

**Subject: Liddell Coal Operations Proposed Modification to DA 305-11-01**

We refer to the Environmental Assessment (EA) currently on exhibition for the Liddell Coal Operations Pty Ltd (**LCO**), an application to further modify DA 305-11-01 under Part 3A section 75W of the *Environmental Planning & Assessment Act NSW (1979)* (**EP&A Act**) to allow for an extension of open cut mining at LCO from 2023 to 2028.

Hunter Valley Operations (**HVO**) is a neighbouring mining complex located to the south of LCO, operated by Coal & Allied with management services provided by Rio Tinto Coal Australia (**RTCA**). Importantly, Coal & Allied owns the Newdell train loading loop, with the loop usage being shared with LCO. HVO is currently approved to extract up to 38 million tonnes of ROM coal a year under two planning approvals, development consent DA 450-10-2003 as modified, that runs to 2025 for all operations north of the Hunter River and Project Approval PA 06\_0261, as modified, that runs to 2030 for all operations south of the Hunter River.

LCO met with Coal & Allied in December 2012 regarding their proposed modification. The matters raised in this submission were summarily raised with LCO at that meeting and actions were recorded as minutes for the meeting. Coal & Allied were anticipating, based on the actions from that meeting, further consultation and resolution of these matters before submission of the LCO Environmental Assessment. No further consultation post December 2012 has been initiated by LCO and several matters remain outstanding. These matters form the basis of our submission and objection to some aspects of the Project.

Coal & Allied request that LCO engage with Coal & Allied regarding the matters raised in this submission and that they are resolved to the satisfaction of Coal & Allied prior to any approval of the consent modification.

**Coal Transportation**

**Summary:**

- Coal & Allied does not support the loading/railing of Mt Owen coal through the Newdell loop as this contravenes the principles of the historical sharing arrangement for the loop that confined usage to coal mined within the LCO mining lease only. Furthermore, Glencore have the ability to utilise the existing Mt Owen loop and upgrade relevant infrastructure if capacity within that loop is deemed insufficient.

- Coal & Allied was disappointed with the consent modification approval granted to LCO in July 2012 that allowed LCO to increase coal railings above the previous limit of 127 days and to approximately 6 Mtpa of product coal without a rail loop access and coal loading agreement consistent with the approval being in place. There is no agreement in place between Coal & Allied and LCO that allows for loading at this level, and Coal & Allied's position is that the Newdell loop has insufficient capacity to support HVO's existing production plans plus an increase in LCO's railings to 6 Mtpa.
- Coal & Allied aims to achieve operational efficiency and certainty for users of the Newdell loop and considers that consent approval should be conditional on: (1) an updated and comprehensive capacity study to be completed at LCO's cost with the outputs agreed to by Coal & Allied and (2) LCO engaging with Coal & Allied to agree and implement an updated rail loop access and coal loading agreement for the Newdell loop, which explicitly addresses critical elements that include: monthly and annual capacity allocation; train planning and scheduling principles; performance standards and loading rates; loop maintenance cost; and infrastructure expansion cost sharing.

#### ***Railing of coal from Mt Owen***

The Newdell Loop is owned by Coal & Allied and the Liddell Colliery was previously owned by group companies of Coal & Allied Industries Limited. Liddell Colliery was sold in 1989 and a specific Coal Loading Agreement formed a part of the sale agreement for the Liddell Colliery, dated 17<sup>th</sup> of May 1989, forming the basis for LCO's historical shared usage of the Newdell loop.

This Coal Loading Agreement clearly states that coal to be transported from Newdell by LCO is confined to coal from the Liddell Colliery, defined as:

*"the coal mining operations conducted on certain mineral tenements and freehold land at the Liddell Colliery Holding".*

The proposed modification includes a request to process Mt Owen Mine Complex coal at LCO. There is no agreement between Coal & Allied, owners of the Newdell Loop and LCO, or associated companies, for any coal, other than that mined at LCO to be transported via the Newdell loop. Coal & Allied strongly oppose the transport of any coal not considered in the original Coal Loading Agreement on the Newdell Loop.

