

Request to modify a major project



NSW GOVERNMENT
Department of Planning

Date duly made: ____/____/____

Modification No. _____

1. Before you lodge

This form is required under section 75W of the *Environmental Planning and Assessment Act 1979* (the Act) in order to request the Minister to modify the Minister's approval to carry out a project or concept plan to which Part 3A of the Act applies.

Before making this request, it is recommended that you first consult with the Department of Planning (the Department) concerning your modification. The Director-General may issue environmental assessment requirements that must be complied with before your request will be considered by the Minister. If the changes proposed by the modification will result in a project that is consistent with the existing approval, the Minister's approval for a modification is not required.

Disclosure Statement

Persons making a request to modify a project or concept plan are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years.

Note: For more details about political donations disclosure requirements, including a disclosure form, go to www.planning.nsw.gov.au/donations.

Lodgement

All modification requests must be lodged with the Director-General of the Department of Planning, by courier or mail. An electronic copy should also be e-mailed to the assessment contact officer assigned to the project.

NSW Department of Planning
Ground floor, 23-33 Bridge Street, SYDNEY NSW 2000
GPO Box 39 SYDNEY NSW 2001
Phone 1300 305 695

2. Details of the proponent

Company/organisation/agency

Narrabri Coal Operations Pty Ltd

ABN

15129850139

Mr Ms Mrs Dr Other

First name

Greig

Family name

Duncan

Position

General Manager

STREET ADDRESS

Unit/street no.

10

Street name

Kurrajong Creek Road

Suburb or town

Baan Baa

State

NSW

Postcode

2390

POSTAL ADDRESS (or mark 'as above')

Locked Bag 1002

Suburb or town

Narrabri

State

NSW

Postcode

2390

Daytime telephone

02 6794 4755

Fax

02 6794 4753

Mobile

Email

GDuncan@whitehavencoal.com.au

3. Identify the land

STREET ADDRESS (where relevant)

Unit/street no.

Street or property name

Suburb, town or locality

Postcode

Local government area(s)

State Electorate(s)

REAL PROPERTY DESCRIPTION

Note: The real property description is found on a map of the land or on the title documents for the land. If you are unsure of the real property description, you should contact the Department of Lands.

Please ensure that you place a slash (/) to distinguish between the lot, section, DP and strata numbers. If the proposed modification applies to more than one piece of land, please use a comma to distinguish between each real property description.

OR: detailed description of land attached:

MAP: A map of the site and locality should also be submitted with this request.

4. Details of the original major project or concept plan

Briefly describe what the original approval allows

The Narrabri Coal Project Stage 2 Development includes the introduction of longwall mining operations and increasing ROM coal production to 8.0 Mtpa

What was the original project application no.?

What was the date of the approval?

What was the original application fee?

Note: Clause 245K of the *Environmental Planning and Assessment Regulation 2000* provides information on calculating the maximum fee for a request for modification.

5. Describe the modification you propose to make to the approval

Describe the proposed modification

Modification to Condition 3 of Schedule 3 of the Project Approval in order to clarify the approval requirements for the preparation of extraction/subsidence plans.

Your modification request may need to be accompanied by an Environmental Assessment, including plans. An electronic and hard copy of this document will be required.

ESTIMATED CAPITAL INVESTMENT VALUE

Please indicate the estimated capital investment value (CIV) of the modification to the project approval or concept plan (excluding GST).

\$0

FULL TIME EQUIVALENT JOBS

Please indicate the number of jobs created by the proposed modification. This should be expressed as a proportion of full time equivalent (FTE) jobs over a full year.

Construction jobs (FTE) 0

Operational jobs (FTE) 0

6. Landowner's consent (where required)

As the owner(s) of the above property, I/we consent to this request being made by the proponent:

Land

Land

Signature
Greg Duncan

Signature

Name
Greg Duncan

Name

Date
18.11.2010

Date

Note: Under Clause 8F of the Environmental Planning and Assessment Regulation 2000 (the Regulation), certain applications for approval under Part 3A of the Act do not require consent of the landowner, however, the proponent is required to give notice of the application (e.g. linear infrastructure, mining & petroleum projects, and critical infrastructure).

