

Notice of Modification

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

As delegate of the Minister for Planning, I modify the development consent referred to in Schedule 1, as set out in Schedule 2.

Howard Reed
Director, Resource Assessments

Sydney

2017

SCHEDULE 1

The development consent (DA 92/97) for the Mount Pleasant coal mine and associated infrastructure, granted by the Minister for Urban Affairs and Planning on 22 December 1999.

SCHEDULE 2

1. In the list of definitions, delete the terms "Applicant", "Department", "Development", "Director-General", "DRE", "EIS", "Mine Water", "Minister", "MSB", "NOW", "RTA" and their definitions, and insert the following terms and definitions in alphabetical order:

Applicant	MACH Energy Australia Pty Ltd, or any person/s who rely on this consent to carry out development that is subject to this consent
Department	Department of Planning and Environment
Development	The development as described in the documents listed in condition 2(a) of Schedule 2
DPI Water	Department of Primary Industries - Water
DRE	Division of Resources and Energy within the Department of Industry
EA (MOD 1)	The Environmental Assessment for the Mt Pleasant Project Modification prepared by EMGA Mitchell McLennan, dated October 2010; the associated response to submissions, dated December 2010; and the addendum to the environmental assessment, dated 31 August 2011
EA (MOD 2)	The Environmental Assessment titled <i>Mount Pleasant Operation (DA 92/97) – South Pit Haul Road Modification</i> prepared by MACH Energy Australia Pty Ltd dated 30 January 2017
EIS	The Environmental Impact Statement for the Mt Pleasant Mine, prepared by ERM Mitchell McCotter and dated September 1997, as modified by the Applicant's submissions to the Commission of Inquiry into the establishment and operation of the Mt Pleasant Mine
Mine Water	Water that accumulates within, or drains from, active mining and infrastructure areas and any other areas where runoff may have come into contact with coal or carbonaceous material (synonymous with dirty water)
Minister	Minister for Planning, or delegate
RMS	Roads and Maritime Services
Secretary	Secretary of the Department, or nominee
SANSW	Subsidence Advisory NSW

2. Replace all references to "shall" with "must", except in condition 3 of Schedule 2 and condition 6 of Schedule 4.
3. Replace all references to "schedule" and "schedules" with "Schedule" and "Schedules", respectively, except in conditions 15 and 40 of Schedule 3.
4. Replace all references to "Director-General" with "Secretary".
5. Replace all references to "the Executive Director, Mineral Resources in DRE" with "DRE".

6. Replace all references to "NOW" with "DPI Water".
7. Replace all references to "the RTA" with "RMS".
8. Delete condition 2 of Schedule 2 and insert the following:
 2. The Applicant must carry out the development:
 - (a) generally in accordance with the:
 - EIS;
 - EA (MOD 1);
 - EA (MOD 2); and
 - project layout plan.
 - (b) in accordance with the:
 - Statement of Commitments; and
 - conditions of this consent.

Notes:

 - *The project layout plan is shown in Appendix 2.*
 - *The statement of commitments is reproduced in Appendix 3.*
3. In condition 3 of Schedule 2:
 - (a) delete the words "above documents" and replace with "documents listed in condition 2(a) of Schedule 2; and
 - (b) at the end of the condition, delete the full stop and insert "with the documents listed in condition 2(a) of Schedule 2 or the Statement of Commitments."
4. In condition 4 of Schedule 2:
 - (a) at the end of sub-paragraph (a), delete "; and" and insert "(including any stages of these documents);" and
 - (b) delete sub-paragraph (b) and insert the following:
 - (b) any reviews, reports or audits commissioned by the Department regarding compliance with this consent; and
 - (c) the implementation of any actions or measures contained in these documents.
5. In conditions 9, 17, 23, 28, 32, 36, 47 and 52 of Schedule 3:
 - (a) delete the words "and implement";
 - (b) at the end of the condition insert the following:

The Applicant must implement the approved management plan as approved from time to time by the Secretary.
6. In condition 11 of Schedule 2, delete the Note and replace with the following:

