

Notice of Modification

Section 96(2) of the *Environmental Planning and Assessment Act 1979*

Under Section 96(2) of the *Environmental Planning and Assessment Act 1979*, I, the Minister for Planning, modify the development consent referred to in Schedule 1, as set out in Schedule 2.

signed

Frank Sartor MP
Minister for Planning

Sydney, 4th April 2006

SCHEDULE 1

The development consent (DA 60-03-2001) for the construction and operation of the Dendrobium coal mine and associated facilities.

SCHEDULE 2

1. Delete the definition of KVCLF on p 4 of the consent and insert as follows:

“**KVCLF** – *Kemira Valley Coal Loading Facility and Coal Sizer.*”
2. Delete the definitions of DLWC, DMR, EPA, NPWS, NSW Agriculture and NSW Fisheries on p 4 of the consent and insert as follows:

“**DLWC** – to be read as a reference to the Department of Natural Resources
DMR – to be read as a reference to the Department of Primary Industries (Mineral Resources)
DUAP – to be read as a reference to the Department of Planning
EPA – to be read as a reference to the Department of Environment and Conservation
NPWS – to be read as a reference to the Department of Environment and Conservation
NSW Agriculture – to be read as a reference to the Department of Primary Industries
NSW Fisheries – to be read as a reference to the Department of Primary Industries (Fisheries)”
3. Insert the following after condition 1.1(a)(xi):

(xii) and the Statement of Environmental Effects for the Dendrobium Coal Sizer, prepared by Olsen Environmental Consulting Pty Limited, and dated March 2005;

4. Renumber conditions 6.3(a)-(e) as conditions 6.3(a)-(h).

5. Condition 3.2(d).

Delete the words "Road Closure Management Plan (refer to condition 6.3(h))" and insert the words "Road Closure Management Plan (refer to condition 6.3(f))".

6. Conditions 3.2(a), 3.4(a), 3.9(c), 3.10(a), 3.11, 4.1(a), 4.2(a)(ii), 5.3.5, 5.4(a), 6.1(a), 6.3(f), 6.4.2(a), 6.4.3(a), 6.5(a) and 7.2(a).

Delete the word "prepare" wherever occurring, and insert the words "prepare and implement."

7. Condition 3.8(a).

Delete the word "prepared" where first occurring, and insert the words "prepared and implemented."

8. Insert the following condition after 3.2(f):

"(g) The Environmental Management Strategy and all management plans required under condition 3.2 are to be applied to the development the subject of this consent as modified from time to time."

9. Condition 6.1(a1).

Delete Table 1 and insert the following table:

Table 1: Health based air quality standards/goals

Dust Type	Standard/Goal	Source Agency
Total suspended particulate matter (TSP)	90 µg/m ³ (annual average)	NHMRC ¹
Particulate matter less than 10 microns (PM ₁₀)	50 µg/m ³ (1 day, 24 hr average)	EPA
Particulate matter less than 10 microns (PM ₁₀)	30 µg/m ³ (annual average)	EPA

¹ National Health and Medical Research Council.

10. Delete condition 6.1(a)(xix) and insert the following:

(b1) Notwithstanding condition 3.2(f), the Applicant shall revise the Air Quality Management Plan referred to in condition 6.1(a) by 30 September 2006 in consultation with the DEC and the CCC, and to the satisfaction of the Director-General. The revised Air Quality Management Plan must provide for the implementation of the required

actions relating to dust within the Department's Compliance Audit for the Dendrobium Coal Mine, dated March 2006.

11. Delete the words "Tables 1 and 2, or" from condition 6.1(d) and insert the words "Tables 1 and 2, and".
12. Conditions 6.3 and 6.4.1. Delete the words "Elouera Colliery (Dendrobium Site)" wherever occurring, and insert the words "Dendrobium Site".
13. Condition 6.4.1 Intrusive Noise Criteria (a).

Delete the condition. Insert the words "The Applicant shall undertake management measures as outlined in the Noise Management Plan at any dwelling not owned by the Applicant where noise at that dwelling (caused by Dendrobium Mine) exceeds or is predicted to exceed any of the noise target criteria specified in Table 3 below for the identified location nearest to that dwelling."

