

# Development Consent

## Section 80 of the *Environmental Planning and Assessment Act 1979*

I, the Minister for Infrastructure and Planning, approve the development application referred to in schedule 1, subject to the conditions in schedules 2 to 5.

These conditions are required to:

- prevent, minimise, and/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.

Craig Knowles MP  
**Minister for Infrastructure and Planning**  
**Minister for Natural Resources**

SIGNED BY MINISTER KNOWLES 30 JUNE 2005  
Sydney 2005

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### SCHEDULE 1

Red type represents 22 August 2007 modification

Blue type represents 19 August 2008 modification

- Development Application:** DA 8-1-2005.
- Applicant:** Whitehaven Coal Mining Limited.
- Consent Authority:** Minister for Infrastructure and Planning.
- Land:** See Appendix 1.
- Proposed Development:** Open cut mining operations at the Whitehaven coal mine, which includes:
- completing the mining operations approved by the Minister on 10 October 2000 (DA 73-3-2000);
  - extending mining operations to the south of the approved mining pit;
  - relocating and operating the existing infrastructure complex at the mine about 900 metres to the south of its current location;
  - producing up to 1.25 million tonnes of run-of-mine coal a year;
  - transporting coal from the mine via public roads to the Whitehaven Siding coal handling and preparation plant;
  - extracting, stockpiling, and transporting gravel from the mine to local markets; and
  - rehabilitating the mine.
- State Significant Development:** The proposal is classified as State significant development under section 76A(7) of the *Environmental Planning and Assessment Act 1979* as it is coal mining-related development that is associated with the Minister's previous approval for the mine (DA 73-03-2000). Consequently, it satisfies the criteria in the Minister's declaration of 29 June 2001.
- 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:
- *Protection of the Environment Operations Act 1997*; and

- *Water Act 1912.*

*Notes:*

- *To find out when the 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.*

## TABLE OF CONTENTS

1.	DEFINITIONS	4
2.	ADMINISTRATIVE CONDITIONS	5
3.	SPECIFIC ENVIRONMENTAL CONDITIONS	6
	Air Quality	6
	Noise	7
	Meteorological Monitoring	9
	Blasting & Vibration	9
	Surface & Ground Water	10
	Flora & Fauna	11
	Cultural Heritage	12
	Traffic & Transport	12
	Visual Impact	12
	Greenhouse Gas Emissions	13
	Waste Management	13
	Bushfire Management	13
	Mine Closure Strategy	13
4.	ADDITIONAL PROCEDURES FOR AIR QUALITY & NOISE MANAGEMENT	14
5.	ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING & REPORTING	15
	Environmental Management Strategy	16
	Environmental Monitoring Program	16
	Annual Reporting	16
	Independent Environmental Audit	16
	Community Consultative Committee	17
	Access to Information	17
6.	APPENDIX 1: SCHEDULE OF LAND	18
7.	APPENDIX 2: INDEPENDENT DISPUTE RESOLUTION PROCESS	19

## DEFINITIONS

AEMR	Annual Environmental Management Report
ANZECC	Australian and New Zealand Environment Consultative Council
Applicant	Whitehaven Coal Mining Limited
BCA	Building Code of Australia
Canyon extension	The area depicted as the Canyon extension in Figure 2.1 of the SEE for the Canyon extension, dated December 2004
CCC	Community Consultative Committee
CHPP	Coal Handling and Preparation Plant
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
DECC	The Department of Environment and Climate Change
Department	The Department of Planning
Director-General	Director-General of Department of Planning, 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
GSC	Gunnedah Shire Council
GTA	General Term of Approval
Land	Land means the whole of a lot, or contiguous lots owned by the same landowner, in a current plan registered at the Land Titles Office at the date of this consent
Minister	Minister for Planning, or delegate
ML	Mining Lease
MOP	Mining Operations Plan
NSC	Narrabri Shire Council
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>
PCA	Principal Certifying Authority appointed under Section 109E of the EP&A 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
SEE	Statement of Environmental Effects
Site	Land to which the DA applies (ML 1464 & ML 1471)

