

**WERRIS CREEK COAL  
AEMR 2010-2011**

# **APPENDIX 2**

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**LICENCE AND LEASE**

**(a) Environment Protection Licence 12290**

**(b) Mining Lease 1563**



# Environment Protection Licence

Licence - 12290



Licence Details	
Number:	12290
Anniversary Date:	01-April
Review Due Date:	23-Jun-2014

Licensee	
WERRIS CREEK COAL PTY LIMITED	
PO BOX 125	
WERRIS CREEK NSW 2341	

Licence Type	
Premises	

Premises	
Werris Creek Coal Mine	
Werris Creek Quirindi Road	
WERRIS CREEK NSW 2341	

Scheduled Activity	
Mining for coal	
Coal works	

Fee Based Activity	Scale
Coal works	0 - 2000000 T loaded
Mining for coal	> 500000 - 2000000 T produced

Region	
North West - Armidale	
Level 1, NSW Govt Offices, 85 Faulkner Street	
ARMIDALE NSW 2350	
Phone: 02 6773 7000	
Fax: 02 6772 2336	
PO Box 494 ARMIDALE	
NSW 2350	

# Environment Protection Licence

Licence - 12290



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## Information about this licence

### Dictionary

A definition of terms used in the licence can be found in the dictionary at the end of this licence.

### Responsibilities of licensee

Separate to the requirements of this licence, general obligations of licensees are set out in the Protection of the Environment Operations Act 1997 ("the Act") and the Regulations made under the Act. These include obligations to:

- ensure persons associated with you comply with this licence, as set out in section 64 of the Act;
- control the pollution of waters and the pollution of air (see for example sections 120 - 132 of the Act);
- and
- report incidents causing or threatening material environmental harm to the environment, as set out in Part 5.7 of the Act.

### Variation of licence conditions

The licence holder can apply to vary the conditions of this licence. An application form for this purpose is available from the EPA.

The EPA may also vary the conditions of the licence at any time by written notice without an application being made.

Where a licence has been granted in relation to development which was assessed under the Environmental Planning and Assessment Act 1979 in accordance with the procedures applying to integrated development, the EPA may not impose conditions which are inconsistent with the development consent conditions until the licence is first reviewed under Part 3.6 of the Act.

### Duration of licence

This licence will remain in force until the licence is surrendered by the licence holder or until it is suspended or revoked by the EPA or the Minister. A licence may only be surrendered with the written approval of the EPA.

### Licence review

The Act requires that the EPA review your licence at least every 5 years after the issue of the licence, as set out in Part 3.6 and Schedule 5 of the Act. You will receive advance notice of the licence review.

### Fees and annual return to be sent to the EPA

For each licence fee period you must pay:

- an administrative fee; and
- a load-based fee (if applicable).

The EPA publication "A Guide to Licensing" contains information about how to calculate your licence fees.

The licence requires that an Annual Return, comprising a Statement of Compliance and a summary of any monitoring required by the licence (including the recording of complaints), be submitted to the EPA. The Annual Return must be submitted within 60 days after the end of each reporting period. See condition R1 regarding the Annual Return reporting requirements.

Usually the licence fee period is the same as the reporting period.

### Transfer of licence

The licence holder can apply to transfer the licence to another person. An application form for this purpose is available from the EPA.

### Public register and access to monitoring data

Part 9.5 of the Act requires the EPA to keep a public register of details and decisions of the EPA in relation to, for example:

- licence applications;
- licence conditions and variations;
- statements of compliance;
- load based licensing information; and
- load reduction agreements.

Under s320 of the Act application can be made to the EPA for access to monitoring data which has been submitted to the EPA by licensees.

### This licence is issued to:

<b>WERRIS CREEK COAL PTY LIMITED</b>
<b>PO BOX 125</b>
<b>WERRIS CREEK NSW 2341</b>

subject to the conditions which follow.

## 1 Administrative conditions

### A1 What the licence authorises and regulates

- A1.1 This licence authorises the carrying out of the scheduled development work listed below at the premises listed in A2.  
Construct mine entrance/access/rail load-out roads; site preparation (clearing/soil removal) including initial mining activities; earthworks for processing plant, coal loading & office facility installation; install initial water management controls.

- A1.2 This licence authorises the carrying out of the scheduled activities listed below at the premises specified in A2. The activities are listed according to their scheduled activity classification, fee-based activity classification and the scale of the operation.

Unless otherwise further restricted by a condition of this licence, the scale at which the activity is carried out must not exceed the maximum scale specified in this condition.

Scheduled Activity
Mining for coal
Coal works

Fee Based Activity	Scale
Coal works	0 - 2000000 T loaded
Mining for coal	> 500000 - 2000000 T produced

- A1.3 The licensee must not carry on any scheduled activities until the scheduled development works are completed, except as elsewhere provided in this licence.

### A2 Premises to which this licence applies

- A2.1 The licence applies to the following premises:

Premises Details
<b>Werris Creek Coal Mine</b>
<b>Werris Creek Quirindi Road</b>
<b>WERRIS CREEK</b>
<b>NSW</b>
<b>2341</b>
<b>SEE FULL DESCRIPTION IN CONDITION A2.2 OF THIS LICENCE</b>
<b>GRNFELL PARISH, BUCKLAND COUNTY, LIVERPOOL PLAINS SHIRE</b>

A2.2 For the purposes of this licence, the premise comprises the following land.

**Freehold Land**

Lot 1 DP 186633.

Lots 19, 20, 73, 74, 75, 109, 110, 112, 120, 121, 123, 126, 127, 128, 129, 130, 133 & 135 DP 751017;

Part lots 83, 131, 132, 217 & 225 DP 751017.

Part lot 2 DP 1085891.

Part lot 4 DP 1022826

Lots 1, 2 & 3 DP 1022826.

Part lots 3 & 4 DP1037145.

**Crown Land Descriptions****Council Roads**

Council public roads east of lots 130, 133, 135, part lot 83, part lot 217 and part lot 225 in DP 751017.

Council public roads north of lots 129 and 130 in DP 751017.

Council public road through part lot 2 DP 1085891.

**Crown Roads**

Crown public roads east of lots 126, 127, 128, part lot 132 DP 751017.

Crown public roads south of part lot 132, part lot 83, part lot 225 and lot 109 DP 751017.

**Railway Land**

Lot 2 DP 431951.

**A3 Other activities**

A3.1 This licence applies to all other activities carried on at the premises, including:

Crushing, Grinding or Separating Works

**A4 Information supplied to the EPA**

A4.1 Works and activities must be carried out in accordance with the proposal contained in the licence application, except as expressly provided by a condition of this licence.

In this condition the reference to "the licence application" includes a reference to:

- (a) the applications for any licences (including former pollution control approvals) which this licence replaces under the Protection of the Environment Operations (Savings and Transitional) Regulation 1998; and
- (b) the licence information form provided by the licensee to the EPA to assist the EPA in connection with the issuing of this licence.

**2 Discharges to air and water and applications to land****P1 Location of monitoring/discharge points and areas**

P1.1 The following points referred to in the table below are identified in this licence for the purposes of monitoring and/or the setting of limits for the emission of pollutants to the air from the point.

*Air*

EPA Identification no.	Type of Monitoring Point	Type of Discharge Point	Description of Location
1	Ambient Air Monitoring / Air Discharge Quality	Ambient Air Monitoring / Air Discharge Quality	Within 100 metres of the residence marked as "Tonsley Park" in Figure 1 of the Air Quality Monitoring Program dated August 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
2	Ambient Air Monitoring / Air Discharge Quality	Ambient Air Monitoring / Air Discharge Quality	Within 100 metres of the residence marked as "Eurunderee" on Figure 2 of the Air Quality Monitoring Program dated August 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
4	Ambient Air Monitoring / Air Discharge Quality	Ambient Air Monitoring / Air Discharge Quality	Within 100 metres of the residence marked as "Railway View" on Figures 1 and 2 in the Air Quality Monitoring Program dated August 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
7	Ambient Air Monitoring / Air Discharge Quality	Ambient Air Monitoring / Air Discharge Quality	Within 100 metres of the residence marked as "Cintra" on Figures 1 and 2 of the Air Quality Monitoring Program dated August 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
8	Ambient Air Monitoring / Air Discharge Quality	Ambient Air Monitoring / Air Discharge Quality	Within 100 metres of the residence marked as "Plain View" in Figure 1 of the Air Quality Monitoring Program dated August 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
9	Ambient Weather Monitoring.		Weather station located on the top level of the overburden emplacement at RL 445m

P1.2 The following points referred to in the table are identified in this licence for the purposes of the monitoring and/or the setting of limits for discharges of pollutants to water from the point.

