

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION PURSUANT TO SECTION 101

I, the Minister for Planning, pursuant to Section 101 of the Environmental Planning and Assessment Act 1979 ("the Act"), determine the development application ("the application") referred to in Schedule 1 by granting consent to the application subject to the conditions set out in Schedule 2.

The reasons for the imposition of the conditions are:

- (i) to minimise the adverse impact the development may cause through noise, visual amenity, air and water pollution;
- (ii) to provide for environmental monitoring and reporting;
- (iii) to set requirements for infrastructure provision.

Robert Webster
Minister for Planning

Signed by the Minister for Planning and dated 14 April 1993.

Schedule 1

Application number: DA 162/91

Made by: Novacoal Australia Pty Limited ("the Applicant")

To: Lithgow City Council ("the Council")

In respect of: Land described in Attachment "A"

For the following:

- (1) Construction and operation of an underground coal mine.
- (2) Construction and operation of pit top and rail facilities.
- (3) Modification to facilities at Wallerawang Colliery Siding.

NOTE:

- (1) To ascertain the date upon which the consent becomes effective, refer to section 101 (9) of the Act.
- (2) To ascertain the date upon which the consent is liable to lapse, refer to section 99 of the Act.

Blue type represents 7 December 1999 Modification (DA 162/91 MOD 1)

Red type represents 21 August 2009 Modification (DA 162/91 MOD 2)

Green type represents September 2014 Modification (DA162/91 MOD 3)

SCHEDULE 2

S91/2836/002

GENERAL

1. The Applicant shall carry out the development generally in accordance with the:
 - (i) Development application and accompanying Environmental Impact Statement, dated 18 October 1991 and prepared by Novacoal Australia Pty Limited;
 - (ii) EIS Addendum dated 5 October 1992;
 - (iii) Submissions by Novacoal to the Commission of Inquiry on the Underground Coal Mine proposed by Novacoal Australia Pty Ltd, Mounts Airly and Genowlan Area, Capertee Valley, City of Greater Lithgow;
 - (iv) Modification application and accompanying Statement of Environmental Effects titled *Airly Coal Mine Proposed Modifications to Development Consent*, dated April 1999;
 - (vi) Modification application and accompanying Environmental Assessment titled *Proposed Modification of DA 162/91 for the Construction of a 66kV Powerline and Associated Infrastructure – Airly Coal Mine*, dated July 2009;
 - (vii) Modification application and accompanying Environmental Assessment titled *Airly Mine Extension of Time*, dated June 2014;
 - (viii) Statements of Commitments dated August 2009 and July 2014 (see Appendix 1); and
 - (ix) Conditions of this consent.

If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, conditions of this consent shall prevail to the extent of any inconsistency.

DURATION

2. The Applicant may carry out coal mining, processing and transportation operations on the site until 31 October 2015.

Note: Conditions of this consent may require other activities such as monitoring, maintenance, rehabilitation of the site, etc to be carried out by the Applicant beyond this date.

STATUTORY REQUIREMENTS

3. The Applicant shall ensure that all statutory requirements including but not restricted to those set down by the *Local Government Act 1993*, *Protection of the Environment Operations Act 1997*, *Protection of the Environment Administration Act 1991* and all other relevant legislation, regulations, Australian Standards. Codes, guidelines and notices are fully met to the requirements and satisfaction of the Environment Protection Authority (EPA), Division of Resources and Energy (DRE), Office of Environment and Heritage (OEH), NSW Office of Water (NOW), Roads and Maritime Services (RMS) and Sydney Catchment Authority.
- 3A. The Applicant shall prepare revisions of any strategies, plans or programs required under this consent if directed to do so by the Secretary. Such revisions shall be prepared to the satisfaction of, and within a timeframe approved by, the Secretary.

REJECT EMPLACEMENT

4.
 - (a) The Applicant shall investigate the possibility of combining all reject in one emplacement area and report to the DRE.
 - (b) The Applicant shall provide a report of geotechnical investigations and engineering specifications for each emplacement area to the DRE, the Secretary, Department of Planning and Environment and the EPA.
 - (c) The Applicant shall implement the emplacement area scheme after approval by the DRE.

5. *(deleted)*

COAL TRANSPORTATION AND ROAD WORKS

6.
 - (a) The Applicant shall transport all coal from the full production mine by rail.
 - (b) In the event of no rail services due to an industrial dispute, there shall be no emergency haulage of coal from the mine without prior consent of Council and the Secretary.
 - (c) The Applicant shall be permitted to road haul a maximum of 500,000 tonnes of coal per annum from the trial mine for a maximum period of 2 years, commencing from the date of any resumption of road haulage of coal from the mine prior to July 2000 or

from July 1, 2000, whichever is the sooner, in compliance with the reasonable requirements of the Council and the RMS, and as agreed by the Secretary. The Applicant shall notify the Secretary and the Council of the commencement of road haulage at least 1 week prior to the commencement of haulage.

