



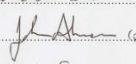


Re: Xstrata Mangoola Modification 6

The property at 740 Ridgeland Road was purchased by Dr Louise Shewan (Ph.D. Hons, Sydney University) and her partner Mr Nicholas Litchfield in 1989 from the owner/builder Mr Hank Boddendyke who purchased the property on the 1979 subdivision of the agricultural holding 'Brogheda' by the Hordern Family. Shortly thereafter I became resident at the address and have managed the property on their behalf and resided there from that time.

In 2006 Centennial Coal proposed the Anvil Hill Mine nearby. Following Approval for the mine by the NSW Department of Planning we were contacted in 2007 by Centennial Coal and accepted their offer of Noise Treatment being Air-Conditioning, Double Glazing and Insulation in October 2007.

In 2009 the Anvil Hill Mine was purchased by Xstrata Mangoola P/L and nothing more was heard of the Noise Treatment until 2010 when a further offer was received from Xstrata Mangoola. As per the earlier offer, this offer of Air-Conditioning, Double Glazing and Insulation was accepted, on this occasion from Xstrata Mangoola, on 8 October 2010.

 <p>28 July 2010 98-XMC-510-0004-LEO-0453</p> <p>Messrs Shewan & Litchfield 740 Ridgeland Road MUSWELLBROOK NSW 2333</p> <p>Dear Sir/Madam</p> <p>Re: NOISE MITIGATION</p> <p>In September 2007 Mangoola Coal notified you that in accordance with Schedule 3, Condition 8 of the Project Consent Conditions 06_0014 you are entitled to receive noise mitigation measures.</p> <p>If you wish to discuss the noise impact mitigation measures, please contact Evelina Hendry, Community Relations Co-ordinator, Mangoola Coal on 6549 5512 or complete the attached form and return to Mangoola Coal.</p> <p>Yours sincerely, Xstrata Mangoola Pty Limited</p> <p> Scott Elliott Project Manager Enc.2</p> <p>Xstrata Mangoola Pty Limited ABN 54 177 535 755 PO Box 495, Muswellbrook NSW 2333 3rd Floor 160 Bridge Street Muswellbrook NSW 2333 Australia Tel +61 2 6542 6600 Fax +6543 4318 www.xstrata.com</p> 	<p>Additional Noise Mitigation Measures</p> <p>8. Upon receiving a written request from:</p> <ul style="list-style-type: none">a landowner of the land listed in the table to Appendix 5 (unless the landowner has requested acquisition); ora landowner of the land listed in Table 1 (except where a negotiated noise agreement is in place); orthe owner of any residence where subsequent operational noise monitoring shows the noise generated by the project is greater than, or equal to, Level 1 noise (35 dB(A) (except where a negotiated noise agreement is in place); oran owner of the 4 residences on Wyong Road where traffic noise levels are predicted in the EA to exceed the traffic noise criteria in Table 3 (ie. Residence numbers 165, 246, 248 and 903); oran owner of the 2 residences adjacent the Ulan to Muswellbrook rail line where rail noise levels are predicted in the EA to cause additional exceedences of the applicable rail noise criteria; <p>the Proponent shall implement additional noise mitigation measures such as double glazing, insulation, and/or air conditioning at any residence on the land in consultation with the landowner.</p> <p>These additional mitigation measures must be reasonable and feasible.</p> <p>If within 3 months of receiving the request from the landowner, the Proponent and the landowner cannot agree on the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the Director-General for resolution.</p> <p>Within 3 months of this approval, the Proponent shall notify all applicable landowners that they are entitled to receive additional noise mitigation measures, to the satisfaction of the Director-General.</p> <p>NSW Government Department of Planning</p>	 <p>Noise Mitigation Notice – Mangoola Coal</p> <p>IWE <u>L.S.A SHEWAN & N. LITCHFIELD</u></p> <p>OF (INSERT PROPERTY ADDRESS) <u>740 RIDGELANDS RD</u> <u>MANGALAH</u></p> <p>being the registered landowner/s of the Property:</p> <table border="1"><tr><th>Lot Number</th><th>DP Number</th></tr><tr><td><u>5, 19</u></td><td><u>252956</u></td></tr><tr><td><u>5, 6</u></td><td><u>705482</u></td></tr></table> <p>Request that Mangoola Coal shall implement noise mitigation measures (please select) as outlined in the Project Approval Schedule 3, Condition 8.</p> <p><input checked="" type="checkbox"/> Air-conditioning <input checked="" type="checkbox"/> Double Glazing <input checked="" type="checkbox"/> Insulation</p> <p>Dated: <u>8 October 2010</u></p> <p>Signed:  (for Litchfield & LSA Shewan)</p> <p>Print Name: <u>John Shewan</u></p> <p>(Please complete and return using the enclosed self addressed envelope to Mangoola Coal by close of business by Friday 17 April 2009) Received 8 August 2010</p>	Lot Number	DP Number	<u>5, 19</u>	<u>252956</u>	<u>5, 6</u>	<u>705482</u>
Lot Number	DP Number							
<u>5, 19</u>	<u>252956</u>							
<u>5, 6</u>	<u>705482</u>							

