

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (UNAMENDED)

**DETERMINATION OF DEVELOPMENT APPLICATION
PURSUANT TO SECTION 91**

I, the Minister for Urban Affairs and Planning, pursuant to Section 101 of the unamended 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 to:

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

Signed

Andrew Refshauge
Minister for Urban Affairs and Planning

Sydney,

22 December

1999

File No. N95/00147

Schedule 1

- Application made by:** Coal and Allied Operations Pty Ltd (ACN 075 612 216) (“the Applicant”).
- To:** Muswellbrook Shire Council (DA 92/97)
- In respect of:** Land described in Appendix “1”.
- For the following:** Construction and operation of an open cut coal mine, coal preparation plant, transport and rail loading facilities and associated facilities (“the Development”).
- 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.

APPENDIX 1

SCHEDULE OF LAND

Portion 13 DP 750926; Part Portion 12 DP 750926; Portions 73 and 74 DP 750926; Portion 28, 45 DP 750926 Lot 1 DP 313392; Portion 21, 268 and 36 DP 750926 Lots A and B DP 432713; Portions 41 and 72 Lot 1 and 2 DP 915913; Part Lot 19 DP 750926; Portion 42 DP 750926; Portions 15, 16, 26, 43, 71, 177 and Part 35 DP 750926; Lots 14 and 15 DP 2770 Portion 182 and 226; Lots 238, 239, 240 DP 750926; Lot 237 DP 750926; Lot 236 DP 750926; Portions 92, 184, 241 DP 750926; Portion 44, Part Portion 242 DP 750926; Permissive Occupancy 1961/18; Portions 38/39 DP 750926; Part Portions 93 and Lot A DP 174071, Lots 19 and 20 DP 112742; 196, 195, 190, 188, 224, 215, 220, 212, 213, 214, 216, 219, 217, 221, 151, 127, 128, 150, 149, 126, 122, 123, 124, 125 and Part 2 DP 750926 and Closed Roads DP 750926; Portions 147, 211 DP 750926; Portion 146 DP 750926; Portion 181 DP 750926; Portion 251 DP 750926; Lot 1 DP 634490; Lot 2 DP 634490; Lots 90, 91, 261, 262, 253, 254, 256, 257, 273 DP 750926; Lot 1 DP 791576; Lot 2 DP 791576; Lot 3 DP 791576; Lot 132 DP 558246; Part Lot 3 DP 750926; Portions 258, 260, 271 DP 750926; Portion 259 DP 750926; Portions 135, 199 and Part Portion 144 DP 750926, Lot B DP 174011, Lots 17 and 18 DP 112742; Lot 4 DP 801249 and Portions 143 and Part Portions 144 and 145 DP 760926; Portions 269 and 270 DP 750926; Portions 274, 275, 276, 278 and 279 DP 750926; Part Portion 3 DP 750926; Lot 16 DP 255048; Lot 21 DP 554140; Lot 22 DP 554140; Lot 1 DP 544039 Lot 2 DP 629491; Lot 25 Rosebrook Estate; Part Portion 3 DP 750926; Lot 27 DP 745895; Lot 3 DP 629491; Lot 1 DP 213293; Lot 29 DP 731706; Part Portion 3 DP 750926; Lot 1 DP 629491; Crown Reserve 156; Portions 6, 263, 264, 265 DP 750926; Lot 5 DP 801249; Lot 3 DP 801249; Lot 2 DP 801249; Lot 7 DP 821183; Part Portion of Lot 1/3 DP 998477; Part Portion of Lot 8 DP 236668; Part Portion of Lot 7 DP 236668; Part Portion 27; Portion 282 DP 750926; Lot 261 DP 561919; Vol 2802 Fol.28 (Part Portion 35); Lot 7 DP 749716; Lot 6 DP 749716; Lot 50 DP 809718; Lot 51 DP 809718; Lots 1 and 2 DP 706645; Part Portion of Lot 97 DP 750919; Closed and Public Roads within the Development Application Area.

SCHEDULE 2

MOUNT PLEASANT COAL MINE

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DEFINITIONS

AEMR - Annual Environmental Management Report

CCC - Community Consultative Committee

CPP - Coal Preparation Plant

DA - Development Application

DA area - Development Application area which includes the Mine site and rail loop and coal loader, as shown on Figure 66 of Volume 2 of the EIS

Director-General - Director-General of the Department of Urban Affairs and Planning

EIS - Environmental Impact Statement

EMR - Environmental Management Representative

LALC - Local Aboriginal Land Council

Minister - Minister for Urban Affairs and Planning

MOP - Mining Operations Plan

PM₁₀ - Fine particles of less than 10 microns

TSP - Total Suspended Particulates

WTC - Wonnarua Tribal Council

Government Authorities

Council - Muswellbrook Shire Council

DLWC - Department of Land and Water Conservation

DMR - Department of Mineral Resources

DUAP - Department of Urban Affairs and Planning

EPA - Environment Protection Authority

NPWS - National Parks and Wildlife Service

NSW Agriculture - New South Wales Agriculture

RAC - Rail Access Corporation

RTA - Roads and Traffic Authority

1. GENERAL

1.1 Adherence to terms of EIS, DA, , etc.

The Applicant shall carry out the development of the Mount Pleasant open cut coal mine generally in accordance with the Environmental Impact Statement (EIS) prepared by ERM Mitchell McCotter and certified by Robert McCotter on 5 September 1997, the Applicant's Primary Submission and Submission in Reply to the Commission of Inquiry, and any other relevant documentation submitted by the Applicant for the purposes of the determination of this DA, as may be modified by the conditions set out herein.

1.2 Period of Approval

1. Consent shall operate for a period of 21 years from the date of the granting of the development consent.
2. The date of commencement of construction works, mining and commencement of coal processing operations are to be notified to the Director-General and Muswellbrook Shire Council, at least four weeks prior to commencement of construction works, mining and coal processing operations respectively.
3. If at any time the Director-General is aware of environmental impacts from the proposal that pose serious environmental concerns due to the failure of existing environmental management measures to ameliorate the impacts, the Director-General may order the Applicant to cease the activities causing those impacts until those concerns have been addressed to the satisfaction of the Director-General.

1.3 Dispute Resolution

In the event that the Applicant and the Council, or a Government agency, other than the Department of Urban Affairs and Planning, cannot agree on the specifications or requirements applicable under this consent, other than for Condition 11.2 (relating to section 94 contributions), the matter shall be referred by either party to the Director-General or if not resolved within six months, to the Minister for Urban Affairs and Planning. The Minister's determination of the disagreement shall be final and binding on the parties.

1.4 Security Deposits and Bonds

Security deposits and bonds will be paid as required by DMR under mining lease approval conditions.

1.5 General Administrative Conditions

1. Compliance Report – pre-construction stage:
 - (a) At least one month prior to the commencement of construction (or within such period as otherwise agreed by the Director-General), the Applicant shall submit for the satisfaction of the Director-General, a Compliance Report detailing compliance with all the relevant conditions that apply prior to the commencement of construction.
2. Compliance Report – pre-operation stage:
 - (a) At least one month prior to the commencement of operation (or within such period as otherwise agreed by the Director-General), the Applicant shall submit for the satisfaction of the Director-General, a Compliance Report detailing compliance with all the relevant conditions that apply prior to the

commencement of operation.

3. The Applicant shall advise the Director-General and Council of the date of the granting of the Mining Lease.
4. The Applicant shall negotiate with Council dates of submission to Council of the various reports required under these conditions of consent.

2.

MINE MANAGEMENT

2.1 Mining Operations Plan (MOP)

1. Mining operations, including mining purposes, must be conducted in accordance with a Mining Operations Plan (MOP). The MOP shall be prepared to the satisfaction of DMR, prior to the commencement of mining. The MOP, together with environmental conditions of development consent and other approvals will form the basis for:-
 - (a) ongoing mining operations and environmental management; and
 - (b) ongoing monitoring of the project.
2. The MOP must be prepared in accordance with the guidelines of the Director-General of Mineral Resources current at the time of lodgement.
 3. The Plan must be lodged with the Director-General of Mineral Resources:
 - (a) prior to the commencement of operations;
 - (b) subsequently as appropriate prior to the expiry of any current MOP; and
 - (c) in accordance with any direction issued by the Director-General of Mineral Resources.
 4. The MOP must present a schedule of proposed mine development for a period of up to seven (7) years and contain diagrams and documentation which identify:
 - (a) area(s) proposed to be disturbed under the MOP;
 - (b) mining and rehabilitation methods to be used and their sequence;
 - (c) areas to be used for disposal of fine rejects/overburden;
 - (d) existing and proposed infrastructure;
 - (e) progressive rehabilitation schedules;
 - (f) areas of particular environmental sensitivity;
 - (g) water management systems (including erosion and sediment controls);
 - (h) proposed resource recovery; and
 - (i) where the mine will cease extraction during the term of the MOP, a closure plan including final rehabilitation objectives and methods; post mining landuse and vegetation; and management of, and options for, the use of the final voids.
 5. The DMR may within two (2) months of the lodgement of an MOP, require modification and relodgement.
6. If a requirement in accordance with sub-clause (5) is not issued within two months of the lodgement of an MOP, the lease holder may proceed with implementation of the MOP submitted subject to the lodgement of the required security deposit within the specified time.
7. A copy of the MOP (excluding commercial-in-confidence documentation) shall be forwarded to council and the Director-General within 14 days of acceptance by the DMR.

