



**Planning &
Environment**

***ADDENDUM REPORT
Ashton Coal Project
(DA 309-11-2001-I MOD 5)***



Secretary's Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

February 2016

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1. INTRODUCTION

1.1 Background

In August 2011, the then Director-General of the Department referred the Ashton South East Open Cut (SEOC) project application (MP 08_0182) and the associated Ashton Coal Project (ACP) modification application (DA 309-11-2001-I MOD 5) to the Planning Assessment Commission (Commission) for determination.

On 4 October 2012, the Commission approved the SEOC project subject to a comprehensive suite of conditions. However the Commission, following a request from the Applicant (Ashton Coal Operations Limited (Ashton Coal)), chose not to determine the MOD 5 application so as to leave the consent for the company's ACP unaffected by the SEOC project. The MOD 5 application is yet to be determined and remains with the Commission.

On 15 November 2012, the Hunter Environment Lobby Inc (HEL) lodged an appeal against the grant of the SEOC project approval by the Commission. In August 2014, following a protracted appeals process, the NSW Land & Environment Court (LEC) approved the SEOC project. The LEC provided its conditions for the approval on 17 April 2015.

Ashton Coal has since approached the Department and requested that the modification application be determined. Approval of the modification would allow the integration of the existing ACP operations with the SEOC, and the consequent formation of the Ashton Mine complex.

This report provides an addendum to the original Director-General's Environmental Assessment Report for the SEOC project application and ACP Mod 5 application. Specifically, it provides:

- a chronology of events since the Department's referral of the assessment report to the Commission;
- a summary of the proposed modification;
- the status of the existing mining operations;
- consideration of the modification against the LEC's approval of the SEOC project and the existing ACP consent; and
- a revised Notice of Modification (NoM) which updates the existing ACP consent and reflects the changes necessary to operationally integrate the SEOC project approval with the ACP development consent.

The report should be read in conjunction with the:

- Director-General's Environmental Assessment Report for the SEOC project and ACP Mod 5 application, which provides a detailed assessment of the key issues in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act);
- Commission's Determination Report (October 2012); and
- LEC's Judgement and subsequent project approval for the SEOC (August 2014 and April 2015).

1.2 Chronology of Events

A brief chronology of the key events relevant to this addendum report in the time since the Department's referral of the assessment report to the Commission for review is presented in **Table 1**.

Table 1: Chronology of Events

Date	Event
August 2011	The then Director-General referred the SEOC project application and the ACP Mod 5 application jointly to the Commission for determination
September 2011	Commission held public meeting in Singleton
19 December 2011	Department submitted addendum report to the Commission, following additional consultation with the then NSW Office of Water (NOW) and NSW Health
19 December 2011	Commission, just prior to receiving the addendum report, refused the SEOC project on grounds including potential groundwater, dust and noise impacts, as

	well as residual concerns from NOW and NSW Health
29 February 2012	Ashton Coal appealed the Commission's decision regarding the SEOC project in the LEC on procedural grounds
5 April 2012	LEC made the orders sought by Ashton Coal, setting aside the original SEOC project determination and requiring the Commission to re-determine the project application
4 October 2012	Following another public meeting and additional consultation with NOW and NSW Health, the Commission approved the SEOC project, subject to conditions
15 November 2012	HEL lodged a Class 1 (objector) appeal in the LEC against the Commission's approval of the SEOC project
26 August to 20 September 2013	Hearings for the appeal
27 August 2014	LEC handed down judgement, determining that the SEOC project should be approved subject to conditions
17 April 2015	Final set of SEOC approval conditions handed down by the LEC
May 2015	Ashton Coal appealed the LEC imposed condition on the mining company that stopped it from expanding its mine until it reached an access agreement with landholder Wendy Bowman whose farm is required for the mine operations.
November 2015	The NSW Court of Appeal dismissed Ashton Coal's appeal and upheld the condition.

