

Appendix 1

DA 88-4-2005

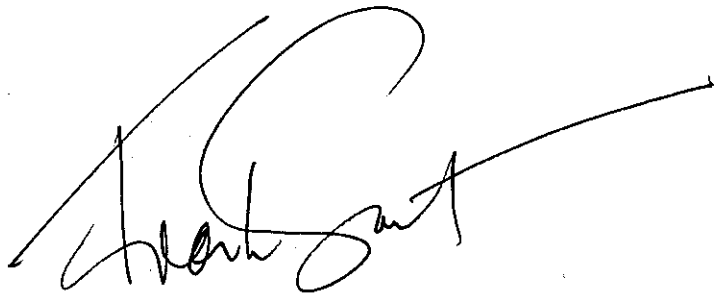
Development Consent

Schedule 1 of the Environmental Planning and Assessment Act 1979

I, the Minister for Planning, approve the Development Application referred to in schedule 1, subject to the conditions in schedules 3 to 6.

These conditions are required to:

- prevent, minimise, or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the on-going environmental management of the development.



Frank Sartor MP
Minister for Planning

Sydney,

9th Nov

2005

SCHEDULE 1

Development Application:	DA-88-4-2005.
Applicant:	East Boggabri Joint Venture: Whitehaven Coal Mining Limited and Idemitsu Boggabri Coal Pty Limited.
Consent Authority:	Minister for Planning.
Land:	See Appendix 1.
Proposed Development:	Construction and operation of the East Boggabri coal mine, which includes: <ul style="list-style-type: none">• constructing on-site infrastructure, including a run-of-mine (ROM) coal crushing and screening plant, coal-loading bin, offices, workshops and a private transport route;• upgrading Council roads;• extracting approximately 12.4 million tonnes of ROM coal, using open cut mining methods, at a maximum rate of 2 million tonnes a year;• crushing and screening the ROM coal on the mine site before transporting it by road to the Whitehaven Siding coal handling and preparation plant near Gunnedah;• receiving and emplacing coal rejects from the Whitehaven siding coal handling and preparation plant; and• progressively rehabilitating the site.
State Significant Development:	The proposal is classified as State significant development, under section 76A(7) of the <i>Environmental Planning and Assessment Act 1979</i> , as it has a capital investment value exceeding \$20 million and therefore meets the criteria in <i>State Environmental Planning Policy No 34 – Major Employment Generating Development</i> .

Integrated Development:

The proposal is classified as integrated development, under section 91 of the *Environmental Planning and Assessment Act 1979*, as it requires additional approvals under the:

- *National Parks and Wildlife Act 1974*;
- *Protection of the Environment Operations Act 1997*;
- *Rivers and Foreshores Improvement Act 1948*;
- *Roads Act 1993*; and
- *Water Act 1912*.

Designated Development:

The proposal is classified as designated development, under section 77A of the *Environmental Planning and Assessment Act 1979*, as it is for a coal mine that would "produce or process more than 500 tonnes of coal a day", and consequently meets the criteria for designated development in schedule 3 of the *Environmental Planning and Assessment Regulation 2000*.

Notes:

- To find out when this consent becomes effective, see section 83 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*;
 - To find out when this consent is liable to lapse, see section 95 of the *EP&A Act*; and
 - To find out about appeal rights, see section 97 of the *EP&A Act*.
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DEFINITIONS

AEMR	Annual Environmental Management Report
ANZECC	Australian and New Zealand Environment Consultative Council
Applicant	Whitehaven Coal Mining Limited and Idemitsu Boggabri Coal Pty Limited
BCA	Building Code of Australia
CCC	Community Consultative Committee
CHPP	Coal Handling and Preparation Plant
Construction Stage	Up to 6 months from the commencement of development on the site, or from the date on which coal is transported from the mine site, whichever occurs first
DA	Development Application
Day	Day is the period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
DEC	The Department of Environment and Conservation
Department	The Department of Infrastructure, Planning and Natural Resources
Director-General	Director-General of Department of Infrastructure, Planning and Natural Resources, or delegate
DPI	The Department of Primary Industries
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence
Evening	Evening is the period from 6 pm to 10 pm
GTA	General Terms of Approval
GSC	Gunnedah Shire Council
Land	Land means the whole of a lot, or contiguous land owned by the same landowner, in a current plan registered at the Land Titles Office at the date of this consent
Mine site	The area covered by the Mining Lease
Minister	Minister for Infrastructure and Planning, or delegate
MOP	Mining Operations Plan
Night	Night is the period from midnight to 7 am and 10 pm to midnight Monday to Saturday and midnight to 8 am and 10 pm to midnight on Sundays and public holidays
NP&W Act	<i>National Parks and Wildlife Act 1974</i>
NSC	Narrabri Shire Council
Operational Stage	Following the completion of the construction stage (see above)
PCA	Principal Certifying Authority appointed under Section 109E of the Act
Privately-owned land	Land that is not owned by a public agency, a mining company or its subsidiary; or where relevant, land that is not covered by a private agreement between the Applicant and the land owner that specifically allows for variances to criteria for environmental performance in this consent
ROM coal	Run-of-mine coal
RTA	Roads and Traffic Authority
Site	Land to which the DA applies, which includes the mine site and the transport route
Transport route	the route used to transport coal from the mine site to the Whitehaven Siding coal handling and preparation plant, which includes the combination of private and public roads

**SCHEDULE 3
ADMINISTRATIVE CONDITIONS**

Obligation to Minimise Harm to the Environment

1. The Applicant shall implement all practicable measures to prevent or minimise any harm to the environment that may result from the construction, operation, or rehabilitation of the development.

Terms of Approval

2. The Applicant shall carry out the development generally in accordance with the:
 - (a) DA-88-4-2005;
 - (b) EIS titled *Environmental Impact Statement for the Proposed East Boggabri Coal Mine*, and *Specialist Consultant Studies Compendium*, dated May 2005, and prepared by R.W. Corkery & Co. Pty. Limited; and
 - (c) conditions of this consent.
3. If there is any inconsistency between the above, the conditions of this consent shall prevail to the extent of the inconsistency.
4. The Applicant shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
 - (a) any reports, plans or correspondence that are submitted in accordance with this consent; and
 - (b) the implementation of any actions or measures contained in these reports, plans or correspondence.

