Notice of Modification

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

Under the Minister for Planning and Infrastructure's delegation of 14 September 2011, I modify the project approval referred to in Schedule 1, subject to the conditions in Schedule 2.

Deputy Director General
Development Assessment and Systems Performance

Sydney 2 April 2012

SCHEDULE 1

The development consent for underground coal mining at Tahmoor North Coal Mine (DA 67/98), granted by the Minister for Urban Affairs and Planning on 25 February 1999.

SCHEDULE 2

1. In Schedule 2, under "Abbreviations and definitions", delete the definitions for "AEMR", "DEC", "Department", "Director-General", "DNR" and "DPI(MR)" and insert the following in alphabetical order:

Annual Review	the review required by Condition 43
Day	the period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays
Department	Department of Planning and Infrastructure
Director General	Director General of the Department of Planning and Infrastructure, or delegate
DRE	Division of Resources and Energy, within the Department of Trade & Investment, Regional Infrastructure & Services
EA	Environmental Assessment
EPA	Environment Protection Authority
Evening	the period from 6pm to 10pm
Feasible	feasible relates to engineering considerations and what is practical to build or carry out
Incident	a set of circumstances that causes or threatens to cause material harm to the environment, and/or breaches or exceeds the limits or performance measures/criteria in this consent
Material harm to the environment	harm to the environment is material if it involves actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial
Mining operations	extraction, processing, handling, storage and transportation of coal on the site
Minister	Minister for Planning and Infrastructure, or delegate
Night	the period from 10pm to 7am, Monday to Saturday, 10pm to 8am on Sundays and Public Holidays
NOW	NSW Office of Water
POEO Act	Protection of the Environment Operations Act 1997
Privately-owned land	land that is not owned by a public agency, or a mining company (or its subsidiary)
Reasonable	reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements
Reasonable costs	the costs agreed between the Department and the Applicant for obtaining independent experts to review the adequacy of any aspects of the extraction plan, or where such costs cannot be agreed, the costs determined by a dispute resolution process
Redbank Tunnel rail deviation	the development described in the modification application dated 21 December 2010 (DA 67/98 – MOD 2) and accompanying EA titled *Redbank Tunnel Subsidence Management – Modification of Project*

	Approval – Environmental Assessment, dated September 2011, including the associated Submissions Report
Statement of Commitments	the Statement of Commitments relating to the Redbank Tunnel rail deviation (see Appendix 1)
Tahmoor Mine	the development approved under this consent, together with the development approved under consent granted by Wollondilly Shire Council dated 20 March 1975 and the consent granted by the Land and Environment Court dated 7 September 1994 (DA 57-93), considered collectively (see Figure 2)

2. Delete all references to DEC and replace with EPA.

3. Delete all references to DPI(MR) and replace with DRE.

4. Delete all references to DNR and replace with NOW.

5. Delete all references to AEMR or Annual Environmental Management Report and replace with Annual Review.

6. Delete all references to "the project" and replace with "Tahmoor Mine".

7. In condition 1 of Schedule 2, delete all words after "(DA 67/98);" and insert the following:

   (vi) application dated 21 December 2010 to modify a development consent (DA 67/98 – MOD 2);
   (vii) accompanying EA titled *Redbank Tunnel Subsidence Management – Modification of Project Approval – Environmental Assessment*, dated September 2011 and prepared by GHD, including the associated Submissions Report;
   (viii) Statement of Commitments (see Appendix 1); and
   (ix) conditions of this consent.

8. In condition 1A of Schedule 2, delete the word "latter" and replace with "more recent".

9. In condition 5 of Schedule 2, delete all words after "commencement of such workings."

10. In condition 6 of Schedule 2, delete the words "any of the three" and replace with "the two", and delete "3A" and replace with "4".

11. In condition 9 of Schedule 2, delete "40" and replace with "43", and delete "Conditions 32-34" and replace with "Condition 47".

12. In condition 12 of Schedule 2, delete "Conditions 41-43" and replace with "Condition 45".

13. Delete conditions 32-46 and condition 48 of Schedule 2, and re-number condition 47 as condition 32.

14. After new condition 32, insert the following:

NOISE

Noise Management Plan

33. The Applicant shall prepare and implement a Noise Management Plan for the Tahmoor Mine to the satisfaction of the Director-General. This plan must:

   (a) be prepared in consultation with EPA, and submitted for approval to the Director-General by 31 October 2012;
   (b) describe the noise mitigation measures that would be implemented to ensure compliance with all relevant conditions of consent for the Tahmoor Mine;
   (c) outline procedures to manage responses to any complaints or issues raised by the owners of affected residences; and
   (d) include a noise monitoring program that includes a protocol for determining exceedances of all relevant conditions of consent for the Tahmoor Mine.

