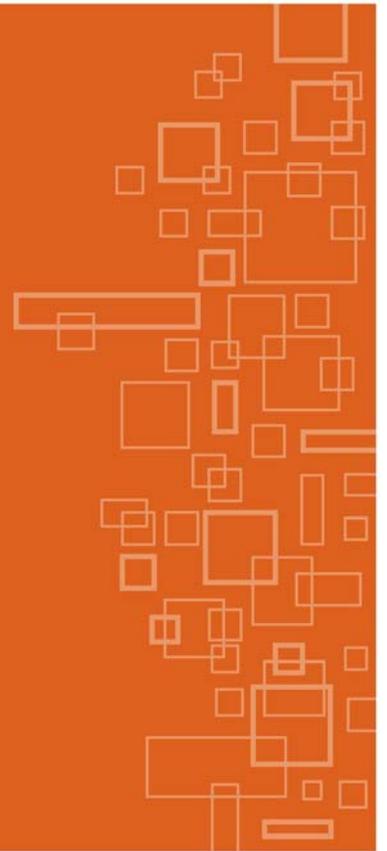




The Coordinator-General



Change Report

Bowen Basin Coal Growth Project – Caval Ridge Mine

November 2010

**Report evaluating a Change application to the
Coordinator-General's Report for the Bowen Basin
Coal Growth Project: Caval Ridge Mine pursuant
to section 35 I of the State Development and
Public Works Organisation Act 1971**

**- Granting of Environmental Authority Timing
Issue**



Contents

1. Introduction	3
2. Description of the Change Application	3
3. Reasons for the Change Application	3
4. Public Notice Decision	4
5. Evaluation of the Change Application	4
5.1 New Condition 1(d)	4
5.2 Condition 2 - Mine Water Management	5
5.3 Condition 13 – Mineral Waste	5
5.4 Condition 18 – Accommodation	6
6. Conclusion	6



1. Introduction

The Bowen Basin Coal Growth Project: Caval Ridge Mine Coordinator-General's Evaluation Report for an environmental impact statement was released on 9 August 2010 (Coordinator-General Report) pursuant to section 35 of the State Development and Public Works Organisation Act 1971 (Queensland) (SDPWO Act).

The proponent for the Caval Ridge Mine (CRM) is BHP Billiton Mitsubishi Alliance Coal Operations Pty Ltd (BMA). In a letter dated 10 November 2010 from BMA to the Coordinator-General (**Attachment 1**) and a supplementary letter on the same day from Blake Dawson on behalf of BMA to the Coordinator-General (**Attachment 2**), a change application was lodged seeking changes to the Coordinator-General Report.

2. Description of the Change Application

BMA has applied for changes to conditions 1, 2, 13 and 18 in Appendix 1, Schedule 1 to the Coordinator-General Report as follows:

1. Condition 1 (General Conditions) – insert new condition 1(d) as follows:

“1(d) Where in any of the conditions contained in this Schedule 1, there is a reference to actions being done before or after a set time, the proponent and the Coordinator-General may agree, in writing, to vary that reference to time. Where such agreement is reached, the reference to time in any such condition is taken to be a reference to time as varied by that agreement and the proponent must promptly notify the relevant consultative body, if any, which, under Schedule 2 is the entity given jurisdiction over that condition.”

2. Condition 2 (Mine Management) – delete the words “being granted” wherever occurring and insert instead the words “taking effect”.
3. Condition 13 (Mineral Waste) – delete the words “being granted” wherever occurring and insert instead the words “taking effect”.
4. Condition 18 (Accommodation) – delete the words “is granted” wherever occurring and insert instead the words “takes effect”

BMA submits that these changes are of no material effect to the Project (and of no environmental effect at all) as the above conditions, if amended as applied for would still operate to restrain the CRM environmental authority from taking effect until the conditions have been satisfied.

3. Reasons for the Change Application

Under the relevant statutory powers, the Mining Registrar in Emerald set the last day for objections to the Caval Ridge mining lease application (MLA 70403) as 4 November 2010.

This also became the last day for objections to the associated environmental authority applications, being the application for the CRM environmental authority and the associated application for an amended environmental authority for the Peak Downs mine.



Unexpectedly, no objections were received to any of these applications. In respect of the environmental authority applications, that meant the Department of Environment Resource Management was automatically put into a position where pursuant to section 228 of the *Environmental Protection Act 1994*, it must issue both the CRM environmental authority and the Peak Downs amended environmental authority by 18 November 2010.