## SCHEDULE 2 ADMINISTRATIVE CONDITIONS

### Obligation to Minimise Harm to the Environment

1. The Applicant shall implement all practicable measures to prevent and/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 No. 8-1-2005;
  - (b) *Environmental Impact Statement for the Stage 2 "Whitehaven" Open Cut Coal Mine Development near Boggabri, and Specialist Consultant Studies Compendium*, dated March 2000, and prepared by R.W. Corkery & Co. Pty. Limited;
  - (c) *Statement of Environmental Effects to Support an Application to Modify Consent*, dated 28 January 2003, and prepared by Whitehaven Coal Mining Limited;
  - (d) SEE titled *Proposed Canyon Extension to the Whitehaven Coal Mine*, dated December 2004, and prepared by Whitehaven Coal Mining Limited;
  - (e) **Modification Application DA 8-1-2005 MOD 1, dated 19 June 2007, and revised supporting information from Whitehaven Coal Limited, dated 18 July 2007; and**
  - (f) **Modification Application DA 8-1-2005 MOD 2, dated 9 July 2008, and "Statement of Environmental Effects for Minor Modifications to Canyon Mine"; and**
  - (g) **conditions of this consent.**
3. **If there is any inconsistency between the above documents, the later document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any 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.

### Surrender of Consent

5. Within 6 months of the date of this consent, the Applicant shall surrender all previous development consents for the Whitehaven mine to the satisfaction of the Director-General.

### Limits on Approval

6. This consent lapses on 7 September 2015.
7. The Applicant shall not extract more than 1.25 million tonnes of ROM coal a year from the Whitehaven mine.
8. The Applicant shall not transport more than 1.25 million tonnes of material (coal and gravel) a year from the Whitehaven mine by public road, without the written approval of the Director-General.

### Structural Adequacy

9. The Applicant shall ensure that all new buildings and structures, and any alterations and additions to existing buildings and structures are carried out in accordance with the relevant requirements of the BCA.

#### Notes:

- 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

10. 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

11. The Applicant shall ensure that all plant and equipment used at the site, or to transport material off-site, are:
  - (a) maintained in a proper and efficient condition; and
  - (b) operated in a proper and efficient manner.

**SCHEDULE 3  
SPECIFIC ENVIRONMENTAL CONDITIONS**

**AIR QUALITY**

**Impact Assessment Criteria**

1. The Applicant shall ensure that dust emissions generated by the development do not cause additional 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	90 µg/m <sup>3</sup>
Particulate matter < 10 µm (PM <sub>10</sub> )	Annual	30 µg/m <sup>3</sup>

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

Pollutant	Averaging period	Criterion
Particulate matter < 10 µm (PM <sub>10</sub> )	24 hour	50 µg/m <sup>3</sup>

*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 <sup>2</sup> /month	4 g/m <sup>2</sup> /month

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

*Note: Deposited dust is assessed as insoluble solids as defined by Standards Australia, 1991, AS 3580.10.1-1991: Methods for Sampling and Analysis of Ambient Air - Determination of Particulates - Deposited Matter - Gravimetric Method.*

**Land Acquisition Criteria**

2. 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 6-8 of schedule 4.

Pollutant	Averaging period	Criterion
Total suspended particulate (TSP) matter	Annual	90 µg/m <sup>3</sup>
Particulate matter < 10 µm (PM <sub>10</sub> )	Annual	30 µg/m <sup>3</sup>

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

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

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

<sup>1</sup>Based on the number of block 24 hour averages in an annual period.

<sup>2</sup>Excludes 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 DECC.

<sup>3</sup>Background PM<sub>10</sub> concentrations due to all other sources plus the incremental increase in PM<sub>10</sub> concentrations due to the mine alone.

<sup>4</sup>Incremental increase in PM<sub>10</sub> concentrations due to the mine alone.

Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level
Deposited dust	Annual	2 g/m <sup>2</sup> /month	4 g/m <sup>2</sup> /month

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

Note: Deposited dust is assessed as insoluble solids as defined by Standards Australia, 1991, AS 3580.10.1-1991: Methods for Sampling and Analysis of Ambient Air - Determination of Particulates - Deposited Matter - Gravimetric Method.