Note: This condition does not apply to any damage to public infrastructure subject to compensation payable under the Mine Subsidence Compensation Act 1961, or to damage to roads caused as a result of general road usage.
7. Delete condition 13 of Schedule 2.
8. Delete all sub-headings titled "Operating Conditions", and replace with "Noise Operating Conditions", "Blast Operating Conditions" and "Air Quality Operating Conditions", within the corresponding sections of Schedule 3.
9. In condition 8 of Schedule 3:
 - (a) in sub-paragraph (a), before the word "operational", insert "construction,;" and
 - (b) at the end of the condition, insert the following note:

Note: Monitoring under this consent is not required at all residences and the use of representative monitoring locations can be used to demonstrate compliance with criteria, if agreed to by the Secretary.
10. In conditions 13 and 14 of Schedule 3:
 - (a) delete the words "has been approved by the Secretary" and insert "is acceptable to both parties"; and
 - (b) at the end of the condition, insert the following:

If there is a dispute over the selection of the suitably qualified, experienced and independent person, or the Applicant or the landowner disagrees with the findings of the property inspection report, either party may refer the matter to the Secretary for resolution.

11. In condition 29, 33 and 54 of Schedule 3:
 - (a) delete the words “and implement”;
 - (b) at the end of the condition insert the following:

The Applicant must implement the approved strategy as approved from time to time by the Secretary.
12. Delete all sub-headings titled “Operating Conditions”, and replace with “Noise Operating Conditions”, “Blast Operating Conditions” and “Air Quality Operating Conditions”, within the corresponding sections of Schedule 3.
13. In Table 9 in condition 20 of Schedule 3, delete the reference to note “a” and replace with note “b”.
14. Delete condition 21 of Schedule 3.
15. In condition 22 of Schedule 3:
 - (a) In sub-paragraph (a), delete “offsite” and replace with “the”;
 - (b) delete sub-paragraphs (b) to (e) and replace with the following:
 - (b) minimise visible air pollution generated by the development;
 - (c) minimise to the greatest extent practicable, the extent of potential dust generating surfaces exposed on the site at any given point in time;
 - (d) minimise the air quality impacts of the development during adverse meteorological conditions and extraordinary events (see Note d above under Tables 8-10);
 - (e) regularly assess the real-time air quality monitoring and meteorological forecasting data and relocate, modify and/or stop operations on site to ensure compliance with the relevant conditions of this consent; and
 - (f) co-ordinate the air quality management on site with the air quality management at nearby mines (including the Bengalla mine) to minimise the cumulative air quality impacts of the mines,
16. In condition 24 of Schedule 3, delete “OEH” and replace with “Secretary”.
17. In condition 27 of Schedule 3:
 - (a) after the word “equivalent”, insert “, in quality and volume.”; and
 - (b) delete “within 24 hours of the loss being identified” and insert “as soon as practicable after the loss is identified, unless otherwise agreed with the landowner”
18. In condition 28 of Schedule 3, delete “DRE” and replace with “EPA”.
19. In condition 29 of Schedule 3:
 - (a) at the end of subparagraph (b), insert “unless otherwise agreed by the Secretary”;
 - (b) in sub-paragraph (c), after the word “corridor”, insert “, and the impacts associated with the South Pit Haul Road”; and
 - (c) delete the words “This offset strategy is not required if the Applicant does not carry out any development in the conveyor/service corridor.”
20. In conditions 31 and 37 of Schedule 3, delete “Mineral Resources” and insert “Resources & Energy”.
21. In condition 31 of Schedule 3:
 - (a) delete the words “quantity surveyor” and insert “, independent and experienced person”;
 - (b) after sub-paragraph (b), insert the following:

The calculation of the Conservation Bond must be submitted to the Department for approval at least 1 month prior to the lodgment of the bond.