- (d) The Applicant shall prepare and implement a Road Haulage Management Plan in consultation with the Council, and the Special Monitoring Committee (refer condition 31). The Plan shall be submitted for the approval of the Secretary (or delegate) 28 days prior to any road haulage of coal authorised by condition 6(c), (or such other time as agreed in writing by the Secretary or delegate). The Plan shall address the following matters:
- procedures for the ongoing assessment of noise impacts on dwellings, as a result of the Applicant's operations;
 - procedures for the ongoing identification and implementation of reasonable noise mitigation works on dwellings adversely impacted by road haulage noise directly attributable to the applicant's operations and subject to the agreement of the Secretary;
 - reasonable contributions towards road improvements works required by the Secretary, as the direct result of the Applicant's road haulage of coal;
 - an agreed maximum aggregate cost to implement the reasonable requirements of the Road Haulage Management Plan. Such costs are to be solely attributable to the applicant's operations.
- (e) The Applicant shall prepare a truck management plan in consultation with the Council and the Special Monitoring Committee, for submission and approval by the Secretary 28 days prior to any road haulage of coal authorised by condition 6 (c) (or such other time as agreed in writing by the Secretary or delegate). The truck management plan shall include specific enforcement procedures. The applicant is to ensure strict compliance with the approved truck management plan, in accordance with the reasonable requirements of the Secretary.
- (f) The Applicant shall establish and publicise a 24 hour contact telephone number for complaints associated with the development.
- (g) The Applicant is to adhere to any reasonable requirements of the RMS in regard to haulage along the Castlereagh Highway.
- (h) The Applicant shall ensure that:
- haulage vehicles strictly conform with any 40km/h school zone speed limit on the haul route;
 - road haulage is programmed to minimise truck movements during the active times of the 40km/h school zone.
- (i) The maximum annual rate shall be calculated from the date of the commencement of road haulage. The Applicant shall submit statements every three (3) months regarding quantities and destination of product hauled by public road in that period to the Secretary commencing from the date of road haulage.
- (j) Within three (3) months of commencement of road haulage, and at three (3) monthly intervals thereafter, the Applicant shall provide a written report to the Secretary detailing measures undertaken during that period to pursue coal haulage options other than by road. The Applicant shall provide any reasonable additional information relevant to these reports and any other reasonable requirements for the reports, if requested to do so by the Secretary (or delegate).
- (k) Within three (3) months of the commencement of road haulage, and on an annual basis thereafter (or as agreed or requested by the Secretary the Applicant shall submit an independent audit of road haulage operations to the Secretary. The audit shall be conducted pursuant to ISO 14010 – Guidelines and General Principles for Environmental Auditing and ISO 14011 – Procedures for Environmental Auditing and any specifications of the Secretary. The audit shall;
- assess compliance with the conditions of road haulage;
 - review the effectiveness of noise mitigation works;
 - review the application of the truck management plan;
 - be carried out at the Applicant's expense;
 - be conducted by a duly qualified person or team acceptable to the Secretary.

GLEN DAVIS ROAD, CAPERTEE

7. (a) (i) The Applicant shall place with the Council a bank guarantee to the sum of \$200,000 at the commencement of the trial mine, to allow for the reconstruction of the Glen Davis Road, Capertee, from the intersection of the **Castlereagh Highway** to the mine entry to a standard capable of sustaining proposed traffic volumes following the completion of the trial mine. The Applicant shall engage at its own cost an independent Engineer to assess the condition of the road both prior to the lodgment of the bank guarantee and prior to any application for its release. The bank guarantee shall only be released if the Engineer's report establishes the road is in at least the same condition prior to road haulage.
- (ii) The Applicant shall pay to Council within 14 days of receipt Council invoices for road repairs or reconstruction as accompanied by an independent Engineer's report for the necessary work done.
- (iii) The fees for the mutually agreed independent Engineer's report shall be met by the Applicant.
- (b) The Applicant shall pay the Council a contribution of 5 cents per tonne per kilometre of product hauled by road under Council's Section 94 Contributions Plan for rural roads. The contribution shall relate to the section of Glen Davis Road from the colliery access to the intersection with the **Castlereagh Highway**. The amount shall be paid within one month of the end of each calendar year and be accompanied by appropriate documentation for verification. The Applicant shall apply to Council for approval to construct any weighbridge.
- (c) The Council, prior to undertaking reconstruction work, shall consult with the independent Engineer on the scope, timing and cost of reconstruction work to be done on the Glen Davis Road, Capertee from the intersection with the **Castlereagh Highway** to the mine entry.
- (d) The Applicant shall signpost the section of Glen Davis Road between SH 18 at Capertee and the entrance to the Airly Coal Project with 60 kmph speed limit sign for the period of the trial mine.
- (e) The Applicant shall linemark the section of road outlined in (d) above in accordance with the appropriate Australian Standard.
- (f) The Applicant shall provide all appropriate road signs and furnishings including guide posts and truck warning signs at the entrance of the Mine Access Road in accordance with the appropriate Australian Standard.
- (g) The Applicant following any approval of an access road and facilities at the eastern portal shall, as a minimum, upgrade the unsealed section of Glen Davis Road, Capertee, to the second mine entry to a standard such that:
- (i) Pavement shall be widened to 7.4 metres;
 - (ii) Road shoulder and table drains shall be upgraded;
 - (iii) A minimum of 100mm of compacted road base shall be placed;
 - (iv) The Applicant shall replace the existing timber bridge over Airly Creek with a structure capable of accommodating two lanes of traffic (not less than 8 metres wide) according to Council's requirements;
 - (v) The Applicant shall submit to Council copies of engineering plans and specifications for replacement of the structure referred to in (iv) above, for approval.
- (h) The Applicant shall comply with condition 7(g) prior to the use of the eastern portal entry.
- (i) The Applicant shall implement all required road improvements prior to road transport of coal.
- (j) The Applicant shall provide all appropriate road side signs and furnishings including guide posts to the appropriate **Austrroads** Guide and truck warning signs at the entrance of Torbane Road.