2.2

Waste

Prior to the commencement of construction works, including the Coal Preparation Plant (CPP), roads, rail line and loading facilities or earthworks, the Applicant shall prepare and implement a Waste Management Plan for the DA area to the satisfaction of the Director-General. The plan shall facilitate waste management on the site and ensure compliance with the Applicant's obligations under the Waste Minimisation and Management Act. The Applicant shall make copies of the Waste Management Plan available to Council and the CCC within fourteen days of approval by the Director-General.

2.3 Limits on Production or Hours of Operation

All heavy earth moving equipment shall not operate on overburden emplacement areas and the fines reject emplacement area, which are not shielded from residences (either by distance from residences or by intervening physical features or structures), and where such operations shall impact, between the hours of 10:00pm and 7:00am.

(Also refer to Condition 2.1, Mining Operations Plan).

3. LAND AND SITE ENVIRONMENTAL MANAGEMENT

3.1 Appointment of Environmental Officer

1. 'A suitably qualified Environmental Management Representative (EMR) shall be available during construction and mining activity at the site and be present on-site during any critical construction activities as defined in the Annual Environmental Management Plan (AEMP). The AEMP shall be approved by the Director-General prior to the commencement of construction. The EMR shall have responsibility for considering and advising on matters specified in the conditions of approval and compliance with such and facilitation of an induction and training programme for all persons involved with the construction activities. The following information shall be provided to the Director-General:

- (a) qualifications of the EMR;
- (b) role and responsibilities of the EMR; and
- (c) authority of the EMR including details of the Applicant's internal reporting structure. This shall include the authority to stop work immediately if an unacceptable impact on the environment is likely to occur or to require other reasonable steps to be taken to avoid or minimise any adverse impacts.

2. The Applicant shall notify the DMR, EPA, DLWC, NPWS, Council and the CCC (established under Condition 8.7) of the name and contact details of the EMR upon appointment and any changes to that appointment.

3.2 Environmental Management Plans

1. The Applicant shall prepare the following environmental management plans:

- Mining Operations Plan - Condition 2.1
- Waste Management Plan - Condition 2.2
- Archaeology and Cultural Management Plan - Condition 3.3
- Flora and Fauna Management Plan - Condition 3.4
- Erosion and Sediment Control Management Plan - Condition 3.5
- Soil Stripping Management Plan - Condition 3.5
- Final Void Management Plan - Condition 3.6
- Landscaping and Revegetation Management Plan - Condition 3.8
- Land Management Plan - Condition 3.10
- Water Management Plan - Condition 4.1
- Air Quality Management Plan - Condition 6.1
- Blast Management Plan - Condition 6.3
- Noise Management Plans - Condition 8.4

2. The management plans are to be revised or updated at least every five years, or as otherwise specified in these conditions, or directed by the Director-General, in consultation with the relevant government authorities. They will reflect changing environmental requirements or changes in technology or operational practices. Changes shall be made and approved in the same manner as the initial environmental management plan. The plans shall also be made publicly available at Council within two weeks of approval of the relevant government agency.

3.3

Heritage Assessment and Management

Aboriginal Heritage

1. The Applicant shall, prior to commencement of construction works:
 - (a) prepare an Archaeology and Cultural Management Plan to identify future salvage, excavation, monitoring and protection of any archaeological sites within the DA area prior to and during development, and to address cultural heritage issues. The plan shall be prepared to the satisfaction of the Director-General, in consultation with the Wonnarua Tribal Council and the NPWS addressing the NPWS requirements for the section 90 consent process under the National Parks and Wildlife Act 1974;
 - (b) engage a Cultural Heritage Officer in consultation with the Wonnarua Tribal Council and the NPWS, who shall be available on site, to be responsible for the collection of artefacts and archaeological material. The Cultural Heritage Officer shall be available during construction as required; and
 - (c) submit to and have approved by NPWS, a Consent to Destroy application under section 90 of the National Parks and Wildlife Act 1974 for Aboriginal archaeological sites proposed to be damaged or destroyed as a result of mining construction and operation.
2. If, during the course of construction, the Applicant becomes aware of any heritage or archaeological material, all work likely to affect the material shall cease immediately and the relevant authorities consulted about an appropriate course of action prior to recommencement of work. The relevant authorities may include NPWS, and the Wonnarua Tribal Council. Any necessary permits or consents shall be obtained and complied with prior to recommencement of work.
3. Prior to the commencement of any construction works within the DA area and prior to the lodgement of any application under section 90 of the National Parks and Wildlife Act 1974, the Applicant shall (unless otherwise determined by the Director-General) enter into negotiations with the NPWS and the Wonnarua Tribal Council to identify and reach an agreement on off-site conservation options of comparable biodiversity and archaeological values. The future ownership, management and acquisition, where relevant, of any suitable area identified shall be agreed between the relevant parties. If an agreement cannot be reached between the relevant parties, the matter shall be referred to the Director-General for determination. The decision of the Director-General shall be final.

European Heritage

4. The Applicant shall engage an appropriately qualified person to prepare an oral history of the DA area before local residents are dispersed. This will include an investigation of all buildings and sites within the DA area and the areas that will be affected by the mine. This will be carried out in consultation with a member of Muswellbrook and Upper Hunter Historical Society, who is to be allowed reasonable access to the Applicant's properties for the purpose of assessing European archaeological features. The report shall be made available to the

Muswellbrook and Upper Hunter Historical Society, Council and the Director-General.

3.4

Flora and Fauna Assessment and Management

1. Prior to the commencement of construction, the Applicant shall prepare and implement a Flora and Fauna Management Plan for the management of flora and fauna issues in the DA area during mining operations. The Plan shall be prepared by a suitably qualified expert in consultation with Council and to the satisfaction of the Director-General. The Applicant shall make copies of the Flora and Fauna Management Plan available to NPWS, Council and the Community Consultative Committee within fourteen (14) days of approval by the Director-General.
2. The Flora and Fauna Management Plan shall include, but not be limited to:
 - (a) strategies to adequately manage plant and animal communities within the DA area which will be undisturbed by mining operations;
 - (b) a programme for utilisation as animal habitat, some of the timber required to be cut down for mining purposes;
 - (c) strategies to manage the impact of surface water management and sediment control measures on flora and fauna, including the impact of heavy machinery;
 - (d) control of feral species; and
 - (e) weed management.
3. If threatened species are identified on the site during development, through construction or operation of the coal mine, the Applicant shall cease work immediately in the relevant location pending investigation and negotiation of amelioration measures. The Applicant shall engage a suitably qualified person to investigate, address the provisions of the Threatened Species Conservation Act 1995 and identify appropriate amelioration measures.

(Refer also to Condition 3.3(3) regarding the identification of potential off-site conservation options).

3.5

Prevention of Soil Erosion

The Applicant shall prepare the following plans prior to the commencement of construction, in consultation with DLWC and to the satisfaction of the Director-General:

1. An Erosion and Sediment Control Management Plan for the DA area which meets the requirements of the DLWC. The plan shall include, but not be limited to:
 - (a) details of temporary and permanent sediment and erosion control systems to be used during both mine construction and operation;
 - (b) a programme for reporting on the effectiveness of the sediment and erosion control systems and performance against objectives contained in the approved Erosion and Sediment Control Management Plan, and EIS; and
 - (c) details of the installation of sedimentation dams, erosion control and stormwater diversions, as required, to ensure the rail line and balloon loop do not become a source of potential water pollution by stormwater runoff likely to contaminate the Hunter River with coal dust, oil and other pollutants.
2. A Soil Stripping Management Plan for the DA area to the requirements of DLWC which shall include, but not be limited to:

- (a) details of the management of soil stockpiles; and
 - (b) a programme for reporting on the effectiveness of the soil stripping methods and performance against objectives contained in the soil stripping management plan.
3. The Applicant shall make copies of the Erosion and Sediment Control Management Plans and the Soil Stripping Management Plan available to DLWC, DUAP, Council and the Community Consultative Committee within fourteen (14) days of approval.

3.6

Site Rehabilitation Management

Rehabilitation

1. The Applicant shall carry out rehabilitation of all mine areas in accordance with the requirements of the Mining Operations Plan prepared under Condition 2.1 and any Mining Lease granted by the Minister for Mineral Resources.
2. Rehabilitation plans shall be updated and adjusted according to management advances over the area of the mining lease. The rehabilitation plans shall be available to the Council and the Community Consultative Committee for their comment. Rehabilitation plans shall include time frames for proposed rehabilitation of areas used for mining purposes.
3. The Applicant shall contribute to Muswellbrook Council the sum of \$10,000 being a contribution towards the establishment of the Synoptic Plan - Integrated Landscapes for Minesite Rehabilitation Hunter Coalfields identified under Action 6 of the Upper Hunter Cumulative Impact Study and Action Strategy. The Applicant shall contribute \$5,000 within one month of the date of this consent and shall contribute the remaining \$5,000 no later than at the date of the issuing of the Mining Lease.
4. Rehabilitation of mining areas is to be compatible with the Synoptic Plan - Integrated Landscapes for Minesite Rehabilitation Hunter Coalfields.