Submission by John Shewan.

During 2009, 2010 and 2011 a number of restorative works were undertaken on our home including termite treatment, removal and repair of termite damage to the building and replacement of the flooring of the southern sleepout and veranda with concrete. This latter project was delayed by continuous wet weather making the property untrafficable for other than passenger vehicle traffic.

Following telephone inquiry of Mangoola early in 2011 as to Noise Treatment we were directed to contact Mr Mat Pringle of RHM Engineers to progress the application of Noise Treatment to our home. During 2011 we provided RHM with photographs of our home to assist with preparations for the application of Noise Treatment.

On 14 June 2012 we met with Mr Pringle and on 28 June with Mr John Gilbert, the builder nominated by RHM to apply the Noise Treatment. In discussions with both Mr Pringle and Mr Gilbert the following treatments were determined as necessary:

- Application of condensation barrier, acoustic barrier and insulation to ceilings and under-roof including southern sleepout veranda,
- Replacement of doorways at S, W and E external entrances,
- Ceiling fans and Ducted air-conditioning throughout,
- Enclosure of southern sleepout veranda with double glazing equivalent.

A report was said by RHM to be prepared for Xstrata Mangoola detailing the treatments however we were/are not privy to this report.

Evilina Hendry then telephoned me requesting that Ben Ison attend the property to advise on the adequacy of the proposed noise treatment due to her concern that the noise treatments proposed may not be adequate. I asked Ms Hendry if Mr Ison would be conducting Noise Measurements on our property to determine the noise levels at our property per Consent Conditions 3 and 8 of schedule 3 of the Approval. Ms Hendry advised that Mr Ison would not be conducting any noise measurements. I telephone Mr Ison to ascertain the purpose of his attendance and was told that the intention was to bring a machine to our property to emit 100 db(A) noise 30 metres from our home and to measure the internal noise and not to measure noise coming onto our property and into our home from Mangoola.

As such testing had not been required prior to the application of noise treatments to any other property that had received noise treatment and the Director-General had determined that our home required noise treatment (Table 1 of Schedule 3) as noise modelling determined that our home was subject to 37 db(A) noise or greater (Anvil Hill Mine Environmental Assessment – Worst Case Noise Contours) this request was seen as unnecessary, an intrusion and was denied. Nonetheless Mangoola proceeded to entertain the expense of obtaining such a noise evaluation without the author ever visiting the site and regardless of the noise model they had produced in the environmental assessments for Anvil Hill Mine and subsequent modifications 1, 2, 3, 5. This irrelevant report was, again, concealed from us as was the report of RHM engineers.

Ms Hendry then wrote to us on 28 August 2012:

“Just following up on our phone conversation on Friday 24th August 2012 when I informed you that Mangoola Coal will require confirmation in writing from those listed on the title deed as owners of 740 Ridgeland Road, Muswellbrook (Lot 5, DP 252956) Louise Gabrielle Ann Shewan and Nicholas Litchfield, that they agree that you will act on their behalf and that they provide in writing agreement to any arrangement regarding noise mitigation measures reached for this property. We will not be able to proceed until this approval is provided.”