- (k) The Applicant following any approval of an access road and facilities at the eastern portal shall as a minimum, upgrade the unsealed section of Glen Davis Road, Capertee to the second mine entry to a standard such that:
 - (i) Pavement shall be widened to 7.4 metres;
 - (ii) Road shoulder and table drains shall be upgraded;
 - (iii) A minimum of 100mm of compacted road base shall be placed.
- (l) The Applicant shall comply with condition 7(j) prior to the use of the eastern portal entry.
- (m) The Applicant shall implement all required road improvements for the Glen Davis Road, Capertee prior to road transport of coal.

TORBANE ROAD

- 8. (a) Torbane Road from Glen Davis Road to the junction with the mine access road shall be upgraded as necessary by the Applicant prior to trial mine operations to a two-lane standard capable of sustaining:
 - (i) traffic associated with the trial mine; and
 - (ii) thereafter maintained to handle traffic associated with the full production mine. Such standard to be to the satisfaction of Council. This standard shall be maintained throughout the life of the mine.
- (b) Full design plans and specifications of such road reconstruction shall be submitted to and approved by Council prior to the commencement of work.

STATE HIGHWAY NO 18 (Castlereagh Highway)

- 9. (a) Left turn merge lane from Glen Davis Road to the Castlereagh Highway SH 18 shall be modified by the Applicant to accommodate the large vehicles associated with the development. The Applicant shall resurface, linemark and provide appropriate signage on the eastern shoulder of SH 18 between Glen Davis Road and the school crossing to remove any ambiguities between through traffic, decelerating traffic and parking. Appropriate signage shall also be located on the Glen Davis Road in the vicinity of the intersection.
- (b) Improved street lighting shall be provided by the Applicant at the intersection of Glen Davis Road/Castlereagh Highway intersection by replacing the existing low pressure tubular fluorescent lighting with high pressure mercury or sodium vapour lamps.
- 10. (a) All works associated with Conditions 7 and 8 to be at full cost to the Applicant and to the satisfaction of the Council.
- (b) All works associated with Condition 9 to be at full cost to the Applicant and to be agreed with the Council, RMS and Capertee Progress Association.

INFRASTRUCTURE PROVISION

- 11. (a) The Applicant shall negotiate with and submit to Council a contribution pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979, in accordance with Council's Infrastructure Plan for Coal Related Developments as made necessary by the impact of the development. The time of which contributions are made and the use of the payments are to be negotiated and agreed with Council.
- (b) The Applicant shall take such steps as Council may reasonably require to ensure that the construction of the mine does not adversely impact on the availability of rental housing in the district.
- (c) The Applicant shall undertake further discussions with Council regarding the possibility of establishing joint user facilities for coal transportation to Mt Piper Power Station.

ENVIRONMENTAL PROTECTION ZONES

- 12. (a) The Applicant shall ensure that all external high cliffs and rock formations known as 'pagodas' and 'beehives' located in Environmental Protection Zones as designated in Plan No ACP1 (such plan being part of this consent) are adequately protected so as to experience not greater than negligible structural or visual impact caused by mining.

High is defined as 20m or more change in elevation in any section with a slope greater than 75 degrees.

- (b) The Applicant shall adopt such practices and techniques as will minimize disturbance occurring to the 'internal' high cliffs and 'pagodas' and 'beehives' within the mining area not included in the protection zones referred to in (a) above.

SUBSIDENCE DAMAGE

13. The Applicant shall ensure that surface subsidence generated by the development does not exceed the criteria listed in Table 1.

Table 1: Subsidence Impact Assessment Criteria

Maximum Vertical Subsidence	Tilt	Horizontal Strain (compressive and tensile)
125 mm	2.5 mm/m	2.0 mm/m

- 13A. The Applicant may carry out first workings on site provided that DRE is satisfied that the first workings are designed to remain long-term stable and non-subsiding, except insofar as they may be impacted by approved second workings.