2. PROPOSED MODIFICATION

In order to integrate the SEOC project with its existing ACP mining operations, Ashton Coal sought approval to modify the existing development consent for the ACP (DA 309-11-2001-i) to:

- increase the maximum production rate at the mine complex from 5.45 to 8.6 million tonnes a year;
- increase the maximum production rate from the underground mine from 2.95 to 5 million tonnes a year;
- modify the ACP's coal handling and preparation plant (CHPP) and associated facilities to allow conveyors and pipelines (water and tailings) to deliver water and coal for processing and reject disposal to the ACP's North East Open Cut; and
- allow fine reject to be piped from the ACP underground mine back to the SEOC for disposal within in-pit storage cells and in the final void.

The then Director-General's Environmental Assessment Report (August 2011) collectively considered both the SEOC project application and the associated modification application for these changes to the ACP (ie MOD 5). The plan showing the layout of the combined operations is shown in **Figure 1**.

3. STATUS OF THE EXISTING OPERATIONS

3.1 Ashton Coal Project

Ashton Coal was granted development consent for the ACP by the then Minister for Planning in 2002 (DA 309-11-2001-i). The consent allowed both open cut and underground mining at the Ashton Coal Project.

Construction operations at the ACP commenced in 2003. Open cut mining operations commenced in 2004 in an area known as the North East Open Cut (NEOC). The coal resource in the NEOC was exhausted in 2011 and open cut mining thereby ceased at the ACP.

Underground mining operations at the mine commenced in 2005. Ashton Coal is approved to extract four seams by longwall mining (ie multi-seam mine). The Pikes Gully Seam (the uppermost seam) has been extracted and mining is currently occurring in the underlying Upper Liddell Seam (ULD), (see **Figure 1**). Ashton Coal is currently extracting Longwall 104, which is the fourth longwall panel in the ULD Seam. A drift has also been driven down to the third seam proposed to be extracted, the Upper Lower Liddell Seam (ULLD). Development of main

roadways in the ULD and main headings in the ULLD are currently underway to establish future longwall panels.

The ACP is thus currently an underground coal mine operating by longwall extraction methods, coupled with a CHPP facility (that is intended to also be used to process coal from the open cut SEOC project) together with a rail load out.