P1.3 The following utilisation areas referred to in the table below are identified in this licence for the purposes of the monitoring and/or the setting of limits for any application of solids or liquids to the utilisation area.

*Water and land*

EPA identification no.	Type of monitoring point	Type of discharge point	Description of location
10	Wet Weather Discharge / Discharge Water Quality Monitoring.	Wet Weather Discharge / Discharge Water Quality Monitoring.	Point SB2 marked on Figure 3 in the Site Water Management Plan for Werris Creek Coal Mine dated March 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
12	Wet Weather Discharge / Discharge Water Quality Monitoring	Wet Weather Discharge / Discharge Water Quality Monitoring	Point SB9 marked on Figure 3 in the Site Water Management Plan for Werris Creek Coal Mine dated March 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
14	Wet Weather Discharge / Discharge Water Quality Monitoring	Wet Weather Discharge / Discharge Water Quality Monitoring	Point SB10 marked on Figure 3 in the Site Water Management Plan for Werris Creek Coal Mine dated March 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
15		Discharge to Utilisation Area	Waste Water Utilisation Area marked on Figure 3 in the Site Water Management Plan for Werris Creek Coal Mine dated March 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
16	Water Quality Monitoring		Point VWD1 marked on Figure 3 in the Site Water Management Plan for Werris Creek Coal Mine dated March 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
17	Groundwater Quality Monitoring		Point MW-1 marked on Figure 4 in the Site Water Management Plan for Werris Creek Coal Mine dated March 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.

EPA identification no.	Type of monitoring point	Type of discharge point	Description of location
18	Groundwater Quality Monitoring		Point MW-2 marked on Figure 4 in the Site Water Management Plan for Werris Creek Coal Mine dated March 2009 submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
19	Groundwater Quality Monitoring		Point MW-3 marked on Figure 4 in the Site Water Management Plan for Werris Creek Coal Mine dated March 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
20	Groundwater Quality Monitoring		Point MW-4 marked on Figure 4 in the Site Water Management Plan for Werris Creek Coal Mine dated March 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
21	Groundwater Quality Monitoring		Point MW-5 marked on Figure 4 in the Site Water Management Plan for Werris Creek Coal Mine dated March 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
22	Groundwater Quality Monitoring		Point MW-6 marked on Figure 4 in the Site Water Management Plan for Werris Creek Coal Mine dated March 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
23	Ambient/Discharge Water Quality Monitoring		Point WC-U on Werris Creek marked on Figure 4 in the Site Water Management Plan for Werris Creek Coal Mine dated March 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.

EPA identification no.	Type of monitoring point	Type of discharge point	Description of location
24	Ambient/Discharge Water Quality Monitoring		Point WC-D on Werris Creek marked on Figure 4 in the Site Water Management Plan for Werris Creek Coal Mine dated March 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
25	Ambient/Discharge Water Quality Monitoring		Point QC-U on Quipolly Creek marked on Figure 4 in the Site Water Management Plan for Werris Creek Coal Mine dated March 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
26	Ambient/Discharge Water Quality Monitoring		Point QC-D on Quipolly Creek marked on Figure 4 in the Site Water Management Plan for Werris Creek Coal Mine dated March 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.
27	Water Quality Monitoring		Point VWD2 marked on Figure 3 in the Site Water Management Plan for Werris Creek Coal Mine dated March 2009 that was submitted to EPA on 22-9-09 and which is kept on file LIC07/2029-09.

### 3 Limit conditions

#### L1 Pollution of waters

L1.1 Except as may be expressly provided in any other condition of this licence, the licensee must comply with section 120 of the Protection of the Environment Operations Act 1997.

#### L2 Load limits

L2.1 Not applicable.

L2.2 Not applicable.

**L3 Concentration limits**

- L3.1 For each monitoring/discharge point or utilisation area specified in the table\&s below (by a point number), the concentration of a pollutant discharged at that point, or applied to that area, must not exceed the concentration limits specified for that pollutant in the table.
- L3.2 Where a pH quality limit is specified in the table, the specified percentage of samples must be within the specified ranges.
- L3.3 To avoid any doubt, this condition does not authorise the pollution of waters by any pollutant other than those specified in the table\&s.

*Water and Land*

## POINTS 10,12,14

Pollutant	Units of Measure	50 percentile concentration limit	90 percentile concentration limit	3DGM concentration limit	100 percentile Concentration Limit
Oil and Grease	milligrams per litre	-	-	-	10
pH	pH	-	-	-	6.5- 8.5
Total suspended solids	milligrams per litre	20	35	-	50

- L3.4 The Total Suspended Solids concentration limits specified for Points 10, 12 and 14 may be exceeded for water discharged from the sediment basins provided that:
- the discharge occurs solely as a result of rainfall measured at the premises that exceeds 39.2 millimetres over any consecutive 5 day period immediately prior to the discharge occurring; and
  - all practical measures have been implemented to dewater all sediment dams within 5 days of rainfall such that they have sufficient capacity to store run off from a 39.2 millimetre, 5 day rainfall event.

**L4 Volume and mass limits**

- L4.1 Not applicable.

**L5 Waste**

- L5.1 The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by the licence.

- L5.2 This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if those activities require an environment protection licence.

**L6 Noise Limits**

- L6.1 Noise from the premises must not exceed:
- an  $L_{A1(1\text{ minute})}$  noise emission criterion of 45 dB(A) at night; and
  - at all other times (including at night), an  $L_{Aeq(15\text{ minute})}$  noise emission criterion of 35 dB(A), except as expressly provided by this licence.

- L6.2 Noise from the premises is to be measured at a point within 30 metres of any non-project related residence to determine compliance with this condition.

**L6.3 Definitions**

$L_{Aeq(15\text{ minute})}$  is the equivalent continuous noise level- the level of noise equivalent to the energy-average of noise levels occurring over a measurement period (i.e. 15 minutes).

$L_{A1(1\text{ minute})}$  is the A-weighted sound pressure level that is exceeded for 1 per cent of the time over a 1 minute measurement period.

*Night* is the period between midnight to 7am and 10pm to midnight Monday to Saturday and midnight to 8am and 10pm to midnight Sundays and Public Holidays.

**L6.4 Noise Management**

*Note: For the purpose of noise measures required for this condition, the  $L_{Aeq}$  noise level must be measured or computed at any point within 30 metres of any non-project related residence over a period of 15 minutes using "FAST" response on the sound level meter.*

*Note: For the purpose of the noise criteria for this condition, 5dBA must be added to the measurement level if the noise is substantially tonal or impulsive in character.*

- L6.5 The noise emission limits identified in this licence apply under all meteorological conditions except:
- during rain and wind speeds (at 10m height) greater than 3m/s; and
  - under "non-significant weather conditions".

Note: Field meteorological indicators for non-significant weather conditions are described in the NSW Industrial Noise Policy, Chapter 5 and Appendix E in relation to wind and temperature inversions.

- L6.6 Noise impacts where wind speed exceeds 3 metres per second at 10 metres above the ground must be addressed by:
- documenting noise complaints received to identify any higher level of impacts or wind patterns;
  - where levels of noise complaints indicate a higher level of impact then actions to quantify and ameliorate any enhanced impacts where wind speed exceeds 3 metres per second at 10 metres above the ground must be developed and implemented.

L6.7 The noise limits set by condition L6.1 of the licence do not apply where a current legally binding agreement exists between the proponent and the occupant of a residential property that:

- agrees to an alternative noise limit for that property; or
- provides an alternative means of compensation to address noise impacts from the premises.

A copy of any agreement must be provided to the EPA before the proponent can take advantage of the agreement.

### L7 Hours of operation

L7.1 All construction activities at the premises must only be conducted between 7am to 10pm Mondays to Fridays, 8am to 6pm on Saturdays and at no time on Sundays and Public Holidays.