Limits on Approval

5. This consent lapses 12 years after the date it commences.
6. The Applicant shall not extract more than 2 million tonnes of ROM coal a year from the development.

Structural Adequacy

7. The Applicant shall ensure that all new buildings and structures are constructed in accordance with the relevant requirements of the BCA.

Note:

- Under Part 4A of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of development.

Demolition

8. The Applicant shall ensure that all demolition work is carried out in accordance with *Australian Standard AS 2601-2001: The Demolition of Structures*, or its latest version.

Operation of Plant and Equipment

9. The Applicant shall ensure that all plant and equipment used on the site, or to transport coal along the transport route, are:
 - (a) maintained in a proper and efficient condition; and
 - (b) operated in a proper and efficient manner.

Section 94 Contributions

10. Within 3 months of the date of this consent, the Applicant shall develop (and following approval implement) a Contributions Plan for the development in conjunction with the GSC and the NSC, and to the satisfaction of the director-General. The plan must:
 - determine a fair and reasonable contribution towards the provision of public amenities/services; and
 - include a program outlining how and when the proposed contributions will be provided.

**SCHEDULE 4
SPECIFIC ENVIRONMENTAL CONDITIONS**

AIR QUALITY

Impact Assessment Criteria

- The Applicant shall ensure that dust emissions generated by the development do not cause exceedances of the air quality criteria listed in Tables 1, 2 and 3 at any residence on, or on more than 25 percent of, any privately-owned land.

Pollutant	Averaging period	Criterion
Total suspended particulate (TSP) matter	Annual	50 µg/m ³
Particulate matter < 10 µm (PM ₁₀)	Annual	50 µg/m ³

Table 1: Long-term Impact Assessment Criteria for Particulate Matter

Pollutant	Averaging period	Criterion
Particulate matter < 10 µm (PM ₁₀)	24 hour	500 µg/m ³

Table 2: Short-term Impact Assessment Criterion for Particulate Matter

Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level
Deposited dust	Annual	2 g/m ² /year	8 g/m ² /year

Table 3: Long-term Impact Assessment Criteria for Deposited Dust

Note: Deposited dust is assessed as insoluble solids as defined by Standards Australia, 2003, AS 3580.10.1-2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulates - Deposited Matter - Gravimetric Method.

Land Acquisition Criteria

- If the dust emissions generated by the development exceed the criteria in Tables 4, 5 and 6 at any residence on, or on more than 25 percent of, any privately-owned land, the Applicant shall, upon receiving a written request for acquisition from the landowner acquire the land in accordance with the procedures in conditions 10-12 of schedule 5.

Pollutant	Averaging period	Criterion
Total suspended particulate (TSP) matter	Annual	100 µg/m ³
Particulate matter < 10 µm (PM ₁₀)	Annual	50 µg/m ³

Table 4: Long-term Land Acquisition Criteria for Particulate Matter

Pollutant	Averaging period	Criterion	Percentile ¹	Basis
Particulate matter < 10 µm (PM ₁₀)	24 hour	150 µg/m ³	99 ²	Total ³
Particulate matter < 10 µm (PM ₁₀)	24 hour	50 µg/m ³	98.6	Increment ⁴

Table 5: Short-term Land Acquisition Criteria for Particulate Matter

¹Based on the number of block 24 hour averages in an annual period.

²Excludes extraordinary events such as bushfires, prescribed burning, dust storms, sea fog, fire incidents, illegal activities or any other activity agreed by the Director-General in consultation with the DEC.

³Background PM₁₀ concentrations due to all other sources plus the incremental increase in PM₁₀ concentrations due to the mine alone.

⁴Incremental increase in PM₁₀ concentrations due to the mine alone.

Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level
Deposited dust	Annual	2 µg/m ² /day	4 µg/m ² /day

Table 6: Long-term Land Acquisition Criteria for Deposited Dust

Note: Deposited dust is assessed as insoluble solids as defined by Standards Australia, 2003, AS 3580.10.1-2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulates - Deposited Matter - Gravimetric Method.

¹Operating Conditions

3. The Applicant shall carry out the development in a way that prevents and/or minimises the air pollution generated by the development.
4. The Applicant shall:
 - (a) ensure that trucks entering and leaving the mine site carrying loads with the potential to generate dust are covered at all times, except during loading and unloading; and
 - (b) implement all practicable measures to minimise the off-site odour and fume emissions generated by any spontaneous combustion or blasting at the mine site, to the satisfaction of the Director-General.

²Monitoring

5. Prior to carrying out any development on the mine site, the Applicant shall prepare (and following approval implement) an Air Quality Monitoring Program for the development, in consultation with the DEC, and to the satisfaction of the Director-General. This Program must include an air quality monitoring protocol for evaluating compliance with the air quality impact assessment and land acquisition criteria in this consent.

³NOISE

Noise Impact Assessment Criteria

6. The Applicant shall ensure that the noise generated by the development, including the noise generated on the private sections of the transport route, does not exceed the noise impact assessment criteria presented in Table 7 at any residence on privately-owned land.

¹ Incorporates DEC GTA

² Incorporates DEC GTA

³ Incorporates DEC GTA

Day (Construction Stage) <i>L_{A10(15 minute)}</i>	Day (Operational Stage) <i>L_{Aeq(15 minute)}</i>	Evening <i>L_{Aeq(15 minute)}</i>	Night <i>L_{Aeq(15 minute)}</i>	Night <i>L_{A1(1 minute)}</i>
40	35	35	35	45

Table 7: Noise Impact Assessment Criteria dB(A)

Note:

- Noise from the development is to be measured at the most affected point or within the residential boundary, or at the most affected point within 30 metres of a dwelling (rural situations) where the dwelling is more than 30 metres from the boundary,
- To determine compliance with the *L_{Aeq(15 minute)}* noise limits in the above table, where it can be demonstrated that direct measurement of noise from the development is impractical, the DEC may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy). The modification factors in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise levels where applicable.
- Noise from the development is to be measured at 1 metre from the dwelling façade to determine compliance with the *L_{A1(1 minute)}* noise limits in the above table.
- The noise emission limits identified in the above table apply under meteorological conditions of:
 - wind speeds of up to 3 m/s at 10 metres above ground level; or
 - temperature inversion conditions of up to 3°C/100m, and wind speeds of up to 2 m/s at 10 metres above ground level.