The Coordinator-General Report for CRM contained a number of conditions that required BMA to undertake specific obligations prior to the granting of the environmental authority for CRM. BMA have advised that neither it nor DERM (in respect to Condition 2 and 13) will be in a position to have any of these obligations satisfied prior to 18 November 2010. BMA have advised that if the relevant environmental authorities are not granted then it will jeopardise the legal integrity of these project approvals.

4. Public Notice Decision

In accordance with section 35G of the SDPWO Act the Coordinator-General must decide whether or not to require the proponent to publicly notify the proposed change application and any effects on the project.

The proposed changes applied for relate only to the timing of specific obligations and the changes applied for do not materially affect the specific obligations contained in the relevant conditions. Accordingly it is the view of the Coordinator-General that the administrative nature of the proposed changes do not warrant public consideration.

Therefore the changes applied for are not required to be publicly notified prior to the evaluation of the Change application.

5. Evaluation of the Change Application

The original timing requirements for the subject conditions in the Coordinator-General Report were linked to the granting of the relevant environmental authority as a suitable milestone largely as it was anticipated that the process to resolve any objections would apply, thereby giving a reasonable time to undertake the obligations contained in the subject Coordinator-General Report.

In view of the earlier than anticipated potential granting of the environmental authority, it was not the intention in the Coordinator-General Report for a significantly shorter time period to apply to these relevant obligations. Accordingly, the evaluation of each proposed change to the conditions in Appendix 1, Schedule 1 of the Coordinator-General Report is as follows:

5.1 New Condition 1(d)

This change is to enable greater flexibility in timetabling compliance with the Coordinator-General imposed conditions contained in the Coordinator-General Report. The circumstances necessitating this change application by BMA highlights the need for greater flexibility in programming the timing requirements for compliance with the Coordinator-General imposed conditions.

This conditioning regime applies to a broad range of issues across both the construction and operational stages of the Project and CRM has an operational life of approximately 30 years. Currently



the only mechanism to amend any change to a Coordinator-General Report regardless of its nature is through the statutory change process under Division 3A of the SDPWO Act.

The proposed change recognises that in the life of a project there will be some required changes more administrative in nature. The proposed change will enable timing variations of an administrative nature to be dealt with more efficiently through a written agreement process between BMA and the Coordinator-General rather than the more onerous statutory change report process under Division 3A of the SDPWO Act.

5.2 Condition 2 - Mine Water Management

This condition imposes various obligations on BMA with respect to Mine Water Management such as:

- Water Releases – To prepare a report for DERM’s endorsement on the water balance model and any design changes to water supply, storage and transfer components of the CRM Mine Water Management System
- Flooding – DERM to review and endorse for inclusion in the Environmental Management Plan any design of the CRM operational flood protection levees.

The change proposes to replace the timing requirement for such obligations from:

“Prior to the EA for the CRM being granted” to “Prior to the EA for the CRM taking effect.”

In order to ensure a consistent regulatory compliance framework between the Coordinator-General Report and the CRM environmental authority DERM have agreed to insert the following wording or words of similar effect into the conditions of the CRM environmental authority to be granted to BMA:

“The Environmental Authority is not to take effect until written notification is provided to the Department of Environment and Resource Management by the Coordinator-General notifying that Condition 2 (Mine Water Management) and Condition 13 (Mineral Waste) in Appendix 1, Schedule 1 of the Coordinator-General Evaluation Report dated August 2010 and as amended by any subsequent Change Reports pursuant to Division 3A of the State Development and Public Works Organisation Act 1971, have been satisfied.”

The proposed change still requires BMA to undertake the requisite investigations and prepare the relevant reports. The change merely recognises that in view of the compressed EA granting period a more reasonable time period agreed by BMA and DERM to satisfy the obligations should apply.

The amendment to the EA making its granting conditional upon the obligations being satisfied provides the necessary regulatory certainty that constrains BMA from actioning their environmental authority until the relevant conditions in the Coordinator-General Report have been satisfied.

5.3 Condition 13 – Mineral Waste

This condition imposes various obligations on BMA with respect to Mineral Waste to provide DERM with:

- Sufficient evidence to justify the effectiveness and reliability of the proposed belt press filter technology; and
- Report the most recent results and analysis of the testing of the belt filter press pilot plant at the Peak Downs mine.

The change proposes to replace the timing requirement for such obligations from:

“Prior to the EA for the CRM being granted” to “Prior to the EA for the CRM taking effect.”