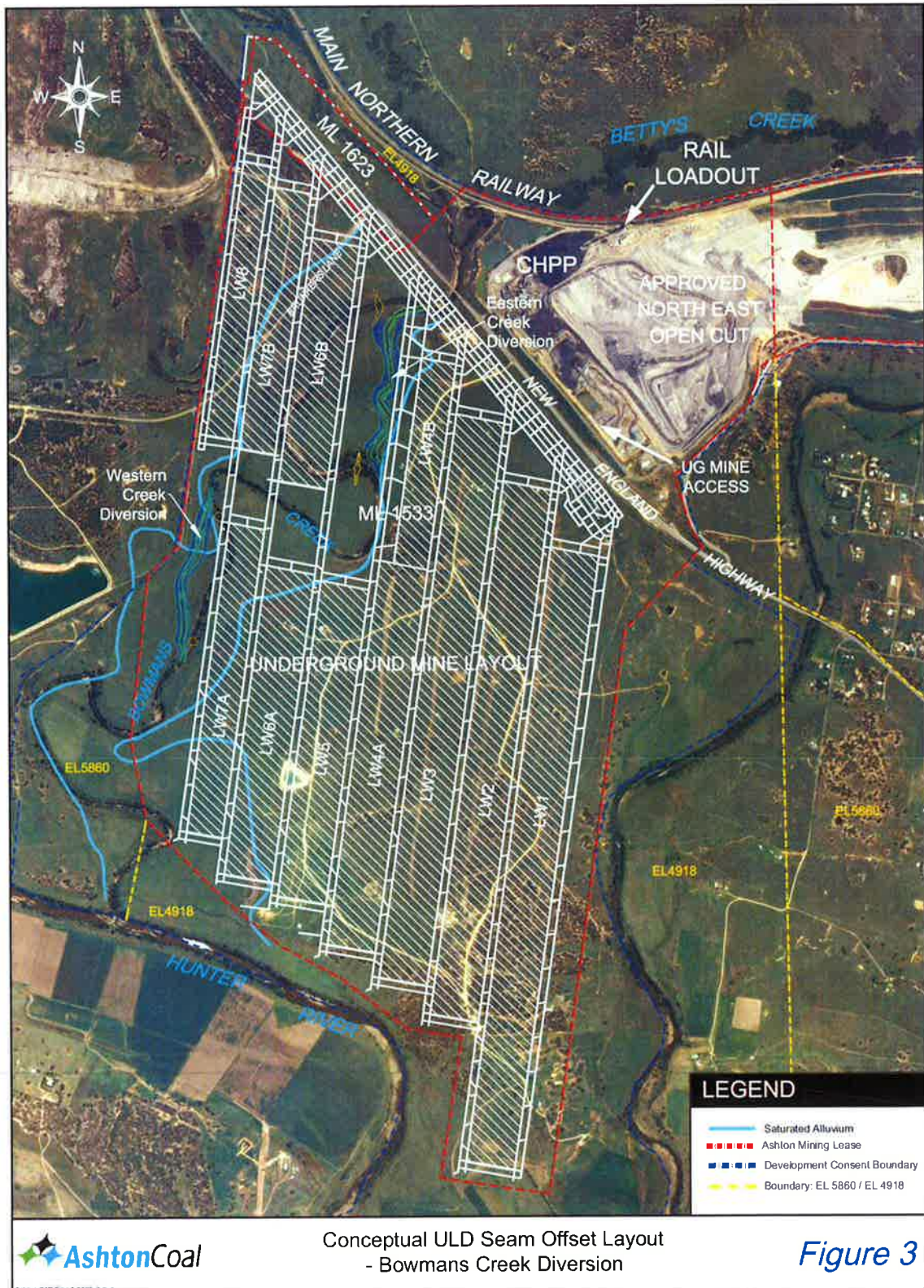


Figure 1: Underground Mine Plan for Upper Liddell Seam

3.2 South East Open Cut Project

The LEC's approval for the SEOC requires Ashton Coal to acquire or enter into an agreement with the owner of property 129 (Mrs Wendy Bowman), prior to undertaking any development on site (see condition 10A of Schedule 2 of the LEC project approval).

Ashton Coal appealed condition 10A of Schedule 2 in the NSW Court of Appeal. However, in November 2015, the Court dismissed Ashton Coal's appeal and upheld the condition. Therefore, Ashton Coal cannot commence construction or mining operations at the SEOC until it either acquires property 129 or enters into an agreement with Mrs Bowman.

Ashton Coal has advised the Department that it is still considering whether to further appeal the NSW Court of Appeal decision.

4. CONSIDERATION OF EXISTING AND PROPOSED CONDITIONS OF CONSENT

The Department has provided a draft Notice of Modification (NoM) for MOD 5 (see **Appendix A**). The NoM reflects the changes necessary to integrate the ACP consent operationally with the SEOC project approval. Conditions in both approvals provide for the integration of various requirements across the operations, such as the integration of the management plans required under each approval. As requested by Ashton Coal, the NoM also removes redundant conditions and contemporises the consent.

The approach taken by the Department in preparing the NoM involved consideration of the:

- complex-wide conditions in the LEC's approval of the SEOC project;
- timing requirements for activation of the specific conditions, particularly submission of complex-wide management plans;
- proposed removal of redundant conditions within the existing ACP consent;
- proposed updating of conditions to contemporary standard forms;
- updating appendices.

The outcomes of this review are discussed in detail in the following sections of this report.

4.1 Complex-wide Conditions

As discussed above, Ashton Coal intends to operate the SEOC and ACP as an integrated Ashton Mine complex. To allow this integration, the LEC's SEOC project approval includes several conditions that relate to the Ashton Mine complex, rather than the SEOC project only. These conditions relate to noise and air quality criteria and operating conditions, and the majority of management plans.

The Department has therefore recommended that the noise and air quality criteria and management plan conditions included in the existing ACP consent are replaced with conditions which are equivalent to those included in the LEC's SEOC project approval.

In recognition of the fact that commencement of the SEOC project may be delayed (refer to Section 3.2 above), the Department has recommended that the definition of the 'Ashton Mine complex' in the ACP consent make clear that it covers the operation of the ACP development, either solely or in combination with the SEOC project. The updated conditions in the ACP consent that apply to the complex would therefore generally have effect during existing underground and CHPP operations, as well as once the SEOC commences.