Road Traffic Noise Criteria

7. The Applicant shall ensure that the noise generated by the development on public roads does not exceed the criteria in Table 8.

Day/Evening <i>L_{Aeq(1 hour)}</i>	Night <i>L_{Aeq(1 hour)}</i>	Property
60	55	Any residence on privately-owned land.

Table 8: Road Traffic Noise Criteria dB(A)

Land Acquisition Criteria

8. If the noise generated by the development exceeds the criteria in Table 9, the Applicant shall, upon receiving a written request from the landowner, acquire the land in accordance with the procedures in conditions 10-12 of schedule 5.

Day/Evening/Night <i>L_{Aeq(15 minute)}</i>	Property
40	All privately-owned land.

Table 9: Land Acquisition Criteria dB(A)

Notes:

- The provisions of this condition do not apply during the Construction Stage of the mine; and
- Noise generated by the development is to be measured in accordance with the notes presented below Table 7.

⁴Operating Hours – Construction Stage

9. During the Construction Stage, the Applicant is permitted to carry out development between 7 am to 6 pm Monday to Saturday, excluding public holidays. The Applicant shall notify the Department of the date of commencement and completion of construction activities.

⁵Operating Hours – Operational Stage

10. During the Operational Stage, the Applicant is permitted to:
- carry out processing on the mine site between 7 am to 10 pm Monday to Friday, and 7 am to 6 pm Saturday, excluding public holidays;
 - carry out open cut mining operations on the mine site between 7 am and midnight Monday to Friday, midnight and 3.30am Tuesday to Saturday, and 7 am and 6 pm Saturdays; and

⁴ Incorporates DEC GTA

⁵ Incorporates DEC GTA

- (e) undertake maintenance activities at any time Monday to Sunday.

Note: Operating hours do not apply to blasting (see condition 15).

Monitoring

11. Prior to carrying out any development on the mine site, the Applicant shall prepare (and following approval implement) a Noise Monitoring Program for the development in consultation with the DEC, and to the satisfaction of the Director-General. This Program must include a noise monitoring protocol for evaluating compliance with the criteria in conditions 6 and 8.

METEOROLOGICAL MONITORING

12. Prior to carrying out any development, the Applicant shall ensure that there is a suitable meteorological station operating in the vicinity of the development in accordance with the requirements in *Approved Methods for Sampling of Air Pollutants in New South Wales*, and to the satisfaction of the DEC and the Director-General.

⁶BLASTING & VIBRATION

Airblast Overpressure Limits

13. The Applicant shall ensure that the airblast overpressure level from blasting at the development does not exceed the criteria in Table 10 at any residence on privately-owned land.

Airblast overpressure level (dB(L) Peak)	Allowable exceedance
115	5% of the total number of blasts in a 12 month period
120	10%

Table 10: Airblast Overpressure Impact Assessment Criteria

Note: The overpressure values in Table 12 apply when the measurements are performed with equipment having a lower cut-off frequency of 2 Hz or less. If the instrumentation has a higher cut-off frequency a correction of 5 dB should be added to the measured value. Equipment with a lower cut-off frequency exceeding 10 Hz should not be used.

Ground Vibration Impact Assessment Criteria

14. The Applicant shall ensure that the ground vibration level from blasting at the development does not exceed the criteria in Table 11 at any residence on privately-owned land or noise sensitive location as defined in the DEC's Industrial Noise Policy.

Peak particle velocity (mm/s)	Allowable exceedance
5	5% of the total number of blasts in a 12 month period
10	10%

Table 11: Ground Vibration Impact Assessment Criteria

Blasting Hours

15. The Applicant shall only carry out blasting at the development between 9 am and 5 pm Monday to Friday. No blasting is allowed at any other time or on Saturdays, Sundays or public holidays without the written approval of the DEC.

Blasting Frequency

16. The Applicant shall not carry out more than 1 blast a day at the site without the written approval of the DEC.

⁶ Incorporates DEC GTAs

Monitoring

17. The Applicant shall monitor the airblast overpressure and ground vibration impacts of blasting operations of the development at privately-owned residences or noise sensitive locations as defined in the DEC's Industrial Noise Policy, using the units of measurement, frequency, sampling method, and locations specified in Table 12.

Parameter	Units of Measure	Frequency	Sampling Method	Measurement Location
Airblast overpressure	dB(L) Peak	Times every month	AS2187.2-1993	Particular sites to be identified by the Applicant
Peak particle velocity	mm/s	Times every month	AS2187.2-1993	Particular sites to be identified by the Applicant

Table 12: Airblast Overpressure and Ground Vibration Monitoring

¹Standards Australia, 1993, AS2187.2-1993: Explosives - Storage, Transport and Use - Use of Explosives.

18. Prior to carrying out any blasting, the Applicant shall prepare (and following approval implement) a Blasting Monitoring Program for the development in consultation with the DEC, and to the satisfaction of the Director-General.

Public Notice

19. During the life of the development, the Applicant shall:
- operate a blasting hotline, or alternate system agreed to by the Director-General, to enable the public to get up-to-date information on blasting operations at the development; and
 - notify the landowner/occupier of any land within 2 kilometres of planned blasting operations at the development about this hotline or system on an annual basis.

Property Inspections

20. At least 2 months prior to carrying out any blasting at the development, the Applicant shall advise all landowners within 2 kilometres of planned blasting operations on the mine site, and any other landowner nominated by the Director-General, that they are entitled to a property inspection.
21. If the Applicant receives a written request for a property inspection from any landowner within 2 kilometres of planned blasting operations at the development, or any other landowner nominated by the Director-General, the Applicant shall within 2 months of receiving this request:
- commission a suitably qualified person, whose appointment has been approved by the Director-General, to inspect the condition of any building or structure on the land, and recommend measures to mitigate any potential blasting impacts; and
 - give the landowner a copy of this property inspection report.