The Conservation Bond must be reviewed and if required, an updated bond must be lodged with the Department within 3 months following:

 - (a) an update or revision to the Biodiversity Management Plan;
 - (b) the completion of an Independent Environmental Audit in which recommendations relating to the implementation of the Biodiversity Offset Strategy have been made; or
 - (c) in response to a request by the Secretary.
22. In condition 35 of Schedule 3, replace “Proponent” with “Applicant”.
23. At the end of condition 55 of Schedule 3, insert the following:

All reasonable and feasible measures must be taken to minimise the total area exposed for dust generation at any time. Interim stabilisation and temporary vegetation strategies must be employed when areas prone to dust generation cannot be permanently rehabilitated.

Note: It is accepted that some parts of the site that are progressively rehabilitated may be subject to further disturbance at some later stage of the development.

24. In Table 14 in condition 53 of Schedule 3, delete “the Secretary” and replace with “DRE”.
25. In the heading above condition 51 of Schedule 3, delete “Diposal” and replace with “Disposal”.
26. In condition 56 of Schedule 3:
 - (a) delete the words “and implement”;
 - (b) at the end of the condition insert the following:

The Applicant must implement the approved management plan as approved from time to time by DRE.
27. In condition 1 of Schedule 4, and conditions 3 and 11 of Schedule 5, delete “EIS” and replace with “documents listed in condition 2(a) of Schedule 2”.
28. After condition 1 of Schedule 4, insert the following:
 - 1A. Prior to entering into any tenancy agreement for any land owned by the Applicant that is predicted to experience exceedances of the recommended dust and/or noise criteria, the Applicant must:
 - (a) advise the prospective tenants of the potential health and amenity impacts associated with living on the land, and give them a copy of the NSW Health fact sheet entitled “Mine Dust and You” (as may be updated from time to time); and
 - (b) advise the prospective tenants of the rights they would have under this consent, to the satisfaction of the Secretary.
29. After the first paragraph of condition 3 of Schedule 4, insert the following:

If the Secretary is not satisfied that an independent review is warranted, the Secretary will notify the landowner in writing of that decision, and the reasons for that decision, within 21 days of the request for a review.
30. Delete condition 4 of Schedule 4.
31. In condition 6 of Schedule 4, replace all references to the “the Applicant shall” with the “the Applicant must”.
32. Delete condition 1 of Schedule, including the sub-heading, and insert the following:

Adaptive Management

1. The Applicant must assess and manage development-related risks to ensure that there are no exceedances of the criteria and/or performance measures in Schedule 3. Any exceedance of these criteria and/or performance measures constitutes a breach of this consent and may be subject to penalty or offence provisions under the EP&A Act or EP&A Regulation.

Where any exceedance of these criteria and/or performance measures has occurred, the Applicant must, at the earliest opportunity:

 - (a) take all reasonable and feasible steps to ensure that the exceedance ceases and does not recur;
 - (b) consider all reasonable and feasible options for remediation (where relevant) and submit a report to the Department describing those options and any preferred remediation measures or other course of action; and
 - (c) implement remediation measures as directed by the Secretary, to the satisfaction of the Secretary.

Environmental Management Strategy

- 1A. If the Secretary requires, the Applicant must prepare an Environmental Management Strategy for the development to the satisfaction of the Secretary. This strategy must:
 - (a) be submitted to the Secretary for approval prior to the commencement of development under this consent, unless the Secretary agrees otherwise;
 - (b) provide the strategic framework for the environmental management of the development;
 - (c) identify the statutory approvals that apply to the development;
 - (d) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
 - (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 development;

- receive, handle, respond to, and record complaints;
 - resolve any disputes that may arise during the course of the development;
 - respond to any non-compliance;
 - respond to emergencies; and
- (f) include:
- copies of any strategies, plans and programs approved under the conditions of this consent; and
 - a clear plan depicting all the monitoring required to be carried out under the conditions of this consent.

The Applicant must implement the approved strategy as approved from time to time by the Secretary.