### <sup>1</sup>Operating 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 any visible air pollution generated by the development is assessed regularly, and that mining operations are relocated, modified, and/or stopped as required to minimise air quality impacts on privately-owned land;
  - (b) ensure that trucks entering and leaving the site carrying loads are covered at all times; and
  - (c) implement all practicable measures to minimise the off-site odour and fume emissions generated by any spontaneous combustion or blasting at the development,
 to the satisfaction of the Director-General.

### <sup>2</sup>Monitoring

5. Within 6 months of this consent, the Applicant shall prepare and implement a detailed Air Quality Monitoring Program in consultation with the DECC, and to the satisfaction of the Director-General. This program shall include an air quality monitoring protocol for evaluating compliance with the air quality impact assessment and land acquisition criteria in this consent.

Note: Initially, this program should concentrate on monitoring the dust deposition impacts of the development. However, in time, it may be expanded to include other pollutants.

### <sup>3</sup>NOISE

#### Noise Impact Assessment Criteria

6. The Applicant shall ensure that the noise generated by the development does not exceed the noise impact assessment criteria presented in Table 7 at any residence on, or on more than 25 percent of, any privately-owned land.

<sup>1</sup> Incorporates DEC GTA

<sup>2</sup> Incorporates DEC GTA

<sup>3</sup> Incorporates DEC GTA

7.

<b>Day/Evening/Night</b> <b>L<sub>Aeq</sub>(15 minute)</b>	<b>Night</b> <b>L<sub>A1</sub>(1 minute)</b>
35	45

Table 7: Noise Impact Assessment Criteria dB(A)

Notes:

- 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<sub>Aeq</sub>(15 minute) noise limits in the above table, where it can be demonstrated that direct measurement of noise from the development is impractical, the DECC 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<sub>A1</sub>(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.

### Land Acquisition Criteria

8. If the noise generated by the development exceeds the criteria in Table 8 at any residence on, or on more than 25 percent of any privately-owned land, the Applicant shall acquire the land in accordance with the procedures in conditions 6-8 of schedule 4.

<b>Day/Evening/Night</b> <b>L<sub>Aeq</sub>(15 minute)</b>
40

Table 8: Land Acquisition Criteria dB(A)

Note: Noise generated by the development is to be measured in accordance with the notes presented below Table 7.

### Operating Hours

9. The Applicant:
- shall carry out the development at the site between 7 am to 10 pm Monday to Saturday, excluding public holidays;
  - may undertake overburden and interburden removal and emplacement operations below natural ground level, and the dust suppression activities associated with these operations, between 7am and midnight, Monday to Saturday and midnight and 2 am, Tuesday to Saturday;
  - may undertake highwall mining operations at any time, excluding public holidays; and
  - shall only transport coal or gravel on public roads between 7 am and 10pm Monday to Saturday, excluding public holidays.

Note: Operating hours do not apply to blasting (see conditions 14 & 15)

### Operating Conditions

10. The Applicant shall ensure that all reversing alarms fitted to vehicles on the site are of a mid-high frequency broadband type.

### Monitoring

10. Within 6 months of this consent, the Applicant shall prepare a Noise Monitoring Program for the development in consultation with the DECC, and to the satisfaction of the Director-General. This program shall include a noise monitoring protocol for evaluating compliance with the noise impact assessment and land acquisition criteria in this consent.

## METEOROLOGICAL MONITORING

11. Within 6 months of this consent, 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 DECC and the Director-General.

## BLASTING & VIBRATION

### Airblast Overpressure Limits

12. The Applicant shall ensure that the airblast overpressure level from blasting at the development does not exceed the criteria in Table 9 at any residence on privately-owned land.

Airblast overpressure level (dB(Lin Peak))	Allowable exceedance
115	5% of the total number of blasts in a 12 month period
120	0%

Table 9: Airblast Overpressure Impact Assessment Criteria

Note: The overpressure values in Table 9 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

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

Peak particle velocity (mm/s)	Allowable exceedance
5	5% of the total number of blasts in a 12 month period
10	0%

Table 10: Ground Vibration Impact Assessment Criteria

### Blasting Hours

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

### Blasting Frequency

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

### Monitoring

16. Within 6 months of this consent, the Applicant shall prepare and implement a detailed Blasting Monitoring Program for the development in consultation with the DECC, and to the satisfaction of the Director-General.

