

Bulga Optimisation Project Noise and Amenity Bund Modification (SSD-4960 MOD 2)

Environmental Assessment Report

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*

1. BACKGROUND

The Bulga Coal Complex (the Complex) is an open cut and underground coal mining operation located approximately 12 kilometres southwest of Singleton in the Upper Hunter Valley (see **Figure 1**). The Complex has been operating since 1982 and is owned and operated by Bulga Coal Management Pty Limited (BCM), which is majority owned by Glencore Coal Pty Limited.



Figure 1: Location of Bulga Coal Complex

Current operations at the Complex are approved under two separate development consents. The surface operations, including open cut mining, coal processing and transport, were approved by the Planning Assessment Commission on 1 December 2014 under development consent SSD-4960 for the Bulga Optimisation Project. The underground operations were approved by the then Minister Assisting the Minister for Infrastructure and Planning on 23 February 2004 under DA 376-8-2003. This modification only applies to SSD-4960. No changes are required to DA 376-8-2003.

1.1 Noise and Visual Bund

Under SSD-4960, BCM is required to construct a western overburden emplacement as a noise and visual bund along the western perimeter of the Complex between the open pit and Charlton Road. The noise and visual bund has been designed to mimic the surrounding natural contours and to provide noise attenuation and visual screening for sensitive receivers to the south and west of the Complex. At its completion, the outer face of the bund will cover an area of 287 hectares and be initially vegetated with stabilising grass cover and with woodland species (over the longer term).

Condition 47 of Schedule 3 of SSD-4960 requires the bund to be completed as soon as practicable. The outer face of the bund must be constructed within four years of the date of development consent, being 1 December 2018. However, BCM has experienced delays in completing the bund due to industrial action which impacted mining operations during the second half of 2017.

BCM has advised that 43% (125 hectares) of the outer face of the bund has been completed to date, and estimates that it will have a total of 81% (232 hectares) completed by 1 December 2018. Consequently, 19% (55 hectares) of the bund will not be completed by the due date (see **Figure 2**).

2. PROPOSED MODIFICATION

On 20 July 2018, BCM lodged a modification application to extend the deadline for completion of the outer face of the noise and visual bund by an additional nine months. The proposal seeks to modify SSD-4960 under section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

There are no changes proposed to any other aspect of the approved mining operations, including mining methods, mining areas, mining fleet, hours of operation and extraction quantities.

The proposed modification is described further in the Statement of Environmental Effects (SEE, see **Appendix A**), prepared by BCM, which accompanied the application.

2.1 Justification

The proposed modification is required due to prolonged industrial action experienced by BCM during the second half of 2017 which resulted in BCM having to adjust its mine plan and delay construction of the noise and visual bund. BCM requires an additional nine months to account for this delay and to ensure the outer face of the noise and visual bund is completed to the proper standard.

2.2 Analysis of feasible alternatives

BCM explored two alternative options to enable completion of the outer face of the noise and visual bund by 1 December 2018. The two options included the use of additional machinery (intensified works) and extending the hours of operation from 7 am-7 pm to a 24-hour/7-day schedule. Both options would result in additional air quality, noise and/or visual impacts and therefore were not preferred.

3. STATUTORY CONTEXT

3.1 Section 4.55(1A)

SSD-4960 was granted in December 2014 under Part 4 of the EP&A Act. Section 4.55 of the EP&A Act allows for a development consent to be modified by the consent authority that granted the original consent.

The proposal would not change any of the core elements of the project including mining, processing or transportation methods, total resource recovery, production rates, operational hours, pit dimensions, employee numbers, mining intensity and the volume of material to be emplaced.

The Department is satisfied that the proposed modification would be of minimal environmental impact and that the development, as modified, would remain substantially the same development for which consent was originally granted. Therefore, the Department is satisfied that the proposed modification to the existing development consent is within the scope of section 4.55(1A) of the EP&A Act, and may be determined accordingly.