Redbank Tunnel rail deviation

34. The Applicant shall ensure that construction work for the Redbank Tunnel rail deviation is carried out from 7 am to 6 pm Monday to Friday (inclusive) and 8 am to 1 pm on Saturday, unless at the request or direction of the ARTC.

   If construction may result in exceedances of the *Interim Construction Noise Guidelines* (DECCW, 2009), the Applicant shall undertake community consultation and implement associated mitigation measures in accordance with the 'Additional Mitigation Measures Matrix' in the *Construction Noise Strategy* (Transport Construction Authority, 2010).

35. The Applicant shall prepare and implement a Construction Noise Management Plan for the Redbank Tunnel rail deviation to the satisfaction of the Director-General. This plan must:

(a) be prepared in accordance with the *Construction Noise Strategy*;
(b) be submitted for approval to the Director-General prior to the commencement of construction work;
(c) describe the noise mitigation measures that would be implemented to minimise the noise impacts from construction activities;
(d) describe the proposed noise monitoring program; and
(e) outline procedures to manage responses to any complaints or issues raised by the owners of affected residences.

Note: construction work in Conditions 34 and 35 does not include surveys, acquisitions, fencing, investigative drilling or excavation, minor clearing, minor access roads, minor adjustments to services/utilities, works which allow isolation of the site so that access for construction can be provided (including service relocations) and establishing temporary facilities for construction (including for example an office and amenities compound, construction compound, materials storage compound, maintenance workshop, testing laboratory or material stockpile areas).

AIR QUALITY & GREENHOUSE GASES

Greenhouse Gas Emissions

36. The Applicant shall implement all reasonable and feasible measures to minimise the release of greenhouse gas emissions from the Tahmoor Mine, to the satisfaction of the Director-General.

Air Quality Assessment Criteria

37. The Applicant shall ensure that all reasonable and feasible avoidance and mitigation measures are employed so that particulate matter emissions generated by the Tahmoor Mine do not exceed the criteria listed in Tables 1, 2 or 3 at any residence on privately-owned land or on more than 25 percent of any privately-owned land.

Table 1: Long-term criteria for particulate matter

Pollutant	**Averaging Period**	[d] **Criterion**
Total suspended particulate (TSP) matter	Annual	[a] 90 µg/m^3
Particulate matter < 10 µm (PM_{10})	Annual	[a] 30 µg/m^3

Table 2: Short-term criterion for particulate matter

Pollutant	**Averaging Period**	[d] **Criterion**
Particulate matter < 10 µm (PM_{10})	24 hour	[a] 50 µg/m^3

Table 3: Long-term criteria for deposited dust

Pollutant	**Averaging Period**	**Maximum increase in deposited dust level**	**Maximum total deposited dust level**
[c] Deposited dust	Annual	[b] 2 g/m^2/month	[a] 4 g/m^2/month

Notes to Tables 1-3:

- [a] *Total impact (i.e. incremental increase in concentrations due to the Tahmoor Mine plus background concentrations due to all other sources);*
- [b] *Incremental impact (i.e. incremental increase in concentrations due to the Tahmoor Mine on its own);*
- [c] *Deposited dust is to be assessed as insoluble solids as defined by Standards Australia, AS/NZS 3580.10.1:2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulate Matter - Deposited Matter - Gravimetric Method; and*
- [d] *Excludes extraordinary events such as bushfires, prescribed burning, dust storms, sea fog, fire incidents, illegal activities or any other activity agreed by the Director-General.*

Operating Conditions

38. The Applicant shall:

(a) implement best practice air quality management at the Tahmoor Mine, including all reasonable and feasible measures to minimise the off-site odour and dust emissions including those generated by any spontaneous combustion;
(b) minimise any visible air pollution generated by the Tahmoor Mine;

(c) regularly assess the air quality monitoring and meteorological forecasting data, and modify and/or suspend operations on site to ensure compliance with all relevant conditions of consents for the Tahmoor Mine,

to the satisfaction of the Director-General.

