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1 INTRODUCTION

Wollongong Coal Limited (WCL) operates the Russell Vale Colliery (formerly known as NRE No. 1 Colliery), located approximately 8 km north of Wollongong, NSW. Russell Vale Colliery currently operates under Project Approval (MP) 10_0046, which was granted on 13 October 2011. MP 10_0046 (as modified) allows mining operations at Russell Vale Colliery to be undertaken until 13 October 2014.

On 11 April 2014, WCL submitted a modification application (MP 10_0046 MOD 2) under section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act) for approval to commence longwall mining of 400m of Longwall 6 (LW6). That modification application also sought to extend the duration of mining operations until 31 December 2015. MP 10_0046 MOD 2 is currently in the process of being determined by the Planning Assessment Commission. However, due to unforeseen additional public consultation requirements, determination is not expected to be made prior to 13 October 2014.

This letter supports WCL's application for a modification to MP 10_0046 to allow approved mining activities to continue to be undertaken until 31 December 2014, in anticipation of a determination of MP 10_0046 MOD 2 prior to this date.

2 EXISTING OPERATIONS

MP 10_0046 (as modified) generally enables the following mining activities:

- Development of mains in the Wongawilli Seam;
- Development of maingates 4, 5 & 6 in the Wongawilli Seam;
- Extraction of longwall panels 4 and 5 in the Wongawilli Seam;
- Pillar extraction within the 309 panel in the Bulli Seam;
- First workings within the H panel in the Bulli Seam; and
- Development and pillar extraction within the V Mains in the Bulli Seam.

MP 10_0046 also authorises the ongoing use of the surface infrastructure at the Russell Vale Site and five shaft sites.

3 MODIFICATION DESCRIPTION

This administrative modification application seeks to modify Schedule 2, Condition 5 of MP 10_0046 which states that “Mining operations may take place for 3 years from the date of this approval”. Pursuant to this condition, mining operations may be undertaken until 13 October 2014. This modification application seeks to extend the approved duration of mining activities until 31 December 2014 (the Modification).

All other aspects of mining operations will remain as currently approved under MP 10_0046 (as modified), including underground mining domains, mining methods and equipment, production rate and operational workforce.

There are no proposed changes to the surface activities associated with mining, including (but not limited to) coal processing, coal transportation, water management and waste management.

4 REGULATORY FRAMEWORK

On 13 October 2011, WCL was granted MP 10_0046 under Part 3A of the EP&A Act. Section 75W(2) enables a proponent to request a modification of an approval granted under Part 3A of the EP&A Act. Under section 75W(5), the Minister may choose to modify the approval (with or without conditions).

There are limitations on the scope of section 75W, as established in *Barrick Australia Limited v Williams* (2009 NSWCA 275). The Court held that the Minister is required to form a view as to whether the proposed changes amount to “a radical transformation of the terms of the existing development consent”. If the proposed alterations constitute a “radical transformation”, section 75W cannot be relied upon because the proposed alterations cannot be considered a “modification”.

The following aspects of Russell Vale Colliery will remain consistent with MP 10_0046 (as modified) as follows:

- Underground mine layout will remain as approved;
- This Modification will only enable extraction of coal that is currently approved to be mined;
- Maximum production rate will remain at 1 million tonnes per annum;
- Mining methods will remain the same and will utilise the existing equipment;
- Surface operations (including coal processing and transportation) will remain the same; and
- No increase in workforce.

The requested extension to the duration of mining amounts to less than 3 months. This is not a significant increase in the duration of mining, given that MP 10_0046 (as modified) authorises mining activities for a period of 3 years.

Therefore, the Modification does not constitute a radical departure from MP 10_0046 (as modified), enabling the Minister to modify the MP 10_0046 under section 75W of the EP&A Act.

5 IMPACT ASSESSMENT

The Modification does not include any changes to the approved mine plan or mining methods. Consequently, the subsidence impacts and associated environmental impacts resulting from mining will remain the same as those assessed for the approved operations. Similarly, operational activities at the surface facilities (including water management) will remain consistent with MP 10_0046 (as modified). Therefore, there will be no change to the assessed impacts relating to air quality, noise, water, visual amenity or traffic.

Environmental management practices will also remain consistent with current practices. In the absence of additional environmental impacts, further management and mitigation measures will not be necessary.

6 NEED FOR THE MODIFICATION

WCL has submitted a separate section 75W modification application (MP 10_0046 MOD 2) for approval to commence longwall mining of Longwall 6 (LW6) and to extend the duration of mining operations until 31 December 2015. That modification application (MP 10_0046 MOD 2) is currently in the process of being determined by the Planning Assessment Commission. A determination is not expected to be made prior to 13 October 2014. If a determination is not made prior to this date, in the absence of the Modification being approved, WCL will need to suspend mining operations in accordance with MP 10_0046 (as modified).

The aim of this Modification is to avoid the need for Russell Vale Colliery to be placed under Care and Maintenance (until determination of MP 10_0046 MOD 2). Placing the colliery under Care and Maintenance would involve the retrenchment of a significant number of employees (approximately 250) and onerous holding costs for the business.

Over the last 9 months, WCL has undertaken detailed long-term feasibility planning and restructured the business to sustainably and strategically manage it on an ongoing basis. One of the key factors in achieving this goal is the maintenance of the core skills of its personnel required to deliver the business plan once an appropriate long term planning approvals platform is put in place. In the short term, WCL is focusing on baseline works and studies for future projects and increasing the development inventory (primarily through development of main headings). The Modification will allow WCL to continue development of the approved Wonga Mains. This primary development allows the operational workforce to be largely retained until further longwall mining is approved.

Yours sincerely,

WOLLONGONG COAL LTD



David Clarkson
Group Environment Manager
22 September 2014