Ms Hendry then wrote to us on 9 September 2012:

“Following my e-mail of the 28th August 2012 in which I requested that you provide written confirmation from those listed on the Title Deed to the property 740 Ridgeland Road, Wybong giving their approval that you are representing them regarding discussion on noise mitigation measures for this property. There are some issues in relation to the property which we would like to discuss with yourself and or the owners of the property. Could you please provide a contact number for one of the two people listed on the title deed or the approval that you are their representative so we can progress with discussions regarding the noise mitigation. I can confirm that Mangoola Coal has reviewed the request for the back veranda to be enclosed after consideration of this request Mangoola Coal confirms that we will not be enclosing this back veranda as part of the noise mitigation measures for this property. Please give me a ring if you would like to discuss the noise mitigation measures.”

On 14 Sept 2012 Ms Hendry wrote to us:

In relation to the area you identify in this e-mail as your bedroom this area is identified in the noise mitigation report as a veranda which I clearly explained to you during a phone conversation, if you could provide DA approval for this area indicating that it is a bedroom then we will of course include this in the noise mitigation strategy.

On 21 September 2012 we provided Xstrata Mangoola with the advice received from Muswellbrook Shire Council that:

Site location plans were all that was required by Council for home building development applications in the rural areas west of the Hunter River prior to the Muswellbrook LEP 1985 and “In response to your email of the 17th September 2012 I advise that no Council approval is required if you want to place a bed on your veranda so that you can sleep outside on hot nights. This does not change the approved use, it is still a veranda. However, Council consent would be required if you propose to enclose a section of the veranda to create a bedroom. I hope this answers your question, if you need further clarification please contact me.

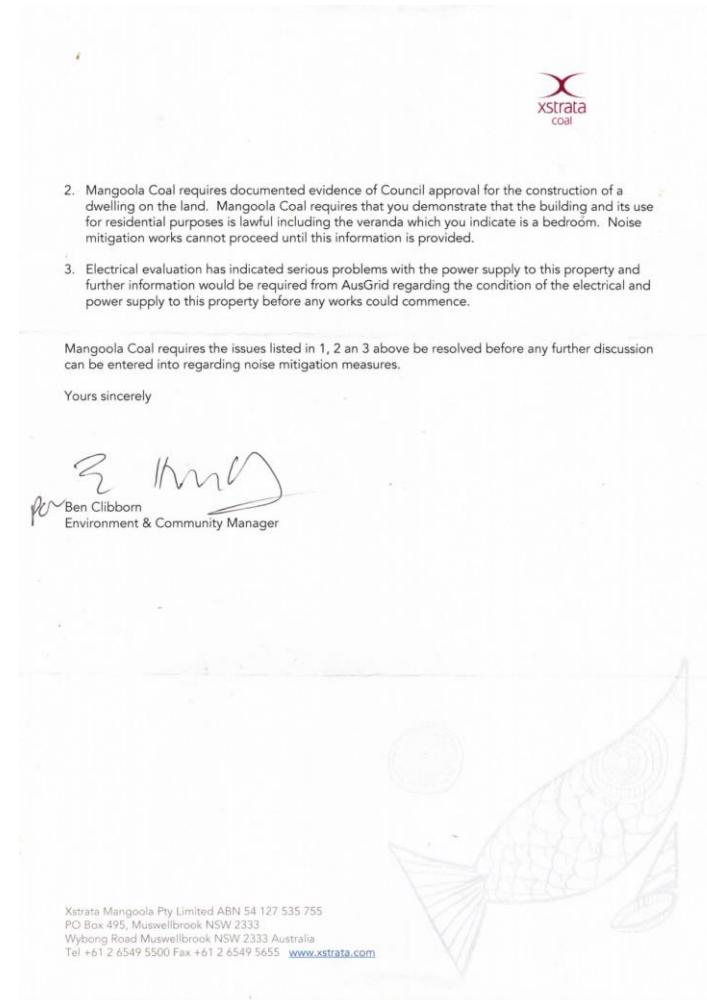
John Rix, Regulatory & Compliance Service Manager, Muswellbrook Shire Council, Ph. 6549 3776