Noise and Air Quality Criteria

The Department has recommended that the noise and air quality conditions included in the existing ACP consent be replaced with conditions which are essentially equivalent to those included in the SEOC project approval. While these conditions would generally have effect under all operational scenarios, this cannot be the case for the noise criteria. The reasons for this are that the noise impact assessment criteria would be too high during the period when open cut mining operations do not take place and that acquisition conditions should not have

effect if predicted exceedances of Project Specific Noise Levels (PSNLs) do not eventuate, as a result of the noisier open cut operations not being initiated.

Consequently, the Department has recommended a set of conditions for noise acquisition (condition 1 of Schedule 3), noise impact assessment criteria (conditions 2, 4 and 5 of Schedule 3) and additional mitigation measures (condition 3 of Schedule 3) that only have effect during open cut mining operations at the Ashton Mine complex (ie during open-cut mining operations at the SEOC, since the NEOC has closed and cannot re-open without a further modification to the ACP consent). This is in recognition of the fact that potentially affected receivers are located in the vicinity of the SEOC and have been predicted to experience significant noise impacts associated with this project. The ACP would not significantly impact these receivers.

Prior to the commencement of open cut operations at the SEOC, an alternative set of noise and additional mitigation measures conditions are proposed (conditions 2 to 4 of Appendix 6). These criteria require noise generated from the Ashton Mine complex (excluding open cut mining operations) to not exceed 38 dB(A) $L_{Aeq(15min)}$ during the day and evening periods and 36 dB(A) $L_{Aeq(15min)}$ during the night-time period at any residence on privately-owned land or on more than 25 per cent of any privately-owned land. These criteria reflect the criteria in the existing consent (which date to 2002) and the EPA's existing Environment Protection Licence.

If noise levels exceed these criteria by more than 2 dB(A) $L_{Aeq(15min)}$ and/or air quality exceeds the criteria in Tables 6 to 8 of the consent, then Ashton Coal would be required to implement additional mitigation measures at the residence in consultation with the owner. These requirements align with those recommended in the *NSW Industrial Noise Policy* and the Department's recently released *Noise & Air Quality Acquisition & Mitigation Policy*.

In respect of acquisition rights, it is important to note that:

- Receivers 18, 23, 34 and 35 have acquisition rights under the SEOC approval (see Table 1 of that approval), but have been excluded from the recommended NoM for the ACP consent. This is because these receivers are located in the vicinity of the SEOC and would not be significantly impacted by the ACP; and
- Receiver 117 has alternative accommodation rights under the SEOC approval, but has been excluded from recommended ACP consent for the same reason.

Operating Conditions

The Department has recommended that the operating conditions for noise and air required in the existing ACP consent be replaced with the equivalent conditions as expressed in the LEC's SEOC approval. Where specific operating conditions as stipulated in the LEC approval do not apply to the ACP, notes have been added stating that the requirements only have effect following recommencement of open cut mining operations (including overburden removal) at the Ashton Mine complex.

Management Plans, Programs and Strategies

The Department has recommended that the following plans, programs and strategies required in the existing ACP consent be replaced with the equivalent conditions as expressed in the LEC's SEOC approval:

- *Environmental Management Strategy* (existing condition 3.3 replaced by condition 1 of Schedule 5);
- *Archaeology and Cultural Heritage Management Plan* (existing condition 3.36 replaced by condition 34 of Schedule 3);
- *Flora and Fauna Management Plan* (existing condition 3.46 replaced by condition 28 of Schedule 3);
- *Rehabilitation Management Plan*, incorporating the *Final Void Management Plan*, (existing conditions 3.51 and 3.56 replaced by condition 43 of Schedule 3);
- *Water Management Plan* (existing condition 4.7 replaced by condition 26 of Schedule 3);
- *Air Quality Management Plans* (existing condition 6.10 replaced by condition 17 of Schedule 3); and
- *Noise Management Plan* (existing condition 6.42 replaced by condition 9 of Schedule 3).

