

# Notice of Modification

## Section 75W of the *Environmental Planning & Assessment Act 1979*

Under the Minister for Planning and Infrastructure's delegation of 14 September 2011, and as members of the Planning Assessment Commission, we modify the project approval referred to in schedule 1, subject to the conditions in schedule 2.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the project.

Member of the Commission

Member of the Commission

Member of the Commission

Sydney

2011

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### SCHEDULE 1

The project approval (06\_0261) for the Hunter Valley Operations South Coal Project

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### SCHEDULE 2

1. Replace the definition of AEMR in the Definitions with:  
Annual Review      The review required by Condition 4 of Schedule 5
2. Replace all references to AEMR in the approval with Annual Review.
3. Delete Appendix 5, and the reference to it in the Table of Contents.
4. Delete the definition of DECC in the Definitions, and insert the following in the Definitions:  
OEH      The Office of Environment and Heritage within the Department of Premier and Cabinet
5. Replace all references to DECC in the approval with OEH.
6. Change the definition of Department in the Definitions to read Department of Planning and Infrastructure.
7. Change the definition of Director-General in the Definitions to read Director-General of the Department.
8. Delete the definition of DPI in the Definitions, and insert the following in the Definitions:  
DRE      Division of Resources and Energy within the Department of Trade and Investment, Regional Infrastructure and Services
9. Replace all references to DPI in the approval with DRE.
10. Delete the definition of DWE in the Definitions, and insert the following in the Definitions:

11. Delete the definition of Habitat Management Area in the Definitions.
12. Delete the definition of Offset Strategy in the Definitions.
13. Replace the note after Condition 5 of Schedule 2 with:

*Note: Under this approval, the Proponent is required to rehabilitate the site and carry out additional undertakings to the satisfaction of both the Director-General and the Executive Director, Mineral Resources in DRE. Consequently, this approval will continue to apply in all other respects other than the right to conduct mining operations until the rehabilitation of the site and those additional undertakings have been carried out satisfactorily.*

14. Delete conditions 29, 32 and 39 of Schedule 3.
15. Replace the words "DPI" in Condition 34 of Schedule 3 with:  
Executive Director, Mineral Resources in DRE
16. Replace the words "Director-General of DPI" in the first sentence of Condition 35 of Schedule 3 with:  
Executive Director, Mineral Resources in DRE
17. Correct the typographical error in the alphabetical numbering in Condition 35 of Schedule 3.
18. Delete the words "to the Director-General" in the second Condition 35(b) of Schedule 3.
19. Replace the first dot point in Condition 35(c) of Schedule 3 with:  
a Rehabilitation and Biodiversity Management Plan;
20. Replace the heading before Condition 36 of schedule 3 with:

**Rehabilitation and Biodiversity Management Plan**

21. Replace the word Offset with the word Biodiversity in the first line of Condition 36 of Schedule 3.
22. Delete the following from Condition 36 of Schedule 3:
  - (a) the words "and implementation of the Offset Strategy" in 36(b);
  - (b) the second dot point in 36(c);
  - (c) the words "and in the offset areas" in the third dot point in 36(c);
  - (d) the words "and/or biodiversity offsets" in the last dot point of 36(c);
  - (e) the words "and implementation of the Offset Strategy" in 36(d);
  - (f) the words "and the offset areas" in 36(e); and
  - (g) the words "and implement the Offset Strategy" in 36(f).
23. Replace Conditions 2 and 3 of Schedule 5 with:

**Incident Reporting**

2. As soon as practicable after the Proponent becomes aware of any incident associated with the project, the Proponent shall notify the Director-General and any other relevant agencies of the incident. Within 7 days of becoming aware of the incident, the Proponent shall provide the Director-General and any relevant agencies with a detailed report on the incident.

**Regular Reporting**

3. The Proponent shall provide regular reporting on the environmental performance of the project on its website, in accordance with the reporting arrangements in any plans or programs approved under the conditions of this approval.
24. Replace Condition 4 of Schedule 5 with:

**Annual Review**

4. By the end of March each year, the Proponent shall review the environmental performance of the project to the satisfaction of the Director-General. This review must:
  - (a) describe the development that was carried out in the previous calendar year, and the development that is proposed to be carried out over the next year;
  - (b) include a comprehensive review of the monitoring results and complaints records of the project over the previous calendar year, which includes a comparison of these results against the

- the relevant statutory requirements, limits or performance measures/criteria;
  - the monitoring results of previous years; and
  - the relevant predictions in the EA;
- (c) identify any non-compliance over the last year, and describe what actions were (or are being) taken to ensure compliance;
- (d) identify any trends in the monitoring data over the life of the project;
- (e) identify any discrepancies between the predicted and actual impacts of the project, and analyse the potential cause of any significant discrepancies; and
- (f) describe what measures will be implemented over the next year to improve the environmental performance of the project.

25. Replace Conditions 9 and 10 of Schedule 5 with the following:

9. The Proponent shall:

- (a) make the following information publicly available on its website:
- the EA;
  - current statutory approvals for the project;
  - approved strategies, plans or programs required under the conditions of this approval;
  - a comprehensive summary of the monitoring results of the project, which have been reported in accordance with the various plans and programs approved under the conditions of this approval;
  - a complaints register, which is to be updated on a monthly basis;
  - minutes of CCC meetings;
  - the last five annual reviews;
  - any independent environmental audit, and the Proponent's response to the recommendations in any audit;
  - any other matter required by the Director-General; and
- (b) keep this information up to date,  
to the satisfaction of the Director-General.