In order to ensure a consistent regulatory compliance framework between the Coordinator-General Report and the CRM environmental authority DERM will insert the following wording or words of similar effect into the conditions of the CRM environmental authority to be granted to BMA:

"The Environmental Authority is not to take effect until written notification is provided to the Department of Environment and Resource Management by the Coordinator-General notifying that Condition 2 (Mine Water Management) and Condition 13 (Mineral Waste) in Appendix 1, Schedule 1 of the Coordinator-General Evaluation Report dated August 2010 and as amended by any subsequent Change Reports pursuant to Division 3A of the State Development and Public Works Organisation Act 1971, have been satisfied."

The proposed change still requires BMA to undertake the requisite investigations and prepare the relevant reports. The change merely recognises that in view of the compressed EA granting period a more reasonable time period agreed by BMA and DERM to satisfy the obligations should apply.

The amendment to the EA making its granting conditional upon the obligations being satisfied provides the necessary regulatory certainty that constrains BMA from actioning their environmental authority until the relevant conditions in the Coordinator-General Report have been satisfied.

5.4 Condition 18 – Accommodation

The change application proposes to insert the same text changes to this condition as for Conditions 2 and 13 set out above wherever the relevant time requirement specifying the “granting of the EA” appears.

The relevant parts of this Condition are those relating to the Bowen Basin Coal Growth (BBCG) Project Housing Impacts Study specifically, condition 18 (h) and 18(i) and the BBCG Project Housing Impact Plan specifically, conditions 18(n) and 18(o).

Unlike the Conditions 2 and 13 for which DERM is the entity identified as having the requisite jurisdiction in Appendix 1, Schedule 2 of the Coordinator-General’s Report that same schedule identifies the Coordinator-General as the relevant entity with the jurisdiction for condition 18.

The Coordinator-General does not consider that the linkage to the environmental authority taking effect is appropriate for these conditions that are not tied to DERM for their jurisdictional administration. The nomination of a specific date for completion of the obligations is preferred to give greater certainty and clarity to the Coordinator-General and BMA. Accordingly, the evaluation finds that that the following changes to condition 18 are more appropriate:

- 18(h) – Delete the words *“before the EA for the CRM is granted.”* and insert the words *“on or before 2 May 2011”*;
- 18 (i) – Delete the words *“before the EA for the CRM is granted.”* and insert the words *“within 20 business days of the date specified in Condition 18(h)”*;
- 18 (n) – Delete the words *“grant of the EA, unless otherwise agreed by the Coordinator-General.”* and insert the words *“the date specified in Condition 18(h)”*;
- 18 (o) – Delete the words *“the grant of the EA, unless otherwise agreed by the Coordinator-General”* and insert *“the date specified in Condition 18(h)”*.

6. Conclusion

Pursuant to section 35 I of the SDPWO Act the evaluation of the BMA Change Application dated 10 November 2010 concludes the following:

1. Part 1: General conditions



Condition 1. General conditions – insert new condition 1(d):

“Where in any of the conditions contained in this Schedule 1, there is a reference to actions being done before or after a set time, the proponent and the Coordinator-General may agree, in writing, to vary that reference to time. Where such agreement is reached, the reference to time in any such condition is taken to be a reference to time as varied by that agreement and the proponent must promptly notify the relevant consultative body, if any, which, under Schedule 2 is the entity given jurisdiction over that condition.”

2. Part 1: General conditions

Condition 2. Mine Water Management – delete the words *“being granted”* wherever occurring and insert instead the words *“taking effect”*.

3. Part 2: Construction phase

Condition 13. Mineral Waste – delete the words *“being granted”* wherever occurring and insert instead the words *“taking effect”*.

4. Part 3: Operation phase

Condition 18. Accommodation:

- 18(h) – Delete the words *“before the EA for the CRM is granted.”* and insert the words *“on or before 2 May 2011”*;
- 18 (i) – Delete the words *“before the EA for the CRM is granted.”* and insert the words *“within 20 business days of the date specified in Condition 18(h)”*;
- 18 (n) – Delete the words *“grant of the EA, unless otherwise agreed by the Coordinator-General.”* and insert the words *“the date specified in Condition 18(h)”*;
- 18 (o) – Delete the words *“grant of the EA.”* unless otherwise agreed by the Coordinator-General” and insert *“date specified in Condition 18(h)”*.



Department of Infrastructure and Planning
PO Box 15009 City East Qld 4002 Australia
tel +61 7 3227 8548
fax +61 7 3224 4683
info@dip.qld.gov.au

www.dip.qld.gov.au