### Public Notice

17. During the life of the development, the Applicant shall:
- operate a blasting notification system agreed to by the Director-General, to provide the public with up-to-date information on blasting operations at the development; and
  - notify the landowner/occupier of any privately-owned land within 4 km of the development about this system on an annual basis.

## Property Investigations

18. If any landowner within a 2 km of the development, or any other landowner nominated by the Director-General, claims that his/her property, including infrastructure such as water supply or underground irrigation mains, has been damaged as a result of blasting at the development, the Applicant shall within 3 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).

## <sup>4</sup>SURFACE & GROUND WATER

### Discharge Limits

19. Except as may be expressly provided by a DECC Licence, the Applicant shall ensure that the discharges from any licensed discharge point comply with the limits in Table 11.

Pollutant	Units of measure	50 percentile concentration limit	90 percentile concentration limit	100 percentile concentration limit
pH				6.5 ≤ pH ≤ 8.5
Total Suspended Solids	mg/L	20	35	50
Grease & Oil	mg/L			10

Table 11: Discharge Limits

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

### Site Water Balance

20. The Applicant shall:
- prepare a detailed site water balance for all the development site;
  - measure water use on site;
  - review the site water balance for the development annually; and
  - report the results of this review in the AEMR, to the satisfaction of the Director-General.

### Erosion and Sediment Control

21. The Applicant shall implement a range of erosion and sediment controls at the site, in general accordance with the requirements of the Department of Housing's *Managing Urban Stormwater: Soils and Construction* manual, to minimise erosion and the discharge of sediment from the site.

### Surface Water Monitoring

22. The Applicant shall monitor:
- the volume and quality of water discharged from the site; and
  - report the results of this monitoring in the AEMR.

### Groundwater Monitoring

23. The Applicant shall regularly monitor:
- groundwater levels and quality at bores and piezometers which are representative of the areas that are likely to be impacted within and around the development;

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<sup>4</sup> Incorporates DEC GTA

- (b) impacts of groundwater movement from the final void of the Canyon extension on the adjacent groundwater and surface water resources; and
- (c) post-mining watertable levels and water quality.

### **Water Management Plan**

24. Within 6 months of this consent, the Applicant shall prepare and implement a Water Management Plan for the mine, to the satisfaction of the Director-General. This plan must include:
- (a) the site water balance;
  - (b) an Erosion and Sediment Control Plan;
  - (c) a Groundwater Monitoring Program;
  - (d) a Surface and Groundwater Response Plan to address any potential adverse impacts associated with the development; and
  - (e) provision for a review of collected data and monitoring requirements 5 years after the cessation of mining, or as otherwise agreed by the Director-General.
- 24A. Prior to 30 November 2008, the Applicant shall review, and subsequently implement any revision of the mine's Site Water Management Plan required by condition 24, in consultation with DWE and DECC and to the satisfaction of the Director-General.

### **Final Void Management**

25. At least 6 months before the cessation of mining, the Applicant shall prepare and implement a final Void Management Plan for the site, in consultation with the DPI, and to the satisfaction of the Director-General. This plan must:
- (a) investigate options for the future use of the final void;
  - (b) assess the potential interactions between the final void and the adjacent groundwater and surface water resources; and
  - (c) describe what actions and measures would be implemented to:
    - minimise any potential adverse impacts with the final void; and
    - manage and monitor the potential impacts of the final void over time.

### **FAUNA & FLORA**

#### **Offset Strategy**

26. The Applicant shall implement the offset strategy described in section 2.4.8 and depicted in Figure 2.4 of the SEE for the proposed Canyon extension, or a refined version of this offset strategy that has been approved by the Director-General, to the satisfaction of the Director-General.
- 26A. Prior to 30 June 2008, the Applicant shall, in addition to the measures described in condition 26, identify and implement a vegetation offset equivalent to 30 hectares of Bimble Box/Pilliga Grey Box vegetation community, in consultation with the DECC and to the satisfaction of the Director-General.
27. Within 12 months of this consent, the Applicant shall implement suitable arrangements to provide long-term security for the offset, to the satisfaction of the Director-General.