7. Political donation disclosure statement

Persons making a request to modify a project or concept plan are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years.

Have you attached a disclosure statement to this request?

- Yes
- No

Note: For more details about political donations disclosure requirements, including a disclosure form, go to www.planning.nsw.gov.au/donations.

8. Proponent's signature

As the proponent(s) of the project and in signing below, I/we hereby:

- provide a description of the modification to the project approval or concept plan and address all matters required by the Director-General pursuant to Section 75W of the Act, and
- declare that all information contained within this form is accurate at the time of signing.

Signature
Greg Duncan

In what capacity are you signing if you are not the proponent

Name

Greig Duncan

Name, if you are not the proponent

Date

18.11.2010

Political donations disclosure statement



NSW GOVERNMENT
Department of Planning

Office use only:

Date received: ___/___/___

Planning application no. _____

This form may be used to make a political donations disclosure under section 147(3) of the *Environmental Planning Assessment Act 1979* for applications or public submissions to the Minister or the Director-General.

Please read the following information before filling out the Disclosure Statement on pages 3 and 4 of this form. Also refer to the 'Glossary of terms' provided overleaf (for definitions of terms in *italics* below). Once completed, please attach the completed declaration to your planning application or submission.

Explanatory information

Making a planning application or a public submission to the Minister or the Director-General

Under section 147(3) of the Environmental Planning and Assessment Act 1979 ('the Act') a person:

- (a) who makes a *relevant planning application* to the Minister or the Director-General is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by any *person with a financial interest* in the application, or
- (b) who makes a *relevant public submission* to the Minister or the Director-General in relation to the application is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by the person making the submission or any *associate of that person*.

How and when do you make a disclosure?

The disclosure to the Minister or the Director-General of a *reportable political donation* under section 147 of the Act is to be made:

- (a) in, or in a statement accompanying, the relevant planning application or submission if the donation is made before the application or submission is made, or
- (b) if the donation is made afterwards, in a statement of the person to whom the relevant planning application or submission was made within 7 days after the donation is made.

What information needs to be included in a disclosure?

The information requirements of a disclosure of reportable political donations are outlined in section 147(9) of the Act.

Pages 3 and 4 of this document include a Disclosure Statement Template which outlines the information requirements for disclosures to the Minister or to the Director-General of the Department of Planning.

Note: A separate Disclosure Statement Template is available for disclosures to councils.

Warning: A person is guilty of an offence under section 125 of the *Environmental Planning and Assessment Act 1979* in connection with the obligations under section 147 only if the person fails to make a disclosure of a political donation or gift in accordance with section 147 that the person knows, or ought reasonably to know, was made and is required to be disclosed under section 147.

The maximum penalty for any such offence is the maximum penalty under Part 6 of the *Election Funding and Disclosures Act 1981* for making a false statement in a declaration of disclosures lodged under that Part.

Note: The maximum penalty is currently 200 penalty units (currently \$22,000) or imprisonment for 12 months, or both.

Glossary of terms (under section 147 of the *Environmental Planning and Assessment Act 1979*)

gift means a gift within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981*. Note. A gift includes a gift of money or the provision of any other valuable thing or service for no consideration or inadequate consideration.