Air Quality & Greenhouse Gas Management Plan

39. The Applicant shall prepare and implement an Air Quality & Greenhouse Gas Management Plan for the Tahmoor Mine to the satisfaction of the Director-General. This plan must:

(a) be prepared in consultation with EPA, and submitted for approval to the Director-General by 31 October 2012;
(b) describe the measures that would be implemented to ensure compliance with all relevant conditions of consents for the Tahmoor Mine;
(c) describe the measures that would be implemented to minimise the release of greenhouse gas emissions from the Tahmoor Mine; and
(d) include an air quality monitoring program that includes a protocol for determining exceedances with all relevant conditions of consents for the Tahmoor Mine.

NOTIFICATION OF LANDOWNERS

40. Within 2 weeks of obtaining monitoring results showing an exceedance of the relevant criteria in Tables 1-3, the Applicant shall notify the affected landowner and tenants in writing of the exceedance, and provide monitoring results to each of these parties until the Tahmoor Mine is complying with the relevant criteria again.

INDEPENDENT REVIEW

41. If an owner of privately-owned land considers the Tahmoor Mine to be exceeding the relevant criteria in Tables 1-3, then he/she may ask the Director-General in writing for an independent review of the impacts of the Tahmoor Mine on his/her land.

If the Director-General is satisfied that an independent review is warranted, then within 2 months of the Director-General's decision the Applicant shall:
(a) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Director-General, to:
- consult with the landowner to determine his/her concerns;
- conduct monitoring to determine whether the Tahmoor Mine is complying with the relevant criteria in Tables 1-3; and
- if the Tahmoor Mine is not complying with these criteria, then identify the measures that could be implemented to ensure compliance with the relevant criteria; and

(b) give the Director-General and landowner a copy of the independent review.

42. If the independent review determines that the Tahmoor Mine is complying with the relevant criteria in Tables 1-3, then the Applicant may discontinue the independent review with the approval of the Director-General.

If the independent review determines that the Tahmoor Mine is not complying with the relevant criteria in Tables 1-3 and that the project is primarily responsible for this non-compliance, then the Applicant shall:
(a) implement all reasonable and feasible mitigation measures, in consultation with the landowner and appointed independent person, and conduct further monitoring until the Tahmoor Mine complies with the relevant criteria to the satisfaction of the Director-General; or
(b) secure a written agreement with the landowner to allow exceedances of the relevant criteria.

ENVIRONMENTAL MANAGEMENT

Environmental Management Strategy

43. The Applicant shall prepare and implement an Environmental Management Strategy for the Tahmoor Mine to the satisfaction of the Director-General. This strategy must:

(a) be submitted for approval to the Director-General by 31 October 2012;
(b) provide the strategic framework for the environmental management of the Tahmoor Mine;
(c) identify the statutory approvals that apply to the Tahmoor Mine;
(d) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the Tahmoor Mine;
(e) describe the procedures that would be implemented to:
- keep the local community and relevant agencies informed about the operation and environmental performance of the Tahmoor Mine, including a 24-hour contact telephone number
- receive, handle, respond to, and record complaints;
- resolve any disputes that may arise during the course of the Tahmoor Mine;

- respond to any non-compliance;
- respond to emergencies; and

(f) include:
- copies of any strategies, plans and programs approved under the conditions of consents for the Tahmoor Mine; and
- a clear plan depicting all the monitoring required to be carried out under the conditions of consents for the Tahmoor Mine.

Management Plan Requirements

44. The Applicant shall ensure that the management plans required under conditions of consent for the Tahmoor Mine are prepared in accordance with any relevant guidelines, and include:

(a) detailed baseline data;
(b) a description of:
- the relevant statutory requirements (including any relevant approval, licence or lease conditions);
- any relevant limits or performance measures/criteria;
- the specific performance indicators that are proposed to be used to judge the performance of, or guide the implementation of, the Tahmoor Mine or any management measures;

(c) a description of the measures that would be implemented to comply with the relevant statutory requirements, limits, or performance measures/criteria;
(d) a program to monitor and report on the:
- impacts and environmental performance of the Tahmoor Mine;
- effectiveness of any management measures (see c above);

(e) a contingency plan to manage any unpredicted impacts and their consequences and to ensure that ongoing impacts reduce to levels below relevant impact assessment criteria as quickly as possible;
(f) a program to investigate and implement ways to improve the environmental performance of the Tahmoor Mine over time;
(g) a protocol for managing and reporting any:
- incidents;
- complaints;
- non-compliances with statutory requirements; and
- exceedances of the impact assessment criteria and/or performance criteria; and

(h) a protocol for periodic review of the plan.