Final Void Management

5. The Applicant shall, by Year 5 of operations, prepare a Final Void Management Plan to the satisfaction of the Director-General, in consultation with the DMR, DLWC, and Council. The plan shall be reviewed and updated every five (5) years, or as otherwise agreed by the Director-General. The plan shall address, but not be limited to:
 - (a) an investigation of options for the future use of the final voids;
 - (b) a re-examination and validation of groundwater modelling of the potential effects on the local and regional groundwater;
 - (c) programmes for catchment management, including the types of fertilisers used in rehabilitation programmes to ensure that there is little residual risk of nutrient enrichment of final void water; and
 - (d) any licensing requirements under the Water Act.
6. The first Final Void Management Plan may be prepared as a conceptual plan of the void design. The conceptual plan shall be prepared in consultation with DLWC and submitted to DLWC for assessment within six months of preparation.

(Also refer to Conditions 2.1 regarding the mining operations plan and 4 regarding water management)

3.7

Visual Amenity and Landscaping

1. The Applicant shall, prior to commencement of construction works, or within such other period as the Council may require, submit for Council's approval a detailed Landscaping Management Plan prepared by a suitably qualified person. The plan shall include where appropriate, but not be limited to:
 - (a) provision for the establishment of trees and shrubs and/or the construction of mounding or bunding:
 - (i) along the access road to the mine site;
 - (ii) around the water storage dams and coal preparation plant;
 - (iii) at other agreed areas identified as necessary by Council including for the maintenance of satisfactory visual amenity,
 - (b) appropriate erosion control and sediment control practices for earthworks associated with the required landscaping.
 - (c) details of the visual appearance of all buildings, structures, facilities or works (including paint colours and specifications). Buildings and structures shall be designed and constructed and/or renovated so as to blend as far as possible with the surrounding landscape.
 - (d) details, specifications and staged work programmes to be undertaken, maintenance of all landscape works and maintenance of building materials and cladding.

3.8

Bushfire and other Fire Controls

The Applicant shall, prior to the commencement of construction works:

1. Provide adequate fire protection works on site. This shall include one fully equipped fire fighting unit and annual hazard reduction works. Particular attention shall be paid to boundaries of adjoining land holdings.
2. Make available to the Bush Fire Service and Emergency Service when required, water carts and trucks in cases of emergencies, such as bushfires.
3. Submit an annual report on fire management activities to the Muswellbrook Fire Management Committee.

3.9

Relocation of electrical transmission line

The Applicant shall, to the satisfaction of Energy Australia and at its own cost, or by agreement with relevant parties, undertake the relocation and/or construction of any electrical transmission lines including the 66kv power line, which may be required as a result of the proposed development. Such work shall be completed prior to any existing line being affected by mining activity from the Mount Pleasant mine.

3.10

Land Management

1. Prior to commencement of construction works, the Applicant shall prepare a Land Management Plan for all its land holdings within the DA area to provide for proper land management in consultation with DLWC, NSW Agriculture and Council and to the satisfaction of the Director-General. The plan shall include, but not be limited to:
 - (a) pastures and remnant vegetation management;
 - (b) eradication of vermin and noxious weeds as required by the Rural Lands Protection Authority and any other relevant authorities;
 - (c) control of weed infestation on stockpiled material;
 - (d) feral animal control;
 - (e) assessment of the potential for commercial harvesting of standing timber removed from the mine site.

2. The Plan shall be prepared by a technically qualified person(s) within six months of the date of this consent, or as otherwise agreed by the Director-General and updated annually. The Applicant shall make copies of the Land Management Plan available to Council and the Community Consultative Committee within fourteen days of completion.
3. Subject to any requirements of NSW Agriculture, the Applicant shall not decrease the agricultural potential of the land under its control, that is not being mined or rehabilitated.

4.

WATER MANAGEMENT

4.1

Water Management Plan

1. The Applicant shall prepare a Water Management Plan for the management of water impacts of the development to the satisfaction of the Director-General, in consultation with DLWC and Council. The Plan shall be prepared prior to the commencement of construction or road or earthworks and implemented as required. The Water Management Plan shall include, but not be limited to, the following matters:
 - (a) management of the impacts of the development on the quality and quantity of surface water and groundwater within and around the DA area, including water in dirty water dams and clean water diversion dams, including flooding impacts;
 - (b) a strategy to ensure that the quality and quantity of water in Sandy Creek is not significantly affected by the Mount Pleasant mining operation. The strategy shall be approved by DLWC;
 - (c) identification of any possible adverse effects on water supply sources of surrounding downstream land holders as a result of the mining operations, and strategies for the implementation of mitigation measures as necessary;
 - (d) management of the impacts of the development on the quality and quantity of groundwater within two (2) kilometres of the boundary of the DA area, with particular attention to mobilisation of salts and contingency plans for managing any adverse impacts;
 - (e) a programme for reporting on the effectiveness of the water management systems and performance against objectives contained in the approved site water management plan, and EIS;
 - (f) detailed calculations in regard to any works proposed within the flood plain. This calculation shall detail the effect of afflux within the 1 in 100 year flood interval for any properties upstream. A report is to be presented to Council and DLWC within twelve months of commencement of construction;
 - (g) development of a strategy for the decommissioning of water management structures, including dirty water dams and clean water diversion dams, and long term management of the final voids. The strategy for the final voids shall be prepared in accordance with Condition 3.6.
2. The Water Management Plan shall include a mechanism for dispute resolution by the Director-General of the Department of Urban Affairs and Planning where agreement cannot be reached between the Applicant and affected landholders relating to:
 - (a) maintenance of streamflow yield of catchments affected by mining activities;
 - (b) deepening and/or increased operational costs of bores where the water

table has been lowered by mining activities.

3. The Water Management Plan shall be reassessed during year five of operations and approved prior to the end of year five. Thereafter, the Plan shall be reassessed and approved at five-yearly intervals.
4. The Applicant shall not dispose of fine rejects to the southern catchment prior to revision of its plan in year 15, unless otherwise agreed by the Director-General. At this time the need for disposal of rejects to this catchment shall be evaluated and if agreed by EPA, DLWC and Council, may be included in the next plan. Details of compensation water flows to provide for maintenance of water yield for downstream users shall be agreed with DLWC.
5. The approved plan shall be made available to Council and the Community Consultative Committee within fourteen days of its approval.

4.2

Catchment Areas and Watercourses

1. The Applicant shall prepare a strategy for the release of water from on-site sedimentation storage dams to downstream watercourses when water quality goals meet agreed standards, as defined in the reference catchment monitoring programme as determined by DLWC.
2. The Applicant shall install bed control works, batter stabilisation structures, and re-entry flow dissipation fixtures as required by DLWC.

4.3

Water Supply

1. The Applicant shall not extract water for use on the site from unregulated stream flows unless provision is made to substitute extraction of regulated river flow, as specified in licences issued under Part 2 of the Water Act by DLWC.
2. The Applicant shall prepare a strategy for the release of water from on site storages to downstream water users. The Applicant shall identify affected land holders; affected water supply structures; and the quality of water in the catchment or reference catchment of downstream water courses. The strategy shall be reviewed every three years to DLWC's satisfaction, in consultation with Council.
3. Leases or private agreements shall be completed with the relevant landholders for the land required for pipeline infrastructure prior to commencement of water pipeline construction.

4.4

Disposal of Excess Water

1. The Applicant shall dispose of surplus water via the Hunter Salinity Trading Scheme (HSTS) in accordance with the requirements of the HSTS Rulebook and conditions attached to any licence issued by the EPA. The Applicant shall provide all monitoring data to EPA and DLWC on request, and shall supply reports of discharges, storage data and water quality monitoring undertaken to the Community Consultative Committee.
2. The Applicant shall ensure that all disposal waters discharged to the Hunter River under the terms of the Hunter Salinity Trading Scheme shall be restricted to flows contained within the banks of the watercourse leading to the Hunter River.
3. The Applicant shall develop a contingency arrangement for Mount Pleasant coal operations to dispose of excess saline water in a planned and managed manner, to ensure that the mine water management system is not exceeded, with a subsequent unmanaged discharge occurring.

5. HAZARDOUS MATERIALS AND FINES REJECTS MANAGEMENT

5.1 Overburden Emplacement and Management

A review of the fines emplacement area will take place three (3) years after the commencement of production. At the conclusion of a five (5) year period from commencement, the Company and Council shall re-examine the fines emplacement plan, evaluating improved technology and best practice with a view to retaining fines within the active mining areas. Review of the fines emplacement methods is to be undertaken in conjunction with the CCC and DLWC. This may include an independent review by consultants which shall be funded by the Applicant.