Note: Under section 84(1) of the *Election Funding and Disclosures Act 1981* gift is defined as follows:

gift means any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration.

local councillor means a councillor (including the mayor) of the council of a local government area.

relevant planning application means:

- a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site, or
 - b) a formal request to the Minister or the Director-General for development on a particular site to be made State significant development or declared a project to which Part 3A applies, or
 - c) an application for approval of a concept plan or project under Part 3A (or for the modification of a concept plan or of the approval for a project), or
 - d) an application for development consent under Part 4 (or for the modification of a development consent), or
 - e) any other application or request under or for the purposes of this Act that is prescribed by the regulations as a relevant planning application,
- but does not include:
- f) an application for (or for the modification of) a complying development certificate, or
 - g) an application or request made by a public authority on its own behalf or made on behalf of a public authority, or
 - h) any other application or request that is excluded from this definition by the regulations.

relevant period is the period commencing 2 years before the application or submission is made and ending when the application is determined.

relevant public submission means a written submission made by a person objecting to or supporting a relevant planning application or any development that would be authorised by the granting of the application.

reportable political donation means a reportable political donation within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981* that is required to be disclosed under that Part. Note. Reportable political donations include those of or above \$1,000.

Note: Under section 86 of the *Election Funding and Disclosures Act 1981* reportable political donation is defined as follows:

86 Meaning of "reportable political donation"

- (1) For the purposes of this Act, a reportable political donation is:
 - (a) in the case of disclosures under this Part by a party, elected member, group or candidate—a political donation of or exceeding \$1,000 made to or for the benefit of the party, elected member, group or candidate, or
 - (b) in the case of disclosures under this Part by a major political donor—a political donation of or exceeding \$1,000:
 - (i) made by the major political donor to or for the benefit of a party, elected member, group or candidate, or
 - (ii) made to the major political donor.
- (2) A political donation of less than an amount specified in subsection (1) made by an entity or other person is to be treated as a reportable political donation if that and other separate political donations made by that entity or other person to the same party, elected member, group, candidate or person within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1).
- (3) A political donation of less than an amount specified in subsection (1) made by an entity or other person to a party is to be treated as a reportable political donation if that and other separate political donations made by that entity or person to an associated party within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1). This subsection does not apply in connection with disclosures of political donations by parties.
- (4) For the purposes of subsection (3), parties are associated parties if endorsed candidates of both parties were included in the same group in the last periodic Council election or are to be included in the same group in the next periodic Council election.

a person has a financial interest in a relevant planning application if:

- a) the person is the applicant or the person on whose behalf the application is made, or
- b) the person is an owner of the site to which the application relates or has entered into an agreement to acquire the site or any part of it, or
- c) the person is associated with a person referred to in paragraph (a) or (b) and is likely to obtain a financial gain if development that would be authorised by the application is authorised or carried out (other than a gain merely as a shareholder in a company listed on a stock exchange), or
- d) the person has any other interest relating to the application, the site or the owner of the site that is prescribed by the regulations.

persons are associated with each other if:

- a) they carry on a business together in connection with the relevant planning application (in the case of the making of any such application) or they carry on a business together that may be affected by the granting of the application (in the case of a relevant planning submission), or
- b) they are related bodies corporate under the *Corporations Act 2001* of the Commonwealth, or
- c) one is a director of a corporation and the other is any such related corporation or a director of any such related corporation, or
- d) they have any other relationship prescribed by the regulations.

Political Donations Disclosure Statement to Minister or the Director-General

If you are required under section 147(3) of the Environmental Planning and Assessment Act 1979 to disclose any political donations (see Page 1 for details), please fill in this form and sign below.

Disclosure statement details				
Name of person making this disclosure <i>GREIG DUNCAN</i>	Planning application reference (e.g. DA number, planning application title or reference, property address or other description) <i>OS-0144</i>			
Your interest in the planning application (circle relevant option below)				
You are the APPLICANT <input checked="" type="radio"/> YES / NO OR You are a PERSON MAKING A SUBMISSION IN RELATION TO AN APPLICATION YES / NO				
Reportable political donations made by person making this declaration or by other relevant persons				
* State below any reportable political donations you have made over the 'relevant period' (see glossary on page 2). If the donation was made by an entity (and not by you as an individual) include the Australian Business Number (ABN).				
* If you are the applicant of a relevant planning application state below any reportable political donations that you know, or ought reasonably to know, were made by any persons with a financial interest in the planning application, OR				
* If you are a person making a submission in relation to an application, state below any reportable political donations that you know, or ought reasonably to know, were made by an associate.				
Name of donor (or ABN if an entity)	Donor's residential address or entity's registered address or other official office of the donor	Name of party or person for whose benefit the donation was made	Date donation made	Amount/ value of donation
<i>NO POLITICAL DONATIONS MADE</i>				
<i>Please list all reportable political donations—additional space is provided overleaf if required.</i>				
By signing below, I/we hereby declare that all information contained within this statement is accurate at the time of signing.				
Signature(s) and Date <i>Grig Duncan 18.11.2010</i>				
Name(s) <i>GRIG DUNCAN</i>				