And to the Department of Planning Singleton Compliance Office:

Clearly, the area in question is part of the residence, used over decades as a sleeping area and living area and no council approval is necessary to sleep in this area. The matter of classification as a bedroom or veranda or sleep out is irrelevant and a development application

unnecessary. As such we fully expect Xstrata Mangoola will 'of course include this sleeping and living area, closest to the pollution source, in the noise mitigation strategy,' as Evilina has undertaken. Thank you for the information on the D-G's processes. We will attempt to negotiate an acceptable outcome. If we have to go down that path in due course then so be it.

On 9 October 2012 Ms Hendry wrote to us:



On 11 October Nichols Litchfield emailed Evilina Hendry:

“To whom it may concern

Please be advised that any matters pertaining to Noise Treatment for the property known as “Kindillan” at 740 Ridglands Road, Manobalai, NSW 2333 should be directed to John Shewan at the said address. Mr Shewan has my consent to act on my behalf in any matters pertaining to the said property.”

On 12 October 2012 we wrote to the Department of Planning Singleton Compliance Office:

“Thanks for the call this morning and also Scott for taking my call Monday.

The letter from Evilina attached was the last straw for my mental health this round.

It upped the ante to NO noise treatment with outrageous demands made of NO other person from Xstrata for approvals not required by MSC when the dwelling was constructed and questioning the legality of the 30 yr. old dwelling – yet the home is listed by MSC and the DG as a residence and also by Xstrata as a residence in its original and every subsequent modification for Anvil Hill Mine, and has been used as a residence since its construction.

Ben Clibborn has agreed to take carriage of the matter from Evilina.

The letter from Evilina will be responded to shortly. I will fwd. copy when sent.

Nick has fwd. his authority.

Louise will fwd. her authority on return from a Medical Project in Cambodia soon. ([500Hearts](#) is a project aimed at detecting rheumatic heart disease in rural Cambodia. In 2011 the team screened hundreds of children for heart disease and are currently working at another location, Phum Lovea, near Angkor undertaking further screenings).

We will attempt again to progress the matter via Ben Clibborn.”

We were then contacted by Xstrata Mangoola who wished to attend our home to discuss modification 4 and NOT to discuss the Noise Treatment. To which we responded to Mangoola on 12 October 2012 regarding the modification 4 consultation:

I am afraid not Ben. In any case the days/hrs. you nominated are during my working hours and not suitable unless you are prepared to reimburse my employer for time lost and myself for lost earnings.

Also,

- You, Mangoola have not hitherto seen fit to consult with us face to face on any issue.
- You stated an irresolute position from which you stated you would not depart, supported by your proposed participant whose contact details you refused to provide.
- You earlier made demands of us, that you freely admit are/were made of none other, related solely to my position with Wybong Action Group, defying the Tabling of our Residence as eligible for Noise Treatment by the Planning Assessment Commission and the Director General in the Approval Conditions and Statement of Commitments. Fulfilling your demands may require some time to the extent that your demands ought or should reasonably be met.
- Your proposition for a meeting with 2 working day's notice, requiring loss of income on our part to entertain, excluding any prospect of resolving the noise mitigation issue on your part and purely regarding your recently approved Mod 4 (relocation of 500kV ETL) and future plans for Mangoola Coal is unreasonable.

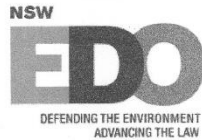
We believe that a period of cooling off, without prejudice or detriment, while we take advice, is in the better interest of all parties. You are welcome to submit a suitable noise treatment proposal for our home that includes all the areas of our home utilised by us for sleeping purposes at any time as may we.

Be aware also of the existence of special health needs and undue hardship.