Note: The Director-General may waive some of these requirements if they are unnecessary or unwarranted for particular management plans.

Annual Review

45. By 31 March of each year, the Applicant shall prepare an Annual Review of the environmental performance of the Tahmoor Mine to the satisfaction of the Director-General. This review must:

(a) describe the development (including any rehabilitation) that was carried out in the past 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 Tahmoor Mine over the past calendar year, which includes a comparison of these results against:
- 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 past 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 Tahmoor Mine;
(e) identify any discrepancies between the predicted and actual impacts of the Tahmoor Mine, and analyse the potential cause of any significant discrepancies;
(f) describe what measures will be implemented over the next year to improve the environmental performance of the Tahmoor Mine; and
(g) assess the performance of the mine against the conditions of the consents and other licences and approvals relating to the mine.

Note: the first Annual Review shall be prepared by 31 March 2013.

Revision of Strategies, Plans and Programs

46. Within 3 months of:

(a) the submission of an Annual Review under Condition 45;
(b) the submission of an incident report under Condition 48;
(c) the submission of an audit under Condition 50; and
(d) any modification to the conditions of this consent (unless the conditions require otherwise),

the Applicant shall review, and if necessary revise, the strategies, plans, and programs required under this consent to the satisfaction of the Director-General.

Note: This is to ensure the strategies, plans and programs are updated on a regular basis, and incorporate any recommended measures to improve the environmental performance of the Tahmoor Mine.

Community Consultative Committee

47. The Applicant shall establish and operate a Community Consultative Committee (CCC) for the Tahmoor Mine in general accordance with the *Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects* (Department of Planning, 2007, or its latest version), to the satisfaction of the Director-General.

Notes:

- *The CCC is an advisory committee. The Department and other relevant agencies are responsible for ensuring that the Applicant complies with this consent.*
- *In accordance with the guideline, the Committee should be comprised of an independent chair and appropriate representation from the Applicant, Council, recognised environmental groups and the local community.*
- *This condition does not require the re-constitution of any CCC established under previous conditions of consent.*

REPORTING

Incident Reporting

48. The Applicant shall notify the Director-General and any other relevant agencies of any incident at the Tahmoor Mine that has caused, or has the potential to cause, significant risk of material harm to the environment, at the earliest opportunity. For any other incident associated with the Tahmoor Mine, the Applicant shall notify the Director-General and any other relevant agencies as soon as practicable after the Applicant becomes aware of the incident. Within 7 days of the date of the incident, the Applicant shall provide the Director-General and any relevant agencies with a detailed report on the incident, and such further reports as may be requested.

Regular Reporting

49. The Applicant shall provide regular reporting on the environmental performance of the Tahmoor Mine on its website, in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent, and to the satisfaction of the Director-General.

INDEPENDENT ENVIRONMENTAL AUDIT

50. By 30 September 2011 and every 3 years following, the Applicant shall commission and pay the full cost of an Independent Environmental Audit of the Tahmoor Mine. This audit must:

    (a) be conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Director-General;
    (b) include consultation with the relevant agencies;
    (c) assess the environmental performance of the Tahmoor Mine and assess whether it is complying with the requirements all relevant development consents and any relevant EPL or Mining Lease (including any assessment, plan or program required under these approvals);
    (d) review the adequacy of strategies, plans or programs required under the abovementioned approvals; and
    (e) recommend appropriate measures or actions to improve the environmental performance of the Tahmoor Mine, and/or any assessment, plan or program required under the abovementioned approvals.

    Note: This audit team must be led by a suitably qualified auditor and include experts in any fields specified by the Director-General.

51. Within 6 weeks of the completion of this audit, or as otherwise agreed by the Director-General, the Applicant shall submit a copy of the audit report to the Director-General, together with its response to any recommendations contained in the audit report.

ACCESS TO INFORMATION

52. From 31 October 2012, the Applicant shall:

    (a) make copies of the following publicly available on its website:
        - all relevant statutory approvals for the Tahmoor Mine;
        - all approved strategies, plans and programs required under the conditions of this consent;
        - a comprehensive summary of the monitoring results of the Tahmoor Mine, reported in accordance with the specifications in any approved plans or programs required under the conditions of this or any other approval;

- a complaints register, which is to be updated on a monthly basis;
- minutes of CCC meetings;
- the annual reviews required under this consent;
- any independent environmental audit of the Tahmoor Mine, and the Applicant'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.