Cont...

Political Donations Disclosure Statement to Minister or the Director-General

Name of donor (or ABN if an entity)	Donor's residential address or entity's registered address or other official office of the donor	Name of party or person for whose benefit the donation was made	Date donation made	Amount/ value of donation
	No POLITICAL DONATIONS MADE			



10 November 2010

The Director-General
c/- Director Major Development Assessment
Department of Planning
Ground Floor
23-33 Bridge Street
SYDNEY NSW 2001

Attention: Mr David Kitto

Dear David

RE: NARRABRI COAL MINE – MODIFICATION APPLICATION

Narrabri Coal Operations Pty Ltd (NCOPL) is the owner and operator of the Narrabri Coal Mine. NCOPL requests the New South Wales (NSW) Minister for Planning modify the Narrabri Coal Project – Stage 2 Approval (08_0144) for the Narrabri Coal Mine in relation to Condition 3 of Schedule 3 (Extraction Plans). This request is made in order to clarify the approval requirements for the preparation of extraction/subsidence plans under the Project Approval and Mining Lease conditions.

NCOPL requests that the Minister for Planning assess the proposed modification under Section 75W of the *Environmental Planning and Assessment Act, 1979*.

Extraction Plan

Condition 3 of Schedule 3 of the Project Approval (08_0144) requires the preparation of Extraction Plans for all second workings at the Narrabri Coal Mine, viz.:

SECOND WORKINGS

Extraction Plans

3. *The Proponent shall prepare and implement Extraction Plans for all second workings in the project area to the satisfaction of the Director-General. These plans must:*
 - (a) *be prepared by a team of suitably qualified and experienced experts whose appointment has been endorsed by the Director-General and in consultation with DII;*
 - (b) *be approved by the Director-General before the Proponent carries out second workings covered by the Plan;*
 - (c) *include*
 - *detailed plans for second workings;*
 - *detailed plans of any associated surface construction works;*
 - *revised predictions of subsidence effects, subsidence impacts and environmental consequences, incorporating any relevant information obtained since this approval;*
 - *a Subsidence Monitoring Program to calibrate and validate subsidence predictions; and analyse the relationship between subsidence effects and subsidence impacts and any ensuing environmental consequences;*



- a program to collect sufficient environmental baseline data for future Extraction Plans; and
- a Public Safety Management Plan to ensure public safety in the project area.

Note: In accordance with condition 11 of schedule 2, the preparation and implementation of Extraction Plans for second workings may be staged, provided that no less than 3 longwall panels are included in each plan, unless otherwise agreed to in writing by the Director-General. In addition, these plans are only required to contain management plans that are relevant to the specific second workings that are being carried out.

NCOPL proposes that Condition 3 of Schedule 3 of the Project Approval (08_0144) be amended in order to address NSW Department of Industry and Investment's (I&I NSW's) requirements in relation to subsidence management, in particular, aspects relating to detailed plans for second workings, coal resource recovery, subsidence predictions, subsidence monitoring, built features, and public safety.

