19 May 2015

The Secretary
Department of Planning & Environment
22-33 Bridge Street
SYDNEY NSW 2000

Attention: Mr Howard Reed

Dear Howard,

1 INTRODUCTION

Wollongong Coal Limited (WCL) operates the Wongawilli Colliery in the Southern Coalfield of NSW. Wongawilli Colliery is located approximately 14 km south-west of Wollongong, on land holdings within the Wollongong and Wingecarribee Local Government Areas. The WCL Wongawilli Colliery consolidates all or parts of the historic Nebo, Wongawilli, Avon, Avondale and Huntley Collieries.

Operations in the Nebo Area are currently undertaken pursuant to Project Approval (PA) 09_0161, which was granted on 2 November 2011. PA 09_0161, supported by the NRE Wongawilli Colliery Nebo Area Environmental Assessment (ERM, 2010), allows mining operations in the Nebo Area to be undertaken until 31 December 2015.

This letter report supports a modification application under section 75W of the Environmental Planning & Assessment Act 1979 (EP&A Act) to allow approved mining activities under PA 09_0161 to be undertaken until 31 December 2020 (The Modification). The Modification represents a 5 year extension to the approved duration of mining operations.
2 EXISTING OPERATIONS

PA 09_0161 was granted to Gujarat NRE Coking Coal Limited (the previous owner of Wongawilli Colliery) on 2 November 2011. PA 09_0161 authorises the following activities at Wongawilli Colliery:

- Mining of six longwall (LW) panels in the Nebo Area (LWs N1 to N6);
- Continued development and construction of the Western Driveage;
- Coal processing and transport of coal at a maximum rate of 2 million tonnes per annum (Mtpa) of Run of Mine (ROM) coal per calendar year;
- Continued use of the surface infrastructure at the Wongawilli pit top;
- Continued transportation of ROM coal to Port Kembla Coal Terminal by rail; and
- Rehabilitation of the site.

These activities are collectively known as ‘the Project’.

3 MODIFICATION DESCRIPTION

Schedule 2, Condition 5 of PA 09_0161 states that:

“Mining operations for the project may take place until 31 December 2015. Note: Under this approval, the Proponent is required to rehabilitate the site and perform additional undertakings to the satisfaction of either the Director-General or the Executive Director Mineral Resources. Consequently this approval will continue to apply in all other respects other than the right to conduct mining operations until the rehabilitation of the site and these additional undertakings have been carried out satisfactorily.”

The definition of ‘Mining operations’ under PA 09_0161 “includes all overburden removal and coal extraction, processing, handling, storage and transportation activities carried out on site.”

This modification application seeks to extend the approved duration of mining operations until 31 December 2020 (the Modification).

All other aspects of mining operations will remain as currently approved under MP 09_0161, including underground mining domains, production rate and operational workforce. The physical extent of the approved mine layout will remain unchanged.

There are no proposed changes to the surface activities at Wongawilli Colliery (e.g. coal processing, coal transportation, water management and waste management).
4 NEED FOR THE MODIFICATION

Operations at Wongawilli Colliery were managed by Gujarat NRE Coking Coal Limited until 15 November 2013. On this date, Jindal Steel & Power (Mauritius) Limited acquired the majority ownership in Gujarat NRE Coking Coal Limited. WCL assumed control of Wongawilli Colliery as a result of the change in ownership.

No mining was undertaken in the Nebo Area in the period from 2 November 2011 (grant of approval) until the commencement of LW N2 on 12 June 2013. WCL assumed the management of Wongawilli Colliery during the extraction of LW N2 (the first panel in the Nebo Area to be extracted). Mining of LW N2 was suspended on 26 February 2014.

PA 09_161 authorises mining operations over a period of 50 months. Only 8.5 months of development work and longwall coal extraction has been undertaken to date, and longwall extraction has only occurred within one of the six approved longwall panels. WCL has extracted only 497,240 tonnes of the 3.3 million tonne coal resource in the Nebo Area. In addition, WCL has developed less than 500 m of the Western Drivage, which has a total length of 4,990 m.

The remainder of the approved operations cannot be completed within the approved duration of mining operations (i.e. prior to 31 December 2015). Therefore, the Modification is required to enable WCL to undertake the remaining approved mining activities, which generally consist of:

- Mining operations within LWs N1, N2 (remaining length), N3, N4, N5 and N6; and
- Development of the remaining extent of the Western Drivage.

WCL is currently undertaking mine planning and environmental studies for potential future development in the Western Area (which contains greater than 100 Mt of recoverable coking coal). The Modification will allow mining operations at Wongawilli Colliery to continue until the necessary approvals are prepared and sought for potential future mining. The Modification will provide employment for up to 300 personnel.

5 REGULATORY FRAMEWORK

On 2 November 2011, WCL was granted PA 09_0161 under Part 3A of the EP&A Act. Section 75W(2) enables a proponent to request a modification of an approval granted under Part 3A of the EP&A Act. Under section 75W(5), the Minister may choose to modify the approval (with or without conditions).
There are limitations on the scope of section 75W, as established in *Barrick Australia Limited v Williams* (2009 NSWCA 275). The Court held that the Minister is required to form a view as to whether the proposed changes amount to “a radical transformation of the terms of the existing development consent”. If the proposed changes constitute a “radical transformation”, section 75W cannot be relied upon because the proposed changes cannot be considered a “modification”.

The following aspects of Wongawilli Colliery will remain consistent with PA 09_161:

- The extraction footprint will remain as approved;
- Maximum coal processing and transportation will remain at 2 Mtpa;
- Surface operations (including coal processing) will remain unchanged;
- Coal transportation arrangements will remain unchanged; and
- No change in approved workforce.

The currently approved duration of mining operations under PA 09_0161 is approximately 4 years. The Modification seeks to increase the approved duration of mining operations by an additional 5 years to facilitate completion of the approved activities under PA 09_0161. The Modification does not entail any enlargement or intensification of the currently approved mining activities.

Therefore, the Modification does not constitute a radical departure from PA 09_0161, enabling the Minister to modify PA 09_0161 under section 75W of the EP&A Act.

6 IMPACT ASSESSMENT

The Modification does not involve any changes to the approved extraction footprint or production rate. Consequently, subsidence effects and environmental impacts associated with subsidence will remain the same as the assessed impacts for the approved operations.

Similarly, operational activities at the Wongawilli pit top (including water management) will remain consistent with PA 09_0161. Therefore, there will be no change to the assessed impacts relating to air quality, noise, water, visual amenity or traffic.

Environmental management practices will also remain consistent with current practices. In the absence of additional environmental impacts, further management and mitigation measures will not be necessary.
7 CONCLUSION

Mining in the Nebo Area has not progressed as per the timing anticipated in the Environmental Assessment (i.e. only one of the six approved longwall panels has been mined). It is not possible to complete the approved mining activities within the approved project duration (i.e. prior to 31 December 2015). WCL seeks an extension of the approved project duration until 31 December 2020 to enable completion of the remaining approved mining activities.

Given that the Modification does not involve the enlargement or intensification of mining operations at Wongawilli Colliery, the impacts of the modified Project will be the same as the impacts of the approved Project. Since the Modification will not result in any additional environmental impacts, no additional mitigation measures are considered necessary.

By allowing the approved mining activities to be undertaken, the Modification will allow the full economic benefits of the Project to be realised.

Yours sincerely,
WOLLONGONG COAL LTD

David Clarkson
Group Environment Manager