L7.2 Activities at the premises, other than construction work, may only be carried out at the times specified in the table below:

Permitted Operating Hours		
Activity	Monday to Friday	Saturday
Vegetation clearing / soil removal	7 am to 8 pm	
Drilling	Midnight to 4 am; and 7 am to midnight	Midnight to 4 am; and 7 am to 2 pm
Blasting	9 am to 5 pm	
Overburden removal & emplacement	24 hours	24 hours
Internal transport of coal products to ROM stockpiles	Midnight to 4 am; and 7 am to midnight	Midnight to 4 am; and 7 am to 2 pm
On-site processing	Midnight to 4 am; and 7 am to midnight	Midnight to 4 am; and 7 am to 2 pm
Coal transport to rail load-out facility	Midnight to 4 am; and 7 am to midnight	Midnight to 4 am; and 7 am to 2 pm
Maintenance	24 hours	24 hours *
Coal loading to trains	24 hours	24 hours *
Coal loading to trucks for domestic market	7 am to 6 pm	7 am to 2 pm
Rehabilitation	7 am to 10 pm	7 am to 2 pm

\* Note: and Sundays, if required

L7.3 This condition does not apply to the delivery of material outside the hours of operation permitted by condition L7.1 or L7.2, if that delivery is required by police or other authorities for safety reasons; and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification is provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of emergency.

L7.4 The hours of operation specified in conditions L7.1 or L7.2 may be varied with written consent if the EPA is satisfied that the amenity of the residents in the locality will not be adversely affected.

### L8 Blasting

L8.1 The overpressure level from blasting operations at the premises must not exceed 120dB (Lin Peak) at any time. Error margins associated with any monitoring equipment used to measure this are not to be taken into account in determining whether or not the limit has been exceeded.

L8.2 The overpressure level from blasting operations at the premises must not exceed 115dB (Lin Peak) for more than five per cent of the total number of blasts over each reporting period. Error margins associated with any monitoring equipment used to measure this are not to be taken into account in determining whether or not the limit has been exceeded.

L8.3 Ground vibration peak particle velocity from the blasting operations at the premises must not exceed 10mm/sec at any time. Error margins associated with any monitoring equipment used to measure this are not to be taken into account in determining whether or not the limit has been exceeded.

L8.4 Ground vibration peak particle velocity from the blasting operations at the premises must not exceed 5mm/sec for more than five per cent of the total number of blasts over each reporting period. Error margins associated with any monitoring equipment used to measure this are not to be taken into account in determining whether or not the limit has been exceeded.

L8.5 Blasting operations at the premises may only take place between 9:00am-5:00pm Monday to Friday. (Where compelling safety reasons exist, the Authority may permit a blast to occur outside the abovementioned hours. Prior written (or facsimile) notification of any such blast must be made to the Authority).

L8.6 The hours of operation for blasting operations specified in condition L7.2 may be varied by the EPA, having regard to the effect that the proposed variation would have on the amenity of the residents in the locality, gives written consent to the variation.

L8.7 Blasting at the premises is limited to 1 blast on each day on which blasting is permitted.

Note: Additional blasts are permitted where it is demonstrated to be necessary for safety reasons and the EPA and neighbours have been notified of the intended blast prior to the additional blast being fired.

L8.8 To determine compliance with condition(s) L8.1, L8.2, L8.3 and L8.4:

- Airblast overpressure and ground vibration levels must be measured and electronically recorded at any point within 30 metres of any non-project related residential building or other sensitive locations such as a school or hospital - for all blasts carried out in or on the premises; and
- Instrumentation used to measure the airblast overpressure and ground vibration levels must meet the requirements of Australian Standard AS 2187.2-2006.

**L9 Potentially offensive odour**

L9.1 No condition in this licence identifies a potentially offensive odour for the purposes of section 129 of the Protection of the Environment Operations Act 1997.

Note: Section 129 of the Protection of the Environment Operations Act 1997 provides that the licensee must not cause or permit the emission of any offensive odour from the premises but provides a defence if the emission is identified in the relevant environment protection licence as a potentially offensive odour and the odour was emitted in accordance with the conditions of a licence directed at minimising odour.

**4 Operating conditions****O1 Activities must be carried out in a competent manner**

O1.1 Licensed activities must be carried out in a competent manner.

This includes:

- (a) the processing, handling, movement and storage of materials and substances used to carry out the activity; and
- (b) the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

**O2 Maintenance of plant and equipment**

O2.1 All plant and equipment installed at the premises or used in connection with the licensed activity:
 

- (a) must be maintained in a proper and efficient condition; and
- (b) must be operated in a proper and efficient manner.

**O3 Dust**

O3.1 All operations and activities occurring at the premises must be carried out in a manner that will minimise the emission of dust from the premises.

O3.2 Trucks transporting coal from the premises must be covered immediately after loading to prevent wind blown emissions and spillage. The covering must be maintained until immediately before unloading the trucks.

**O4 Stormwater/ Sediment Control- Operation Phase**

O4.1 A Stormwater Management Scheme must be prepared for the development and must be implemented. Implementation of the Scheme must mitigate the impacts of stormwater run-off from and within the premises following the completion of construction activities. The Scheme should be consistent with the current Stormwater Management Plan for the catchments on the site.

**O5 Waste Water Utilisation Areas**

O5.1 Waste water must only be applied to the following areas: Point 15 defined in condition P1.3 of this licence.

O5.2 Spray from waste water application must not drift beyond the boundary of the waste water utilisation area to which it is applied.

**O6 Maintaining Waste Water Utilisation Areas**

O6.1 Waste water utilisation areas must effectively utilise the waste water applied to those areas. This includes the use for pasture or crop production, as well as ensuring the soil is able to absorb the nutrients, salts, hydraulic load and organic materials in the solids or liquids. Monitoring of land and receiving waters to determine the impact of waste water application may be required by the EPA.

**O7 Noise**

O7.1 All reversing beepers fitted to vehicles on the premises must be a mid- high frequency broadband type as described in the EIS.

**5 Monitoring and recording conditions****M1 Monitoring records**

M1.1 The results of any monitoring required to be conducted by this licence or a load calculation protocol must be recorded and retained as set out in this condition.

M1.2 All records required to be kept by this licence must be:

- (a) in a legible form, or in a form that can readily be reduced to a legible form;
- (b) kept for at least 4 years after the monitoring or event to which they relate took place; and
- (c) produced in a legible form to any authorised officer of the EPA who asks to see them.

M1.3 The following records must be kept in respect of any samples required to be collected for the purposes of this licence:

- (a) the date(s) on which the sample was taken;
- (b) the time(s) at which the sample was collected;
- (c) the point at which the sample was taken; and
- (d) the name of the person who collected the sample.

**M2 Requirement to monitor concentration of pollutants discharged**

M2.1 For each monitoring/discharge point or utilisation area specified below (by a point number), the licensee must monitor (by sampling and obtaining results by analysis) the concentration of each pollutant specified in Column 1. The licensee must use the sampling method, units of measure, and sample at the frequency, specified opposite in the other columns:

**POINTS 1,4,7**

Pollutant	Units of measure	Frequency	Sampling Method
PM10	micrograms per cubic metre	Every 6 days	AM-18
Solid Particles	grams per square metre per month	Continuous	AM-19

**POINT 2**

Pollutant	Units of measure	Frequency	Sampling Method
PM10	micrograms per cubic metre	Every 6 days	AM-18

**POINT 8**

Pollutant	Units of measure	Frequency	Sampling Method
Solid Particles	grams per square metre per month	Continuous	AM-19

**POINTS 10,12,14**

Pollutant	Units of measure	Frequency	Sampling Method
Conductivity	microsiemens per centimetre	Special Frequency 1	Grab sample
Nitrate	milligrams per litre	Special Frequency 1	Grab sample
Nitrogen (total)	milligrams per litre	Special Frequency 1	Grab sample
Oil and Grease	milligrams per litre	Special Frequency 1	Grab sample
Phosphorus (total)	milligrams per litre	Special Frequency 1	Grab sample
Reactive Phosphorus	milligrams per litre	Special Frequency 1	Grab sample
Total suspended solids	milligrams per litre	Special Frequency 1	Grab sample
pH	pH	Special Frequency 1	Grab sample

**POINTS 16,27**

Pollutant	Units of measure	Frequency	Sampling Method
Conductivity	microsiemens per centimetre	Every 3 months	Grab sample
Nitrate	milligrams per litre	Every 3 months	Grab sample
Nitrogen (total)	milligrams per litre	Every 3 months	Grab sample
Oil and Grease	milligrams per litre	Every 3 months	Grab sample
Phosphorus (total)	milligrams per litre	Every 3 months	Grab sample
Reactive Phosphorus	milligrams per litre	Every 3 months	Grab sample
Total suspended solids	milligrams per litre	Every 3 months	Grab sample
pH	pH	Every 3 months	Grab sample