Where specific requirements of the above plans, programs and strategies stipulated in the LEC approval do not apply to the ACP, they have not been included in the proposed modified ACP consent. That is, their presence in the SEOC approval is sufficient to give them effect. These requirements do not need to be repeated within the ACP consent.

4.2 Timing

The Department acknowledges that Ashton Coal is currently operating the ACP under an existing development consent and the approved plans, programs and strategies required by this consent. Conditions governing these strategies, plans and programs have regularly been updated since lodgement of the MOD 5 application, in that MOD 6, MOD 7, MOD 8, MOD 9 and MOD 10 have all since been determined. The Department therefore considers that Ashton Coal should only be required to prepare broader, complex-wide strategies, plans and programs at a suitable time prior to beginning construction of the SEOC project.

Consequently, the Department has recommended a condition (see condition 3 of Schedule 5) to require that all management plans, programs and strategies required under the revised ACP consent to be submitted for approval by the Secretary at least 3 months prior to the recommencement of open cut mining operations (including overburden removal) at the Ashton Mine complex. Until that time, plans, programs and strategies approved under the existing ACP consent would continue to have full force and effect.

In relation to timing, it is also important to note that the timing for the:

- submission of the Annual Review (previously referred to as the Annual Environmental Management Report, see condition 10 of Schedule 5) has been aligned with that for the SEOC approval (ie required by the end of July each year); and
- commissioning of the Independent Environmental Audit (condition 11 of Schedule 5) has not changed. The audit for the SOEC project is to be commissioned within 12 months of the carrying out of development on site. Given that this timing is currently unknown, the Department believes that it is appropriate to retain the existing audit timing in the ACP consent. However, both approvals allow these timing arrangements to be modified, if agreed by the Secretary.

4.3 Redundant Conditions

The existing ACP consent was approved by the then Minister for Planning on 11 October 2002 and has subsequently been modified eight times. Many of the existing conditions of consent have since been fully satisfied and are therefore redundant. In addition, since operations associated with the NEOC have ceased, several conditions, such as those associated with blasting, are no longer required in the ACP consent.

Each of the conditions listed in **Table 2** is considered to be redundant and has been removed from the recommended NoM for the ACP consent:

Table 2: Redundant Conditions

Existing ACP Consent		Comments
Aspect	Condition	
Project Commencement	1.16	No longer applicable, since construction operations are complete.
Security Deposits and Bonds	1.17	Considered unnecessary, since it reflects requirements of the <i>Mining Act 1992</i> . No longer a standard condition.
Tailings Emplacement Plan and Pipelines	2.5C, 3.60 and 3.61	The pipelines for offsite tailings emplacement and water sharing have been constructed in accordance with approved design plans and to the satisfaction of the road authority (see <i>Independent Environmental Audit</i> report by Trevor Brown & Associates dated August 2010). Note that requirements for the alarm system on the pipelines to be effectively maintained continue (see condition 24 of Schedule 3).
Mine Management Plan, Operations and Methods	2.5A and 2.5B	Plan submitted to the satisfaction of DRE and eastern emplacement area complete (see <i>Independent Environmental Audit</i> report by Trevor Brown & Associates dated August 2010).
Heritage Assessment, Management and Monitoring	3.30	A Voluntary Conservation Agreement (VCA) for the Southern Conservation Area was signed in 2009 by Ashton Coal and the Minister administering the <i>National Parks & Wildlife Act</i>