We reserve our rights and will be in contact with you in due course. 2012 represents the 2nd year of your operation for which our peak noise exposure was predicted for the 10th year. We are aware of your statements to neighbours that in the near future noise will be four times louder and that you intend to shortly progress the mine in a northerly direction, closer to our home.

Any further contact may be made by email at this stage."

19 October 2012 we [EDO] wrote to the Director-General of Planning:



EDO NSW
ABN 72 002 880 864
Level 5, 263 Clarence Street
Sydney NSW 2000 AUSTRALIA
E: edonsw@edonsw.org.au
W: www.edonsw.org.au
T: + 61 2 9262 6989
F: + 61 2 9264 2412

19th October 2012

Mr Sam Haddad
Director-General
Department of Planning and Infrastructure
23-33 Bridge Street
Sydney NSW 2000

Dear Mr Haddad

RE BREACH OF CONSENT ORDERS

We act on behalf of John Shewan (President of the Wybong Action Group ["WAG"]).

Our client lives at 740 Ridgeland Road, Manobalai (lot 205 under the Anvil Hill EA 1996). His residence is therefore significantly affected by the noise from the Mangoola Coal Project, operated by Xstrata Mangoola Pty Ltd. We understand Mr Shewan has discussed this issue with the Department's compliance officers in Singleton, Scott Brooks and Ben Harrison. Mr Harrison has inspected his property and taken photos of the property.

We are instructed that our client has since 2011 made multiple requests to Xstrata concerning our client's desire to have noise mitigation measures applied to their residence. Mr Shewan is a resident at the property and acting on behalf of the owners, Louise Shewan and Nicholas Litchfield.

The conditions of approval for the Mangoola Coal project as updated on 23 February 2010 under clause 8 of schedule 3, state that:

"Upon receiving a written request from [...] a landowner of the land listed in Table 1 [...] the Proponent shall implement additional noise mitigation measures, such as double glazing, insulation, and/or air conditioning at any residence on the land in consultation with the landowner.

These additional mitigation measures must be reasonable and feasible.

If within 3 months of receiving this request from the landowner, the Proponent and the landowner cannot agree on the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the Director-General for resolution."

The list of properties included in table 1 includes land number 205, which is the residence of our client.

We further note that in response to our client's request, Xstrata has responded by requesting further extraneous details, such as information about the lawful use of the verandah as a bedroom and other information about electrical evaluation. These inquiries are not relevant to whether or not our client's home requires noise mitigation measures. It appears that Xstrata have been influenced in their approach by Mr Shewan's role as President of the Wybong Action Group. This is evidenced by the fact that Xstrata have provided noise treatment to the verandahs of neighbouring properties without seeking similar information.

In any event, at the time the property was constructed in the 1970's, building applications only required a sketch map of the residence, which was undertaken by the original owner. Muswellbrook Council has confirmed that no further Council approval was required since the purchase by the current owners in 1988 to use the home in its current manner, including using verandah areas as sleeping and living areas. Given the design of the house, around 30% of the living space is contained within the verandah area, which is important at times of significant heat because the verandah receives cool southerly evening sea breezes.

Since Xstrata have failed to undertake and implement the noise mitigation measures within 3 months of the approach for these measures, we wish to refer the matter to you so that you can direct how the matter should be resolved without further delay.

Please contact me at your convenience regarding this matter on (02) 9262 6989,

Yours sincerely,
EDO NSW

Kirsty Ruddock
Principal Solicitor

Our Ref: 1014457

On 16 November 2012 EDO advised us that:

“Jeff Parnell, their [DOP] noise specialist [contacted] about my letter. They are responding, but I didn’t realise that the conditions I was working off had amended again! So I think they want some more evidence to show that the noise is still bad after the mine has made the changes to the noise and equipment a while back. They also have mentioned that the compliance officer who went out did think there were some electricity hazards in the area you were living that may need to be addressed, which may mean there is a need for compromise on that issue. Anyway, if you can confirm that the noise is still bad after the latest round of modifications to the mine. They are keen to assist but wondered whether you had any further correspondence with the mine to assist them to explain that the dispute has been going on a while with Xstrata.”

