

Notice of decision

Moolarben Coal Project – Stage 1 (05_0117 Mod 15)

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development modification
Application number and project name	MP05_0117-Mod-15 Moolarben Coal Project – Stage 1 - Modification 15
Applicant	Moolarben Coal Operations Pty Ltd
Consent Authority	Minister for Planning and Public Spaces

Decision

The Executive Director – Energy, Resources and Compliance, under delegation from the Minister for Planning and Public Spaces has, under section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (**the Act**) modified the consent subject to the recommended conditions.

A copy of the Department of Planning & Environment's assessment report and instrument of modification is available at <https://www.planningportal.nsw.gov.au/major-projects/project/16891>

Date of decision

19 June 2020

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act, including the objects of the Act;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- all information submitted with the modification application during the assessment of the application, including the submissions received during the public exhibition of the modification application from 4 to 20 October 2019 (see Attachment 1); and
- the findings and recommendations in the Department's Assessment Report.

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The decision maker was satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted was modified.

The key reasons for approving the modification are as follows:

- the modification would create operational efficiencies and improve safety for underground mining operations;
- the modification is permissible with consent, and is consistent with NSW Government policies;
- the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards;
- the issues raised by the community during consultation and in submissions have been considered and where necessary have been adequately addressed through changes to the project and the recommended conditions of consent; and
- weighing all relevant considerations, the modification is in the public interest.

Attachment 1 – Consideration of Community Views

The Department exhibited the modification from 4 to 20 October 2019 and received 29 public submissions, including 28 objections and one comment. Comments were also received from Mid-Western Regional Council. The table below includes a summary of how key issues raised by the community were taken into consideration.

Table 1 – Community Views

<i>Issue</i>	<i>Consideration</i>
<p><i>Water resources</i></p> <ul style="list-style-type: none"> Groundwater drawdown and associated impacts on 'The Drip' and other aquatic and riparian ecosystems. Lack of consideration of recent groundwater monitoring results. Impact on water quality in Bora Creek and the Goulburn River due to surface disturbance and erosion. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The groundwater impacts associated with extraction of water from the borefield were assessed and approved as part of the original Stage 1 application. The incremental groundwater impacts associated with the proposed modification would be negligible, as: <ul style="list-style-type: none"> the proposed modification does not seek to increase water extraction beyond Moolarben Coal's approved allocation; the reconfiguration of the borefield would not move any dewatering sites closer to 'The Drip'; and the approved borefield extracts water from aquifers that are considered to be hydraulically disconnected from the Goulburn River and 'The Drip'. Existing conditions require the continuous validation of groundwater modelling. The groundwater model was updated in October 2017 and there is an ongoing requirement for model validation and recalibration. Surface disturbance associated with the proposed modification would result a very minor reduction to the Bora Creek catchment and would have negligible impact on receiving watercourses. Stormwater runoff would be managed in accordance with the requirements of the site's Water Management Plan, including the use of erosion and sediment controls in accordance with NSW Government guidelines. <p><i>Conditions / response</i></p> <ul style="list-style-type: none"> Existing conditions include strict requirements to monitor and protect 'The Drip' and other aquatic and riparian ecosystems close to mining activities. No additional conditions are required. Surface water impacts would continue to be managed in accordance with the site's Water Management Plan, including and erosion and sediment controls prescribed in <i>Managing Urban Stormwater: Soils and Construction (Landcom, 2004)</i>.
<p><i>Aboriginal cultural heritage</i></p> <ul style="list-style-type: none"> Lack of survey effort for part of the proposed access track. Additional impacts on Aboriginal sites and damage to the broader cultural environment. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> An additional survey was undertaken for part of the proposed access track that was not included in the original survey. Avoidance principles were adopted in the design of the proposed infrastructure areas and any further reduction would have other operational, environmental and social impacts. Artefacts within the proposed disturbance areas would be salvaged in accordance with <i>Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (2010)</i> and in consultation with Registered Aboriginal Parties and the Department's Biodiversity Consultation Division (BCD). <p><i>Conditions / response</i></p> <ul style="list-style-type: none"> Existing conditions remain appropriate for the proposed modification. Aboriginal cultural heritage impacts would continue to be managed in accordance with the site's Heritage Management Plan.
<p><i>Biodiversity</i></p> <ul style="list-style-type: none"> Disturbance of an existing biodiversity offset area Vegetation clearing 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The proposed disturbance areas within the existing biodiversity offset area would be replaced with an equivalent (or better) offset within the Gilgal Property. Moolarben Coal has committed to retain the existing offset liability within the proposed disturbance area which would be re-established following completion of the project. This would result in a net increase in offsets for these plant community types.

<i>Issue</i>	<i>Consideration</i>
	<ul style="list-style-type: none"> Cleared vegetation would be offset in accordance with the <i>Biodiversity Conservation Act 2016</i> (BC Act). <p><i>Conditions / response</i></p> <ul style="list-style-type: none"> The retirement of ecosystem and species credits in accordance with the Biodiversity Offsets Scheme of the BC Act. Biodiversity impacts would continue to be managed under the site's Biodiversity Management Plan in consultation with BCD.
<p><i>Coal Extraction</i></p> <ul style="list-style-type: none"> Climate change impacts associated with coal use Subsidence impacts from underground mining 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> Any additional Scope 1 and 2 greenhouse gas emissions are expected to be negligible, in comparison to the existing approved emissions. No changes are proposed to coal production and associated Scope 3 emissions. There are no changes proposed to underground mining operations and therefore no changes to approved subsidence impacts. <p><i>Conditions / response</i></p> <ul style="list-style-type: none"> No additional conditions are required
<p><i>Noise</i></p> <ul style="list-style-type: none"> Noise associated with 24-hour operation Road traffic noise 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The proposed modification would not result in any exceedances to existing noise limits of the consent. During construction, a temporary noise wall would be constructed at the most northern dewatering site to mitigate noise impacts at the closest receiver. Traffic noise impacts would be negligible as most of the construction traffic would be on Ulan Road, where there are no nearby private receivers. <p><i>Conditions / response</i></p> <ul style="list-style-type: none"> Existing conditions remain appropriate for the management of noise impacts.
<p><i>Traffic and road safety</i></p> <ul style="list-style-type: none"> Congestion along Saddlers Creek Road Road safety impacts Deterioration of public roads 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> Given the low background traffic volumes on Saddlers Creek Road, the additional vehicle movements during construction are not expected to create any significant traffic delays. The two new intersections would be designed and constructed in accordance with Austroads requirements, to the satisfaction of the appropriate roads authority. Local road maintenance contributions would continue through an existing Voluntary Planning Agreement. <p><i>Conditions / response</i></p> <ul style="list-style-type: none"> Two intersections on Ulan Road to be constructed prior to the commencement of construction/operational works, in accordance with Austroads requirements and to the satisfaction of the appropriate roads authority. Existing conditions remain appropriate for the management of traffic.
<p><i>Visual</i></p> <ul style="list-style-type: none"> Visual impacts along Saddlers Creek Road due to vegetation clearing Adverse impacts on tourism 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> There would be some visual impacts associated with the construction and operation of dewatering sites, which would be visible from Saddlers Creek Road. Usage of Saddlers Creek Road is very low and therefore the visual impacts are expected to be minor. Moolarben Coal has committed to plant vegetation screens surrounding the proposed infrastructure areas to minimise visual impacts on Ulan Road. <p><i>Conditions / response</i></p> <ul style="list-style-type: none"> No additional conditions are required.