Property Investigations

22. If any landowner within 2 kilometres of planned blasting operations at the development, or any other landowner nominated by the Director-General, claims that his/her property, including vibration-sensitive infrastructure such as water supply or underground irrigation mains, has been damaged as a result of blasting at the development, the Applicant shall within 2 months of receiving this request:
- commission a suitably qualified person whose appointment has been approved by the Director-General to investigate the claim; and
 - give the landowner a copy of the property investigation report.

If this independent investigation confirms the landowner's claim, and both parties agree with these findings, then the Applicant shall repair the damages to the satisfaction of the Director-General.

If the Applicant or landowner disagrees with the findings of the independent property investigation, then either party may refer the matter to the Director-General for resolution.

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process (see Appendix 2).

⁷ SURFACE & GROUND WATER

Pollution of Waters

23. Except as may be expressly provided by a DEC licence, the Applicant shall comply with section 120 of the *Protection of the Environment Operations Act 1997* during the carrying out of the development.

Discharge Limits

24. Except as may be expressly provided by a DEC Environment Protection Licence, the Applicant shall only discharge water from the mine site in compliance with the limits in Table 13.

Pollutant	Units of measure	50 percentile concentration limit	90 percentile concentration limit	100 percentile concentration limit
pH				$6.5 \leq \text{pH} \leq 8.5$
Total Suspended Solids	mg/L	20	35	50
Grease & Oil	mg/L			10

Table 13: Discharge Limits

Note: This condition does not authorise the discharge or emission of any other pollutants.

Watercourse Crossings

25. Prior to constructing any road crossing of Bollol or Driggle Draggie Creeks, the Applicant shall prepare (and following approval implement) a Watercourse Crossing Management Plan to the satisfaction of the Director-General. This Plan shall include:
- design of causeways and flow conveyance structures with:
 - adequate provision for fish passage in accordance with the relevant guidelines from the Department of Primary Industries (Fisheries);
 - unrestricted flow in the low flow section of the watercourse; and
 - a minimum practical width of the crossing in the low flow section of the watercourse;
 - measures to minimise the area of disturbance during construction;
 - measures to control erosion and sediment; and
 - measures to stabilise the banks of Bollol Creek, immediately downstream of the road crossing.

Site Water Management Plan

26. Prior to carrying out any development on the mine site, the Applicant shall prepare a Site Water Management Plan for the development in consultation with DEC, and to the satisfaction of the Director-General. This plan must include:
- the predicted site water balance;
 - an Erosion and Sediment Control Plan;
 - a Surface Water Monitoring Program; and
 - a Groundwater Monitoring Program.

Site Water Balance

27. Each year, the Applicant shall:
- review the site water balance for the development against the predictions in the EIS;
 - re-calculate the site water balance for the development; and
 - report the results of this review in the AEMR, to the satisfaction of the Director-General.

Erosion and Sediment Control

28. The Erosion and Sediment Control Plan shall:
- be consistent with the requirements of the Department of Housing's *Managing Urban Stormwater: Soils and Construction* manual;
 - identify activities for the construction and operational phases of the development that could cause soil erosion and generate sediment;
 - describe the location, function, and capacity of erosion and sediment control structures; and

⁷ Incorporates DEC GTA

⁸ Guidelines such as *Why do fish need to cross the road? Fish Passage Requirements for Waterway Crossings*.

- (d) describe measures to minimise soil erosion and the potential for the migration of sediments to downstream waters,
to the satisfaction of the Director-General.

Surface Water Monitoring

29. The Surface Water Monitoring Program shall include:
- (a) surface water impact assessment criteria;
 - (b) a program to monitor the land in waste water utilisation area(s) and receiving waters;
 - (c) a program to monitor the quality of water contained in, or discharged from, water storages (including the mining void) associated with the development;
 - (d) a program to monitor surface water quality upstream and downstream of the development; and
 - (e) a program to monitor the effectiveness of the Erosion and Sediment Control Plan.

Groundwater Monitoring

30. The Groundwater Monitoring Program shall include a program to:
- (a) regularly monitor the volume of groundwater seeping into the open cut mine workings; and
 - (b) regularly monitor groundwater levels and quality in:
 - surrounding regional aquifers;
 - representative bores and wells used by surrounding landowners; and
 - alluvial aquifers in the vicinity of the development,
 to the satisfaction of the Director-General.

Groundwater Contingency Plan

31. Within 6 months of the commencement of development, the Applicant shall prepare a Groundwater Contingency Plan to the satisfaction of the Director-General. This Plan shall:
- (a) include a program to establish the natural variability of groundwater quality and quantity;
 - (b) establish trigger levels, benchmarks and contingency criteria;
 - (c) provide measures to mitigate any impacts of the mine on the quality or quantity of groundwater supplies available on privately-owned land; and
 - (d) provide for negotiated agreements with affected landowners, including compensation where mining impacts result in increased extraction costs for landowners.

Independent Review of Monitoring

32. Within 3 years of commencing the development, and every 3 years thereafter, unless the Director-General directs otherwise, the Applicant shall provide to the Department a review and report on surface and groundwater monitoring and observable trends. The report is to be completed by a suitably qualified and independent hydrogeologist, whose appointment has been approved by the Director-General.

FAUNA & FLORA

Biodiversity Offset Strategy

33. The Applicant shall implement, in accordance with best practice flora and fauna management, the Biodiversity Offset Strategy described in the EIS (Section 4.4.4.4 and Figure 2.18), and summarised in Table 16, or a refined version of the strategy developed in consultation with the DEC and the Department, and to the satisfaction of the Director-General.