On 17 November 2012 we wrote to the Environment Defenders Office:

“The PAC and DOP were clear that residences entitled to noise treatment prior to the modification continued to be so entitled at the originally modelled noise level. It is re-confirmed by the statement of commitments in the Approval (previous and amended). It was confirmed by Scott Brooks that noise treatment undertaken could not be diminished or reduced. The ‘reduced’ noise levels applicable to the modification do not eventuate for some time (24 months) and noise in the interim exceeds that of the original EA as the extraction rate is higher, earlier. The electrical issue is no different to that of Len Hamson or David Clay – both requiring 2 telegraph poles, > 500m wiring, transformers, circuit boards, trenching... Xstrata operate with as little written evidence as possible. Neither Dave Clay not Len Hamson have one document relating to the completed noise treatments or electricity payment arrangements at their homes. Interestingly, since this blew up the noise has diminished by 90%,,, also, they are progressing exploration to the NE in this direction and will be coming within 2km in the medium term. It certainly is not going to get quieter in the next decade.”

Throughout January, February and March Xstrata Mangoola operated predominantly at night at the higher elevations well above any noise bunding in the North East of the mine subjecting myself, my family and residents of the Hordern Subdivision to obscene levels of noise such that residents had to leave their homes and sleep away from home. Complaints 14516, 14637, 14800, 15267, 15559, 16692, 17625 of noise were made to the EPA Pollution Line (occasions when noise was extreme) during this period together with other noise complaints made directly to the Xstrata Mangoola Complaints line and the Department of Planning Singleton Compliance Office. The extreme noise experienced in my home from Dec 2012 to date results from Xstrata Mangoola not complying with its mine plan to place a 240m RL OEA at the North east of the pit to block the noise and instead operating at high elevations at night only without the bund in place. Pictures below:







On 26 February 2013 we received the following letter from Xstrata Mangoola:

Recently Mangoola Coal was granted approval for Modification 4 – Relocation of the 500kV and associated mine plan changes. As part of this approval there were some changes to the noise management zone contour which resulted in some residences now falling outside of this contour.

Mangoola Coal would like to advise you that although your property now falls outside of the noise management zone Mangoola Coal will voluntarily offer you noise mitigation measures under a Statement of Commitment.

If you would like to discuss this matter further or If you have not already done so and you wish to discuss the options of noise mitigation, please contact Evelina Hendry on (02)6541 5512.

Around 7 March 2013 I was telephoned on no less than 8 consecutive occasions within 2 hrs. from 7pm to 9pm in the evening by Ben Clibborn, Xstrata Mangoola, who harassed me by commencing with “we will NOT be enclosing the veranda” and “wanting to come around to my home to consult only on modification 4” and continuing each new telephone call with “if you are going to get cranky” following which argument naturally ensued.

On 8 March I telephoned the Department of Planning Singleton Compliance Office regarding the harassing phone calls and the ensuing argument that related to Xstrata Mangoola refusing to acknowledge listing of our home in Table 1 of Schedule 3 of the Consent and the requirements of the Director-General for noise treatment instead falsely making out that Xstrata would offer the noise treatment ONLY as a voluntary commitment.

On 8 March 2013 Xstrata Mangoola forwarded the following via the Department of Planning Singleton Compliance office:

I write to follow up to our conversation yesterday morning on the phone and the phone conversation I had with Scott Brooks from the Department of Planning and Infrastructure also yesterday morning.

Firstly in regards to noise mitigation rights for residence in which you live, although it was voluntarily placed into the statement of commitments by the company during the approval process, it now forms part of the approval (shown below):-

6.4.10 Xstrata Mangoola confirms that those residences identified as having rights for noise mitigation and management in accordance with the original Project Approval No 06-0014, will still have those rights available to them, irrespective of whether the modification (Mod 4) results in their property no longer being predicted to receive the level of noise impacts above the relevant trigger level specified in the current Project Approval.