**POINTS 17,18,20,21,22**

Pollutant	Units of measure	Frequency	Sampling Method
Conductivity	microsiemens per centimetre	Every 6 months	Representative sample
Nitrate	milligrams per litre	Every 6 months	Representative sample
Nitrogen (total)	milligrams per litre	Every 6 months	Representative sample
Phosphorus (total)	milligrams per litre	Every 6 months	Representative sample
Reactive Phosphorus	milligrams per litre	Every 6 months	Representative sample
Standing Water Level	metres	Every 6 months	In situ
pH	pH	Every 6 months	Representative sample

**POINT 19**

Pollutant	Units of measure	Frequency	Sampling Method
Conductivity	microsiemens per centimetre	Every 6 months	Representative sample
Nitrate	milligrams per litre	Every 6 months	Representative sample
Nitrogen (total)	milligrams per litre	Every 6 months	Representative sample
Phosphorus (total)	milligrams per litre	Every 6 months	Representative sample
Reactive Phosphorus	milligrams per litre	Every 6 months	Representative sample
pH	pH	Every 6 months	Representative sample

**POINTS 23,24,25,26**

Pollutant	Units of measure	Frequency	Sampling Method
Conductivity	microsiemens per centimetre	Special Frequency 2	Special Method 1
Nitrate	milligrams per litre	Special Frequency 2	Special Method 1
Nitrogen (total)	milligrams per litre	Special Frequency 2	Special Method 1
Oil and Grease	milligrams per litre	Special Frequency 2	Special Method 1
Phosphorus (total)	milligrams per litre	Special Frequency 2	Special Method 1
Reactive Phosphorus	milligrams per litre	Special Frequency 2	Special Method 1
Total suspended solids	milligrams per litre	Special Frequency 2	Special Method 1
pH	pH	Special Frequency 2	Special Method 1

For the purposes of this condition, **Special Frequency 1** means as soon as practicable after overflow commences and in any case not more than 12 hours after any overflow commencing.

For the purposes of this condition, **Special Frequency 2** means within 12 hours after any overflow from a storage dam(s) on the premises occurring.

For the purposes of this condition, **Special Method 1** means that grab samples must be taken from those ambient/discharge water quality monitoring points (i.e. points 23-26) located in same drainage catchment (Werris Creek and/or Quipolly Creek) as those wet weather discharge points (i.e. points 10, 12 and/or 14) overflowing in any individual discharge event.

Note: The frequency of monitoring and the pollutant/s to be monitored may be varied by the EPA once the variability of the water quality and ground water quality is established.

**POINT 9**

Parameter	Units of measure	Frequency	Averaging Period	Sampling Method
Rainfall	Millimetres per hour	continuous	1 hour	AM-4
Wind speed @ 10 metres	Metres per second	continuous	15 minute	AM-2 & AM-4

# Environment Protection Licence



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Wind direction @ 10 metres	Degrees clockwise from true north	continuous	15 minute	AM-2 & AM-4
Temperature @ 2 metres	Degrees Celsius	continuous	15 minute	AM-4
Temperature @ 10 metres	Degrees Celsius	continuous	15 minute	AM-4
Sigma theta @ 10 metres	Degrees clockwise from true north	continuous	15 minute	AM-2 & AM-4
Solar radiation	Watts per square metre	continuous	15 minute	AM-4
Additional requirements -Siting - Measurement				AM-1 & AM-4 & Special method 2 AM-2 & AM-4 & Special method 2

For the purposes of this condition, **Special method 2** means that the applicant must install a permanent meteorological monitoring station and logger. The location of the site chosen for the station and details of equipment, measurement and maintenance/service procedures and schedules to be installed and maintained must be submitted in writing to the EPA and approved in writing by the EPA before any sampling or analysis is carried out. The meteorological monitoring station must be calibrated at least once every 12 months. The EPA is to be provided with the data on request in a Microsoft ® Office software compatible format.

**POINTS:** Within 30 metres of the residences on the properties “Almawille”, “Glenara”, “Kyooma”, “Tonsley Park”, “Greenslopes & Banool” and “Railway Cottage” marked on the map entitled *Figure 1 – Noise Monitoring Locations* in the Noise Management Protocol & Noise Management Program for the Werris Creek Coal Mine dated November 2010 that was submitted to EPA by e-mail on 23 November 2010 and which is kept on file LIC07/2029-11.

Parameter	Units of measure	Frequency	Sampling Method
Ambient Noise	L <sub>Aeq</sub> (15 minute) L <sub>Amax</sub> L <sub>A1</sub> L <sub>A10</sub> L <sub>A90</sub> L <sub>Amin</sub>	Every month for a minimum of 15 minutes (continuously) during full mining operations for day, evening and night time periods as defined by the EPA's Industrial Noise Policy (INP)	Attended Type 1 Noise Meter

Note: The frequency of monitoring and the parameters to be monitored may be varied by the EPA once the variability of the noise impact is established.

**POINTS:** Within 30 metres of the residence on the property “Tonsley Park” as marked on the map entitled *Figure 1 – Blast Monitoring Locations* in the Werris Creek Coal Blast Monitoring Program dated July 2010 that was submitted to EPA by e-mail on 7 September 2010 and which is kept on file LIC07/2029-11.

# Environment Protection Licence



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Parameter	Units of measure	Frequency	Sampling Method
Blast Noise	dB (Lin Peak)	Every Blast	Type 1 Noise/Blast Logger
Blast Vibration	mm/s	Every Blast	Geophone Logger or similar

**POINTS:** Within 30 metres of the residences on the properties “Glenara”, “Greenslopes & Banool”, “Millbank” and at the location labelled “Laneway off Kurrara Street, Werris Creek” marked on the map entitled *Figure 1 – Blast Monitoring Locations* in the Werris Creek Coal Blast Monitoring Program dated July 2010 that was submitted to EPA by e-mail on 7 September 2010 and which is kept on file LIC07/2029-11.

Parameter	Units of measure	Frequency	Sampling Method
Blast Noise	dB (Lin Peak)	At a minimum of three of the above locations during every blast	Type 1 Noise/Blast Logger
Blast Vibration	mm/s	At a minimum of three of the above locations during every blast	Geophone Logger or similar

### M3 Testing methods - concentration limits

- M3.1 Monitoring for the concentration of a pollutant emitted to the air required to be conducted by this licence must be done in accordance with:
- any methodology which is required by or under the Act to be used for the testing of the concentration of the pollutant; or
  - if no such requirement is imposed by or under the Act, any methodology which a condition of this licence requires to be used for that testing; or
  - if no such requirement is imposed by or under the Act or by a condition of this licence, any methodology approved in writing by the EPA for the purposes of that testing prior to the testing taking place.

Note: The Protection of the Environment Operations (Clean Air) Regulation 2002 requires testing for certain purposes to be conducted in accordance with test methods contained in the publication "Approved Methods for the Sampling and Analysis of Air Pollutants in NSW".

- M3.2 Subject to any express provision to the contrary in this licence, monitoring for the concentration of a pollutant discharged to waters or applied to a utilisation area must be done in accordance with the Approved Methods Publication unless another method has been approved by the EPA in writing before any tests are conducted.

**M4 Recording of pollution complaints**

- M4.1 The licensee must keep a legible record of all complaints made to the licensee or any employee or agent of the licensee in relation to pollution arising from any activity to which this licence applies.
- M4.2 The record must include details of the following:
- the date and time of the complaint;
  - the method by which the complaint was made;
  - any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
  - the nature of the complaint;
  - the action taken by the licensee in relation to the complaint, including any follow-up contact with the complainant; and
  - if no action was taken by the licensee, the reasons why no action was taken.
- M4.3 The record of a complaint must be kept for at least 4 years after the complaint was made.
- M4.4 The record must be produced to any authorised officer of the EPA who asks to see them.

**M5 Telephone complaints line**

- M5.1 The licensee must operate during its operating hours a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises or by the vehicle or mobile plant, unless otherwise specified in the licence.
- M5.2 The licensee must notify the public of the complaints line telephone number and the fact that it is a complaints line so that the impacted community knows how to make a complaint.
- M5.3 Conditions M5.1 and M5.2 do not apply until 3 months after:
- the date of the issue of this licence or
  - if this licence is a replacement licence within the meaning of the Protection of the Environment Operations (Savings and Transitional) Regulation 1998, the date on which a copy of the licence was served on the licensee under clause 10 of that regulation.

**M6 Requirement to monitor volume or mass**

- M6.1 Not applicable.