*Action requested: LCO engage with Coal & Allied and resolve commercial arrangements for the use of the Newdell loop, including an updated rail loop access and coal loading agreement, prior to determination of the modification and the Director – General impose a condition of approval that no coal from Mt Owen Complex can be transported via the Newdell Loop.*

#### ***Processing and loading of up to 1.5 Mtpa of coal at Ravensworth Coal Terminal***

The Environmental Assessment does not include sufficient information or assessment regarding the proposal to process and ship up to 1.5 Mtpa of ROM coal through Ravensworth Coal Terminal from LCO for Coal & Allied to be able to assess the potential impacts on HVO from this aspect of the modification. Coal & Allied seeks the following further information before determination, including:

1. Additional detail outlining LCO's proposed transportation plan for up to 1.5 Mtpa of coal to be trucked or conveyed from LCO to Ravensworth for processing;
2. Information detailing the infrastructure changes that have been made in de-linking the Ravensworth loop from Newdell loop, and the associated impacts additional product coal will have on rail interactions with trains entering and exiting the Newdell loop at the nearby mainline junction; and
3. Confirmation that transportation via truck is a contingency prior to the proposed conveyor connection is implemented, or is transportation via truck a transport



option rather than a contingency (i.e. transportation via truck or conveyor is contingent on what?).

*Action requested: LCO to provide the requested information and assessment of rail impacts to Coal & Allied before determination to be able to assess the potential impacts on HVO. Upon review of this assessment Coal & Allied requests the opportunity to provide an addendum submission.*

**Recent interactions with LCO regarding shared usage of Newdell loop**

Coal & Allied and LCO have had several interactions in recent years regarding LCO's usage of the Newdell loop. More recently, and as noted on page 29 Section 3.7, Coal & Allied and LCO jointly commissioned a study (completed by WorleyParsons) as required by Condition 40(a) of Schedule 3 and Condition 1.5 in Appendix 5 of DA 305-11-01.

Coal & Allied did not agree with the findings of this study as it did not adequately account for impacts on rail loop capacity caused by the operation of the broader Hunter Valley coal chain. This fundamental disagreement with the scope and findings of the study were clearly communicated to LCO and the Department.

Coal & Allied separately commissioned a more sophisticated study (completed by TSG, advisors to the Hunter Valley Coal Chain Committee (HVCCC)) that took into account Hunter Valley coal chain operations and scheduling limitations, and the findings were presented to LCO. The TSG study confirmed that Newdell loop capacity would be significantly constrained, and generally insufficient, where HVO loading requirements were 14 Mtpa and LCO's were approximately 6 Mtpa (as sought by LCO at that time).

In May 2012 Coal & Allied became aware, via LCO's *Annual Environment Management Report 2011* (AEMR), that LCO had railed 4.5 million tonnes in calendar year 2011, a significant increase over historical levels.

In correspondence to LCO dated 15 May 2012, Coal & Allied requested discussions in order to develop a commercial agreement that would define LCO's on-going usage entitlement for the Newdell loop and to ensure there was sufficient available capacity and operational certainty to accommodate both parties production and growth objectives.

At a meeting in July 2012 Coal & Allied was informed by LCO that the Department had recently advised them that they had satisfied their Development Consent condition 40(A) of Schedule 3 requiring a joint study. Coal & Allied, as owners of the Newdell loop, were not informed by the Department of this approval and as the study presented to the Department by LCO was not supported by Coal & Allied, Coal & Allied remains extremely disappointed that LCO were deemed to have satisfied this condition without the agreement of the Newdell loop owners.

Following the July 2012 meeting, Coal & Allied attempted to engage with LCO on the development of a shared access agreement, however, LCO made it clear in correspondence that it was only concerned with an agreement that covered loop maintenance and did not appear willing to engage on a contemporary shared access agreement.

LCO presented an overview of the current proposed modification to Coal & Allied on the 20<sup>th</sup> of December 2012 and were again advised of Coal & Allied's concerns regarding the impact on Newdell loop capacity of LCO's railings increasing to the proposed 6 Mtpa. As discussed above, actions were agreed as minutes, however LCO has made no further attempt to engage Coal & Allied on this matter during 2013.

*Action requested: LCO engage with Coal & Allied and resolve commercial arrangements for the use of the Newdell loop including an updated rail loop access and coal loading agreement prior to determination of the modification:*

- (1) *An updated and comprehensive capacity study to be completed at LCO's cost with the outputs agreed to by Coal & Allied; and*



(2) *The agreement and implementation of an updated rail loop access and coal loading agreement for the Newdell loop, which explicitly addresses critical elements that include: monthly and annual capacity allocation; train planning and scheduling principles; performance standards and loading rates; loop maintenance cost sharing; and infrastructure expansion cost sharing.*

#### **Increase in annual railings above current levels**

Coal & Allied believes it is incorrect for LCO to imply that the proposed consent modification will not affect Newdell loop loading capacity, as LCO has never consistently loaded coal at rates reflective of the maximum approved limit.