Area	Size
Conservation of existing native vegetation, (as shown in Figure 2.18 of the EIS)	141 hectares (Includes 30 hectares of White Box-Blakely's Red Gum-White Cypress community and 2 hectares of Belah community)
Stock exclusion zone (as shown in Figure 2.18 of the EIS)	132 hectares
Rehabilitation of disturbed areas with local native species of vegetation	269 hectares (including the area of the final void)

Table 16: Biodiversity Offset Strategy

Agreement to Conserve Offset Areas

34. Within 12 months of the date of this consent, the Applicant shall implement suitable arrangements to provide long-term security for the offset, to the satisfaction of the Director-General.

Note: The long-term security of the offset can be achieved through one, or a combination, of the following: Deed of Agreement with the Minister, rezoning the land under the Narrabri Local Environment Plan, caveats on the title under the Conveyancing Act 1919, etc..

Flora and Fauna Management Plan

35. Within 6 months of commencement of any development, the Applicant shall prepare (and following approval implement) a Flora and Fauna Management Plan for the site, in consultation with the DEC, and to the satisfaction of the Director-General. This plan must include:
- a description of the offset strategy in broad terms, including its objectives and its relationship to the rehabilitation of the mine over time;
 - completion criteria for the offset strategy;
 - a description of what actions and measures will be implemented over the life of the mine;
 - a flora and fauna monitoring program that is based on sound statistical principles; and
 - a description of the procedures that would be implemented to:
 - salvage and reuse material from the site;
 - clear vegetation on site;
 - collect and propagate seed from local areas;
 - control weeds and feral pests; and
 - control access to the offset areas.

Review and Reporting

36. The Applicant shall:
- review the performance of the offset strategy and the Flora and Fauna Management Plan annually; and
 - report on this review in the AEMR, to the satisfaction of the Director-General.

⁹ABORIGINAL HERITAGE

Destruction of Aboriginal Sites

37. The Applicant may destroy sites NAS01 and NIS01, and undertake salvage of the artefacts contained in these sites, to the satisfaction of the DEC. Representatives of the local Aboriginal community may, subject to the conditions of a Care and Control permit, relocate the artefacts contained in these sites to the Cumbo Gunerah Keeping Place.

Archaeology and Cultural Heritage Management Plan

38. Prior to the commencement of any activities involving ground disturbance on the mine site, the Applicant shall prepare (and following approval implement) an Archaeology and Cultural Heritage Management Plan, in consultation with the DEC, the Red Chief Local Aboriginal Land Council (LALC) and the Bigundi Bianne Gunnedar Traditional People, and to the satisfaction of the Director-General. This plan must:
- describe a conservation program for Aboriginal cultural heritage during the development (including sites NAS02 and NST1);
 - establish a consultation protocol, including regular meetings, with the local Aboriginal community for Aboriginal cultural heritage management on-site during the development;
 - make provision for the local Aboriginal community to monitor works at the development that occur in areas considered by the local Aboriginal community to be culturally sensitive;
 - describe the procedures that would be implemented if any heritage or archaeological sites were discovered during the development;
 - describe a contingency plan and reporting procedure should damage to Aboriginal sites or places occur at the development; and
 - describe the induction and training program to be undertaken by all employees and contractors in respect of cultural heritage awareness and protection.

Reporting

39. The Applicant shall give a detailed progress report on the measures implemented to preserve and protect Aboriginal cultural heritage in the AEMR.

⁹ Incorporates DEC GTA

TRAFFIC & TRANSPORT

Transport Route

40. The Applicant shall ensure that:
- (a) coal from the mine site is only transported along the private sections of the transport route, Rangari Road, Hoad Lane, Blue Vale Road, and the Kamilaroi Highway to the Whitehaven Siding coal handling and preparation plant;
 - (b) trucks travelling to and from the mine site do not exceed 40 kilometres per hour in the vicinity of the school bus when it is operating on Hoad Lane; and
 - (c) spillage from coal haulage vehicles is minimised; and
 - (d) any spillage is promptly managed to avoid harm to the environment.

¹⁰**Transport Route Construction**

41. Prior to the transport of coal from the development, the Applicant shall:
- (a) design and construct a sealed road from the mine site to Whitehaven mine; and
 - (b) design and construct intersections of this road with Goonbri Road, Rangari Road and Hoad Lane,
to the satisfaction of NSC.

Transport Route Construction Management Plan

42. Prior to the commencement of any construction of the transport route, the Applicant shall prepare (and following approval, implement), a Construction Management Plan for the transport route construction works. This plan shall describe the measures that would be implemented to:
- (a) control erosion and sedimentation;
 - (b) protect and manage Aboriginal cultural heritage (including sites GGOS1, GGOS2, GGOS3 & GGOS4);
 - (c) measures to minimise impacts on native vegetation; and
 - (d) monitor the noise generated by the development to ensure that it complies with the criteria in conditions 7 and 8,
to the satisfaction of the Director-General.

Road Maintenance

43. Prior to the transport of any coal from the mine site, the Applicant shall enter into road maintenance agreements with NSC and GSC for public roads, within Narrabri and Gunnedah Shires respectively, that are used by traffic associated with the development, to the satisfaction of the respective Council. If agreement cannot be reached the matter shall be referred to the Director-General for resolution.

Coal Transportation

44. The Applicant shall only dispatch coal from the site by road between the hours of;
- (a) 7 am to 9.15 pm Monday to Friday;
 - (b) 7 am to 5.15 pm Saturday; and
 - (c) at no time on public holidays.

Internal Roads

45. Within 6 months of the commencement of construction works at the mine site, the Applicant shall tar seal the mine access road to the mine facilities area.

Road Noise Management Plan

46. Prior to the transport of any coal from the mine site, the Applicant shall produce and implement a combined Road Noise Management Plan for the development and the Whitehaven mine, including full consideration of the combined impacts of traffic associated with both developments, in consultation with NSC and GSC, and to the satisfaction of the Director-General.

Monitoring

47. The Applicant shall:
- (a) keep records of the:
 - amount of coal transported from the mine site each year; and
 - number of coal haulage truck movements generated by the development; and
 - (b) include these records in the AEMR.