**6 Reporting conditions****R1 Annual return documents****What documents must an Annual Return contain?**

- R1.1 The licensee must complete and supply to the EPA an Annual Return in the approved form comprising:
- a Statement of Compliance; and
  - a Monitoring and Complaints Summary.
- A copy of the form in which the Annual Return must be supplied to the EPA accompanies this licence. Before the end of each reporting period, the EPA will provide to the licensee a copy of the form that must be completed and returned to the EPA.

**Period covered by Annual Return**

- R1.2 An Annual Return must be prepared in respect of each reporting period, except as provided below.
- Note: The term "reporting period" is defined in the dictionary at the end of this licence. Do not complete the Annual Return until after the end of the reporting period.
- R1.3 Where this licence is transferred from the licensee to a new licensee:
- the transferring licensee must prepare an Annual Return for the period commencing on the first day of the reporting period and ending on the date the application for the transfer of the licence to the new licensee is granted; and
  - the new licensee must prepare an Annual Return for the period commencing on the date the application for the transfer of the licence is granted and ending on the last day of the reporting period.
- Note: An application to transfer a licence must be made in the approved form for this purpose.
- R1.4 Where this licence is surrendered by the licensee or revoked by the EPA or Minister, the licensee must prepare an Annual Return in respect of the period commencing on the first day of the reporting period and ending on:
- in relation to the surrender of a licence - the date when notice in writing of approval of the surrender is given; or
  - in relation to the revocation of the licence - the date from which notice revoking the licence operates.

**Deadline for Annual Return**

- R1.5 The Annual Return for the reporting period must be supplied to the EPA by registered post not later than 60 days after the end of each reporting period or in the case of a transferring licence not later than 60 days after the date the transfer was granted (the 'due date').

**Notification where actual load can not be calculated**

- R1.6 Not applicable.

**Licensee must retain copy of Annual Return**

- R1.7 The licensee must retain a copy of the Annual Return supplied to the EPA for a period of at least 4 years after the Annual Return was due to be supplied to the EPA.

**Certifying of Statement of Compliance and signing of Monitoring and Complaints Summary**

- R1.8 Within the Annual Return, the Statement of Compliance must be certified and the Monitoring and Complaints Summary must be signed by:
- the licence holder; or
  - by a person approved in writing by the EPA to sign on behalf of the licence holder.
- R1.9 A person who has been given written approval to certify a certificate of compliance under a licence issued under the Pollution Control Act 1970 is taken to be approved for the purpose of this condition until the date of first review of this licence.

**R2 Notification of environmental harm**

Note: The licensee or its employees must notify the EPA of incidents causing or threatening material harm to the environment as soon as practicable after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the Act.

- R2.1 Notifications must be made by telephoning the Environment Line service on 131 555.
- R2.2 The licensee must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.

**R3 Written report**

- R3.1 Where an authorised officer of the EPA suspects on reasonable grounds that:
- where this licence applies to premises, an event has occurred at the premises; or
  - where this licence applies to vehicles or mobile plant, an event has occurred in connection with the carrying out of the activities authorised by this licence, and the event has caused, is causing or is likely to cause material harm to the environment (whether the harm occurs on or off premises to which the licence applies), the authorised officer may request a written report of the event.
- R3.2 The licensee must make all reasonable inquiries in relation to the event and supply the report to the EPA within such time as may be specified in the request.
- R3.3 The request may require a report which includes any or all of the following information:
- the cause, time and duration of the event;
  - the type, volume and concentration of every pollutant discharged as a result of the event;
  - the name, address and business hours telephone number of employees or agents of the licensee, or a specified class of them, who witnessed the event;
  - the name, address and business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event, unless the licensee has been unable to obtain that information after making reasonable effort;
  - action taken by the licensee in relation to the event, including any follow-up contact with any complainants;

- details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event; and
- any other relevant matters.

- R3.4 The EPA may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the EPA within the time specified in the request.

**General conditions****G1 Copy of licence kept at the premises**

- G1.1 A copy of this licence must be kept at the premises to which the licence applies.
- G1.2 The licence must be produced to any authorised officer of the EPA who asks to see it.
- G1.3 The licence must be available for inspection by any employee or agent of the licensee working at the premises.

**Pollution studies and reduction programs****U1 Noise Monitoring and Assessment Program**

- U1.1 Completed.

**Special conditions****Dictionary****General Dictionary**

In this licence, unless the contrary is indicated, the terms below have the following meanings:

**3DGM [in relation to a concentration limit]**

Means the three day geometric mean, which is calculated by multiplying the results of the analysis of three samples collected on consecutive days and then taking the cubed root of that amount. Where one or more of the samples is zero or below the detection limit for the analysis, then 1 or the detection limit respectively should be used in place of those samples

# Environment Protection Licence



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<b>Act</b>	Means the Protection of the Environment Operations Act 1997
<b>activity</b>	Means a scheduled or non-scheduled activity within the meaning of the Protection of the Environment Operations Act 1997
<b>actual load</b>	Has the same meaning as in the Protection of the Environment Operations (General) Regulation 1998
<b>AM</b>	Together with a number, means an ambient air monitoring method of that number prescribed by the <i>Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales</i> .
<b>AMG</b>	Australian Map Grid
<b>anniversary date</b>	The anniversary date is the anniversary each year of the date of issue of the licence. In the case of a licence continued in force by the Protection of the Environment Operations Act 1997, the date of issue of the licence is the first anniversary of the date of issue or last renewal of the licence following the commencement of the Act.
<b>annual return</b>	Is defined in R1.1
<b>Approved Methods Publication</b>	Has the same meaning as in the Protection of the Environment Operations (General) Regulation 1998
<b>assessable pollutants</b>	Has the same meaning as in the Protection of the Environment Operations (General) Regulation 1998
<b>BOD</b>	Means biochemical oxygen demand
<b>CEM</b>	Together with a number, means a continuous emission monitoring method of that number prescribed by the <i>Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales</i> .
<b>COD</b>	Means chemical oxygen demand
<b>composite sample</b>	Unless otherwise specifically approved in writing by the EPA, a sample consisting of 24 individual samples collected at hourly intervals and each having an equivalent volume.
<b>cond.</b>	Means conductivity
<b>environment</b>	Has the same meaning as in the Protection of the Environment Operations Act 1997
<b>environment protection legislation</b>	Has the same meaning as in the Protection of the Environment Administration Act 1991
<b>EPA</b>	Means Environment Protection Authority of New South Wales.
<b>fee-based activity classification</b>	Means the numbered short descriptions in Schedule 1 of the Protection of the Environment Operations (General) Regulation 1998.
<b>flow weighted composite sample</b>	Means a sample whose composites are sized in proportion to the flow at each composites time of collection.
<b>general solid waste (non-putrescible)</b>	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997
<b>general solid waste (putrescible)</b>	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997
<b>grab sample</b>	Means a single sample taken at a point at a single time
<b>hazardous waste</b>	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997
<b>licensee</b>	Means the licence holder described at the front of this licence

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<b>load calculation protocol</b>	Has the same meaning as in the Protection of the Environment Operations (General) Regulation 1998
<b>local authority</b>	Has the same meaning as in the Protection of the Environment Operations Act 1997
<b>material harm</b>	Has the same meaning as in section 147 Protection of the Environment Operations Act 1997
<b>MBAS</b>	Means methylene blue active substances
<b>Minister</b>	Means the Minister administering the Protection of the Environment Operations Act 1997
<b>mobile plant</b>	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997
<b>motor vehicle</b>	Has the same meaning as in the Protection of the Environment Operations Act 1997
<b>O&amp;G</b>	Means oil and grease
<b>percentile [in relation to a concentration limit of a sample]</b>	Means that percentage [eg.50%] of the number of samples taken that must meet the concentration limit specified in the licence for that pollutant over a specified period of time. In this licence, the specified period of time is the Reporting Period unless otherwise stated in this licence.
<b>plant</b>	Includes all plant within the meaning of the Protection of the Environment Operations Act 1997 as well as motor vehicles.
<b>pollution of waters [or water pollution]</b>	Has the same meaning as in the Protection of the Environment Operations Act 1997
<b>premises</b>	Means the premises described in condition A2.1
<b>public authority</b>	Has the same meaning as in the Protection of the Environment Operations Act 1997
<b>regional office</b>	Means the relevant EPA office referred to in the Contacting the EPA document accompanying this licence
<b>reporting period</b>	For the purposes of this licence, the reporting period means the period of 12 months after the issue of the licence, and each subsequent period of 12 months. In the case of a licence continued in force by the Protection of the Environment Operations Act 1997, the date of issue of the licence is the first anniversary of the date of issue or last renewal of the licence following the commencement of the Act.
<b>restricted solid waste</b>	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997
<b>scheduled activity</b>	Means an activity listed in Schedule 1 of the Protection of the Environment Operations Act 1997
<b>special waste</b>	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997
<b>TM</b>	Together with a number, means a test method of that number prescribed by the <i>Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales</i> .
<b>TSP</b>	Means total suspended particles
<b>TSS</b>	Means total suspended solids
<b>Type 1 substance</b>	Means the elements antimony, arsenic, cadmium, lead or mercury or any compound containing one or more of those elements
<b>Type 2 substance</b>	Means the elements beryllium, chromium, cobalt, manganese, nickel, selenium, tin or vanadium or any compound containing one or more of those elements
<b>utilisation area</b>	Means any area shown as a utilisation area on a map submitted with the application for this licence
<b>waste</b>	Has the same meaning as in the Protection of the Environment Operations Act 1997