5.2 Domestic Waste

The Applicant shall dispose of all solid waste and putrescible matter from the site to the satisfaction of Council.

5.3 Sewage and Associated Waste Management

The Applicant shall install the site sewage treatment facility, and dispose of treated sewage and sullage to the satisfaction of Council.

6. AIR QUALITY, BLAST, NOISE AND LIGHT MANAGEMENT

6.1 Air Quality Management

1. The Applicant shall take all practical steps to manage the mine's operations so that there are no extra exceedances of the ambient air quality goals for total suspended particulates (TSP) of $90 \mu\text{g}/\text{m}^3$ (annual average) and the dust deposition goal of $4 \text{ grams}/\text{m}^2/\text{month}$ (annual average) when measured at any monitoring location specified in the Air Quality Management Plan under sub-clause 2.
2. The Applicant shall prepare and implement an Air Quality Management Plan containing strategies to manage and monitor the mine's contribution to TSP, dust deposition, PM_{10} and $\text{PM}_{2.5}$ in consultation with Council, and to the satisfaction of the Director-General, prior to the commencement of construction. The Applicant shall make copies of the Air Quality Management Plan available to the EPA, Council and the CCC within fourteen days of approval by the Director-General. The Air Quality Management Plan shall contain but not be limited to:

Source identification and control

- (a) identifying all potential sources of dust deposition, total suspended particulates (TSP), PM_{10} and $\text{PM}_{2.5}$ as a result of the Mount Pleasant mining activity, and detailing the remedial action to be taken or management systems to be employed, to minimise emissions of these pollutants from all sources within the mine including drills; disturbed areas; stockpile areas; all trafficable areas including haul roads, light vehicle access roads, the rail loading site and all unsealed roads on the site; rehabilitation of disturbed areas; and modify, where appropriate, out of pit operations;
- (b) providing a programme of research and development and the proposed method of initiation, for advanced controls and management of dust emissions, including fine particle generation (such as tyre and blade abrasion on road materials, overburden and coal, blast conditions and stockpiling, etc.) and the effectiveness of various controls (such as road surface type, watering of roads, application of chemicals, tyre conditions and speed, and blast design) and the implications of this for the various size fractions of dust;

Reactive Management System

- (c) providing details of the reactive management system intended to reduce the day-to-day impacts of dust and fine particles due to the mine's operation, including details of the real-time monitoring and modelling system to be used, the linkages to other similar sources in the area and a description of the operational and other measures to be taken to minimise regional impacts;
 - (d) providing a programme of research to validate and refine emission factors for TSP, dust deposition, PM₁₀ and PM_{2.5} used at the Mount Pleasant mine so that the future modelling of dust emitted by the operation can determine more accurately, the contribution of the development to ambient TSP, dust deposition, PM₁₀ and PM_{2.5} levels, off-site.
3. Sub-clauses (a) to (d) above shall be carried out in a manner which is consistent (with ongoing modifications if necessary) with the requirements of any regional air quality management plan approved by the Director-General or other regional air quality management initiative coordinated by the Director-General or other relevant NSW Government agency.
 4. The Applicant shall update the Air Quality Management Plan not less than every 5 years after the commencement of mining taking into account the results of air quality monitoring. The Applicant shall provide copies of the Air Quality Management Plan and provide annual progress reports on implementation to the Director-General, DMR, EPA, Council and the CCC.
 5. Subject to the acceptability of the design of the reactive management system specified in condition 2(c) and within 12 months of the commencement of operation of the mine, the Applicant shall install an integrated system of reactive controls. This may include operational measures, such as increasing preventative measures or the scheduling of certain operations to times of favourable meteorological conditions in order to minimise dust and PM₁₀ emissions. The system should include the following components:
 - (a) Real time ambient air quality monitoring of PM₁₀ and meteorological conditions around the mine and in Muswellbrook;
 - (b) A telemetry network to link real time monitoring stations with the Mount Pleasant mine control room;
 - (c) A predictive capacity and assessment protocol to trigger the reactive controls according to the relative risk of a high dust episode;
 - (d) A management system that ensures actions taken are logged and reported, assessed as to their effectiveness and the reactive system modified to improve the response;
 - (e) Collaboration with other mines in the area in regard to joint monitoring networks, joint reactive management arrangements and data sharing.

(Also refer to Condition 8.3 for Air Quality Monitoring).

6.2

Dust Acquisition

1. If a dwelling is identified in the EIS to be within the area of dust affectation as defined in the attached Schedule, the Applicant shall purchase the whole of the property if requested by the owner. The procedures for acquisition outlined in condition 11.1 shall be followed.
2. If a dwelling is not within the area of affectation as defined in sub-clause 1 above then following a dust complaint from the occupier of the dwelling or at other times as directed by the Director-General:
 - (a) independent monitoring of dust levels shall be undertaken at the dwelling;
and

- (b) where monitored dust levels exceed the criteria referred to in condition 6.1(1) as applying to that dwelling, the Applicant shall take one or more of the following actions:
 - (i) introduce additional controls, either on dust emission from individual sources on the site or on site operations or modify mine operations to ensure that the criteria in condition 6.1(1) are achieved;
 - (ii) enter into an agreement with the landowner to provide such other forms of benefit or amelioration as may be agreed between the parties as providing acceptable compensation for the dust levels experienced; or
 - (iii) acquire the dwelling and surrounding property under procedures set out in Condition 11.1.

6.3

Blast Management

1. The Applicant shall, prior to the commencement of mining operations, prepare a Blast Management Plan to the satisfaction of the Director-General. The Plan shall:
 - (a) detail strategies and procedures for ensuring compliance with relevant blasting guidelines for air blast and ground vibration;
 - (b) identify procedures to determine appropriate weather data through taking measurements as soon as practicable prior to blasting and from the data shall predict whether noise levels are likely to be increased above the levels expected under neutral meteorological conditions. The data shall be recorded by the Applicant as part of its monitoring data;
 - (c) identify a programme to monitor all blasts and record the over pressure and peak particle velocity at locations to be agreed by the EPA and DMR. These results are to be made available to the Community Consultative Committee;
 - (d) identify a procedure to consult with residents whose properties are adjacent to the development, to determine the most reasonable and appropriate blasting times for the development. The Applicant shall make available to adjoining landowners information regarding proposed blasting times on the infoline (condition 10.1(4)) two (2) weeks before the event.
2. The Applicant shall make available copies of the Blast Management Plan to the Director-General, EPA, DMR, Council and the Community Consultative Committee within fourteen days of approval by the Director-General.
3. The Applicant shall advise residents via the infoline within two (2) kilometres of the active mining area of future blasting events on a monthly basis, and of any changes to monthly programmes.
4. Blasting shall not take place within 500 metres of a public road while such road is open for traffic. If such blasting is required, then the road shall be closed for up to 10 to 15 minutes.
5. Roads shall not be closed for blasting purposes during the times that a school bus is in the vicinity, except in an emergency.
6. Before the commencement of mining and at any time during mining, upon the written request of the owner of any dwellings or underground irrigation mains located within two (2) kilometres of the areas subject to blasting, the Applicant shall arrange at its own cost, for the inspection by a qualified person agreed to

by both parties, to record the material condition of the dwelling and any mains on the property within fourteen (14) days of receipt of the request. The Applicant shall supply a copy of any inspection report, certified by the person who undertook the inspection, to the relevant property owner within seven (7) days of the receipt of the report.

7.
 - (a) Any damage caused by the Applicant's blasting to any dwelling, structure or irrigation mains and/or equipment shall be repaired or replaced by the Applicant to the satisfaction of the owner. The Applicant shall pay reasonable compensation, as agreed to with the owner, because of loss incurred by the owner in relation to crop loss/spoilage and regard to down time.
 - (b) In the event that the Applicant and owner cannot agree as to whether any damage to property or loss has occurred or on the amount of compensation or appropriate repair to, or replacement of, property either party may appoint a qualified person, agreed to by both parties who shall determine the matter. The Applicant shall pay for the reasonable cost of this determination. If the Applicant and owner cannot agree on an appropriate qualified person either party may apply to the Director-General to appoint an appropriate qualified person. The decision of the Director-General shall be final.
8. Blasting shall be restricted to Monday to Saturday between the hours of 9.00am and 5.00pm, except in emergencies. No blasting shall occur on Sundays or public holidays. Blasting outside of these hours shall be permissible only if agreed in writing by the EPA and Council.
9. Blasting shall avoid the occurrence of concurrent blasts with adjoining surface coal mine operations. Concurrent blasts shall not take place, except in emergencies.
10. The Applicant shall investigate alternative methods to blasting for extraction of coal and report to DMR each two (2) years from the commencement of mining.

6.4

Noise Control

1. For the purposes of determining noise levels under this consent, the noise levels shall be measured at the boundary of the property (or where the boundary of that property is more than 30 metres from a dwelling, then at 30 metres from the dwelling).

