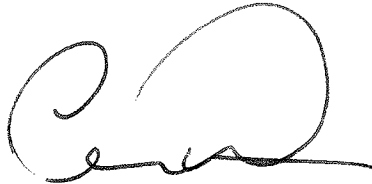


Notice of Modification

Section 75W of the *Environmental Planning and Assessment Act 1979*

I modify the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.



Chris Wilson
Executive Director, Major DA Assessments
(as Delegate for the Minister for Planning)

Sydney

21 AUGUST

2009

SCHEDULE 1

The development consent (DA 162/91) for the Airly Coal Mine, granted by the Minister for Planning on 14 April 1993.

SCHEDULE 2

1. In schedule 1 insert on the next line following "**Schedule 1**":
"Application number: DA 162/91"
2. In schedule 1 delete "Application made by:" and replace with "Made by:"
3. In schedule 1 delete "Greater Lithgow City Council (DA 162/91)" and replace with "Lithgow City Council".
4. In schedule 1 delete "Authorisation 232 on land" immediately following "In respect of" and replace with "Land".
5. Delete condition 1 of schedule 2 and replace with:
 1. The Applicant shall carry out the development generally in accordance with the:
 - (i) Development application and accompanying Environmental Impact Statement, dated 18 October 1991 and prepared by Novacoal Australia Pty Limited;
 - (ii) EIS Addendum dated 5 October 1992;
 - (iii) Submissions by Novacoal to the Commission of Inquiry on the Underground Coal Mine proposed by Novacoal Australia Pty Ltd, Mounts Airly and Genowlan Area, Capertee Valley, City of Greater Lithgow;
 - (iv) Modification application and accompanying Statement of Environmental Effects titled *Airly Coal Mine Proposed Modifications to Development Consent*, dated April 1999;
 - (v) Modification application and accompanying Environmental Assessment titled *Proposed Modification of DA 162/91 for the Construction of a 66kV Powerline And Associated Infrastructure – Airly Coal Mine*, dated July 2009;
 - (vi) Revised Statement of Commitments dated 6 August 2009 (see Appendix 1); and
 - (vii) Conditions of this consent.

If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any inconsistency.

6. Delete condition 3 of schedule 2 and replace with:
 3. The Applicant shall ensure that all statutory requirements including but not restricted to those set down by the *Local Government Act 1993*, *Protection of the Environment Operations Act 1997*, *Protection of the Environment Administration Act 1991* and all other relevant legislation, regulations, Australian Standards, codes, guidelines and notices are fully met to the requirements and satisfaction of the Department of Environment, Climate Change and Water (DECCW), Department of Industry and Investment (DII), Department of Transport and Infrastructure (DTI) and Sydney Catchment Authority.

- 3A. The Applicant shall prepare revisions of any strategies, plans or programs required under this consent if directed to do so by the Director-General. Such revisions shall be prepared to the satisfaction of, and within a timeframe approved by, the Director-General.
4. Delete all references to "Department of Mineral Resources" and "NSW Department of Agriculture" and replace with "DII".
 5. In condition 4 (b) of schedule 2 delete "Director of Planning ("the Director")" and replace with "Director-General of Planning (Director-General)".
 6. Except for condition 35 of schedule 2, delete all references to "EPA", "National Parks and Wildlife Service", "Service", "NPWS", "Department of Conservation and Land Management" and "Department of Water Resources" and replace with "DECCW".
 7. Delete the heading to condition 5 of schedule 2 and replace with "**DEPARTMENT OF ENVIRONMENT, CLIMATE CHANGE AND WATER**".
 8. Delete all references to "Roads and Traffic Authority" and replace with "DTI".
 9. In schedule 2 delete all references to "Greater Lithgow City Council ("the Council")", "Lithgow City Council" and "Greater Lithgow City Council" and replace with "Council".
 10. In condition 6 (b) of schedule 2 delete "consultation with Freight Rail" and replace with "the Director-General".
 11. In condition 6 (i) of schedule 2 delete "proponent" and replace with "Applicant".
 12. In schedule 2 and Attachment "A" delete all references to "Mudgee Road" and replace with "Castlereagh Highway".
 13. In schedule 2 delete all references to "NAASRA" and replace with "Austroads".
 14. In condition 29 (b) of schedule 2 delete "rate" and replace with "rare".
 15. In condition 29 (g) of schedule 2 delete "(f) and (g)" and replace with "(e) and (f)".
 16. In condition 31 (a) of schedule 2 delete "Novacoal's" and replace with "Airly Coal Mine's".
 17. In condition 31 (e) of schedule 2 delete "Novacoal Australia Pty Ltd" and replace with "the Applicant".
 18. In condition 35 of schedule 2 and Attachment "A" delete "Department of Conservation and Land Management" and replace with "Land and Property Management Authority".
 19. In "Attachment A" insert on the second line following the words "the proposed coal lease boundary":