#### **Flora and Fauna Management Plan**

28. Within 6 months of this consent, the Applicant shall prepare and implement a detailed Flora and Fauna Management Plan for the site, to the satisfaction of the Director-General. This plan must include:
- (a) a description of the offset strategy in broad terms, including its objectives and its relationship to the rehabilitation of the mine over time;
  - (b) completion criteria for the offset strategy;
  - (c) a description of what actions and measures will be implemented over the next 3 years;
  - (d) a flora and fauna monitoring program that is based on sound statistical principles; and
  - (e) 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 the local area;
    - control weeds and feral pests (particularly fox control); and
    - control access to the offset area.

#### **Review and Reporting**

29. The Applicant shall:

- (a) review the performance of the offset strategy and Flora and Fauna Management Plan annually;  
and
- (b) report on this review in the AEMR;  
to the satisfaction of the Director-General.

## **Audit**

30. At least 6 months prior to the cessation of mining, unless the Director-General directs otherwise, the Applicant shall commission, and pay the full cost of, an Independent Audit of the offset strategy. This audit shall:
- be conducted by a suitably qualified, experienced, and independent person whose appointment has been approved by the Director-General;
  - assess the performance of the offset strategy and Flora and Fauna Management Plan; and if necessary
  - recommend actions or measures to improve the performance of the offset strategy.
31. 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.

## **CULTURAL HERITAGE**

### **Archaeology and Cultural Heritage Management Plan**

32. Within 6 months of this consent, the Applicant shall review the approved Archaeology and Cultural Management Plan for the site in consultation with the Red Chief Local Aboriginal Land Council and DECC, and to the satisfaction of the Director-General.

## **TRAFFIC & TRANSPORT**

33. The Applicant shall ensure:
- coal from the mine is only transported along Hoads Lane, Blue Vale Road, and the Kamilaroi Highway to the Whitehaven Siding coal handling and preparation plant, unless an alternate route is approved by the Director-General;
  - trucks travelling to and from the mine do not exceed 40 kilometres per hour when the school bus is operating on Hoads Lane;
  - appropriate warning signs are in place advising of the turning movements of heavy vehicles at the intersection of the mine access road and Hoads Lane, to the satisfaction of NSC;
  - an investigation of road safety and traffic management is undertaken for the Kamilaroi Highway and junctions with Blue Vale and Whitehaven Siding Access Roads, within 6 months of this consent, to the satisfaction of the Roads and Traffic Authority; and
  - spillage from coal haulage vehicles is minimised and that sediment-laden runoff from roads is effectively managed to prevent harm to the environment.

### **Road Noise Management Plan**

34. Within 6 months of this consent, the Applicant shall review (and implement any approved changes to) the Road Noise Management Plan for traffic associated with the development, in consultation with NSC and GSC, and to the satisfaction of the Director-General.

### **Road Maintenance**

35. Within 6 months of this consent, the Applicant shall review (and implement any approved changes to) the road maintenance agreements between the Applicant and NSC and GSC for 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.

## **Monitoring**

36. The Applicant shall:
- keep records of the:
    - amount of gravel transported from the site each year;
    - amount of coal transported from the site each year;
    - destination of coal and gravel transported from the site each year; and
    - number of truck movements generated by the development; and
  - include these records in the AEMR.

## **VISUAL IMPACT**

37. The Applicant shall carry out the development in a way that prevents and/or minimises the visual impacts of the development, including the design and construction of infrastructure in a manner that minimises visual contrasts, to the satisfaction of the Director-General.

### **Lighting Emissions**

38. The Applicant shall:
- (a) take all practicable measures to mitigate off-site lighting impacts from the development; and
  - (b) 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**

39. The Applicant shall:
- (a) monitor the greenhouse gas emissions generated by the development;
  - (b) investigate ways to reduce greenhouse gas emissions generated by the development; and
  - (c) report on greenhouse gas monitoring and abatement measures in the AEMR, to the satisfaction of the Director-General.