33. After condition 2 of Schedule 5, insert the following:

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

34. In condition 3 of Schedule 5:
- (a) delete the word "December" and insert "March";
 - (b) after the words "the Applicant must", delete "review" and insert "submit a report to the Department reviewing";
 - (c) in sub-paragraphs (a) and (b), after "past", insert "calendar";
 - (d) in paragraph (a), after "next", insert "calendar".

35. At the end of condition 4 of Schedule 5, insert the following:

Within 4 weeks of conducting any such review, the Applicant must advise the Secretary of the outcomes of the review, and submit any revised documents for the approval of the Secretary.

36. After condition 4 of Schedule 5, insert the following:

Updating & Staging Strategies, Plans or Programs

- 4A. The Applicant may at any time submit revised strategies, plans or programs for the approval of the Secretary. With the agreement of the Secretary, the Applicant may also submit any strategy, plan or program required by this consent on a staged basis.

With the agreement of the Secretary, the Applicant may prepare a revision or stage of any strategy, plan or program required under this consent without undertaking consultation with all parties nominated under the applicable condition in this consent.

Notes:

- *While any strategy, plan or program may be submitted on a staged basis, the Applicant must ensure that the existing operations on site are covered by suitable strategies, plans or programs at all times.*
- *If the submission of any strategy, plan or program is to be staged, then the relevant strategy, plan or program must clearly describe the specific stage to which the strategy, plan or program applies, the relationship of this stage to any future stages, and the trigger for updating the strategy, plan or program.*

37. In condition 6 of Schedule 5, delete "Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects (Department of Planning, 2007" and replace with "Community Consultative Committee (CCC) Guidelines for State Significant Projects (Department of Planning, 2016".

38. Delete condition 7 of Schedule 7 and replace with the following:

The Applicant must immediately notify the Secretary and any other relevant agencies of any incident. Within 7 days of the date of the incident, the Applicant shall provide the Secretary and any relevant agencies with a detailed report on the incident, and such further reports as may be requested.

39. In condition 9 of Schedule 5:
- (a) delete the words "March 2014" and replace with "November 2017";
 - (b) after the word "commission", insert ", commence";
 - (c) at the end of sub-paragraph (b), insert "and the CCC";
 - (d) in sub-paragraph (c), after "Lease", insert "or necessary water licences";
 - (e) delete the word "instruments" and replace with "approvals";
 - (f) at the end of sub-paragraph (d) delete "; and" and insert "(including whether the development has met or is trended towards the progressive performance and completion criteria detailed in these strategies, plans or programs);";
 - (g) at the end of sub-paragraph (e), delete the full stop and insert "; and";

- (h) insert the following sub-paragraph:
 - (f) be conducted and reported to the satisfaction of the Secretary.
- (i) delete the second dot point in the Notes.

40. Delete condition 10 of Schedule 5, and replace with the following:

Within 12 weeks of commencing any audit, or as otherwise agreed by the Secretary, the Applicant must submit a copy of the audit report to the Secretary and any other NSW Government agency that requests it, together with its response to any recommendations contained in the audit report and a timetable for the implementation of these recommendations, as required. The Applicant must implement the audit report recommendations, to the satisfaction of the Secretary.

41. Delete Appendix 2 and replace with the following:

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APPENDIX 2 PROJECT LAYOUT PLAN



MAC16-01_SPM Rev_2016

- LEGEND**
- Mining Lease Boundary
 - Infrastructure Area Envelope
 - Approximate Extent of Approved Surface Development (1997 EIS Year 20)
 - Indicative Offsite Coal Transport Infrastructure
 - Conveyor/Services Corridor Envelope
 - Bengalla Mine (SSD-5170)
 - Northern and Western Link Road

Source: NSW Land & Property Information (2015); NSW Division Resources & Energy (2014); Department of Planning and Environment (2016)

MACHenergy
MOUNT PLEASANT OPERATION
Project Layout Plan

42. Adjust the TABLE OF CONTENTS and page numbers to reflect changes made by this instrument.
43. In Appendices 4 and 5, replace all references to "Coal & Allied" with "the Applicant".