Condition 3 of Schedule 3 of the Project Approval currently requires: *revised predictions of subsidence effects, subsidence impacts and environmental consequences, incorporating any relevant information obtained since this approval.* Similar to previous Part 3A approvals issued by the Department of Planning, it is considered appropriate that the revised predictions of subsidence effects and subsidence impacts be prepared to the satisfaction of I&I NSW, and that revised predictions of environmental consequences be prepared to the satisfaction of the Department of Planning.

It is also considered appropriate for revised predictions of environmental consequences to be linked to a review and revision of applicable management plans, specifically the Water Management Plan (Condition 13 of Schedule 4), Aboriginal Cultural Heritage Management Plan (Condition 23 of Schedule 4) and Rehabilitation Management Plan (Condition 4 of Schedule 5). Based on the outcomes of the review, the Extraction Plan would provide a timeframe for the revision of the applicable management plan(s).

NCOPL proposes that Condition 3 of Schedule 3 of the Project Approval (08_0144) be replaced with the condition below.

SECOND WORKINGS

Extraction Plans

3. *The Proponent shall prepare and implement Extraction Plans for all second workings in the project area to the satisfaction of the Director-General. These plans must:*
 - (a) be prepared by a team of suitably qualified and experienced experts whose appointment has been endorsed by the Director-General and in consultation with I&I NSW;*
 - (b) be approved by the Director-General before the Proponent carries out second workings covered by the Plan;*
 - (c) include the following to the satisfaction of I&I NSW:*
 - *detailed plans for second workings;*
 - *a coal resource recovery plan that demonstrates effective recovery of the available resource;*
 - *revised predictions of subsidence effects and subsidence impacts, incorporating any relevant information obtained since this approval;*
 - *a Subsidence Monitoring Program to calibrate and validate subsidence predictions; and analyse the relationship between the subsidence effects and subsidence impacts of the Extraction Plan and any ensuing environmental consequences;*
 - *a Built Features Management Plan prepared in consultation with the owner of the relevant feature to manage the potential environmental consequences of the Extraction Plan on built features; and*

- a Public Safety Management Plan to ensure public safety in the project area;
- (d) include detailed plans of any associated surface construction works;
- (e) include a revised assessment of potential environmental consequences of the Extraction Plan, and a review and revision of management plans prepared in accordance with Condition 13 of Schedule 4, Condition 23 of Schedule 4 and Condition 4 of Schedule 5 at a timeframe to be specified in the Extraction Plan;
- (f) include a program to collect sufficient environmental baseline data for future Extraction Plans.

Note: In accordance with condition 11 of schedule 2, the preparation and implementation of Extraction Plans for second workings may be staged, provided that no less than 3 longwall panels are included in each plan, unless otherwise agreed to in writing by the Director-General. In addition, these plans are only required to contain management plans that are relevant to the specific second workings that are being carried out.

Subject to Condition 3, Schedule 3 of the Project Approval being amended, NCOPL intends to request that I&NSW remove the current Mining Lease condition which requires preparation of a Subsidence Management Plans. This request would be made on the basis that the Extraction Plan condition (as amended) incorporated all necessary subsidence plan content and consultation requirements.

Were Condition 3, Schedule 3 of the Project Approval to be amended, the note in Schedule 5 Rehabilitation and Offsets would also require modification to refer to Condition 3, Schedule 3, rather than Condition 3(c) of Schedule 3:

REHABILITATION

Note: These conditions should be read in conjunction with sections 4, 8 and 12 of the revised Statement of Commitments and condition 3(c) of schedule 3.

Conclusion

NCOPL requests that the Minister for Planning assesses the proposed modifications to Project Approval (08_0144) under Section 75W of the *Environmental Planning and Assessment Act, 1979*. The proposed change is requested in order to clarify the reporting and consultation requirements for the Extraction Plan.

NCOPL considers that the proposed modification in no way changes the scale, nature or consequential potential environmental impacts of the existing project as approved under Project Approval (08_0144).

Please do not hesitate to contact the undersigned should you have any queries.

Yours sincerely



Greig Duncan
General Manager,
Narrabri Coal Operations
Whitehaven Coal