LCO state on page 29 Section 3.7 of the main report of the EA, that “product coal transported from LCO is currently in the order of 6 Mtpa” and further note on page 48 Section 4.7.1 that “The amount of product coal transported by rail from LCO...will remain unchanged, in the order of 6 Mtpa as is currently approved”. The stated current coal movements of 6 Mtpa is inconsistent with the figure reported in the *Liddell Coal Annual Environment Management Report 2012* (AEMR) (Clibborn Environmental Consulting), which states on page 18 Section 2.5.3, that “During the reporting period, 4,510,465 tonnes of product coal including export thermal coal and export semi soft coal were railed to the Port of Newcastle”. This is also confirmed by the Train Loading Report presented in Appendix A of the AEMR, where the reporting period is given as calendar year 2012.

Coal & Allied believes that the figure reported in the AEMR is the more accurate reflection of LCO’s current railings, approximately 1.5 Mtpa less than the railings limit approved under the most recent consent modification. Newdell loop routinely experiences congestion at current combined railing levels of around 17-18 Mtpa (Coal & Allied approx. 13.5 Mtpa and LCO approx. 4.5 Mtpa). The current capacity level of Newdell loop, as confirmed by the Coal & Allied commissioned study, is unlikely to support HVO’s near-term growth objectives to 16 Mtpa and an increase in LCO’s railings to 6 Mtpa without further infrastructure investment. This is particularly the case when weekly and monthly peak railing requirements are taken into account, along with the existing stock pile capacities at each loading bin.

*Action requested: Approval of the consent modification to be contingent upon an updated rail loop access and coal loading agreement being in place between HVO and LCO.*

#### **Increase in Number of Railing Days**

LCO are requesting an increase in railing days to 365 from the current consent approval maximum of 220 days. Coal & Allied requests the LCO must ask the Hunter Valley Coal Chain Coordinator (**HVCCC**) to analyse the impacts of such an increase and advise both parties (i.e. Coal & Allied and LCO) of the implications for Newdell loop capacity.

*Action requested:*

- (1) *Increase in railings to 365 days to be conditional on the finalisation of an updated rail loop access and coal loading agreement.*
- (2) *LCO to engage the HVCCC to confirm the impact on loop capacity and scheduling, for both HVO and LCO, in increasing LCO’s maximum railings to 365 days.*
- (3) *Increase in number of available railing days not to be approved where advice from the HVCCC is that this will: (a) have a negative impact on loop capacity taking into account the broader operation of the Hunter Valley coal chain; or (b) is likely to increase scheduling conflicts to the detriment of HVO.*

#### **Land Ownership**

The EA does not clearly identify Coal & Allied Operations Pty Ltd (“Coal & Allied”) and Novacoal Australia Pty Limited (“Novacoal”) owned land affected by the EA. From a review of the EA, land not identified to be Coal & Allied / Novacoal Australia is:



- 03//1103268 (Novacoal Australia Pty Limited and Coal & Allied Operations Pty Ltd);
- 211//975271 (Coal & Allied Operations Pty Ltd)
- 380//869839 (Novacoal Australia Pty Limited)
- 2//574166 (Novacoal Australia Pty Limited)
- 2//808431 (Novacoal Australia Pty Limited)

Please find **attached** a map that identifies these parcels of land as relevant to the proposed development.

*Action requested: Coal & Allied suggests LCO amend its EA to clearly identify Coal & Allied Operations Pty Ltd and Novacoal Australia Pty Limited land within the project area.*

#### **Other Land Access Permissions**

##### ***Contingency road haulage route***

Part 1.6 (Project Overview), Figure 1.2 of the EA identifies a contingency haulage route that LCO note as part 'approved' and part 'proposed'. Figure 1.2 fails to note that LCO does not have in place equitable land access arrangements with Coal & Allied. The attached map shows an area of the approved route (coloured blue) and the proposed contingency route (coloured pink) on land owned by Coal & Allied. Coal & Allied does not consent to LCO's use of any part of these routes until equitable access arrangements are agreed to.

*Action requested: LCO engage with Coal & Allied and resolve commercial arrangements in a written access agreement with Coal & Allied for the land owned by Coal & Allied prior to determination of the modification.*

##### ***Coal Haulage Route (Contingency only) / Pikes Gully Road***

Pikes Gully Road (PGR) currently traverses part dedicated road corridor and part on Novacoal Australia land between the New England Highway at south and the Liddell Open Cut Coal mine at North (see attached map). Easement AE385050 is registered on title for the part of PGR that traverses Novacoal land (2//574166). Easement AE385050 benefits the owners of a specific lot (37//862517) being the entities ENEX LIDDELL PTY LIMITED, GABUME PTY LIMITED, MITSUI MATSUSHIMA AUSTRALIA PTY LIMITED. No other entities have the right to use PGR over Novacoal land.