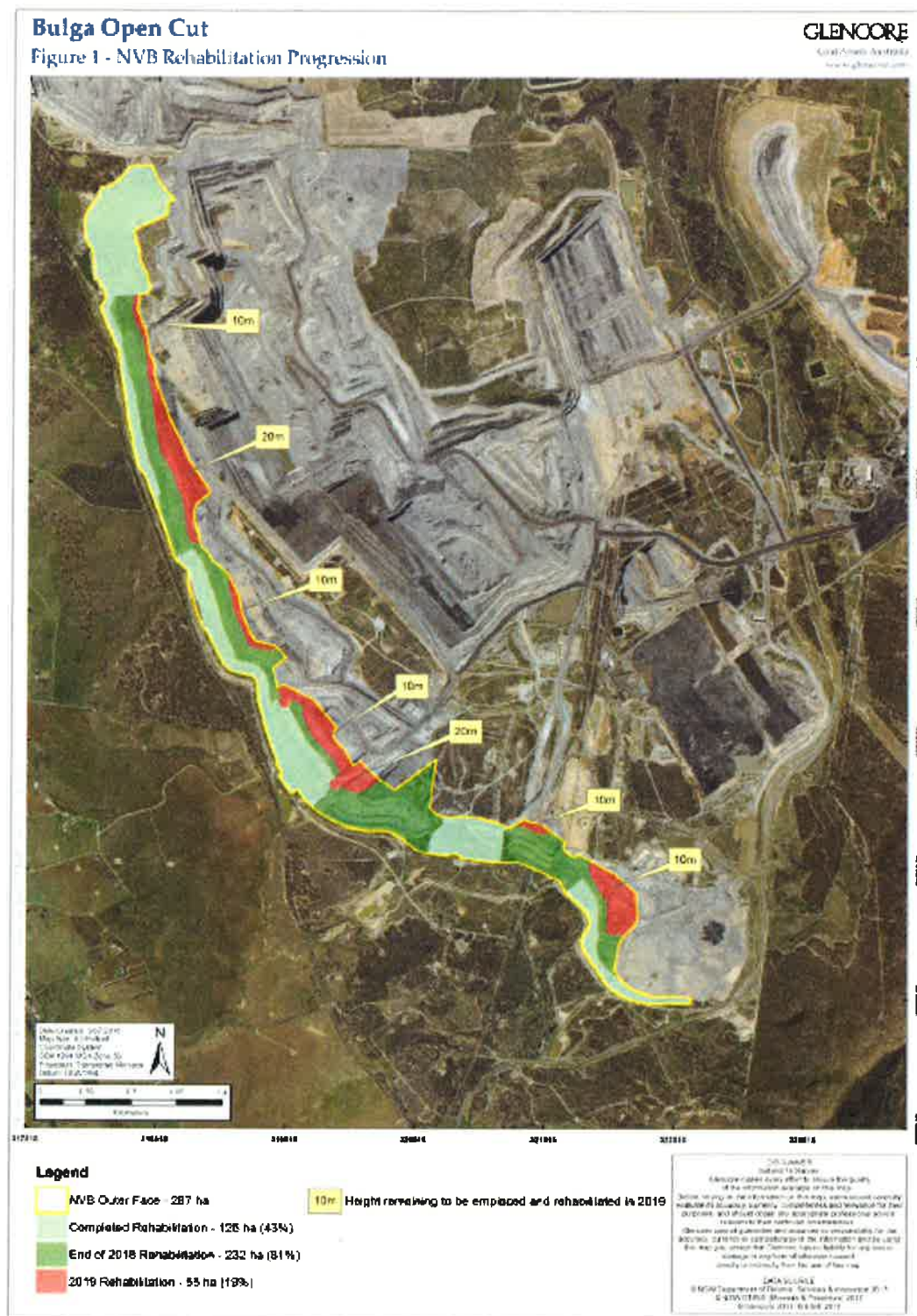


Figure 2: Progress of noise and visual bund

3.2 Consent Authority

The Minister for Planning is the consent authority for the proposed modification. However, since BCM has not reported any political donations, the local Council does not object to the proposal, and there were no public objections, the Director Resource Assessments may determine the application under the Ministers delegation of 11 October 2017.

4. CONSULTATION

Due to the minor nature of the proposed modification, the application was not placed on public exhibition. However, the modification application and accompanying SEE were made available on the Department's website.

The Department invited comment on the SEE from the Environment Protection Authority (EPA), the Department's Division of Resources and Geosciences (DRG), Resources Regulator and Singleton Council (Council).

The **EPA** provided comments advising that it is satisfied the proposed modification will not require a variation to Environment Protection Licence No 563 held by BCM. **DRG** and the Resources Regulator advised that they had no comment on the proposed modification. **Council** advised that it had no comment on the proposed modification. A copy of the submissions is provided in **Appendix B**.