Noise Acquisition Levels

2. If a dwelling is identified in the EIS to be within the area of noise affectation as defined in the attached Schedule, the Applicant shall, within six months of receipt of a written request from the owners of a dwelling, purchase the whole of the property. The procedures for acquisition outlined in Condition 11.1 shall be followed.

The areas of affectation are those that experience the following noise levels or greater:

- (a) 35dB(A) L_{A10} under non-adverse conditions night-time in the rural areas;
- (b) 37dB(A) L_{A10} under non-adverse conditions night-time in the Muswellbrook urban areas; and
- (c) 40dB(A) L_{A10} under non-adverse conditions day-time in both the rural and Muswellbrook urban areas

Note: "Non-adverse" conditions means calm winds and in the absence of temperature inversions.

3. If a dwelling is not within the area of affectation defined in sub-clause 1 above, then following a noise complaint during either construction or operation from the occupier of the dwelling, or at other times as determined by the Director-General:
 - (a) Independent monitoring of noise levels shall be undertaken at the dwelling, funded by the Applicant;
 - (b) Where monitored noise levels exceed either of the two criteria specified in Table 6.4 below during either daytime or night-time, the Applicant shall take one or more of the following actions:
 - (i) Introduce additional controls, either on noise emission from individual sources on the site or on site operations or modify operations, to ensure that the criteria in Table 6.4 below are achieved;
 - (ii) With the agreement of the landowner, undertake noise control at the dwelling to achieve acceptable internal noise levels;
 - (iii) Enter into an agreement with the landowner or provide such other forms of benefit or amelioration as may be agreed between the parties as providing acceptable compensation for the noise levels experienced; or
 - (iv) Acquire the dwelling under the procedures set out in condition 11.1.

TABLE 6.4

NOISE LEVEL CRITERIA			
Location of Residence	Time	Non-Adverse	Adverse
Muswellbrook Urban Area	Day (0700-2200)	40dB(A) L _{A10}	45dB(A) L _{A10}
	Night (2200-0700)	37dB(A) L _{A10}	42dB(A) L _{A10}
Other Areas	Day (0700-2200)	40dB(A) L _{A10}	45dB(A) L _{A10}
	Night (2200-0700)	35dB(A) L _{A10}	40dB(A) L _{A10}

Note: “Adverse” weather conditions means the presence of winds up to 3 metres per second, and/or temperature inversions of up to 4 degrees C per 100 metres.

Noise Limits

4. As part of the Noise Management Plan(s) to be prepared prior to the commencement of construction (under condition 8.4), the Applicant shall identify the predicted noise levels for the various zones around the DA area. The Noise Management Plan’s predicted noise levels shall be generally consistent with those predicted in the EIS or the Applicant’s Primary Submission to the Commission of Inquiry. These zones to include: Location A representing the zone covering the Kayuga Village; Location B representing the zone covering the Racecourse Road area; Location C representing the zone covering Muswellbrook; Location D representing the zone covering South Muswellbrook; Location E (eg RJ Wingett property) representing the zone covering the area east of the mine; Location F (eg T O’Brien property) representing the zone covering the area north east of the mine; Location G (eg JB Moore property) representing the zone covering the area south west of the mine. It is emphasised that these zones are mutually exclusive.

5. In the event that a landowner or occupier considers that noise from the project at their dwelling is in excess of the noise levels depicted in the Noise Management Plan(s) as per above, and the Director-General, in consultation with the EPA is satisfied that an investigation is required, the Applicant shall:
 - (a) Consult with the landowner and occupants affected to determine their concerns;
 - (b) Make arrangements for appropriate noise investigations, to the satisfaction of the Director-General, to quantify the impact and determine the source of the effect;
 - (c) Modify the mining activity, in accordance with a noise reduction plan prepared as part of the Noise Management Plan(s) if exceedances are demonstrated to result from mine related activity; and
 - (d) Conduct follow-up investigations to the satisfaction of the Director-General, in consultation with the EPA.
6. If, after an opportunity to rectify the situation, continued complaints and monitoring confirm that the noise limits are being exceeded, but are less than the noise acquisition levels, the Applicant shall continue to negotiate with the landowner until an acceptable resolution is reached.

6.5

Light Emissions

The Applicant shall, prepare an engineering report on on-site flood-lighting impacts and vehicular lights from the operation of the mine. The report shall be submitted for Council's approval prior to the commencement of construction. The report shall identify:

- (a) all potential light sources and their impacts upon residences in the vicinity of the mine operations;
- (b) technical measures and work practices necessary to minimise the spillage of light from immediate areas to be illuminated, and to minimise the total night time glow from the operations.

(Refer also to condition 3.8, relating to visual amenity and landscaping)

7.

TRANSPORT AND UTILITIES

7.1

Rail Transport

1. All coal shall be transported from the site by rail, unless otherwise agreed by the Director-General and Council.
2. Prior to the construction of the Mount Pleasant rail loop and rail loader, the Applicant shall obtain the approval of Rail Access Corporation for a rail loop and rail loader to be constructed on the land as defined in the EIS and in accordance with the requirements of that authority and to the licence requirements of the EPA.
3. The Applicant shall enter into an agreement with the Minister for Mineral Resources, in consultation with the operators of the Bengalla Mine, so that if in the future the Bengalla mining operation is to extend further to the west, the Applicant shall undertake to relocate the Mount Pleasant rail loop. Any relocation may require a further approval.

7.2

Road Transport

1. The Applicant shall, as required by Council and/or the RTA:
 - (a) At its own expense construct a bridge to carry the Bengalla Link Road over the proposed Mount Pleasant rail loop, in liaison with the operators of the Bengalla Mine;
 - (b) prior to the closure of Castlerock Road, construct at its own expense, the Mount Pleasant Northern Link Road to Dorset Road;
 - (c) prior to the closure of Wybong Road, construct at its own expense, the Mount Pleasant Western Link Road, from the intersection of the Bengalla Link Road to the intersection of the Mount Pleasant Northern Link Road, generally in accordance with Council's Western Roads Strategy;
 - (d) undertake intersection improvements at the existing junction of Thomas Mitchell Drive and Denman Road that are required as a direct result of the Mount Pleasant mining operations, to ensure that the existing channelisation provides sufficient storage for the projected increase in right turning movements;
 - (e) should the following intersections be required, undertake construction works at:
 - (i) the intersection of the Western Link Road and access to the mine site,
 - (ii) the intersection of the Bengalla Link Road and the Western Link Road,
 - (iii) the intersection of Castlerock/Mount Pleasant Northern Link Road and the Western Link Road,
 - (iv) the intersection of the Mount Pleasant Northern Link Road and Kayuga Road.
2. The Applicant shall contribute an amount, determined by Council to the maintenance costs of the Wybong Road between the mine access and Kayuga Road (including the Rosebrook Bridge) for the period from commencement of construction and concluding with the commencement of the use of the Bengalla Link Road by the Applicant.
3. The Applicant shall contribute no more than 50 percent (as determined by Council and the RTA) of the annual road maintenance costs for the section of the Bengalla Mine Link Road within the 1:100 year flood level.
4. The Applicant shall, in accordance with its proportional usage, either upgrade to new condition or contribute to the extra maintenance of the following:
 - (a) The Bengalla Link Road, from the 1 in 100 flood level to the Mount Pleasant mine access road, following the initial construction phase of the Mount Pleasant mine; and
 - (b) The Mount Pleasant mine access road, should it become a dedicated public road and prior to dedication.

The decision of either upgrade or maintenance shall be mutually agreed between Council and the Applicant.

5. The Applicant shall ensure that as far as possible, the preferred mine access road route as described in the EIS is the only route used by employees and contractors travelling to the mine site from Muswellbrook.
6. The Applicant shall maintain signs and through the infoline established under Condition 10.1(4) give at least 24 hours notice of temporary road closures. The location and wording of the signs are to be approved by Council. A protocol is to be established, in consultation with the emergency service providers and Council, to permit the passage of emergency vehicles during road closures.

7. Should a construction road be proposed, the Applicant shall provide either an overpass or underpass across Wybong Road, or other means of crossing Wybong Road, to Council's satisfaction.

7.3

Provision of Utility Services

The Applicant shall consult with affected service authorities and make arrangements satisfactory to those authorities for the protection or relocation of utility services.

8.

MONITORING/ AUDITING

8.1

Meteorological

The Applicant shall continue to maintain and operate a meteorological station for the life of the mine (in accordance with the relevant Australian Standards and to the satisfaction of the EPA), unless otherwise agreed by the Director-General. The Applicant shall analyse and document the meteorological data on a monthly basis to adequately characterise the site, and shall use the data collected to assist the reactive management system required in sub-clause 2 of Condition 6.1.