Existing ACP Consent		Comments
Aspect	Condition	
	3.32	1974 (see Appendix B). Contribution paid (see <i>Environmental Regulatory Compliance Audit Report</i> by Pacrim Environmental Pty Ltd dated October 2007).
Visual Amenity and Landscaping	3.54 to 3.55A	Plan approved and landscaping treatments complete (see <i>Independent Environmental Audit</i> report by Trevor Brown & Associates dated August 2010). The purpose of these conditions was to screen the NEOC from view.
Land Management	3.58	Land swap agreement has been finalised with the title transfer completed on 30 March 2010. See correspondence from the Department of Lands dated 27 October 2010 (see Appendix B).
Blast Management and Monitoring	6.22 to 6.33 and 6.41	Now that the NEOC operations have ceased, no open cut blasting operations need to be undertaken on the ACP site. Minor blasts may be required in the underground operations, however these would result in very low levels of vibration and do not warrant criteria or a management plan. A condition prohibiting any open cut blasting on the ACP site, unless otherwise agreed by the Secretary, as has been included at condition 9 of Schedule 2.
Road Construction	7.5 to 7.9 and 7.14 (part)	All road works complete, including Lemington Road. The report on the final alignment for Lemington Road (condition 7.14(a)-(f)) is also complete (see Appendix B and <i>Independent Environmental Compliance Audit</i> report by Parsons Brinkerhoff Australia Pty Ltd dated December 2013). A tripartite deed (Lemington Road Subsidence Deed) was established between Ashton Coal, Singleton Council and Ravensworth Operations Pty Ltd on 20 December 2013. The deed establishes responsibilities for monitoring, maintenance during subsidence, repairs and ongoing maintenance and funding for Lemington Road (see Appendix B). This deed satisfies condition 7.14(g)&(h). The Department has recommended a condition to satisfy the continuing need for an additional report following extraction of each seam and <u>related costing arrangements</u> (condition 36 of Schedule 3).
Road Closures	7.22	These temporary road closures were in relation to blasting operations at the NEOC, which have ceased.
Rail Construction	7.25	Railway siding constructed to the satisfaction of the Rail Infrastructure Corporation (see <i>Environmental Regulatory Compliance Audit Report</i> by Pacrim Environmental Pty Ltd dated October 2007).
Monitoring Records and Incident Reporting	9.5 to 9.8 and 10.4	Considered an unnecessary duplication of requirements within the EPA's Environment Protection Licence for the site. No longer a standard condition.
Area of Affection – Land Acquisition	11.5 (part) and 11.6	Property No 115 purchased in 2003 (see <i>Environmental Regulatory Compliance Audit Report</i> by Pacrim Environmental Pty Ltd dated October 2007).
Contributions to Council	11.13	Voluntary contribution agreement with Council satisfied (see <i>Environmental Regulatory Compliance Audit Report</i> by Pacrim Environmental Pty Ltd dated October 2007).
Responsibility for Costs of Remediation	11.14	This condition duplicates requirements of the <i>Mining Act 1992</i> and the <i>Mine Subsidence Compensation Act 1961</i> and requirements for compensation found in condition 33 of Schedule 3.
Statutory Requirements	12.1	Considered an unnecessary duplication of a number of statutory requirements.

4.4 Contemporary Framing of Conditions

Many of the conditions within the existing ACP consent include out-dated requirements and framing. Recent mining consents include many standard conditions expressed in a standard format and reflecting contemporary expectations for environmental management. The SEOC approval generally reflects the Department's contemporary standard conditions for mines.

Ashton Coal has specifically requested that the existing ACP consent is contemporised via MOD 5. The Department believes that updating the existing consent is necessary to facilitate effective integrated management and regulation of the SEOC and ACP.

Consequently, the Department recommends that the ACP consent conditions listed in **Table 3** are either replaced by or else incorporated within similar contemporary conditions (which reflect the SEOC approval wherever reasonable or practicable).