¹⁰ Incorporates Council GTA

VISUAL IMPACT

Visual Amenity

48. The Applicant shall carry out the development in a way that prevents or minimises the visual impacts of the development, including:
- design and construction of development infrastructure in a manner that minimises visual contrasts; and
 - progressive rehabilitation of mine overburden emplacements (particularly outer batters), including partial rehabilitation of temporarily inactive areas and proposed topsoil storage stockpiles,
- to the satisfaction of the Director-General.
49. If a landowner of any privately-owned residence within 2km of the mine site has direct views of the development from his/her dwelling, then the landowner may request the Applicant in writing to investigate ways to minimise the visual impact of the development on his/her dwelling. Within 1 month of receiving such a written request, the Applicant shall consult with the landowner to identify mutually acceptable mitigation measures. However, if at the end of this period an agreement cannot be reached on suitable mitigation measures, the Applicant shall:
- commission a suitably qualified person whose appointment has been approved by the Director-General, to investigate ways to minimise the visual impacts from the development on the landowner's dwelling; and
 - give the landowner a copy of the visual impact mitigation report.

If both parties agree on the measures that should be implemented to minimise the visual impact from the development, then the Applicant shall implement these measures to the satisfaction of the Director-General.

If the Applicant and the landowner disagree on the measures that should be implemented to minimise the visual impact from the development, then either party may refer the matter to the Director-General for resolution.

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process (see Appendix 2).

Lighting Emissions

50. The Applicant shall:
- take all practicable measures to mitigate lighting impacts from the mine site;
 - minimise lighting impacts within the *Siding Spring Observatory Dark Skies Region*; and
 - ensure that all external lighting associated with the development complies with *Australian Standard AS4282 (INT) 1995 – Control of Obtrusive Effects of Outdoor Lighting*,
- to the satisfaction of the Director-General.

GREENHOUSE GAS EMISSIONS

51. The Applicant shall:
- calculate the greenhouse gas emissions generated by the development;
 - investigate ways to reduce greenhouse gas emissions generated by the development, including the use of mains electric power to operate equipment associated with the coal processing plant; and
 - report on greenhouse gas emissions and abatement measures in the AEMR,
- to the satisfaction of the Director-General.

WASTE MANAGEMENT

52. The Applicant shall:
- monitor the amount of waste generated by the development;
 - investigate ways to minimise waste generated by the development;
 - implement reasonable and feasible measures to minimise waste generated by the development; and
 - report on waste and management and minimisation in the AEMR,
- to the satisfaction of the Director-General.

HAZARDS MANAGEMENT

Spontaneous Combustion

53. The Applicant shall:
- (a) take the necessary measures to prevent, as far as is practical, spontaneous combustion on the mine site; and
 - (b) manage any spontaneous combustion on the mine site to the satisfaction of the DPI.

Dangerous Goods

54. The Applicant shall ensure that the storage, handling, and transport of:
- (a) dangerous goods is done in accordance with the relevant *Australian Standards*, particularly *AS1940* and *AS1596*, and the *Dangerous Goods Code*; and
 - (b) explosives are managed in accordance with the requirements of the DPI.

BUSHFIRE MANAGEMENT

55. The Applicant shall:
- (a) ensure that the development is suitably equipped to respond to any fires on-site; and
 - (b) assist the emergency services as much as possible if there is a fire on-site during the development.

Note: Local emergency services involved in fire control are the Boggabri No.1 and Nandewar Rural Fire Brigades.

56. Within 6 months of the date of this consent, the Applicant shall prepare and implement a Bushfire Management Plan for the site, to the satisfaction of the NSC in consultation with the Boggabri No.1 and Nandewar Rural Fire Brigades.

MINE CLOSURE STRATEGY

57. At least 3 years prior to the cessation of mining, the Applicant shall prepare a Mine Closure Strategy for the development, in consultation with the DPI, DEC, GSC and NSC, and to the satisfaction of the Director-General.

SCHEDULE 5
ADDITIONAL PROCEDURES FOR AIR QUALITY & NOISE MANAGEMENT

Notification of Landowners

1. If the air dispersion and/or noise model predictions in the documents listed in condition 2 of schedule 3 identify that the air pollution and/or noise generated by the development are likely to be greater than the air quality and/or noise impact assessment criteria in schedule 4, then the Applicant shall notify the relevant landowners and/or existing or future tenants (including tenants of mine-owned properties) accordingly before it carries out any development.
2. If the results of the air quality and/or noise monitoring required in schedule 4 identify that the air pollution and/or noise generated by the development is greater than any of the air quality and/or noise criteria in schedule 4, except where this is predicted in the EIS, then the Applicant shall notify the Director-General and the affected landowners and/or existing or future tenants (including tenants of mine-owned properties) accordingly, and provide quarterly monitoring results to each of these parties until the results show that the development is complying with the air quality and/or noise criteria in schedule 4.
3. Within 6 months of this consent, the Applicant shall develop/provide a brochure to advise landowners and/or existing or future tenants (including tenants of mine-owned properties) of the possible health and amenity impacts associated with exposure to particulate matter, in consultation with NSW Health, and to the satisfaction of the Director-General.

The Applicant shall review relevant human health studies and update this brochure every 3 years, to the satisfaction of the Director-General.

The Applicant shall provide this brochure (and associated updates) to all landowners and/or existing or future tenants (including tenants of mine-owned properties) of properties where the monitoring results identify that the mine is exceeding the air quality land acquisition criteria in schedule 4.

Independent Review

4. If a landowner considers the development to be exceeding the air quality and/or noise criteria in schedule 4, except where this is predicted in the EIS, then he/she may ask the Applicant in writing for an independent review of the air pollution and/or noise impacts of the development on his/her land.