Notes:

- The intent of this condition is not to require an additional approval for first workings, but to ensure that first workings are built to geotechnical and engineering standards sufficient to ensure long-term stability, in accordance with the subsidence criteria in Table 1 above.*
- First workings are defined as the extraction of coal by bord and pillar mining methods and from main headings and the like.*

- 13B. From 1 January 2015, the Applicant shall prepare and implement an Extraction Plan for second workings on site to the satisfaction of the Secretary. Each Extraction Plan must:

- be prepared by suitably qualified and experienced persons whose appointment has been endorsed by the Secretary;
- be approved by the Secretary before the Applicant carries out any of the second workings covered by the plan;
- include detailed plans of existing and proposed first and second workings and overlying surface features;
- include adequate consideration of mine roof and floor conditions, pillar width to height ratios, final pillar dimensions and long-term stability of pillars, which has been prepared in consultation with DRE;
- include detailed performance indicators for each of the performance criteria in Condition 12 and Table 1;
- describe the measures that would be implemented to ensure compliance with the performance criteria in Condition 12 and Table 1, and manage or remediate any impacts and/or environmental consequences;
- include a Public Safety Management Plan, which has been prepared in consultation with DRE, to ensure public safety in the mining area;
- incorporate measures to conserve and protect cliffs, watercourses, Stone Cottage and surface infrastructure including the telecommunications tower;
- include a subsidence monitoring program, which has been prepared in consultation with DRE and OEH; and
- include a program to collect sufficient baseline data for future Extraction Plans.

Notes:

- Second workings are defined as the extraction of coal by pillar extraction methods (including pillar splitting and pillar quartering) except where remnant pillars are designed to be long term stable and non-subsiding (ie leading to <20 mm subsidence at the surface).*
- Due to the sensitive and rugged terrain of the Mugii Murum-ban State Conservation Area, the Applicant may propose remote subsidence monitoring techniques.*

- 13C. The Applicant shall pay all reasonable costs incurred by the Department to engage suitably qualified, experienced and independent experts to review the adequacy of any aspect of an Extraction Plan.

HYDROLOGY

14. The Applicant shall arrange to restore or provide an alternative water supply should the water supply to residential properties be disturbed by mining induced subsidence.

TRIAL MINE

15. (a) The Applicant shall prior to construction prepare and submit to Council for its approval, a detailed site management plan for the proposed trial mine (the "Trial Mine Phase") operation, such plan to include the following:
- (i) a contour plan showing the location of site facilities including administration office ablution facilities, staff car parking areas and access road;
 - (ii) details of effluent disposal and water supply;
 - (iii) a plan showing location of coal stockpile areas.
- (b) Details of proposed pollution control measures including dust suppression and water quality controls.
- (c) Design and capacity of sediment control dams.
- (d) The time schedule for site preparation and for construction of the trial mine.
- (e) A rehabilitation plan for the pit top site following completion of the twelve (12) month trial mine period.
- (f) The Trial Mine Phase shall end upon the happening of the following trigger events:
- (i) at the end of the two (2) year period (refer Condition 6(c)), or
 - (ii) availability of rail unloading facilities at the power stations, whichever is the sooner.

WALLERAWANG SIDING INFRASTRUCTURE

16. The Applicant shall submit for Council approval the following information in relation to the upgrading and continued operation of Wallerawang Siding:
- (a) (i) A detailed contour plan to a suitable scale indicating location of existing and proposed coal stockpiles, loading facilities and other site management controls.
- (ii) Details of the location of the proposed balloon loop, associated coal handling facilities, and proposed landscaping of the site.
- (iii) A detailed landscaping plan, prepared by a landscape architect, incorporating the landscape details set out in the EIS.
- (b) Details of proposed soil management, erosion and sediment control, depth of cuts and angle of batter slopes and proposed stabilization measures.
- (c) Schedule of manning levels and required amenities at this Wallerawang Siding.
- (d) Details of all noise control measures which involve construction of structures, earth mounding or other site treatment.

CONVEYOR

17. (a) The Applicant shall prior to construction submit for Council approval:
- (i) A detailed contour plan showing the route of the proposed conveyor at Wallerawang Colliery Siding.
 - (ii) Full engineering, design and specifications for the construction of the conveyor prior to construction of works. Such details shall include the type of structure to be provided over the existing formation of the **Castlereagh Highway**, changes in levels deemed necessary by these works, any drainage works required and details of provision for traffic during construction and future access to the conveyors.
 - (iii) Details of proposed colour treatment for conveyor structure to minimize the degree of contrast with the existing visual environment.
 - (iv) Details of proposed landscaping treatment for the conveyor route.
- (b) The Applicant shall carry out all work in a manner to minimise the impact on the wetland communities of Neubecks Creek.
- (c) The Applicant shall carry out all measures proposed in the EIS to minimise soil erosion and sedimentation effects and as otherwise required by and to the satisfaction of the **NOW**.

EASTERN PORTAL AREA

18. (a) The Applicant shall prior to construction prepare and submit to Council for its approval a site management plan for the proposed eastern portal area. Such plan to include the following:
- (i) A contour plan detailing location of site facilities including administration office, ablution facilities and staff car parking areas and access roads.
 - (ii) Details of proposed effluent disposal and water supply.
 - (iii) Details of proposed pollution control measures including dust suppression and water quality controls.
 - (iv) Design and capacity of sediment control dams.
 - (v) A time schedule for site preparation and construction.
 - (vi) Details of all road construction work relevant to providing an access road from the Glen Davis Road to the eastern portal. Such detail shall include measures proposed to minimise any adverse drainage and erosion effects and methods proposed for protection of flora and fauna. The latter mentioned to be prepared in consultation with the [OEH](#).
- (b) Approval shall be obtained from the [OEH](#) for the removal or destruction of any trees to accommodate the proposed works.