Table 3: Contemporised Conditions

Existing ACP Consent		Contemporary Equivalent Modified ACP Condition
Aspect	Condition	
Scope of Development	1.2 and 1.3	Replaced by conditions 2 and 3 of Schedule 2, respectively.
Provision of Documents	1.4	Considered unnecessary. Partly addressed by condition 12 of Schedule 5.
	1.5	Replaced by condition 4 of Schedule 5.
	1.6	Replaced by Condition 13 of Schedule 5.
Statutory Requirements	1.7	Considered generally unnecessary. Partly addressed by condition 19 of Schedule 3.
Dispute Resolution	1.8	No longer a standard condition. Incorporated into individual conditions (eg conditions 21, 30 and 36 of Schedule 3).
Compliance	1.9 to 1.14	Addressed in conditions 1 and 4 of Schedule 2 and conditions 7 to 10 of Schedule 5.
Period of Approval/Project Commencement	1.15	Replaced by condition 5 of Schedule 2.
Management Plans/Monitoring Program	1.21	Replaced by condition 5 of Schedule 5.
Staged Submission of any Strategy, Plan or Program	1.22 and 1.23	Replaced by condition 4 of Schedule 5, including the note.
Mine Management Plan, Operations and Methods	2.1 to 2.3	Partially satisfied and partially replaced by condition 32 of Schedule 3.
	2.5	Replaced by condition 43 of Schedule 3.
Spontaneous Combustion	2.6	Replaced by condition 16(a) of Schedule 3.
Hours of Operation	2.8	Replaced by condition 8 of Schedule 2.
Appointment of Environmental Officer	3.1 and 3.2	Engagement and retention of an Environmental Officer is standard practice on mine sites. These conditions have not been applied for many years.
Environmental Management Strategies and Plans	3.3 to 3.5	Replaced by condition 1 of Schedule 5.
	3.6	Included in individual conditions and considered unnecessary.
	3.7	Replaced by condition 4 of Schedule 5.
	3.8	Replaced by condition 13 of Schedule 5.
Subsidence Management Performance Measures	3.9 and 3.10	Included in condition 29 of Schedule 3.
Extraction Plans	3.12 and 3.13	Included in condition 32 of Schedule 3.
First Workings	3.14	Included in condition 31 of Schedule 3.
Payment of Reasonable Costs	3.15	Included in condition 33 of Schedule 3.
Heritage	3.31	Incorporated into condition 34 of Schedule 3.
	3.33 to 3.37	Incorporated into condition 34 of Schedule 3.
Flora and Fauna	3.38 to 3.48	Incorporated into conditions 27-28 of Schedule 3.
Rehabilitation	3.49	Incorporated into condition 41 of Schedule 3.
	3.50	Included in condition 42 of Schedule 3.
	3.51	Incorporated into condition 43 of Schedule 3.
Visual Amenity and Landscaping	3.53	Replaced by condition 38 of Schedule 3.
Final Void Management	3.56	Ashton Coal has informed the Department that the current NEOC void would be filled with tailings and reject material, and that emplacement would continue until the void is filled

Existing ACP Consent		Contemporary Equivalent Modified ACP Condition
Aspect	Condition	
		to surface level. Ashton Coal therefore proposes that there would be no final void associated with the NEOC, and therefore no requirement for a Final Void Management Plan. However, the Department notes that, if the SEOC project does not proceed, there may not be sufficient tailings and reject material to completely fill the NEOC void. Therefore, the Department has recommended that rehabilitation objectives are included for the final void (see condition 43 of Schedule 3) and that an evaluation of land use options and a tailings management strategy are included in a Rehabilitation Management Plan (see condition 43 of Schedule 3).
Bushfire	3.57	Replaced by condition 40 of Schedule 3.
Land Management	3.58	As noted in Section 4.3, the land swap agreement has been finalised with the title transfer completed on 30 March 2010. Land Management Plan components incorporated into condition 32 of Schedule 3.
	3.59	Incorporated into condition 28 of Schedule 3.
Water Supply	4.1	Included in condition 20 of Schedule 3.
Baseflow Offsets	4.2	Addressed by water licensing requirements in condition 19 of Schedule 3.
Compensatory Water Supply	4.3	Included in condition 21 of Schedule 3.
Surface Water Discharges	4.4	Included in condition 22 of Schedule 3.
Bowmans Creek Diversions	4.5	Included in condition 23 of Schedule 3, expanded to incorporate requirements under condition 1.18 and agreement with DPI - Water in relation to setbacks from the bank of the creek and preparation of a Bowmans Creek Diversion Management Plan.
Overburden	5.2	Included in condition 16 of Schedule 3.
Waste	5.3 to 5.5	Replaced by condition 39 of Schedule 3.
Air Quality Emissions	6.1 to 6.21	Replaced by conditions 1, 2 and 10-17 of Schedule 3.
Noise Emissions	6.34 to 6.40 and 6.42 to 6.53	Replaced by conditions 1 to 9 of Schedule 3 and Appendix 6.
Light Emissions	6.54 to 6.57	Replaced by condition 38 of Schedule 3.
Road Transport and Construction	7.1, 7.2 and 7.4	Replaced by condition 7 of Schedule 2.
	7.3, 7.10 to 7.13, 7.23 and 7.24	Included in condition 12 of Schedule 3.
Monitoring / Auditing	8.1	Replaced by condition 4 of Schedule 2.
	8.2	Incorporated into condition 2 of Schedule 5.
Independent Expert Review	8.3 to 8.7	Replaced by conditions 3 to 6 of Schedule 4.
Independent Environmental Auditing	8.8 to 8.10	Replaced by condition 11 of Schedule 5.
Meteorological Station	8.11 and 8.12	Replaced by condition 18 of Schedule 3.
Reports on Operations	9.1	Replaced by condition 8 of Schedule 5.
Annual Environmental Management Report	9.2 to 9.4	Replaced by condition 9 of Schedule 5.
Community Consultative Committee	10.1 and 10.2	Replaced by condition 7 of Schedule 5.
Complaints Handling	10.3	Incorporated into condition 1 of Schedule 5.
Cumulative Impact Management	11.1	Incorporated into conditions 5, 6, 12 and 15 of Schedule 3.
	11.2 – 11.4	Replaced by conditions 1, 2, 5 and 6 of Schedule 3.
Land Acquisition	11.5 (part) and 11.7 to 11.12	Replaced by conditions 7 and 8 of Schedule 4.
Structural Adequacy	12.2 to 12.6 and 12.8	Replaced by condition 10 of Schedule 2.