Mangoola understand you have referred to matter of noise mitigation measures to the Director General for resolution, Mangoola have not received notification of an outcome in this matter.

On 12 March 2013 we [EDO] again wrote to the Director-General of the Department of Planning:

We act on behalf of John Shewan. Our client lives at 740 Ridgeland Road, Manobalai, a property owned by his sister Dr Louise Shewan and her partner Mr Nicholas Litchfield and identified in Table 1 of the Approval for the Anvil Hill Project (06-0014) as Lot 205. The residence is therefore significantly affected by the noise from the Mangoola Coal Project, operated by Xstrata Mangoola Pty Ltd ("Xstrata").

We are instructed that our client has since 2011 made multiple requests to Xstrata concerning the need to have noise mitigation measures applied to the residence. Mr Shewan is a resident at the property and is acting on behalf of the owners, his sister Louise Shewan and partner Nicholas Litchfield with authority.

As in Sept 2012 Xstrata Mangoola P/L did not agree on the measures outlined to be implemented in June 2012 and after 3 months the Noise Mitigation measures remained in dispute our client on 19 Oct 2012 referred the matter to the Director-General for resolution in accordance with Condition 8 of the Project Approval dated 23 Feb 2010.

Recently we were informed by the Department of Planning that Xstrata has acknowledged the continued existence of noise mitigation rights for residents in the affected area where our client currently lives (as part of the Statement of Commitments that form the Development Approval No 06-0014). We further note that Xstrata has advised that it will prepare a list of the noise mitigation measures it proposes for the residence.

We welcome this commitment from Xstrata towards resolving the issue of noise mitigation and look forward, our client having outlined the landowners noise treatment needs to RHM Engineers at Xstrata's request in June 2012, to viewing the list of Xstrata's proposed Noise Mitigation measures.

With this in mind we would like to take this opportunity to reiterate the nature and extent of the noise issues that have caused our clients discomfort and distress and what should be covered as part of any proposed mitigation measures.

Our client identifies that mining operations including excavating, rock falls, dump truck loading and unloading and rail loading and equipment such as excavators, rock splitters and dump trucks are clearly audible from within the residence and have resulted in our client and other residents of 740 Ridgeland Road experiencing regular sleep disturbance and sleep deprivation for nights on end, depression and acute anxiety for in excess several months, Mr Shewan losing near 1/3rd of his body weight over this period as a direct consequence.

The conditions of approval for the Mangoola Coal project as updated on 23 February 2010 under clause 8 of schedule 3 outline that upon receiving a written request from a landowner, Xstrata shall implement additional noise mitigation measures such as double glazing, insulation, and/or air conditioning at any residence on the land in consultation with the landowner. In this case, these should include all areas of the residence including the ~~enclosed~~ verandah area which is lawfully used as bedrooms and living space.

On 26 April 2013 we received the following letter from Xstrata Mangoola:

I write to you in relation to measures Mangoola are prepared to offer in regards to noise mitigation, for the property of which you reside.

The measures Mangoola are prepared to offer are the following:-

1. Sealing around existing doors and windows on the southern and eastern sides.
2. Sealing gaps in the roof.
3. Lining of the underside of the roof and insulate.
4. Replace the existing window mounted air conditioning unit to the existing power supply.

Further details regarding these measures will be provided upon request.

As you are not the registered owner of the property I request that you provide Mangoola with a written authority from the property owners for you to act on their behalf.

Please advise in writing your position with regards to this offer.

We thereafter advised the Department of Planning Singleton Compliance office that the offer was inadequate, insulting and in no way commensurate with noise treatment provided Xstrata owned properties or our neighbour's homes that received noise treatments regardless of their being without the noise treatment contours.

From 12 April 2013 to 12 June 2013 we were unable to send or receive email due to the failure of the telephone lines and computer servicing our home.