The Department is satisfied that the above notification process met the requirements of the EP&A Act and the EP&A Regulation.

4.1 BCM Consultation

The Department notes that BCM also carried out its own notification including:

- placement of notices in the *Singleton Argus* and *The Land* on 25 July 2018;
- community notification letters on 20 July 2018; and
- notification on its website.

The Department is satisfied with the notification process carried out by BCM and that it met relevant requirements of the EP&A Act and EP&A Regulation.

5. ASSESSMENT

The Department has assessed the merits of the proposed modification in accordance with the relevant objects and requirements of the EP&A Act. As part of this assessment, the Department has considered the:

- modification application and accompanying SEE;
- relevant content of the original Environmental Impact Statement (EIS), current environmental management plans and monitoring results;
- agency submissions received;
- existing conditions of consent, as previously modified; and
- relevant environmental planning instruments, policies and guidelines.

The Department considers that the key issues associated with the proposed modification relate to visual amenity, air quality, noise and social impacts. It is important to note that the noise and visual bund has already been subject to detailed environmental assessment as part of the EIS that supported the SSD-4960 application.

The delayed construction of the outer face of the bund would likely result in:

- delayed visual screening benefits;
- extended visual impacts due to delayed rehabilitation;
- delayed noise attenuation benefits; and
- extended air quality impacts,

for receivers to the south and west of the Complex. However, relative to the entire construction period and the long term benefits of a completed bund, these prolonged impacts from the nine month extension would be low and are acceptable.

The Department is satisfied that BCM has adequate management measures in place to minimise visual, noise and air quality impacts during the remainder of the bund construction. Therefore, no additional conditions or amendments to the consent are considered necessary.

The Department has also considered the potential social impacts of this delay. BCM has actively engaged with the community through its routine community consultation processes and the specific notification measures summarised in **Section 4.1**. From this consultation, the Department understands that the community is well informed of the bund's progress and the recent delays. The Department notes that BCM would continue to engage with the community to maintain and improve its relationships. Therefore, no additional conditions or amendments to the consent are considered necessary.

6. CONCLUSION

The Department has completed its assessment of the proposed modification, including consideration of the potential environmental, social and economic impacts and the relevant requirements of the EP&A Act.

One of the key purposes of the bund is to provide noise attenuation and visual screening for receivers to the south and west of the Complex to mitigate the noise and visual impacts of the open cut mining operations. A four year deadline for completion of the outer face was imposed in SSD-4960 to ensure that the works were completed promptly in order to maximise mitigation benefits for nearby sensitive receivers.

BCM is now seeking to extend the timeframe for completion of the outer face of the noise and visual bund to avoid non-compliance with condition 47(b). Delayed implementation of mitigation measures is not ideal; however, the Department accepts that this additional time is warranted in the circumstances. When considering the progress that has been made to date, the Department acknowledges that the proposed delay is limited. The Department is also satisfied that the additional time would not result in any material change to approved environmental impacts.

The Department is therefore satisfied that the proposed modification is in the public interest, and is approvable.

7. RECOMMENDED CONDITIONS

The Department has drafted a recommended notice of modification (see **Appendix C**) and a consolidated version of the consent as it is proposed to be modified (see **Appendix D**).

The key recommended change is to condition 47(b); however, the Department has also taken the opportunity to recommend some minor changes to administrative conditions to reflect the Department's current drafting standards.

BCM has reviewed and accepted the recommended revised conditions of consent.

8. RECOMMENDATION

It is **RECOMMENDED** that the Director Resource Assessments, as delegate of the Minister:

- **considers** the findings and recommendations of this report;
- **determines** that the modification application is within the scope of section 4.55(1A) of the EP&A Act; and
- **approves** the modification application, under section 4.55(1A) of the EP&A Act; and
- **signs** the notice of modification (see **Appendix C**).

 30.8.18

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Environmental Assessment Officer
Resource Assessments

 30.8.18

Megan Dawson
Team Leader
Resource Assessments

9. APPROVAL

Approved by:

 30.8.18

Howard Reed
Director Resource Assessments

APPENDIX A: STATEMENT OF ENVIRONMENTAL EFFECTS

See the Department's website at www.majorprojects.planning.nsw.gov.au

APPENDIX B: SUBMISSIONS

See the Department's website at www.majorprojects.planning.nsw.gov.au

APPENDIX C: NOTICE OF MODIFICATION

APPENDIX D: CONSOLIDATED CONSENT