Existing ACP Consent		Contemporary Equivalent Modified ACP Condition
Aspect	Condition	
Demolition	12.7	Replaced by condition 11 of Schedule 2.

4.5 Updating Appendices

Ashton Coal has advised that the Schedule of Land (Appendix 1 of the existing consent) has changed since the ACP was originally approved. The updated Lot and DP identifiers have therefore been included in Appendix 1 of the NoM.

Similarly, the development consent boundary on the general layout plans (Appendix 2 of the existing consent) was modified as part of MOD3 to include the tailings pipeline and disposal development area. The updated development plans have therefore been included in Appendix 2 of the NoM.

5. CONCLUSION

In August 2011, the then Director-General referred the SEOC project application and the ACP MOD 5 application cognately to the Commission for consideration and determination. In 2014, following two lengthy appeals processes, the LEC approved the SEOC project. However, the MOD 5 application for the ACP is yet to be determined and technically remains with the Commission for determination.

Ashton Coal has recently approached the Department and requested that the modification application is now finalised. Approval of the modification would allow the integration of the existing ACP operations with the SEOC, and the formation of the Ashton Mine complex.

This Addendum Report provides:

- a chronology of events since the Department's original referral of the assessment report to the Commission;
- a summary of the proposed modification;
- the status of the existing mining operations;
- consideration of the modification against the LEC's approval of the SEOC project and the existing ACP consent; and
- a revised NoM which updates the existing ACP consent and reflects the changes necessary to operationally integrate the SEOC project approval with the ACP consent.

The draft NoM for MOD 5 (see **Appendix A**) reflects the changes necessary to integrate the ACP consent operationally with the SEOC project approval. Conditions in both approvals provide for the integration of various requirements, such as the integration of the management plans required under each approval. The Department has given particular consideration to the complexities involved in integrating the two approvals, bearing in mind that the SEOC project may not commence for some time and that the ACP is presently an underground mine with a CHPP facility with an existing approved set of management plans. As requested by Ashton Coal, the NoM also removes redundant conditions and contemporises the consent.


The Department considers that the recommended conditions are best-practice for underground coal mining in NSW, are consistent with other similar contemporary approvals and are in-line with current Government policy. Ashton Coal has agreed to the proposed conditions of consent.

The Department believes the modification application should be approved subject to the recommended conditions of consent.

6. RECOMMENDATION

It is RECOMMENDED that the Planning Assessment Commission, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **determines** that the proposed modification falls within the scope of section 75W of the EP&A Act;
- **approves** the modification application, subject to conditions; and
- **signs** the attached instrument of approval (**Appendix A**).


Howard Reed 15.2.16
Director
Resource Assessments

 18/2/16
Oliver Holm
Executive Director
Resource Assessments & Compliance