15. Delete Figure 2, and replace with the following:

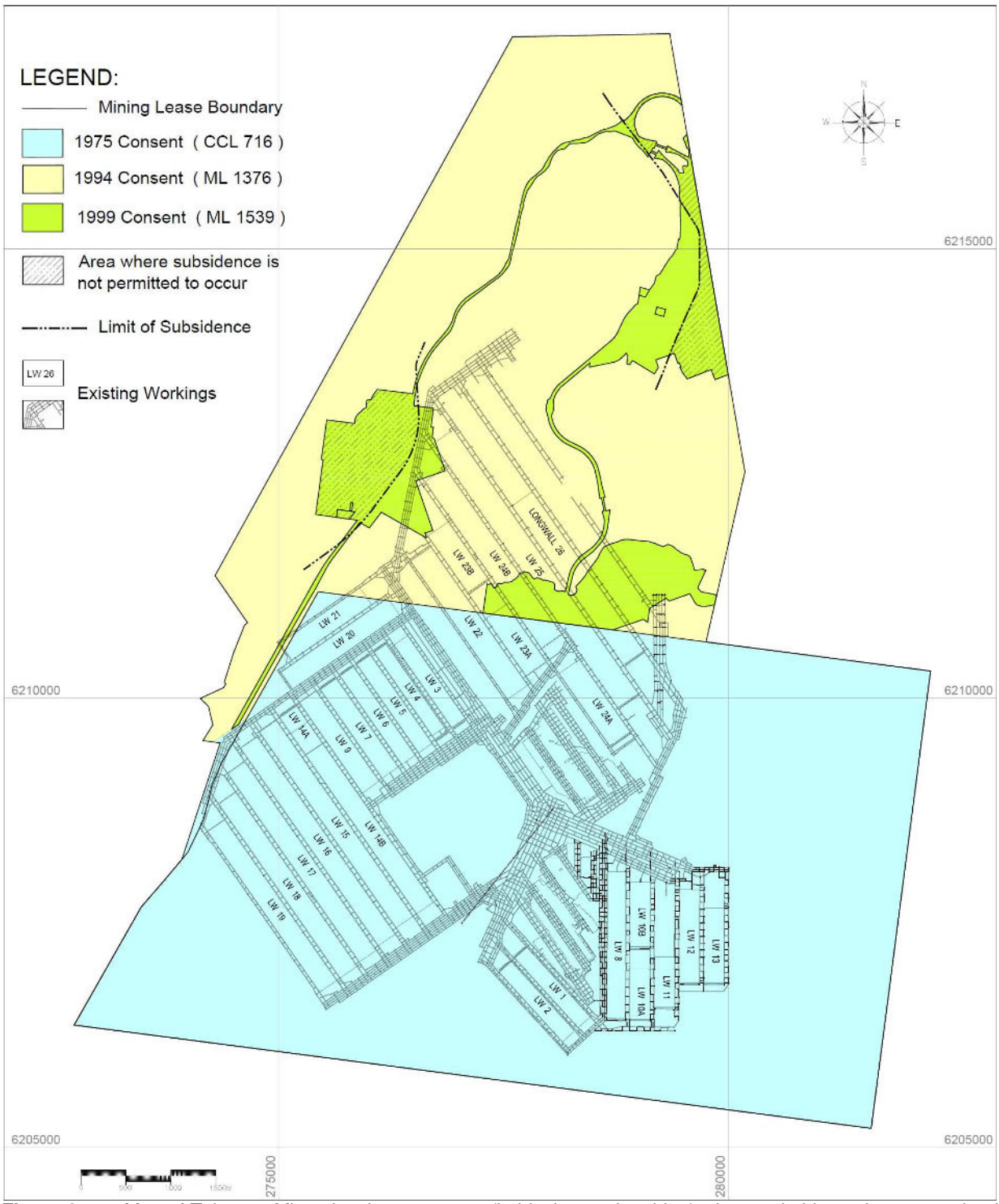

Figure 2: Map of Tahmoor Mine showing two areas (in black crosshatching) where subsidence is not permitted under condition 6(i) of this consent.

16. In the title of Figure 3, insert "dated March 1998" after "EIS".

17. Insert Appendix 1: Statement of Commitments.