ARCHAEOLOGY

19. (a) The Applicant shall meet the reasonable requirements of the [OEH](#) in relation to the assessment of Aboriginal archaeological heritage. The Applicant shall not remove or destroy any item of aboriginal heritage without first obtaining the consent of the [OEH](#).
- (b) The Applicant shall employ the services of a qualified archaeologist to make an assessment of the oil shale mining relics at Airly to clarify the likely impact on their historical values and their conservation significance, to the satisfaction of the Council. Upon receipt of the assessment the Applicant shall negotiate with the Council on necessary protection measures.

WATER MANAGEMENT

20. (a) The Applicant prior to construction and in consultation with the [NOW](#) shall produce a detailed water management plan for each component of the development detailing all proposed drainage diversion channels, collection pits and sedimentation dams to be constructed on site. Such plan shall incorporate the principles of Total Catchment Management.
- (b) The Applicant shall maintain a water supply to all identified users of the water resource, emanating from the mining lease application area, should such supply be interrupted or lost due to mining activity.
- (c) The Applicant shall obtain all licences from the [NOW](#) necessary for the establishment of necessary bore fields for the supply of water to the development.

NOISE

21. The Applicant shall implement, all noise attenuation measures outlined in the EIS to the satisfaction of the [EPA](#).

FIRE PROTECTION

22. The Applicant shall provide details to the Council of all proposed fire fighting facilities and measures to be installed on the site including water storage capacity, location of hydrants, etc.

EFFLUENT DISPOSAL AND WATER TREATMENT

23. (a) The Applicant shall provide details to the [EPA](#) of the design and capacity of the proposed effluent treatment and disposal. Approval of [EPA](#) and the satisfaction of the NSW Department of Health shall be obtained for the disposal method selected.
- (b) A septic tank application for the eastern portal site, complete with details of the pump out facilities and final disposal of effluent shall be submitted for approval by the Council and the information of the NSW Department of Health and [EPA](#).
- (c) Details of proposed method of water treatment shall be provided to the [EPA](#) and the Council.

INTERNAL ROADS BUILDINGS

23. The Applicant shall, prior to the commencement of construction of the proposed development, prepare, submit and obtain the approval of the Council for plans and specifications for all roads, car parking facilities and occupied buildings upon the site. All structural work shall be accompanied by structural engineering details certified by a practicing structural engineer.

INITIAL CONSTRUCTION WORKS

25. The Applicant shall within three months of site works commencement and prior to commencement of mining carry out all necessary site drainage and stability works. Further, the Applicant shall carry out site stabilization and temporary rehabilitation works at the pit top, upon direction by the **DRE** and in consultation with the **NOW**.

LANDSCAPING

26. The Applicant shall prepare and submit to the Council for its approval, within three months prior to commencement of construction:
- (a) detailed landscaping proposals covering all components of the mining area development. The Applicant shall employ a qualified landscape architect to assist in the landscape design;
 - (b) proposals to satisfy visual considerations of the structural components of the development incorporating paint colour and specification. Buildings and structures are to be designed so as to present a neat orderly appearance and to blend as far as possible with the surrounding landscape;
 - (c) a comprehensive Plan of Management which shall consist of detailed plans, specifications and staged work programs shall be undertaken whilst the colliery is in operation. Such plan shall include surveys of existing vegetation and site features, replacement and maintenance of all landscape and rehabilitation works, and replacement and maintenance of building materials and cladding.

SOIL MANAGEMENT, EROSION CONTROL AND SITE REHABILITATION

27. (a) The Applicant shall prior to construction of works other than those for the trial mine prepare and implement a soil management plan to the satisfaction of the **NOW**.
- (b) The Applicant shall prior to construction of works other than those for the trial mine prepare and implement to the satisfaction of the **OEH and NOW** a management plan directed to the control of erosion, sediment control, site revegetation and rehabilitation.
- (c) The Applicant shall consult with the **DRE** and the **OEH** concerning appropriate vegetative species selection, seedling establishment techniques, soil testing and fertilizer selection and application for all rehabilitation works.

APPROVALS TO COUNCIL

28. The Applicant shall furnish to the Council and the Special Monitoring Committee referred to in Condition No 31 copies of all environmental planning approvals from Government Departments and other Statutory authorities.

ENVIRONMENTAL MONITORING

29. The Applicant shall carry out all operating and monitoring as described and specified in the EIS and supplementary report thereto and/or as specified below:
- (a) The Applicant shall institute and implement a comprehensive monitoring program for air, water, and noise emissions to the respective requirements of the **EPA** and the **DRE**.
 - (b) The Applicant shall within twelve months of the date of this consent and to the satisfaction of the **OEH** undertake flora monitoring at selected locations within Mount Airly and Genowlan Mountain directed to ensuring long term protection of **rare** and endangered species.
 - (c) The Applicant shall twelve months prior to mining under any area, in consultation with the **OEH**, undertake a fauna survey to update the fauna survey and study presented by the Applicant to the Commission of Inquiry. Such updating shall include long term fauna monitoring and reporting to the satisfaction of the **OEH** and shall be reviewed at regular intervals.