If the Director-General is satisfied that an independent review is warranted, the Applicant shall within 3 months of the Director-General advising that an independent review is warranted:
 - (a) consult with the landowner to determine his/her concerns;
 - (b) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Director-General, to conduct air quality and/or noise monitoring on the land, to determine whether the development is complying with the relevant air quality and/or noise criteria in schedule 4, and identify the source(s) and scale of any air quality and/or noise impact on the land, and the development's contribution to this impact;
 - (c) give the Director-General and landowner a copy of the independent review.
5. If the independent review determines that the development is complying with the relevant air quality and/or noise criteria in schedule 4, then the Applicant may discontinue the independent review with the approval of the Director-General.
6. If the independent review determines that the development is not complying with the relevant air quality and/or noise criteria in schedule 4, and that the development is primarily responsible for this non-compliance, then the Applicant shall:
 - (a) take all practicable measures, in consultation with the landowner, to ensure that the development complies with the relevant air quality and/or noise criteria; and
 - (b) conduct further air quality and/or noise monitoring to determine whether these measures ensure compliance; or
 - (c) secure a written agreement with the landowner to allow exceedances of the air quality and/or noise criteria in schedule 4,to the satisfaction of the Director-General.

If the additional monitoring referred to above subsequently determines that the development is complying with the relevant air quality and/or noise criteria in schedule 4, then the Applicant may discontinue the independent review with the approval of the Director-General.

If the measures referred to in (a) do not achieve compliance with the air quality and/or noise land acquisition criteria in schedule 4, and the Applicant cannot secure a written agreement with the landowner to allow these exceedances within 3 months, then the Applicant shall, upon receiving a

written request from the landowner, acquire the landowner's land in accordance with the procedures in conditions 10-12 below.

7. If the independent review determines that the relevant air quality and/or noise criteria in schedule 4 are being exceeded, but that more than one development is responsible for this non-compliance, then the Applicant shall:
- take all practicable measures with the relevant development/s, in consultation with the landowner, to ensure that the relevant air quality and/or noise criteria are complied with; and
 - conduct further air quality and/or noise monitoring to determine whether these measures ensure compliance; or
 - secure a written agreement with the landowner to allow exceedances of the air quality and/or noise criteria in schedule 4, to the satisfaction of the Director-General.

8. If the independent review determines that the relevant air quality and/or noise land acquisition criteria in schedule 4 are being exceeded at the residence and/or on the landowner's land, and that more than one development is responsible for this non-compliance, and the Applicant cannot secure a written agreement with the landowner to allow these exceedances within 3 months, then upon receiving a written request from the landowner, the Applicant shall acquire all or part of the landowner's land on as equitable a basis as possible with the relevant development/s in accordance with the procedures in conditions 10-12 below.

If the Applicant is unable to finalise an agreement with the landowner and/or other development/s, then the Applicant or landowner may refer the matter to the Director-General for resolution.

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process.

If, following the Independent Dispute Resolution Process, the Director-General decides that the Applicant shall acquire all or part of the landowner's land, then the Applicant shall acquire this land in accordance with the procedures in conditions 10-12 below.

9. If the landowner disputes the results of the independent review, either the Applicant or the landowner may refer the matter to the Director-General for resolution.

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process.

Land Acquisition

10. Within 3 months of receiving a written request from a landowner with acquisition rights, the Applicant shall make a binding written offer to the landowner based on:
- the current market value of the landowner's interest in the property at the date of this written request, as if the property was unaffected by the development the subject of the DA, having regard to the:
 - existing and permissible use of the land, in accordance with the applicable planning instruments at the date of the written request; and
 - presence of improvements on the property and/or any approved building or structure which has been physically commenced at the date of the landowner's written request, and is due to be completed subsequent to that date;
 - the reasonable costs associated with:
 - relocating within the Narrabri or Gunnedah local government areas, or to any other local government area determined by the Director-General;
 - obtaining legal advice and expert advice for determining the acquisition price of the land, and the terms upon which it is required; and
 - reasonable compensation for any disturbance caused by the land acquisition process.

However, if at the end of this period, the Applicant and landowner cannot agree on the acquisition price of the land, and/or the terms upon which the land is to be acquired, then either party may refer the matter to the Director-General for resolution.

Upon receiving such a request, the Director-General shall request the President of the NSW Division of the Australian Property Institute to appoint a qualified independent valuer or Fellow of the Institute, to consider submissions from both parties, and determine a fair and reasonable acquisition price for the land, and/or terms upon which the land is to be acquired.

If either party disputes the independent valuer's determination, then the independent valuer should refer the matter back to the Director-General.

Upon receiving such a referral, the Director-General shall appoint a panel comprising the:

- (i) appointed independent valuer;
- (ii) Director-General and/or nominee/s; and
- (iii) President of the Law Society of NSW or nominee,

to consider submissions from both parties, including meeting with the parties individually if requested, and to determine a fair and reasonable acquisition price for the land, and/or the terms upon which the land is to be acquired.

Within 14 days of receiving the panel's determination, the Applicant shall make a written offer to purchase the land at a price not less than the panel's determination.

If the landowner refuses to accept this offer within 6 months of the date of the Applicant's offer, the Applicant's obligations to acquire the land shall cease, unless otherwise agreed by the Director-General.

11. The Applicant shall bear the costs of any valuation or survey assessment requested by the independent valuer, panel, or the Director-General and the costs of determination referred above.
12. If the Applicant and landowner agree that only part of the land shall be acquired, then the Applicant shall pay all reasonable costs associated with obtaining Council approval for any plan of subdivision, and registration of the plan at the Office of the Registrar-General.

**SCHEDULE 6
ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING AND REPORTING**

ENVIRONMENTAL MANAGEMENT STRATEGY

1. Prior to carrying out any development, the Applicant shall prepare and subsequently implement an Environmental Management Strategy for the development to the satisfaction of the Director-General. This strategy must:
 - (a) provide the strategic context for environmental management of the development;
 - (b) identify the statutory requirements that apply to the development;
 - (c) describe in general how the environmental performance of the development would be monitored and managed during the development;
 - (d) 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;
 - manage cumulative impacts; and
 - respond to emergencies;
 - (e) describe the role, responsibility, authority, and accountability of all the key personnel, involved in environmental management of the development;
 - (f) provide for the appointment of a suitably qualified Environmental Officer, in consultation with the DPI and to the satisfaction of the Director-General; and
 - (g) be updated following each Independent Environmental Audit required by condition 6 below.
2. Within 3 months of the completion of each Independent Environmental Audit (see condition 6 below), the Applicant shall review, and if necessary revise, the Environmental Management Strategy to the satisfaction of the Director-General.