### **WASTE MANAGEMENT**

40. The Applicant shall:
- (a) monitor the amount of waste generated by the development;
  - (b) investigate ways to minimise waste generated by the development;
  - (c) implement reasonable and feasible measures to minimise, reuse and/or recycle waste generated by the development; and
  - (d) report on waste management and minimisation in the AEMR, to the satisfaction of the Director-General.

### **BUSHFIRE MANAGEMENT**

41. The Applicant shall:
- (a) ensure that the development is suitably equipped to respond to any fires on-site; and
  - (b) assist the Rural Fire Service and emergency services as much as possible if there is a fire on-site during the development.
42. Within 6 months of the consent, the Applicant shall review (and implement any approved changes) the Bushfire Management Plan for the site, to the satisfaction of GSC and NSC.

### **MINE CLOSURE STRATEGY**

43. At least 6 months prior to the cessation of mining, the Applicant shall prepare a Mine Closure Strategy for the development, in consultation with the DPI, GSC and NSC, and to the satisfaction of the Director-General.

## **SCHEDULE 4 ADDITIONAL PROCEDURES FOR AIR QUALITY & NOISE MANAGEMENT**

### **Notification of Landowners**

1. If the results of the air quality and/or noise monitoring required in schedule 3 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 3, 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 3.

### **Independent Review**

2. If a landowner considers the development to be exceeding the air quality and/or noise criteria in schedule 3, 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 3, 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.
3. If the independent review determines that the development is complying with the relevant air quality and/or noise criteria in schedule 3, then the Applicant may discontinue the independent review with the approval of the Director-General.
  4. If the independent review determines that the development is not complying with the relevant air quality and/or noise criteria in schedule 3, 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 3, 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 3, 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 3, 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 6-8 below.

5. 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**

6. 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:
  - (a) 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;
- (b) 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
- (b) 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.

7. 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.
8. 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 5  
ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING AND REPORTING**

**ENVIRONMENTAL MANAGEMENT STRATEGY**

1. Within 6 months of this consent, 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; and
  - (e) describe the role, responsibility, authority, and accountability of all the key personnel, involved in environmental management of the development.
2. 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 Management Strategy to the satisfaction of the Director-General.

**ENVIRONMENTAL MONITORING PROGRAM**

3. Within 7 months of the date of this consent, 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 3 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, 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 and SEEs prepared for the development;
  - (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. By the end of September 2006, 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, or team, 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. The Applicant shall ensure that there is 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 GSC and NSC; and
    - 4 representatives from the local community,
 whose appointment has been approved by the Director-General in consultation with the GSC and NSC;
  - (b) be chaired by the representative from either GSC or NSC, as agreed by the Councils;
  - (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 GSC and NSC 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 30 of schedule 3 and condition 6 of schedule 5), or the completion of the AEMR (see condition 5 of schedule 5), the Applicant shall:
- (a) provide a copy of the approved document/s to NSC, GSC, relevant agencies and the CCC; and
  - (b) ensure that a copy of the relevant documents is made publicly available at NSC and GSC offices,
- to the satisfaction of the Director-General.
11. During the life of the development, the Applicant shall;
- (a) make the results of the monitoring required under this consent publicly available at NSC and GSC offices; and
  - (b) update these results on a regular basis,
- to the satisfaction of the Director-General.

**APPENDIX 1  
SCHEDULE OF LAND**

**Freehold Land**

<b>DESCRIPTION</b>	
Lot 138 DP 754926	Parish of Boggabri
Lot 2 DP 1038308	Parish of Boggabri
Lot 1 DP 1015797	Parish of Vickery

**Crown Land Descriptions**

**Council Roads**

Approximately 750 metres of Shire road or Road Reserve.

**Crown Roads**

Approximately 1.15 kilometres of Crown Road Reserve.

All land is within the County of Nandewar and Shire of Narrabri.

APPENDIX 2  
INDEPENDENT DISPUTE RESOLUTION PROCESS