- (d) The Applicant shall monitor the impact of noise and dust emissions from the development on the property of Ms C Parr (Portion 9) in accordance with EPA requirements.
- (e) The Applicant shall, six months prior to commencement of coal mining operations prepare and submit to the Council and the DRE a hydrological impact assessment of the area likely to be mined in the first twelve months (including site facilities areas). This assessment is to be updated each twelve months to include areas likely to be mined in subsequent twelve month periods. Such assessments shall identify and quantify existing rainfall run-off and hydrogeological circumstances and changes likely to be occasioned by subsidence impact and location of site facilities. The assessments shall be particularly concerned to examine the likely impacts of any change on existing streams, springs, wet areas and the Grotto precinct.
- (f) Two years prior to conducting second workings in any area, the Applicant shall establish a groundwater monitoring station in that area with the purpose of distinguishing existing flows and the variations in water flow caused by mine operations and subsidence and to allow assessment of the likely impact on flora and on areas such as the Grotto precinct.
- (g) Data emerging from such monitoring and an assessment set out in (e) and (f) above shall be included in the annual environmental management plan report referred to in Condition No 30 of this Consent.

30. (deleted)

31. (deleted)

ENVIRONMENTAL OFFICER

32. The Applicant shall employ or contract the services of an Environmental Officer whose qualifications are acceptable to the DRE for the proposed development to be responsible for ensuring that nominated environmental safeguards proposed for the development and as required by this Consent and other statutory approvals are enforced and monitored from the commencement of construction.

MINE CLOSURE

33. The Applicant shall, one month prior to a planned mine closure, notify the employees, the Council, the Secretary and the relevant authorities of any proposed mine closure and undertake all consultations and negotiations as are necessary in the circumstances.

DISPUTE RESOLUTION

34. Any dispute arising between any of the parties in respect of the above conditions shall be referred to the Minister for Planning for resolution.

ALTERNATIVE ACCESS

35. The Applicant shall provide alternative access to that presently available along Crown roads in the vicinity of the pit top works and balloon rail loop when and if required to the satisfaction of the NSW Trade and Investment Crown Lands and if necessary to public roads to the satisfaction of the Council.

ENVIRONMENTAL MANAGEMENT STRATEGY

36. The Applicant shall prepare and implement an Environmental Management Strategy for Airly Coal mine to the satisfaction of the Secretary. This strategy must:
- (a) be submitted to the Secretary for approval by 1 March 2015;
 - (b) provide the strategic framework for environmental management of the Airly Coal mine;
 - (c) identify the statutory approvals that apply to the development;
 - (d) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
 - (e) 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;

- respond to emergencies; and
- (f) include:
 - copies of any strategies, plans and programs approved under the conditions of this consent; and
 - a clear plan depicting all the monitoring required to be carried out under the conditions of this consent.

ADAPTIVE MANAGEMENT

37. The Applicant shall assess and manage development-related risks to ensure that there are no exceedances of the criteria and/or performance measures in this consent. Any exceedance of these criteria and/or performance measures constitutes a breach of this consent and may be subject to penalty or offence provisions under the EP&A Act or EP&A Regulation.

Where any exceedance of these criteria and/or performance measures has occurred, the Applicant must, at the earliest opportunity:

- (a) take all reasonable and feasible steps to ensure that the exceedance ceases and does not recur;
- (b) consider all reasonable and feasible options for remediation (where relevant) and submit a report to the Department describing those options and any preferred remediation measures or other course of action; and
- (c) implement remediation measures as directed by the Secretary, to the satisfaction of the Secretary.

MANAGEMENT PLAN REQUIREMENTS

38. The Applicant shall ensure that the management plans required under this consent are prepared in accordance with any relevant guidelines, and include:

- (a) detailed baseline data;
- (b) a description of:
 - the relevant statutory requirements (including any relevant approval, licence or lease conditions);
 - any relevant limits or performance measures/criteria;
 - the specific performance indicators that are proposed to be used to judge the performance of, or guide the implementation of, the development or any management measures;
- (c) a description of the measures that would be implemented to comply with the relevant statutory requirements, limits, or performance measures/criteria;
- (d) a program to monitor and report on the:
 - impacts and environmental performance of the development;
 - effectiveness of any management measures (see c above);
- (e) a contingency plan to manage any unpredicted impacts and their consequences;
- (f) a program to investigate and implement ways to improve the environmental performance of the development over time;
- (g) a protocol for managing and reporting any:
 - incidents;
 - complaints;
 - non-compliances with statutory requirements; and
 - exceedances of the impact assessment criteria and/or performance criteria; and
- (h) a protocol for periodic review of the plan.

Note: The Secretary may waive some of these requirements if they are unnecessary or unwarranted for particular management plans.