As a consequence of the wording of AE385050 no other Glencore company entities such as Mt Owen or Cumnock has a right to traverse along that section of road formation on Novacoal land. Prior to the registration of AE385050, a (2003) licence agreement was in place between Novacoal and "Liddell Joint Venture". This agreement is no longer in force, AE385050 is the only form of agreement for other parties to use PGR on Novacoal land.

*Action requested: LCO engage with Coal & Allied and resolve commercial arrangements in a written access agreement with Coal & Allied for the land owned by Coal & Allied prior to determination of the modification.*

#### **Blasting**

The proximity of Liddell's proposed extension of operations to Coal & Allied owned land, in particular, land that comprises the State heritage listed Chain of Ponds Inn and outbuildings, the Singleton Motorcycle Club track and the Ausgrid substation station, creates the potential for impacts from blasting operations on those Coal & Allied properties. It is essential that sufficient and specific measures are put in place to protect these properties.

Coal & Allied suggests that a detailed integrated blast vibration and fly rock management plan for the protection of the Chain of Ponds Inn structures be a requirement of any Modification and that any blast management measures to be implemented would be subject to the agreement of Coal & Allied as the owner and manager of the property. Furthermore, such management measures would be subject to review and amendment

based upon the results of monitoring of the effectiveness of the blast management measures over time and to the satisfaction of both Coal & Allied and the Heritage Branch of the Office of Environment and Heritage.

*Action requested: Coal & Allied requests a condition in any approval that Liddell must not commence blasting within 500m of these places until blasting protocols and impact monitoring procedures have been negotiated and formalised in a blast management agreement with and to the satisfaction of Coal & Allied.*

Should further information be required, please contact the undersigned.

Yours sincerely



Darren Yeates  
Acting Manager Director  
Rio Tinto Coal Australia

CC: Chris Salisbury, Managing Director, Rio Tinto Coal Australia





AE385050  
EASEMENT  
RIGHT OF WAY  
OVER CNA LAND  
IN FAVOUR  
OF LIDDELL



NEWDELL  
RAIL LOOP

**"APPROVED COAL HAULAGE  
ROUTE (CONTINGENCY ONLY)"  
ON CNA LAND  
LIDDELL HAS EASEMENT  
FOR THIS PART**

A scale bar with alternating black and white segments. It is marked with '0' at the left end, '400' in the middle, and '800' at the right end. Below the bar, the word 'METRES' is written in large, bold, black capital letters. The background of the slide shows a satellite map of a coastal area with a red line indicating a transect.

2//574166

2//808431

**380//869839**

**SUBJECT TO SURVEY  
ROAD ON CNA LAND**

HVL P

103//1103268

DA 450-10-2003

PROPOSED STOCKPILE  
LOCATION INCL HOPPER  
/ CRUSHER

# ENTRANCE PIT EXTENSION

PIKES  
GULLY RD

**"APPROVED COAL HAULAGE  
ROUTE (CONTINGENCY ONLY)"  
ON CNA LAND - NO RIGHT OF WAY  
OVER THIS PART, NO ROAD DEDICATION**

LIDDELL STATION RD

RCT

**"PROPOSED COAL HAULAGE  
ROUTE (CONTINGENCY ONLY)"  
PART ON CNA LAND - NO RIGHT OF  
WAY FOR PART, NO ROAD  
DEDICATION TO PART**



CURRENT  
LINKED  
LOOPS

# CHAIN OF POND INN

211//975271










**SOUTH  
PIT  
EXTENSION**



PROPOSED  
CONVEYOR

**MIA  
PIT**

An aerial photograph showing a landscape with a prominent linear feature labeled "MAIN NORTHERN RAIL LINE" in white, bold, sans-serif capital letters. The line runs diagonally from the top left towards the bottom right. To the left of the rail line, there is a small, solid black square marker. The surrounding terrain is a mix of green fields and patches of bare, light-colored earth.

- |  |  |
|--|--|
|  | LOTS OWNED BY COAL & ALLIED / NOVACOAL<br>AFFECTED BY MODIFICATION DA BOUNDARY |
|  | LAND OWNED BY COAL & ALLIED / NOVACOAL   |
|  | HVO CONSENT BOUNDARY   |
|  | LIDDELL COAL MODIFICATION DA BOUNDARY  |
|  | LIDDELL COAL PROPOSED MODIFICATION AREAS                                       |
|  | LIDDELL COAL PROPOSED LIMIT OF OPEN CUT MINING                                 |
|  | LIDDELL COAL EXISTING APPROVED MINING FOOTPRINT                                |

**COAL**  
**&**  
**ALLIED**