ENVIRONMENTAL MONITORING PROGRAM

3. Within 7 months of commencement of the development on the mine site, the Applicant shall prepare an Environmental Monitoring Program for the development in consultation with relevant agencies, and to the satisfaction of the Director-General. This program must consolidate the various monitoring requirements in schedule 4 of this consent into a single document.
4. Within 3 months of the completion of the Independent Environmental Audit (see condition 6 below), the Applicant shall review, and if necessary revise, the Environmental Monitoring Program to the satisfaction of the Director-General.

ANNUAL REPORTING

5. Each year from the date of this consent, the Applicant shall prepare an AEMR to the satisfaction of the Director-General. This report must:
 - (a) identify the standards and performance measures that apply to the development;
 - (b) include a summary of the complaints received during the past year, and compare this to the complaints received in the previous 5 years;
 - (c) include a summary of the monitoring results on the development during the past year;
 - (d) include an analysis of these monitoring results against the relevant:
 - limits/criteria in this consent;
 - monitoring results from previous years; and
 - predictions in the EIS;
 - (e) identify any trends in the monitoring over the life of the development;
 - (f) identify and discuss any non-compliance during the previous year; and
 - (g) describe what actions were, or are being, taken to ensure compliance.

INDEPENDENT ENVIRONMENTAL AUDIT

6. Within 3 years of commencing the development, and every 3 years thereafter, unless the Director-General directs otherwise, the Applicant shall commission and pay the full cost of an Independent Environmental Audit of the development. This audit must:
 - (a) be conducted by a suitably qualified, experienced, and independent person whose appointment has been endorsed by the Director-General;
 - (b) be consistent with *ISO 19011:2002 – Guidelines for Quality and/or Environmental Systems Auditing*, or equivalent updated versions of these guidelines;
 - (c) assess the environmental performance of the development, and its effects on the surrounding environment;

- (d) assess whether the development is complying with the relevant standards, performance measures, and statutory requirements;
 - (e) review the adequacy of the Applicant's Environmental Management Strategy and Environmental Monitoring Program; and
 - (f) if necessary, recommend measures or actions to improve the environmental performance of the development, and/or the environmental management and monitoring systems.
7. Within 3 months of commissioning this audit, the Applicant shall submit a copy of the audit report to the Director-General, with a response to any of the recommendations contained in the audit report.

COMMUNITY CONSULTATIVE COMMITTEE

8. within 3 months of the date of this consent, the Applicant shall establish a Community Consultative Committee to oversee the environmental performance of the development. This committee shall:
- (a) be comprised of:
 - 2 representatives from the Applicant, including the person responsible for environmental management at the mine;
 - 1 representative each from the NSC and GSC; and
 - at least 4 representatives from the local community, whose appointment has been approved by the Director-General in consultation with the NSC and GSC;
 - (b) be chaired by the representative from either NSC or GSC, or by a third party, as approved by the Director-General;
 - (c) meet at least four times a year, or as determined by the Director-General; and
 - (d) review and provide advice on the environmental performance of the development, including any construction or environmental management plans, monitoring results, audit reports, or complaints.
9. The Applicant shall, at its own expense:
- (a) ensure that 2 of its representatives attend the Committee's meetings;
 - (b) provide the Committee with regular information on the environmental performance and management of the development;
 - (c) provide meeting facilities for the Committee;
 - (d) arrange site inspections for the Committee, if necessary;
 - (e) take minutes of the Committee's meetings;
 - (f) make these minutes available at the NSC and GSC within 14 days of the Committee meeting, or as agreed to by the Committee;
 - (g) respond to any advice or recommendations the Committee may have in relation to the environmental management or performance of the development; and
 - (h) forward a copy of the minutes of each Committee meeting, and any responses to the Committee's recommendations to the Director-General within a month of the Committee meeting.

ACCESS TO INFORMATION

10. Within 1 month of the approval of any management plan/strategy or monitoring program required under this consent (or any subsequent revision of these management plans/strategies or monitoring programs), the completion of the independent audits required under this consent (see conditions 3 2 of schedule 4 and condition 6 of schedule 6), or the completion of the AEMR (see condition 5 above), the Applicant shall:
- (a) provide a copy of the relevant document/s to the NSC, GSC, relevant agencies and the Community Consultative Committee;
 - (b) ensure that a copy of the relevant documents is made publicly available at the NSC and GSC; and
 - (c) within 12 months of the date of this consent put a copy of the relevant documents on the Applicant's website;
- to the satisfaction of the Director-General.

Note: The Director-General may grant an extension to the time available before the relevant documents need to be put on the Applicant's website to give the Applicant a reasonable amount of time to establish such a website.

11. During the life of the development, the Applicant shall:
- (a) make the results of the monitoring required under this consent publicly available at the NSC and GSC offices; and
 - (b) update these results on a regular basis (at least every 3 months), to the satisfaction of the Director-General.

**APPENDIX 1
SCHEDULE OF LAND**

East Boggabri Mine Site

DESCRIPTION	
Lots 10, 15, 16, 24, 25, 29, 31	DP 754940
Part Lots 11, 26	DP 754940
Part Lot 83	DP 754953
Part Lot 1.	DP 970060
Enclosed Crown roads between the above lots	

Transport Route (Northern Section)

DESCRIPTION	
Lots 26	DP 754940
Lots 1, 2	DP 1037347
Lot 1	DP 434333
Lots 138, 140	DP 754926
Lot 1	DP 1015797
Enclosed Crown roads between the above lots	
Public roads, namely sections of Goonbri and Rangari Roads and Hoad Lane	

Transport Route (Southern Section)

DESCRIPTION	
Lot 1	DP 1015797
Crown roads and public roads, namely sections of Hoad Lane, Blue Vale Road and Kamilaroi Highway	

APPENDIX 2
INDEPENDENT DISPUTE RESOLUTION PROCESS