ANNUAL REVIEW

39. By the end of March each year, unless the Secretary agrees otherwise, the Applicant shall review the environmental performance of the development to the satisfaction of the Secretary. This review must:

- (a) describe the development (including any rehabilitation) that was carried out in the past financial year, and the development that is proposed to be carried out over the next year;
- (b) include a comprehensive review of the monitoring results and complaints records of the development over the past financial year, which includes a comparison of these results against the:
 - relevant statutory requirements, limits or performance measures/criteria;
 - requirements of any plan or program required under this consent;

- monitoring results of previous years; and
 - relevant predictions in the EA;
- (c) identify any non-compliance over the past financial year, and describe what actions were (or are being) taken to ensure compliance;
- (d) identify any trends in the monitoring data over the life of the development;
- (e) identify any discrepancies between the predicted and actual impacts of the development, and analyse the potential cause of any significant discrepancies; and
- (f) describe what measures will be implemented over the current financial year to improve the environmental performance of the development.

REVISION OF STRATEGIES, PLANS AND PROGRAMS

40. Within 3 months of:
- (a) the submission of an annual review under Condition 39 above;
 - (b) the submission of an incident report under Condition 42 below;
 - (c) the submission of an audit report under Condition 44 below; or
 - (d) any modification to the conditions of this consent (unless the conditions require otherwise),
- the Applicant shall review, and if necessary revise, the strategies, plans, and programs required under this consent to the satisfaction of the Secretary.

Where this review leads to revisions in any such document, then within 4 weeks of the review, unless the Secretary agrees otherwise, the revised document must be submitted to the Secretary for approval.

Note: This is to ensure the strategies, plans and programs are updated on a regular basis, and incorporate any recommended measures to improve the environmental performance of the development.

COMMUNITY CONSULTATIVE COMMITTEE

41. By 31 December 2014, the Applicant shall establish and consequently operate a Community Consultative Committee (CCC) for Airly Coal Mine to the satisfaction of the Secretary. This CCC must be operated in general accordance with the *Guidelines for Establishing and Operating Community Consultative Committees for Mining Developments* (Department of Planning, 2007, or its latest version).

Notes:

- *The CCC is an advisory committee. the Department and other relevant agencies are responsible for ensuring that the Applicant complies with this consent.*
- *In accordance with the guideline, the Committee should be comprised of an independent chair and appropriate representation from the Applicant, Council, recognised environmental groups and the local community.*

INCIDENT REPORTING

42. The Applicant shall immediately notify the Secretary and any other relevant agencies of any incident. Within 7 days of the date of the incident, the Applicant shall provide the Secretary and any relevant agencies with a detailed report on the incident, and such further reports as may be requested.

Notes: An incident includes a set of circumstances that:

- *causes or threatens to cause actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial harm to the environment; and/or*
- *breaches or exceeds the limits or performance measures/criteria in this consent.*

REGULAR REPORTING

43. The Applicant shall provide regular reporting on the environmental performance of the development on its website, in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent.

INDEPENDENT ENVIRONMENTAL AUDIT

44. By the 1 March 2015, and every 3 years thereafter, unless the Secretary 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 team of experts whose appointment has been endorsed by the Secretary;
- (b) include consultation with the relevant agencies;
- (c) assess the environmental performance of the development and assess whether it is complying with the requirements in this consent and any relevant EPL or Mining Lease (including any assessment, plan or program required under these approvals);
- (d) review the adequacy of strategies, plans or programs required under the abovementioned approvals; and
- (e) recommend appropriate measures or actions to improve the environmental performance of the development, and/or any assessment, plan or program required under the abovementioned approvals.

Note: This audit team must be led by a suitably qualified auditor and include experts in any field specified by the Secretary.

- 45. Within 6 weeks of the completion of this audit, unless the Secretary agrees otherwise, the Applicant shall submit a copy of the audit report to the Secretary, together with its response to any recommendations contained in the audit report.

ACCESS TO INFORMATION

- 46. Within 3 months of the date of this consent, the Applicant shall:
 - (a) make copies of the following publicly available on its website:
 - the EA;
 - current statutory approvals for the development;
 - approved strategies, plans and programs required under the conditions of this consent;
 - a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
 - a complaints register, which is to be updated monthly;
 - minutes of CCC meetings;
 - the annual reviews of the development (for the last 5 years, if applicable);
 - any independent environmental audit of the development, and the Applicant's response to the recommendations in any audit;
 - any other matter required by the Secretary; and
 - (b) keep this information up-to-date, to the satisfaction of the Secretary.

ATTACHMENT “A”

Airly Coal Project

The development application relates to the land as follows:

Airly

Portion 35; Parish of Morundurey, County of Roxburgh.

Portion (P) 59, P83, P87; P93, P146, Title Reference (TR) 158/722293; TR 159/722293; Parish of Airly, County of Roxburgh.

P46, P47, P55, P127, Camping and Water Reserve No 25523; Parish of Bandamora. County of Roxburgh.

Village of Airly: Section 1 Lot (L) 1, L2, L3, L4, L5; Section 2, Lot 4, Parish of Airly, County of Roxburgh.

Public Roads to Torbane. Crown subdivision roads excluded from portions 59, 86, 146 & 159, Parish of Airly and Portion 35, Parish of Morundurey.