8.2

Surface Water and Groundwater

1. The Applicant shall construct and locate:
 - (a) surface water monitoring positions in consultation with DLWC three months prior to the commencement of construction works; and
 - (b) groundwater monitoring positions in consultation with DLWC six months prior to the commencement of construction works. The monitoring sites selected must be of sufficient density to ensure early detection of any deterioration in groundwater quality. This should include monitoring groundwater quality below the fines emplacement and in the alluvial flats between the eastern emplacement area and the Hunter River where leachate mobilisation may result.
2. The Applicant shall prepare a detailed monitoring programme in respect of groundwater and surface water, including water in dirty water dams, and clean water diversion dams, in and around the DA area, during construction works, mine operations and post mine operations to the satisfaction of DLWC. The monitoring programme shall specify mitigation measures should groundwater monitoring demonstrate a significant impact on the depressurisation of the aquifers. It should also specify the length of time monitoring should continue.
3. The monitoring programme during construction works shall be prepared prior to commencement of construction. The monitoring programme during mine operation shall be prepared prior to commencement of mine operation. The monitoring programme relating to post mine operations shall be prepared by year 8 of mine operations.
4. The Applicant shall conduct a water quality monitoring programme in an undisturbed reference catchment as specified by DLWC. The Applicant shall prepare the monitoring programme prior to commencement of construction. The Applicant shall conduct such monitoring before and during the life of the mine. The reference catchment water quality monitoring programme shall be designed and conducted to the satisfaction of DLWC.
5. The results and interpretation of surface water and groundwater monitoring are to be provided by the Applicant in an approved form to the DLWC, EPA, NSW Agriculture, Council and the CCC on a quarterly basis during construction and the first 12 months of mining operations, and thereafter on a six monthly basis. The results are also to be contained and analysed in the Annual Environmental

Management Report (“AEMR”, Condition 9.2).

6. Contingency procedures must be developed to manage any impacts identified by monitoring that the management strategies have failed to predict or control. Remedial action will be required if monitoring results indicate that the agreed standards or performance indicator levels are not being achieved due to failure or ineffectiveness of the management strategies. Restoration action will be required when the remedial action fails, or monitoring results identify severe failure of management strategies to meet agreed standards. In these extreme cases, operations should cease and the affected area remediated to the satisfaction of DLWC. Performance and cut-off criteria for monitoring purposes (including both water quality and aquifer pressure levels) should be clearly outlined in the detailed monitoring programme. The procedure for setting triggers for cut-off criteria and developing response mechanisms is described in the document “*A guide for establishing a groundwater monitoring programme for mine sites within the Hunter Region*” prepared by DLWC.
7. At the end of each five year period from the commencement of mining the Applicant shall provide a report to the Director-General, DLWC, EPA, NSW Agriculture and Council which:
 - (a) presents the results of the monitoring programme;
 - (b) highlights any variances between the predicted impacts shown in the EIS and observed outcomes and provide an explanation of this variance;
 - (c) offers an interpretation of the results;
 - (d) provides revised groundwater inflow predictions; and
 - (e) suggests any proposed changes to the monitoring programme for the following five year period.

8.3

Air Quality and Dust

Air Quality Monitoring Plan

1. The Applicant shall, as part of the Air Quality Management Plan (Condition 6.1) provide the mine’s ambient air quality monitoring plan to determine air quality in the zone of affectation of the mine on an ongoing basis and to determine the specific impacts of the mine’s development and operation on air quality in the region.
2. The Applicant shall install, maintain and operate (in accordance with the relevant Australian Standard and to the satisfaction of the EPA), at least 12 months before the commencement of mining, the ambient air quality monitors for dust deposition (grams/m²/month, annual average), total suspended particulates (TSP) (µg/m³, annual average), PM₁₀ (µg/m³, 24-hour and annual averages) and PM_{2.5} (µg/m³, 24-hour and annual averages), specified in the Air Quality Management Plan.
3. The Applicant shall make provision for independent dust monitoring to be made available for those land owners outside the area of affectation who consider that dust levels from the mine at their residences are in exceedance of the relevant dust criteria (4g/m²/month, annual average).
4. Conditions 1 to 3 above shall be discharged in a manner which is consistent (with ongoing modifications if necessary) with the requirements of any regional air quality management initiative coordinated by the Director-General or other relevant NSW Government agency and to the requirements of the Director-General.
5. The Applicant shall participate, to the satisfaction of the Director-General, in regional air quality management initiatives, both by way of financial and infrastructure resources and obligations, in agreement with the Director-

General, and to comply with the outcome of regional air quality management initiatives. Commitments and obligations shall include PM₁₀ and PM_{2.5} monitoring and modelling. The Air Quality Management Plan (Condition 6.1) shall include provisions for reactive controls, including operational measures. This may include scheduling of certain operations to times of favourable meteorological conditions in order to minimise fine particulate concentrations, real time ambient monitoring of fine particles, coupled with meteorological monitoring and simultaneous predictive capacity. The Applicant shall comply with the reasonable requirements of the Director-General in this regard.

6. The Applicant shall provide to the Director-General, EPA, DMR and Council and the Community Consultative Committee, results and analysis of air quality monitoring, with a commentary on its implication for implementation of the Air Quality Management Plan, in the AEMR or as otherwise agreed by the Director-General.

(Also refer to Condition 6.1 regarding Air Quality Management)

8.4 Noise Investigations and Management

1. The Applicant shall, prior to construction, conduct noise investigations at six monthly intervals (unless otherwise agreed by the Director-General) to evaluate, assess and report the L_{A10 (15 minute)} noise emission levels of the mine under adverse weather conditions, except during rain and/or wind speeds greater than 3m/s. The Applicant shall outline the methodologies, including establishing the mine's operating configuration, determining survey intervals, weather conditions, seasonal variations, selecting variations, selecting locations, periods and times of measurements, the design of any noise modelling or other studies, including the means for determining the noise levels emitted by the mining operations.
2. The Applicant shall, prior to construction and commencement of mining operations on the site, develop a Noise Management Plan to the satisfaction of the Director-General, with particular attention to night-time noise (10:00pm to 7:00am). The Noise Management Plan shall:
 - (a) identify noise affected properties and the relevant noise limits consistent with the EIS and any subsequent submissions by the Applicant to the Commission of Inquiry;
 - (b) specify the procedures for a noise monitoring programme for the purpose of undertaking independent noise investigations as specified in Condition 6.4;
 - (c) identify a procedure to notify those property owners and occupiers within the areas of affectation established under Condition 6.4;
 - (d) establish a protocol for handling noise complaints that include recording, reporting and acting on complaints;
 - (e) record appropriate mechanisms for community consultation;
 - (f) record the mitigation measures to be employed on the site to limit noise emissions;
 - (g) specify measures to be taken to document any higher level impacts or patterns of temperature inversions, and detail actions to quantify and ameliorate impacts if they exceed the relevant criteria; and
 - (h) identify longer term strategies directed towards mitigating noise levels that exceed EPA target noise criteria.

3. The Noise Management Plan shall be reviewed and updated as necessary, and not less than annually. Such review shall address the day to day operational and five year strategic elements of the Plan.
4. The Applicant shall make copies of the Noise Management Plan available to the EPA, Council and the CCC within fourteen days of approval, or as otherwise agreed by the Director-General.
5. A summary of noise monitoring results shall be included in the AEMR.
6. The Applicant shall survey and investigate noise reduction measures from plant and equipment at the conclusion of the first 12 months of coal processing operations and set targets for noise reduction in the AEMR, taking into consideration valid noise complaints in the previous year. The Report shall also include remedial measures to achieve compliance with specified noise goals.
7. The Applicant shall arrange independent noise emission investigations as provided in Condition 11.1.

8.5 Control and Monitoring of Blasting

Overpressure

1. The overpressure level from blasting operations on the premises must not:
 - (a) exceed 115dB (linear peak) for more than 5% of the total number of blasts over a period of 12 months; and
 - (b) exceed 120dB (linear peak) at any time,when measured at any point that is located at least 3.5 metres from any building or structure at any nearby non-company owned residential property or other noise sensitive location such as a school or hospital.

Ground Vibration (ppv)

2. Ground vibration peak particle velocity (ppv) from the blasting operations on the premises must not:
 - (a) exceed 5 mm/s for more than 5% of the total number of blasts over a period of 12 months; and
 - (b) exceed 10 mm/s at any time,when measured at any point within the grounds of non-company owned noise sensitive locations and within 30 metres of any non-company owned residence or other noise sensitive location such as a school or hospital.
3. Ensure that air blast overpressure and vibration monitoring and control is generally carried out in accordance with the recommendations of Australian Standard AS-2187-1993 or its latest version and ANZECC Guidelines, including compliance with the guideline titled "*Technical Basis for Guidelines to Minimise Annoyance due to Blasting Overpressure and Vibration*" or its latest version.
4. Determine appropriate weather data by taking measurements as soon as practicable prior to blasting and from the data shall predict whether air blast overpressure levels outside the project area are likely to be increased above the levels expected under adverse meteorological conditions. The data shall be recorded by the Applicant as part of its monitoring data.
5. Monitoring of vibration and blast overpressure and control is to be carried out in accordance with the recommendations of Australian Standard AS-2187-1993,

or the latest relevant standard, and ANZECC Guidelines.