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**waste type**

Means liquid, restricted solid waste, general solid waste (putrescible), general solid waste (non-putrescible), special waste or hazardous waste

Mr Stephen O'Donoghue

Environment Protection Authority

(By Delegation)

Date of this edition - 23-Dec-2010

## End Notes

1	Licence varied by notice 1059992, issued on 23-May-2006, which came into effect on 23-May-2006.
2	Licence varied by notice 1064880, issued on 14-Sep-2006, which came into effect on 14-Sep-2006.
3	Licence varied by notice 1067351, issued on 04-Jan-2007, which came into effect on 04-Jan-2007.
4	Licence fee period changed by notice 1079180 approved on .
5	Licence varied by notice 1087334, issued on 07-Oct-2009, which came into effect on 07-Oct-2009.
6	Licence varied by notice 1115057, issued on 16-Jun-2010, which came into effect on 16-Jun-2010.
7	Licence varied by notice 1122371, issued on 23-Dec-2010, which came into effect on 23-Dec-2010.

MINING LEASE  
MINING ACT 1992

NO. 1563

DATED 23<sup>rd</sup> March 2005

THE MINISTER FOR MINERAL  
RESOURCES

OF THE STATE

OF NEW SOUTH WALES

TO

**Creek Resources Pty Limited**  
(A. C. N. 100 228 886)

AND

**Betalpha Pty Limited**  
(A. C. N. 105 663 518)

RECORDED in the Department of  
Primary Industries, Mineral Resources

this fifth day of April 2005 A.D.

at the hour of 10:00

o'clock in the fore noon.

  
Director-General

MINING ACT 1992  
MINING LEASE

THIS DEED made the **twenty third** day of **March** **Two thousand and five** in pursuance of the provisions of the Mining Act 1992 (hereinafter called "the Act") BETWEEN **THE HONOURABLE KERRY ARTHUR HICKEY MINISTER FOR MINERAL RESOURCES** of the State of New South Wales (hereinafter called "the Minister" which expression shall where the context admits or requires include the successors in office of the Minister and the person acting as such Minister for the time being) AND **Creek Resources Pty Limited (A. C. N. 100 228 886) and Betalpha Pty Limited (A. C. N. 105 663 518)** (which with its successors and transferees is hereinafter called "the lease holder")

WHEREAS

- (a) in conformity with the Act application was made for a mining lease over the lands hereinafter described; and
- (b) all conditions and things required to be done and performed before granting a mining lease under the Act have been done and performed NOW THIS DEED WITNESSETH that in consideration of the observance and performance of the covenants contained in this Deed and the payment of royalty by the lease holder, the Minister in pursuance of the provisions of the Act DOES HEREBY demise and lease to the lease holder ALL THAT piece or parcel of land containing by admeasurement of **678.5 hectares** and more particularly described and delineated in the plan catalogue No. **M27037** attached for the purpose of prospecting and mining for **coal**.

TO HOLD the said land together with any appurtenances thereon subject to:

- (a) such rights and interests as may be lawfully subsisting therein or which may be reserved by the Act at the date of this Deed; and
  - (b) such conditions, provisos and stipulations as are contained in this Deed UNTO the lease holder from and including the date of this Deed for the period of **twenty one (21) years** for the purpose as stated and for no other purpose.
1. THAT in this lease except insofar as the context otherwise indicates or requires:
    - (a) any reference to an Act includes that Act and any Act amending or in substitution for the same; "Director-General" means the person for the time being holding office or acting as Director-General, Department of Mineral Resources, Sydney; the word "mine" has the meaning assigned to it by the Act; words importing the singular number shall include the plural, the masculine gender the feminine or neuter gender and vice versa; and

- (b) any covenant on the part of two or more persons shall be deemed to bind them jointly and severally.
2. THAT the lease holder shall during the said term pay to the Minister in Sydney in respect of all such minerals as stated, recovered from the land hereby demised, royalty at the rate or rates prescribed by the Act and the Regulations thereunder at the time the minerals are recovered, or at the rate or rates fixed by the Minister from time to time during the term of this demise in exercise of the power in that behalf conferred upon him by the Act.
  3. THAT the lease holder shall at all times during the term of this lease keep and preserve the said mine from all avoidable injury or damage and also the levels, drifts, shafts, watercourses, roadways, works, erections and fixtures therein and thereon in good repair and condition and in such state and condition shall on the expiration or sooner determination of the said term or any renewal thereof deliver possession of the land and the premises hereby demised to the Minister or other persons authorised to receive possession thereof.
  4. THAT the conditions and provisions set forth in the Schedule of Mining Lease Conditions 2004 herein and numbered:- **1 to 21 (inclusive), 23, 24, 25, 29, 30 and 31** are embodied and incorporated within this Deed as conditions and provisions of the lease hereby granted.

PROVIDED always and it is hereby declared as follows:

- (a) THAT this lease is granted subject to amendment as provided under Section 79 of the Act.
- (b) THAT if the lease holder at any time during the term of this demise -
  - (i) fails to fulfil or contravenes the covenants and conditions herein contained; or
  - (ii) fails to comply with any provision of the Act or the Regulations with which the lease holder is required to comply; or
  - (iii) fails to comply with the requirements of any agreement or assessment in relation to the payment of compensation,

this lease may be cancelled by the Minister by instrument in writing and the cancellation shall have effect from and including the date on which notice of the cancellation is served on the lease holder or on such later date as is specified in the notice; and any liability incurred by the lease holder before the cancellation took effect shall not be affected.

- (c) THAT no implied covenant for title or for quiet enjoyment shall be contained herein.

- (d) THAT all the conditions and provisions contained in the Mining Act 1992 and the Regulations thereunder, the Mines Inspection Act 1901 and the Coal Mines Regulation Act 1982 or any other law hereafter to be passed or prescribed shall be incorporated within this Deed as conditions and provisions of the lease granted. The lease holder hereby covenants to observe, fulfil and perform the same.
- (e) THAT such of the provisions and conditions declared and contained in this Deed as requiring anything to be done or not to be done by the lease holder, shall be read and construed as covenants by the lease holder with the Minister which are to be observed and performed.

IN WITNESS WHEREOF the parties hereto have executed this Deed the day and year first abovewritten.

SIGNED SEALED AND DELIVERED  
BY

**The Honourable Kerry Arthur Hickey**  
as such Minister as aforesaid

in the presence of

  
Minister

  
Witness

SIGNED SEALED AND DELIVERED  
by the said

**Creek Resources Pty Limited**  
(A. C. N. 100 228 886)




in the presence of


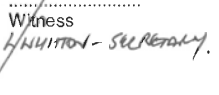
  
Witness

*SHOWN IN ACCORDANCE WITH THE CONSTITUTION OF:*

**Betalpha Pty Limited**  
(A. C. N. 105 663 518)

in the presence of

  
K. Ross - Director

  
Witness  
  
Witness - Secretary

**MINING LEASE CONDITIONS 2004**

**Notice to Landholders**

1. Within a period of three months from the date of grant of this lease or within such further time as the Minister may allow, the lease holder must serve on each landholder of the land a notice in writing indicating that this lease has been granted and whether the lease includes the surface. An adequate plan and description of the lease area must accompany the notice.

If there are ten or more landholders affected, the lease holder may serve the notice by publication in a newspaper circulating in the region where the lease area is situated. The notice must indicate that this lease has been granted; state whether the lease includes the surface and must contain an adequate plan and description of the lease area.