"Airly Powerline

Portions 22, 44, 45 and 55 DP755758. Crown Road Enclosure Permit 50283."
 20. Add immediately following Attachment "A" the following "Appendix 1 – Revised Statement of Commitments 6 August 2009":

APPENDIX 1

REVISED STATEMENT OF COMMITMENTS

6 AUGUST 2009

The following statement of commitments has been prepared, in accordance with the DGR's. This statement of commitments provides a summary of the proposed environmental management and mitigation measures for the proposed modification.

| Aspect | Commitments/Mitigation measures |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| General | <ul style="list-style-type: none">Construction of the 66kV powerline and associated infrastructure will be undertaken in accordance with the description provided in the Environmental Assessment dated June 2009. |
| Flora and Fauna | <ul style="list-style-type: none">During the removal of any mature tree, all works will be undertaken under the supervision of an appropriately qualified person to manage the recovery of any native fauna that may be displaced as a result. A plan of management for the handling and care of any displaced fauna will be prepared prior to the commencement of clearing activities.The proponent will continue to engage with the Hawkesbury Nepean Catchment Management Authority in regard to the revegetation works to be carried out within Airly Creek in the vicinity of the creek crossing including the removal of weed species such as willows.Appropriate measures will be employed to ensure that machinery working within the site does not bring materials (soils etc.) onto the sites that may infect onsite vegetation with <i>Phytophthora cinnamomi</i>.Ongoing weed management will be instituted and potential weed infestations will be appropriately treated to ensure surrounding communities are protected from invasive species.At the completion of the powerline construction, all non-operational areas will be suitably rehabilitated. |
| Archaeology and Cultural Heritage | <ul style="list-style-type: none">The proponent and its employees, earthmoving contractors, subcontractors, machine operators and their representatives, working in the proposed modification area (162/91 MOD 2), will be instructed that in the event of any bone or stone artefacts, or discrete distributions of shell, or any objects of cultural association, being unearthed during earthmoving, work will cease immediately in the area of the find, and the DECC will be notified.The newly recorded artefact scatter, located outside the powerline easement, will be placed on the AHIMS and a site card lodged with the DECC. |
| Soil and Water | <ul style="list-style-type: none">During construction temporary erosion control measures will be implemented and maintained in accordance with the Blue Book (Volumes 1 and 2).Revegetation works of all disturbed areas will be established as soon as possible following completion of construction works.Steep batters will be stabilised as soon as practical following removal of the trees and rehabilitated.No construction activities, including pole installation will be undertaken within 40m of the top bank of Airly Creek. |
| Visual Amenity | <ul style="list-style-type: none">Clearing of vegetation will be contained to only that required for the works, with trees to be removed to be clearly marked. |

| Aspect | Commitments/Mitigation measures |
|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Air Quality | <ul style="list-style-type: none"> • Vehicle speeds will be limited along unsealed sections of construction and maintenance tracks to 40km/hr. |
| Noise | <ul style="list-style-type: none"> • Construction activities will be limited to daytime work hours (7am to 5pm) Monday to Friday. No construction activities will take place on weekends. |
| Waste Management | <ul style="list-style-type: none"> • Suitably qualified and licensed waste contractors will be used for appropriate waste disposal. • Effluent waste will be managed and collected from portable toilet facilities. |
| Disused Landing Ground | <ul style="list-style-type: none"> • Crosses will be placed every 200m along the landing ground. • The Department of Lands (Bathurst) will be contacted to request the landing ground be removed from future 1:25,000 topographic maps. Air Services Australia (Aeronautical Information Services) will also be contacted to request they remove the Aerodrome symbol from the World Aeronautical Chart at that location. |