8.6

Fauna and Flora Monitoring

The Applicant shall monitor the effectiveness of measures outlined in the Fauna and Flora Management Plan (condition 3.4). A summary of monitoring results shall be included in the AEMR.

8.7

Cultural Heritage Monitoring

The Applicant shall monitor the effectiveness of measures outlined in the Archaeology and Cultural Management Plan (condition 3.3). A summary of monitoring results shall be included in the AEMR.

8.8

Community Consultative Committee

1. The Applicant shall:

- (a) Participate and co-operate in the establishment by Council of a Community Consultative Committee (CCC) comprising a representative of Council (chair), two (2) representatives of the Applicant including the EMR, and four (4) community representatives to monitor compliance with conditions of this consent and other matters relevant to the operation of the mine during the term of the consent. The Committee should meet six times a year or as otherwise agreed by the Committee. The first meeting shall be held prior to the commencement of construction works.
- (b) Representatives from relevant government authorities may be invited to attend meetings by the Chairperson. The Committee may make comments and recommendations about the implementation of the development and environmental management plans. The Applicant shall ensure that the Committee has access to the necessary plans for such purposes. The Applicant shall consider the recommendations and comments of the Committee and provide a response to the Committee and if required, to the Director-General.

2. The Applicant shall, and at its own expense:

- (a) nominate two (2) representatives to attend all meetings of the Committee.
- (b) provide to the Committee copies of the latest Annual Environmental Management Plan (condition 9.2), and latest water, noise, and air monitoring data, which includes interpretation and discussion by a suitably qualified person. The Committee may require independent assessment of the effectiveness of monitoring procedures.
- (c) promptly provide to the Committee such other information as the Chair of the Committee may reasonably request concerning the environmental performance of the development, the Applicant's response to complaints and status of acquisition where purchase has been requested by an owner.
- (d) provide access for site inspections by the Committee.
- (e) provide meeting facilities for the Committee, and take and distribute minutes of Committee meetings.

3. The Applicant shall establish a trust fund to be managed by the Chair of the Committee to facilitate the functioning of this Committee, and pay \$2000 per annum to the fund for the duration of coal processing operations. The annual payment shall be indexed according to the Consumer Price Index (CPI) at the time of payment. The first payment shall be made by the date of the first Committee meeting.

Third Party Monitoring/Auditing

1. Every three years until completion of mining, or as otherwise directed by the Director-General, the Applicant shall conduct an environmental audit of the mining and infrastructure areas of the development in accordance with ISO 14010 - Guidelines and General Principles for Environmental Auditing, and ISO 14011 – Procedures for Environmental Auditing (or the current versions), and in accordance with any specifications of the Director-General. Copies of the report shall be submitted to the Director-General who shall provide a copy to Council and the Community Consultative Committee.
2. The environmental audits shall be conducted by an independent person approved by the Director-General. The reports shall be made available to the Community Consultative Committee, the Director-General and Council.
3. The Applicant shall comply with any reasonable requests of the Director-General in respect to the implementation of any measures arising from the audit, within such time as the Director-General may advise. The Director-General may require additional audits.
4. The Director-General may, after considering any submission made by Council, the DMR, EPA and DLWC on the report, notify the Applicant of the Director-General's reasonable requirements with regard to any recommendations in the report. The Applicant shall comply with those reasonable requirements within such time as the Director-General may reasonably require.

9.**REPORTING****9.1****Reports on Operations**

The Applicant shall report on mine operations in accordance with the Mine Operations Plan (condition 2.1)

9.2

Annual Environmental Management Report (AEMR)

1. The Applicant shall, throughout the life of the mine and for a period of at least five years after the completion of coal processing operations, prepare and submit an Annual Environmental Management Report (AEMR) to the Director-General. The AEMR shall review the performance of the mine against the environmental management plans, the Mining Operations Plan, the conditions of this consent, and other licences and approvals relating to the mine. To enable ready comparison with EIS predictions, diagrams and tables, the report shall include, but not be limited to, the following matters:
 - (a) an annual review of the performance of the project against compliance with the conditions of this consent and statutory approvals;
 - (b) a review of the effectiveness of the environmental management of the mine in terms of EPA, DLWC, DMR, NPWS, NSW Agriculture and Council, requirements;
 - (c) results of all environmental monitoring required under this consent or other approvals, which includes interpretation and discussion by a suitably qualified person;
 - (d) a listing of any variations obtained to approvals applicable to the subject area during the previous year;
 - (e) the outcome of the water budget for the year and the quantity of water used from water storages;
 - (f) rehabilitation report;
 - (g) environmental management targets and strategies for the next year.
2. In preparing the AEMR, the Applicant shall:
 - (a) consult with the Director-General during preparation of each report for any additional requirements;
 - (b) comply with any requirements of the Director-General or other relevant government agency under this consent; and
3. The Applicant shall ensure that copies of the Annual Environmental Management Report are submitted to the Director-General, EPA, DLWC, DMR, NPWS, NSW Agriculture, Council and CCC, and be available for public information at the Council within 14 days of submission to the authorities.
4. The Applicant shall ensure that the first report is completed and submitted within twelve (12) months of this consent, or at a date determined by the Director-General in consultation with the DMR and annually thereafter.

9.3

Public Access to Environmental Reporting

The AEMR Report, minutes from the Community Consultative Committee meetings and results and interpretation of monitoring required by this consent shall be made available at the Muswellbrook Public Library within 14 days after the information is available for public information by the Applicant.

10.

CONSULTATION

10.1

Community Consultation

1. The Applicant at its own expense, shall commission a dedicated telephone hotline that is staffed 24 hours a day, 7 days a week, accessed by an employee of the Applicant responsible for acting immediately on environmental complaints as a result of mining operations. The hotline numbers are to be advertised in the local press. This hotline will receive complaints and enquiries from the community about dust, noise, vibration, blasting, road closures, gas emissions, lighting and any other perceived impact.

- (a) a register will be kept of each complaint received either by phone/fax or personally;
 - (b) the EMR, or a competent person appointed by the Applicant, shall investigate each complaint and accept responsibility for ensuring that any action deemed necessary is undertaken to satisfy such complaint;
 - (c) a written record shall be kept of each complaint received and the action taken to mitigate impact. A copy of the record shall be forwarded to the Council within seven (7) days of the end of each month and a copy will be made available to the members of the Community Consultative Committee prior to each meeting;
 - (d) the EMR shall prepare a written response with an explanation of the problem and the action taken for the information of the complainant;
2. The EMR shall be responsible for the operation of the hotline.
 3. A report of complaints received every six months throughout the life of the project shall be provided to the Director-General, Council, EPA, DMR and the Community Consultative Committee, or as otherwise directed by the Director-General. A summary of this report shall be included in the AEMR.
 4. The Applicant at its own expense, shall commission a dedicated telephone infoline to be provided 24 hours a day seven days a week. The infoline numbers are to be advertised in the local press. The infoline will provide information relating to the blasting schedules, road closures and relevant information relating to the mine's operation.

11.

APPLICANT'S OBLIGATIONS

11.1 Area of Affection – Land Acquisition (including resolution of disputes)

1.
 - (a) The owner of any property on which a dwelling is identified to be in the area of affection for noise and/or air quality established under Conditions 6.2.1 and/or 6.4.2, may at any time after the granting of development consent, request the Applicant to purchase the whole of that property. The Applicant shall purchase the property within six (6) months of the date of the request from the owner.
 - (b) If independent noise and/or dust investigations and monitoring confirm that a dwelling not identified to be in the area of affection is demonstrated to be affected by an exceedance of the noise and/or air quality criteria established under Condition 6.2.2 and/or Condition 6.4.3, then the Applicant shall purchase the affected property if requested to do so by the property owner as though it is a property dealt with under sub-clause 1(a) above.

2.

- (a) In respect of a request to purchase land arising under clause 1, the Applicant shall pay the owner of the property a fair and reasonable acquisition price which shall take into account and provide payment for:
- (i) a sum not less than the market value of the land at the time of this consent, as if the land was unaffected by the Mount Pleasant mine, the subject of this development consent, having regard to:
 - the existing use and permissible use of the land in accordance with the applicable environmental planning instruments at the date of the written request; and;
 - the presence of improvements on the land and/or any Council approved building or structure for which construction commenced prior to the date of this consent;
 - (ii) the owner's reasonable compensation for disturbance allowance and relocation costs within the Local Government Areas of Scone, Muswellbrook or within such other location as may be determined by the Director-General in exceptional circumstances;
 - (iii) the owner's reasonable costs for obtaining legal advice and other relevant expert advice for the purposes of determining the acquisition price of the land and the terms upon which it is to be acquired;

Notwithstanding any other Condition of this consent, the Applicant may, upon request of the owner, acquire any property affected by the project during the period of this consent on terms agreed to between the Applicant and the owner.