**Mining, Rehabilitation, Environmental Management Process (MREMP)**

**Mining Operations Plan (MOP)**

2. (1) Mining operations, including mining purposes, must be conducted in accordance with a Mining Operations Plan (the Plan) satisfactory to the Director-General. The Plan together with environmental conditions of development consent and other approvals will form the basis for:-
  - (a) ongoing mining operations and environmental management; and
  - (b) ongoing monitoring of the project.(2) The Plan must be prepared in accordance with the Director-General's guidelines current at the time of lodgement.  
(3) A Plan must be lodged with the Director-General:-
  - (a) prior to the commencement of mining operations (including mining purposes);
  - (b) subsequently as appropriate prior to the expiry of any current Plan; and
  - (c) in accordance with any direction issued by the Director-General.(4) The Plan must present a schedule of proposed mine development for a period of up to seven (7) years and contain diagrams and documentation which identify:-
  - (a) area(s) proposed to be disturbed under the Plan;
  - (b) mining and rehabilitation method(s) to be used and their sequence;
  - (c) areas to be used for disposal of tailings/waste;

- (d) existing and proposed surface infrastructure;
  - (e) existing flora and fauna on the site;
  - (f) progressive rehabilitation schedules;
  - (g) areas of particular environmental, ecological and cultural sensitivity and measures to protect these areas;
  - (h) water management systems (including erosion and sediment controls);
  - (i) proposed resource recovery; and
  - (j) where the mine will cease extraction during the term of the Plan, a closure plan including final rehabilitation objectives/methods and post mining landuse/vegetation.
- (5) The Plan when lodged will be reviewed by the Department.
  - (6) The Director-General may within two (2) months of the lodgement of a Plan, require modification and re-lodgement.
  - (7) If a requirement in accordance with clause (6) is not issued within two (2) months of the lodgement of a Plan, the lease holder may proceed with implementation of the Plan.
  - (8) During the life of the Mining Operations Plan, proposed modifications to the Plan must be lodged with the Director-General and will be subject to the review process outlined in clauses (5) - (7) above.

#### Annual Environmental Management Report (AEMR)

- 3. (1) Within 12 months of the commencement of mining operations and thereafter annually or, at such other times as may be allowed by the Director-General, the lease holder must lodge an Annual Environmental Management Report (AEMR) with the Director-General.
- (2) The AEMR must be prepared in accordance with the Director-General's guidelines current at the time of reporting and contain a review and forecast of performance for the preceding and ensuing twelve months in terms of:
  - (a) the accepted Mining Operations Plan;
  - (b) development consent requirements and conditions;
  - (c) Department of Environment and Conservation and Department of Infrastructure, Planning and Natural Resources licences and approvals;
  - (d) any other statutory environmental requirements;

- (e) details of any variations to environmental approvals applicable to the lease area; and
  - (f) where relevant, progress towards final rehabilitation objectives.
- (3) After considering an AEMR the Director-General may, by notice in writing, direct the lease holder to undertake operations, remedial actions or supplementary studies in the manner and within the period specified in the notice to ensure that operations on the lease area are conducted in accordance with sound mining and environmental practice.
  - (4) The lease holder shall, as and when directed by the Minister, co-operate with the Director-General to conduct and facilitate review of the AEMR involving other government agencies and the local council.

#### Subsidence Management

- 4. (a) The lease holder shall prepare a Subsidence Management Plan prior to commencing any underground mining operations which will potentially lead to subsidence of the land surface.
- (b) Underground mining operations which will potentially lead to subsidence include secondary extraction panels such as longwalls or miniwalls, associated first workings (gateroads, installation roads and associated main headings, etc), and pillar extractions, and are otherwise defined by the *Guideline for Applications for Subsidence Management Approvals*.
- (c) The lease holder must not commence or undertake underground mining operations that will potentially lead to subsidence other than in accordance with a Subsidence Management Plan approved by the Director-General, an approval under the *Coal Mines Regulation Act 1982*, or the document *New Subsidence Management Plan Approval Process – Transitional Provisions*.
- (d) Subsidence Management Plans are to be prepared in accordance with the *Guideline for Applications for Subsidence Management Approvals*.
- (e) Subsidence Management Plans as approved shall form part of the Mining Operations Plan required under Condition 2 and will be subject to the Annual Environmental Management Report process as set out under Condition 3. The SMP is also subject to the requirements for subsidence monitoring and reporting set out in the document *New Approval Process for Management of Coal Mining Subsidence - Policy*.

#### Working Requirement

- 5. The lease holder must:
  - (a) ensure that at least **28** competent people are efficiently employed on the lease area on each week day except Saturday or any week day that is a public holiday.

OR

- (b) expend on operations carried out in the course of prospecting or mining the lease area, an amount of not less than **\$490,000.00** per annum whilst the lease is in force.

The Minister may at any time or times, by instrument in writing served on the lease holder, increase or decrease the expenditure required or the number of people to be employed.

#### Control of Operations

6. (a) If an Environmental Officer of the Department believes that the lease holder is not complying with any provision of the Act or any condition of this lease relating to the working of the lease, he may direct the lease holder to:-
- (i) cease working the lease; or
- (ii) cease that part of the operation not complying with the Act or conditions; until in the opinion of the Environmental Officer the situation is rectified.
- (b) The lease holder must comply with any direction given. The Director-General may confirm, vary or revoke any such direction.
- (c) A direction referred to in this condition may be served on the Mine Manager.

#### Reports

7. The lease holder must provide an exploration report, within a period of twenty-eight days after each anniversary of the date this lease has effect or at such other date as the Director-General may stipulate, of each year. The report must be to the satisfaction of the Director-General and contain the following:
- (a) Full particulars, including results, interpretation and conclusions, of all exploration conducted during the twelve months period;
- (b) Details of expenditure incurred in conducting that exploration;
- (c) A summary of all geological findings acquired through mining or development evaluation activities;
- (d) Particulars of exploration proposed to be conducted in the next twelve months period;
- (e) All plans, maps, sections and other data necessary to satisfactorily interpret the report.

#### Licence to Use Reports

8. (a) The lease holder grants to the Minister, by way of a non-exclusive licence, the right in copyright to publish, print, adapt and reproduce all exploration reports lodged in any form and for the full duration of copyright.
- (b) The non-exclusive licence will operate as a consent for the purposes of section 365 of the Mining Act 1992.

#### Confidentiality

9. (a) All exploration reports submitted in accordance with the conditions of this lease will be kept confidential while the lease is in force, except in cases where:
- (i) the lease holder has agreed that specified reports may be made non-confidential.
- (ii) reports deal with exploration conducted exclusively on areas that have ceased to be part of the lease.
- (b) Confidentiality will be continued beyond the termination of a lease where an application for a flow-on title was lodged during the currency of the lease. The confidentiality will last until that flow-on title or any subsequent flow-on title, has terminated.
- (c) The Director-General may extend the period of confidentiality.

#### Terms of the non-exclusive licence

10. The terms of the non-exclusive copyright licence granted under condition 8 (a) are:
- (a) the Minister may sub-licence others to publish, print, adapt and reproduce but not on-licence reports.
- (b) the Minister and any sub- licensee will acknowledge the lease holder's and any identifiable consultant's ownership of copyright in any reproduction of the reports, including storage of reports onto an electronic database.
- (c) the lease holder does not warrant ownership of all copyright works in any report and, the lease holder will use best endeavours to identify those parts of the report for which the lease holder owns the copyright.
- (d) there is no royalty payable by the Minister for the licence.
- (e) if the lease holder has reasonable grounds to believe that the Minister has exercised his rights under the non-exclusive copyright licence in a manner which adversely affects the operations of the lease holder, that licence is revocable on the giving of a period of not less than three months notice.

**Blasting**

## 11. (a) Ground Vibration

The lease holder must ensure that the ground vibration peak particle velocity generated by any blasting within the lease area does not exceed 10 mm/second and does not exceed 5 mm/second in more than 5% of the total number of blasts over a period of 12 months at any dwelling or occupied premises as the case may be, unless determined otherwise by the Department of Environment and Conservation.

## (b) Blast Overpressure

The lease holder must ensure that the blast overpressure noise level generated by any blasting within the lease area does not exceed 120 dB (linear) and does not exceed 115 dB (linear) in more than 5% of the total number of blasts over a period of 12 months, at any dwelling or occupied premises, as the case may be, unless determined otherwise by the Department of Environment and Conservation.

