



Ms Carolyn McNally
Secretary
Department of Planning and Environment
GPO Box 29
Sydney NSW 2001

08 December 2016

Dear Ms McNally

**Determination of Modification (DA 376-8-2003 MOD 6) Bulga Underground Mine
Noise and Biodiversity Modification**

I refer to the Department of Planning and Environment's (the Department) letter of 5 December 2016 referring the above modification request to the Planning Assessment Commission (the Commission) for determination under Ministerial delegation of 14 September 2011. I constituted the Commission to determine the modification.

Bulga Coal Management Pty Ltd (the applicant) operates the Bulga Mining Complex, which includes the Bulga Underground Mine, the Bulga Open Cut Mine, a Coal Handling and Preparation Plant and rail loop. Whilst the Bulga Mining Complex is managed as a single entity, the underground and open cut mine operations are subject to separate development consents. The Bulga Underground Mine, Coal Handling and Preparation Plant and rail loop operate under Ministerial consent DA 376-8-2003, granted in February 2004. The Commission approved the Bulga Optimisation project for the Bulga Open Cut Mine in December 2014, and operates under SSD 4960.

Following approval of the Bulga Optimisation Project, the applicant identified a number of inconsistencies between the conditions of DA 376-8-2003 and SSD 4960. Subsequently, the applicant has sought to modify the conditions of DA 1376-8-2003 to provide consistency between the two operational consents.

I have carefully considered the Secretary's environmental assessment report, the information provided by the applicant, the submission from the Office of Environment and Heritage and Section 75W of the *Environmental Planning and Assessment Act 1979*. I agree that a number of inconsistencies exist between the two consents that apply to the site, and that the proposed modification will assist in the integrated management of the Bulga Mine Complex, and enable the coordination of quarterly noise monitoring reports and independent environmental audits.

The key matters for this modification request relate to noise, biodiversity and the timing of environmental auditing. I have reviewed the Secretary's assessment of these matters, including amendments to the conditions which reflect current drafting standards, and provide greater consistency with SSD 4960.

Noise

The applicant seeks to replace the existing Noise Impact Assessment Criteria with the respective criteria imposed under SSD 4960. The Department identified the need to clarify that the substituted noise criteria applies to the Bulga complex as a whole.

Condition 32 of Schedule 4 currently requires Bulga to implement all reasonable and feasible measures to ensure cumulative noise impacts of the underground development, in combination with other mines, do not exceed the specified amenity criteria.

Where exceedances of cumulative noise criteria are observed, the existing condition requires either a curtailing of underground operations, or coordination between mines in the locality to reduce peaks in noise generation. The Commission agrees with the Department that the Bulga Mining Complex is a minor contributor to overall noise levels in the locality, which brings into question whether either approach is reasonable or feasible. The Commission also notes that noise impacts associated with the underground operations have been assessed and mitigated under other existing conditions.

Condition 32A of Schedule 4 affords acquisition rights where cumulative noise levels exceed the specified acquisition criteria. Noise associated with underground operations are unlikely to trigger an exceedance, and where exceedances are predicted by the combined noise assessment, land acquisition rights are afforded to surrounding landowners under SSD 4960. The Commission agrees with the Department that suitable protection for affected residences is provided under SSD 4960.

Biodiversity

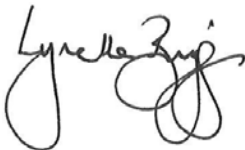
Conditions 43 and 44 of Schedule 4 are proposed to be replaced with the more contemporary Biodiversity Management Plan requirements as imposed under Condition 34 of Schedule 3 under SSD 4960. To ensure the original intent is maintained, the Department recommends the existing conditions be amended to reflect the expanded conservation area and rehabilitation communities approved under the Biodiversity Management Plan.

A combined Biodiversity Management Plan has been prepared by the applicant for the Bulga Mining Complex, and approved by the Secretary, which aims to satisfy the requirements of both consents. The Commission agrees with the Department's recommended amendments with regard to the combined Biodiversity Management Plan, in order to more accurately reflect the requirements of SSD 4960 and provide consistency with the approved management plans.

Environmental auditing

The applicant seeks to synchronise the Independent Environmental Audit requirements for the open cut and underground mine operations. The modification proposes an audit to be undertaken in December 2018, rather than June 2018, as currently planned. The audit would continue to occur every three years thereafter. This makes sense and is supported.

In summary, the Commission considers that the proposed modification would rectify inconsistencies between the two consents and enable the conditions to reflect the Department's current standards. Accordingly, I am satisfied with the Department's recommendation that the proposed modification should be approved, for the reasons set out above. Consequently, the Commission has determined to grant consent to the proposed modification subject to the conditions set out in the development consent.



Lynelle Briggs AO
Chair
NSW Planning Assessment Commission

cc. The Hon. Rob Stokes, MP
Minister for Planning
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