- (b) In the event that the Applicant and owner cannot agree upon the acquisition price of the property and/or the terms upon which it is to be acquired, within six (6) months of the date of a request from the owner to the Applicant to purchase the property, then:
- (i) either party may refer the matter to the Director-General who shall request the President for the time being of the Australian Institute of Valuers and Land Economists to appoint an independent valuer who shall, after consideration of any submissions from the owner and Applicant, determine a fair and reasonable acquisition price for the property and/or terms upon which it is to be acquired;
 - (ii) in the event of a dispute regarding outstanding matters that cannot be resolved, the independent valuer shall refer the matter to the Director-General, recommending the appointment of a qualified panel. The Director-General, if satisfied that there is need for a qualified panel, shall arrange for the constitution of the panel. The panel shall consist of:
 - (A) the appointed independent valuer;
 - (B) the Director-General, or her nominee; and/or
 - (C) the President of the Law Society of NSW or his nominee.

The independent valuer, upon receiving advice from the qualified panel shall determine a fair and reasonable acquisition price and/or the terms upon which the property is to be acquired.

- (c) 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 the determination referred to in subclauses (a) and (b).

- (d) Upon receipt of a determination pursuant to subclauses (a) and (b) herein, the Applicant shall, within fourteen days offer in writing to acquire the relevant property at a price not less than the acquisition price so determined. Should the Applicant's offer to acquire not be accepted by an owner within six (6) months of the date of such offer, the Applicant's obligations to purchase the property shall cease.
 - (e) In the event, by mutual agreement between the parties, that part only of the property is to be transferred to the Applicant, the Applicant agrees to pay all reasonable costs associated with obtaining Council approval to any plan of subdivision and registration of the plan at the Office of the Registrar-General.
 - (f) This clause does not apply to the holder of an authority under the Mining Act 1992.
3. In respect of a request to purchase any property from the holder of an authority under the Mining Act 1992 arising out of clause 1 the Applicant agrees to negotiate with the holder appropriate acquisition arrangements to the satisfaction of both parties.

11.2

Contributions to Council

The Applicant shall pay a financial contribution to the Council pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 in accordance with the requirements of its Section 94 Contributions Plan.

11.3

Cumulative Impact Assessment

- 1.
 - (a) In the event that the cumulative impact of dust or noise contributed by the operation of the Mount Pleasant development and other nearby coal mining activities, at residences in the vicinity of the mine, is in excess of the noise or dust criteria contained in these conditions of consent, the Applicant shall negotiate with the other mining companies appropriate arrangements to contribute to the amelioration of the impacts of the exceedances of dust emissions or noise.
 - (b) If such cumulative impacts cannot be satisfactorily ameliorated, then the Applicant shall contribute towards the acquisition of the subject affected properties, in proportion to the amount of dust or noise impact.
 - (c) The provisions of this condition specifically apply to cumulative impact existing associated with the operation of the Mount Pleasant development and future coal mining activities in the Muswellbrook area.
- 2. If agreement on appropriate contributions towards acquisition cannot be reached, then the Director-General may appoint an independent panel to resolve the matter. The membership of the independent panel shall be as determined by the Director-General. The independent panel shall determine the responsibilities of each of the mining companies. The decision of the independent panel shall be final and binding on all parties. The responsibilities of the mining companies and the landowner as described in Condition 11.1(2) will apply.

12.

FURTHER APPROVALS AND AGREEMENTS

- 1. The Applicant shall ensure that all statutory requirements including, but not restricted to those set down by the Local Government Act, 1993, Pollution Control Act, 1970, Clean Air Act, 1961, Clean Waters Act, 1970, Noise Control Act, 1975, Protection of the Environment Administration Act 1991, Protection of the Environment Operations Act 1997, National Parks and Wildlife Act 1974 and

all other relevant Legislation, Regulations, Australian Standards, Codes, Guidelines and Notices and to the requirements of Council, the EPA, DMR, NPWS, DLWC, NSW Agriculture, RAC, RTA and other relevant agencies are fully met.

2. The Applicant shall liaise with the Council to monitor local housing demand during the construction stage of the project, and in the event of shortage of rental accommodation as determined by Council, provide additional temporary accommodation facilities for use by its construction workforce.

Notes:

1. **This approval does not relieve the Applicant of the obligation to obtain any other approval under the Local Government Act 1993 as amended, the Ordinance made thereunder including approval of building plans, or any other Act.**
2. **Any acceptable levels relating to noise, dust deposition rates, air blast overpressure and vibration etc, contained in this consent are maximum levels. Other agencies, such as the EPA, may grant approvals/licences for certain aspects of the development, which may include consideration of matters such as noise levels.**

These regulatory processes generally occur after development consent is granted. Some licences (such as Pollution Control Licences) are renewable annually and may require emission levels that are more stringent than those contained in this consent. This may occur where an agency receives additional information indicating that the emission levels approved in the development consent, are not sufficiently stringent to protect social and/or natural environmental quality.

SCHEDULE TO CONDITIONS 6.2.1 AND 6.4.2

PROPOSED MOUNT PLEASANT OPEN CUT COAL MINE

PRIVATE PROPERTIES WITH DWELLINGS (OTHER THAN THOSE OWNED BY THE APPLICANT OR OTHER COAL MINES) IDENTIFIED AS LOCATED IN THE AREAS OF AFFECTATION FOR NOISE AND DUST

Property EIS No.	Owner	Area (ha)	Land Description
1	Kropp R & J	40.4700	Lot 166, 167 DP750926
2	Lonergan JA	89.0300	Part Lot 1 DP223787
16	Casey GM	270.0000	Lot 86,152-160 DP 750926 + Lot 94 DP 665393
22	Lonergan JA	64.6000	Por 28, 45 DP 750926 Lot 1 DP 313392
25	Fell CM	16.1600	Pt lot 19 DP 750926
27	Casey M	78.3100	Por 16, 26, 71, 43, 177 DP 750926
34	Lonergan PJ	38.0400	Por 92, 184, 241 DP 750926
35	Watts WF & PJ	17.7000	Por 44 pt Por242 DP 750926
47	Farrell R & S	40.0000	Lot 1 DP 791576
48	Farrell M & W	40.0000	Lot 2 DP 791576
50	Yore KJ & GM	81.4100	Lot 164 DP 635272
57	Lecky KG & JA	11.0300	Lot 1 Sect 1 DP 192121
59	Blake TJ	295.4000	Pt Lot 3 DP 750926
63	Bates CF & GP	251.3300	Lot 4 DP 801249, Por 143, pt 144, pt 145 DP 760926
66	Rosebrook P/L	231.1000	Pt Por 3 DP 750926
69	Schiegel JG & FA	12.3400	Lot 2 Sec 1 DP 192121
73	McLean MA & RE	14.7000	Lot 1, 2 DP 745369
75	Hugo D & J	30.7600	Lot 1, 2 DP 780673
77	O'Keefe OJ & ors	14.3000	Lot 21 DP 554140
79	Riley AJ & A	40.1300	Lot 1 DP 544039 Lot 2 DP 629491
80	Sciven G	9.6470	Lot 22 & 23 Sec 3 Rosebrook Estate
82	Ellis N & R	4.7220	Lot 25 Sec 3 Rosebrook Estate
85	Lawrence R & M	4.5180	Lot 3 DP 629491
121	Skippen SE	0.1884	Por 282 DP 750926
130	Moore C & J	0.3678	Lot 51 DP 811580
131	Moore D & P	0.6896	Lot 52 DP 811580
133	Hayes J	3.2420	Lot 4 DP 749716
136	Budden GB & DM	3.8100	Lot 50 DP 809718
137	Budden GG & PE	3.6420	Lot 51 DP 809718
141	Gray ML	3.7250	Lot 42 DP 535882 Lot 1 DP 157288 Lot 121 DP 530440
143	Barry TD	0.6981	Lot 2, 3 DP 210452
146	Chalker BG	0.0670	Lot K DP 38685
148	Gibson JS	0.0670	Lot H DP 38685
149	Wilton BL	0.0733	Lot 41 DP 535882
154	Mather AJ	0.0790	Lot C DP 38685
155	Austin C	0.0853	Lot B DP 38685
156	Collins WF	0.1315	Lot A DP 38685 + adjoining land.
157	Gray RP	0.1081	Lot 1 DP 38679
159	Seaby EA & MD	0.1669	Lot 3, 4 DP 38679
160	Roach FW & YL	0.2087	Lot5, 6, 7 DP 38679
163	Jazipa P/L	0.0784	Lot 11 DP 38679
170	Simpson JM	0.0993	Lot 1 DP 38533
172	George VC & NA	0.0696	Lot 3 DP 38533
174	Galvin RJ	0.0696	Lot 5 DP 38533
183	Parkinson RB & SA	1.2000	Lots 1, 2, 3, 4, 5, & 6 Sec 20 DP 758554
198	Hoath C & N	4.0460	Lots 3, 4, 5 & 6 Sec 28 DP 758554 + P.O. 69/14
201	Paton G	1.1880	Lot 268 DP 567444, Lot 4 Sec 29 DP 758554