**Safety**

12. Operations must be carried out in a manner that ensures the safety of persons or stock in the vicinity of the operations. All drill holes shafts and excavations must be appropriately protected, to the satisfaction of the Director-General, to ensure that access to them by persons and stock is restricted. Abandoned shafts and excavations opened up or used by the lease holder must be filled in or otherwise rendered safe to a standard acceptable to the Director-General.

**Rehabilitation**

13. (a) Land disturbed must be rehabilitated to a stable and permanent form suitable for a subsequent land use acceptable to the Director-General and in accordance with the Mining Operations Plan so that:-

- there is no adverse environmental effect outside the disturbed area and that the land is properly drained and protected from soil erosion.
- the state of the land is compatible with the surrounding land and land use requirements.
- the landforms, soils, hydrology and flora require no greater maintenance than that in the surrounding land.
- in cases where revegetation is required and native vegetation has been removed or damaged, the original species must be re-established with close reference to the flora survey included in the Mining Operations Plan. If the original vegetation was not native, any re-established vegetation must be appropriate to the area and at an acceptable density.

- the land does not pose a threat to public safety.

- (b) Any topsoil that is removed must be stored and maintained in a manner acceptable to the Director-General.

14. The lease holder must comply with any direction given by the Director-General regarding the stabilisation and revegetation of any mine residues, tailings or overburden dumps situated on the lease area.

**Exploratory Drilling**

15. (1) At least twenty eight days prior to commencement of drilling operations the lease holder must notify the relevant Department of Infrastructure, Planning and Natural Resources regional hydrogeologist of the intention to drill exploratory drill holes together with information on the location of the proposed holes.

- (2) If the lease holder drills exploratory drill holes he must satisfy the Director-General that:-

- (a) all cored holes are accurately surveyed and permanently marked in accordance with Departmental guidelines so that their location can be easily established;
- (b) all holes cored or otherwise are sealed to prevent the collapse of the surrounding surface;
- (c) all drill holes are permanently sealed with cement plugs to prevent surface discharge of groundwaters;
- (d) if any drill hole meets natural or noxious gases it is plugged or sealed to prevent their escape;
- (e) if any drill hole meets an artesian or sub-artesian flow it is effectively sealed to prevent contamination of aquifers.
- (f) once any drill hole ceases to be used the hole must be sealed in accordance with Departmental guidelines. Alternatively, the hole must be sealed as instructed by the Director-General.
- (g) once any drill hole ceases to be used the land and its immediate vicinity is left in a clean, tidy and stable condition.

**Prevention of Soil Erosion and Pollution**

16. Operations must be carried out in a manner that does not cause or aggravate air pollution, water pollution (including sedimentation) or soil contamination or erosion, unless otherwise authorised by a relevant approval, and in accordance with an accepted Mining Operations Plan. For the purpose of this condition, water shall be taken to include any watercourse, waterbody or groundwaters. The lease holder must observe and perform any instructions given by the Director-General in this regard.

**Transmission lines, Communication lines and Pipelines**

17. Operations must not interfere with or impair the stability or efficiency of any transmission line, communication line, pipeline or any other utility on the lease area without the prior written approval of the Director-General and subject to any conditions he may stipulate.

**Fences, Gates**

18. (a) Activities on the lease must not interfere with or damage fences without the prior written approval of the owner thereof or the Minister and subject to any conditions the Minister may stipulate.
- (b) Gates within the lease area must be closed or left open in accordance with the requirements of the landholder.

**Roads and Tracks**

19. (a) Operations must not affect any road unless in accordance with an accepted Mining Operations Plan or with the prior written approval of the Director-General and subject to any conditions he may stipulate.
- (b) The lease holder must pay to the designated authority in control of the road (generally the local council or the Roads and Traffic Authority) the cost incurred in fixing any damage to roads caused by operations carried out under the lease, less any amount paid or payable from the Mine Subsidence Compensation Fund.
20. Access tracks must be kept to a minimum and be positioned so that they do not cause any unnecessary damage to the land. Temporary access tracks must be ripped, topsoiled and revegetated as soon as possible after they are no longer required for mining operations. The design and construction of access tracks must be in accordance with specifications fixed by the Department of Infrastructure, Planning and Natural Resources.

**Trees and Timber**

21. (a) The lease holder must not fell trees, strip bark or cut timber on the lease without the consent of the landholder who is entitled to the use of the timber, or if such a landholder refuses consent or attaches unreasonable conditions to the consent, without the approval of a warden.

- (b) The lease holder must not cut, destroy, ringbark or remove any timber or other vegetative cover on the lease area except such as directly obstructs or prevents the carrying on of operations. Any clearing not authorised under the Mining Act 1992 must comply with the provisions of the Native Vegetation Conservation Act 1997.
- (c) The lease holder must obtain all necessary approvals or licences before using timber from any Crown land within the lease area.

**Resource Recovery**

23. (a) Notwithstanding any description of mining methods and their sequence or of proposed resource recovery contained within the Mining Operations Plan, if at any time the Director-General is of the opinion that minerals which the lease entitles the lease holder to mine and which are economically recoverable at the time are not being recovered from the lease area, or that any such minerals which are being recovered are not being recovered to the extent which should be economically possible or which for environmental reasons are necessary to be recovered, he may give notice in writing to the lease holder requiring the holder to recover such minerals.
- (b) The notice shall specify the minerals to be recovered and the extent to which they are to be recovered, or the objectives in regard to resource recovery, but shall not specify the processes the lease holder shall use to achieve the specified recovery.
- (c) The lease holder must, when requested by the Director-General, provide such information as the Director-General may specify about the recovery of the mineral resources of the lease area.
- (d) The Director-General shall issue no such notice unless the matter has firstly been thoroughly discussed with and a report to the Director-General has incorporated the views of the lease holder.
- (e) The lease holder may object to the requirements of any notice issued under this condition and on receipt of such an objection the Minister shall refer it to a Warden for inquiry and report under Section 334 of the Mining Act, 1992.
- (f) After considering the Warden's report the Minister shall decide whether to withdraw, modify or maintain the requirements specified in the original notice and shall give the lease holder written notice of the decision. The lease holder must comply with the requirements of this notice.

**Indemnity**

24. The lease holder must indemnify and keep indemnified the Crown from and against all actions, suits, claims and demands of whatsoever nature and all costs, charges and expenses which may be brought against the lease holder or which the lease holder may incur in respect of any accident or injury to any person or property which may arise out of the construction, maintenance or working of any workings now existing or to be made by the lease holder within the lease area or in connection with any of the operations notwithstanding that all other conditions of this lease shall in all respects have been observed by the lease holder or that any such accident or injury shall arise from any act or thing which the lease holder may be licensed or compelled to do.

**Security**

25. (a) A security in the sum of **\$50,000.00** must be given and maintained with the Minister by the lease holder for the purpose of ensuring the fulfilment by the lease holder of obligations under this lease. If the lease holder fails to fulfil any one or more of such obligations the said sum may be applied at the discretion of the Minister towards the cost of fulfilling such obligations. For the purpose of this clause the lease holder shall be deemed to have failed to fulfil the obligations of this lease if the lease holder fails to comply with any condition or provision hereof, any provision of the Act or regulations made thereunder or any condition or direction imposed or given pursuant to a condition or provision hereof or of any provision of the Act or regulations made thereunder.
- (b) The lease holder must provide the security required by sub-clause (a) in one of the following forms:
- (i) cash,
  - (ii) a security certificate in a form approved by the Minister and issued by an authorised deposit-taking institution.

**Barriers**

29. (a) Unless with the consent of the Minister first had and obtained and subject to such further conditions as he may impose, the lease holder shall not mine within a barrier of 50 metres in width against the underground workings of the former Werris Creek Colliery as referred to in the Environmental Impact Statement entitled "Werris Creek Coal Pty Limited – ABN 69 107 169 103 - Environmental Impact Statement for the Proposed Werris Creek Coal Mine" dated August 2004.
- (b) The lease holder must, prior to seeking the Ministers consent under this condition, complete a risk assessment to determine hazards and develop management controls. This risk assessment is to be subject to any amendments as may be required by the Director General.

**Special Conditions**

30. The lease holder shall ensure that operations on the lease area are conducted in a manner consistent with the Environmental Impact Statement, except where no longer applicable due to subsequent approval, conditioning or exemption.
31. The lease holder shall ensure that 53 hectares of the rehabilitated landform is revegetated with species from the White Box Yellow Box Blakley's Red Gum Endangered Ecological Community, and stock are excluded from the 200 hectares as shown in Figure 4.15 of the Environmental Impact Statement.