14. Condition 6.4.1 Noise Acquisition Criteria (b).

Delete the condition. Insert the words "If the noise caused by Dendrobium Mine at any dwelling not owned by the Applicant exceeds any of the noise target criteria specified in Table 4 below for the identified location nearest to that dwelling, the Applicant shall, upon receiving a written request for acquisition from the landowner, acquire the land in accordance with the procedures set out in condition 11.2.

15. Condition 6.4.1 Noise Acquisition Criteria (h).

Delete the condition. Insert the words "The Applicant shall, by 31 July 2006, undertake comprehensive monitoring of residences at, or in the vicinity of, the receiver locations identified in the EIS to verify noise predictions, including the appropriate delineation of management and acquisition zones, to the satisfaction of the Director-General. A report on any alterations to predictions, and the delineation of management and acquisition zones, shall be provided to all affected residents, the CCC and the Director-General by 30 September 2006. The Applicant shall undertake further monitoring at the request of the Director-General."

16. Condition 6.4.1 Construction Noise (f).

Delete the words "Noise limits specified in the table below from construction activities at the KVCLF must not exceed the noise limits specified for the receiver locations nominated in the following table." and insert the words "Noise received at dwellings from construction activities at KVCLF must not exceed the limit specified in the following table for the receiver location which is nearest to that dwelling."

17. Insert the following after Condition 6.4.1 Construction Noise (g).

(1h) Notwithstanding paragraphs (f) and (g), during the construction of the Dendrobium Coal Sizer (as described in the Statement of Environmental Effects noted in condition 1.1(xii)):

- (i) work crews are permitted to start work at 6 am Monday to Friday during Stage 2 construction to allow for isolation of the conveyor and related activities;
- (ii) Stage 3 construction activities are permitted to take place 24 hours per day over a single continuous period of up to five days (Monday to Friday). The Director-General may extend this period for a total of up to a further five days in the case of inclement weather or other serious disruption to completion of major activities, such as re-joining the conveyor; and
- (iii) Noise received at dwellings from construction activities must not exceed the limits specified in Table 3 for the receiver location which is nearest to that dwelling.

18. Condition 6.4.1 Sleep Disturbance (a).

Delete the words "To protect against sleep disturbance, noise levels from operations at the Elouera Colliery (Dendrobium Site) must not exceed the noise limits specified at the facades of residential dwellings at the specified receiver locations nominated in the following table between the times of 10:00 pm and 7:00 am." and insert the words "To protect against sleep disturbance, noise received at the facades of dwellings from the Dendrobium Site between the times of 10:00 pm and 7:00 am must not exceed the limit specified in the following table for the receiver location which is nearest to that dwelling."

19. Insert the following after condition 6.4.2(e):

- (f) Notwithstanding condition 3.2(f), the Applicant shall revise the Noise Management Plan referred to in condition 6.4.2(a) by 31 October 2006 in consultation with the DEC and the CCC, and to the satisfaction of the Director-General. The revised Noise Management Plan must:
 - (i) provide for the implementation of the required actions relating to noise and vibration within the Department's Compliance Audit for the Dendrobium Coal Mine, dated March 2006; and
 - (ii) include a figure showing the areas where the consent's noise and vibration criteria (including the acquisition zone) apply.

20. Delete "Condition 6.4.3(d)" from condition 6.4.3(c) and insert "Condition 6.4.3(b)".

21. Insert the following after condition 6.4.3(c):

- (d) The Applicant shall revise the Noise Monitoring Program referred to in condition 6.4.3(a) by 31 July 2006 in consultation with the DEC and the CCC, and to the satisfaction of the Director-General. The revised Noise Monitoring Program must:
 - (i) provide for the implementation of the required actions relating to noise monitoring within the Department's Compliance Audit for the Dendrobium Coal Mine, dated March 2006; and
 - (ii) provide for real-time noise monitoring in the residential areas close to the Dendrobium Site and KVCLF.