Mining Titles: Authorisation No 232; Exploration Licence Application No 770; Exploration Licence Application No 888; Exploration Licence No 887; Mining Lease No 3; Mining Purposes Lease No 135; Parish of Airly, County of Roxburgh.

The attached map shows properties and the Crown land within the proposed coal lease boundary.

Airly Powerline

Portions 22, 44, 45 and 55 DP 755758. Crown Road Enclosure Permit 50283.

Wallerawang

Portions, 3, 10, 13, 14, 17, 18, 19, 20, 23, 29, 35, 58, 59, 65, 80, 290, 291, 316, 317. Crown subdivision roads separating Portions 18 and 19; 19 from 17, 10, 23, 13, 65, and 14; 17, 10 from 58, 316 and 317; 14 from 65; 14 from 3; 29 from 290, 291; Reserved Roads under **Land and Property Management Authority** control excluded from Portion 80, Enclosed road within Portion 59. Parish of Cox, County of Cook.

Part of Ben Bullen State Forest No. 434 (No.1 Extension). Crown land bounded by Portions 80, 18 and 59 (part lots 363, 364 and 365). Portions 290 and 291 embracing part of Ben Bullen State Forest No. 434 (No.1 Extension). Public road Capertee to Wallerawang (The **Castlereagh Highway**). Part Portion ML3.

APPENDIX 1

REVISED STATEMENT OF COMMITMENTS

6 August 2009

The following Statement of Commitments has been prepared, in accordance with the DGR's. This statement of commitments provides a summary of the proposed environmental management and mitigation measures for the proposed modification.

Aspect	Commitments/Mitigation measures
General	Construction of the 66kV powerline and associated infrastructure will be undertaken in accordance with the description provided in the Environmental Assessment dated June 2009
Flora and Fauna	- During the removal of any mature tree, all works will be undertaken under the supervision of an appropriately qualified person to manage the recovery of any native fauna that may be displaced as a result. A plan of management for the handling and care of any displaced fauna will be prepared prior to the commencement of clearing activities. - The proponent will continue to engage with the Local Land Services in regard to the revegetation works to be carried out within Airly Creek in the vicinity of the creek crossing including the removal of weed species such as willows. - Appropriate measures will be employed to ensure that machinery working within the site does not bring materials (soils etc.) onto the sites that may infect onsite vegetation with <i>Phytophthora cinnamomi</i>. - Ongoing weed management will be instituted and potential weed infestations will be appropriately treated to ensure surrounding communities are protected from invasive species. - At the completion of the powerline construction, all non-operational areas will be suitably rehabilitated.
Archaeology and Cultural Heritage	- The proponent and its employees, earthmoving contractors, subcontractors, machine operators and their representatives, working in the proposed modification area (162/91 MOD 2), will be instructed that in the event of any bone or stone artefacts, or discrete distributions of shell, or any object of cultural association, being unearthed during earthmoving, work will cease immediately in the area of the find, and the OEH will be notified. - The newly recorded artefact scatter, located outside the powerline easement, will be placed on the AHIMS and a site card lodged with the OEH.
Soil and Water	- During construction temporary erosion control measures will be implemented and maintained in accordance with the Blue Book (Volumes 1 and 2). - Revegetation works of all disturbed areas will be established as soon as possible following completion of construction works. - Steep batters will be stabilised as soon as practical following removal of the trees and rehabilitation. - No construction activities, including pole installation will be undertaken within 40m of the top bank of Airly Creek.
Visual Amenity	Clearing of vegetation will be contained to only that required for the works, with trees to be removed to be clearly marked.
Air Quality	Vehicle speed will be limited along unsealed sections of construction and maintenance tracks to 40km/hr.
Noise	Construction activities will be limited to daytime work hours (7am to 5pm) Monday to Friday. No construction activities will take place on weekends.

Waste Management	• Suitability qualified and licensed waste contractors will be used for appropriate waste disposal. • Effluent waste will be managed and collected from portable toilet facilities.
Disused Landing Ground	• Crosses will be placed every 200m along the landing ground. • The Department of Lands (Bathurst) will be contacted to request the landing ground be removed from future 1:25,000 topographic maps. Air Services Australia (Aeronautical Information Services) will also be contacted to request they remove the Aerodrome symbol from the World Aeronautical Chart at that location.

July 2014

Aspect	Commitments/Mitigation measures
Subsidence	• Airly Mine will satisfy the Division of Resources and Energy that the proposed first workings are designed to remain stable and non-subsiding in the long term. The design of pillars will comply with the requirements of the <i>Coal Mines Health and Safety Act 2002</i> and <i>Coal Mines Health and Safety Regulation 2006</i>. • Appropriate impact management and mitigation strategies will be developed for natural features within the Project Application Area as required. • Existing management plans will be reviewed and updated if necessary to take into consideration potential impacts from the Modification. • No pillar splitting or quartering with a distance defined by half the depth of cover from the privately owned Stone Cottage in Airly Gap, identified in Figure 6 of the MOD 3 EA report, will be undertaken.
Visual Amenity	• Tree plantings will be undertaken during the MOD 3 period to provide visual screening of the existing coal stockpile area.