From 2 June 2013 we received the following from the Department of Planning Singleton Compliance office:

17 May 2013 "Some time ago you advised you wanted to trigger Condition 8 of the Mangoola approval for the Director General resolution of noise mitigation measures on the property at 740 Ridglands Rd. This condition can be triggered by either yourself, acting on behalf of the owners, or the Mangoola mine. I would like to advise that Mangoola mine have triggered this approval condition this morning. They have requested DG resolution of the noise mitigation measures required at your property. It does not matter if you had made this request or the mine. Our process will remain the same. I provide this advice so you will not now need to send us a letter for the DG resolution. In the mine

request this morning they have advised what they currently want to offer for noise mitigation at your property. We now need to determine your position on their offer, and if you would like to provide us with an alternate suggestion for noise mitigation works. You can either send this to us in writing or we can meet at a mutually agreeable time and place to discuss. Could you please give us a call or return this e-mail so we can commence this process.”

On 27 May 2013 we met with the Department of Planning Singleton Compliance office regarding the noise treatment issue.

On 2 June 2013 we wrote to the Department of Planning Singleton Compliance office:

a note to confirm our discussion of Monday 27th May 2013 regarding the refusal of Xstrata Mangoola to hitherto undertake the Noise Treatment of our residence per consent condition 8 and that Xstrata Mangoola have accepted our request that the Director-General determine the matter.

The measures we have proposed in conjunction with and following discussions with Mr Mat Pringle of RHM Engineers as requested by Xstrata Mangoola are reasonable, feasible and as minimal as possible but so as to achieve the result that the quiet enjoyment and amenity of our home of 30 years to date is retained. At no time have Xstrata Mangoola communicated to us that the measures we have proposed are not reasonable or feasible but have only indicated a constant refusal to undertake the measures proposed without reason.

The Telstra communications infrastructure servicing our home failed on 12 April 2013 together with our computer equipment and these are yet to be restored meaning we have intermittent telephone access and cannot in the immediate future access the computer drives containing our noise treatment and other data.

To assist the Director General we do advise that a starting point in the interim may be to assay the Xstrata Mangoola file on noise treatment for property 205 and additionally for residences 139, 137, 128,170, 171, 144, the Raines residence and other residences within the Xstrata Noise Management zone (there are approx. 18 homes that have received noise treatment from Xstrata Mangoola) as these adjacent and other Xstrata impacted properties have similar though lesser exposed (the adjacent numbered properties above) noise disturbance issues.

It may also assist the Director-General in future noise treatment matters to assay noise treatments across the Hunter Valley sites, operations and managers, to ascertain common standards that may provide both firms and landowners a consistent approach to noise treatments across mine sites and within communities at similar levels of commensurate impact and reduce the conflict that occurs as firms attempt to minimise or avoid their obligations and affected landowners attempt to retain or restore the amenity of their homes that has been lost.. In this instance with serious health and social impacts to my family over an unnecessarily extended period.

I will provide the Director-General via your office details of the reasonable and feasible treatments we have sought as soon as I am able to access the data, however the details may be contained also in the Xstrata file for Residence 205 as indicated above. Further, we are prepared to meet again with Mat Pringle to revise the noise treatment proposal to restore the quiet amenity of our home and residence for Nicholas, Louise, myself and my family, Duncan and Dylan - who are both mildly intellectually impaired young adults and are now living away from home due to the impact of Xstrata Mangoola on the ability to sleep and live undisturbed within our home, as we have done since 1989.

We thank the Director-General and the Department of Planning for providing within the consent conditions an avenue to constructively resolve this matter. We hope that resolution of this matter assists in reducing the conflict between the industry and nearby residential receivers generally by standardising the process and manner in which noise treatments are undertaken so that it is no longer an arbitrary exercise at the discretion of individual mine managers and open to corruption through the power imbalance of the parties and non-insulation of the process from factors of interpersonal disputation and other influences i.e. such as a when a residence is owned or occupied by a person who also happens to be a member of a community action or environmental group publicly opposed to the mining development, such as myself.

I may be contacted via email at john.shewan@det.nsw.edu.au and will assist where possible. There may be a minor delay in receipt and response.

We look forward to the ultimate resolution of this matter in due course and as our circumstance enables it to occur.

And, from Xstrata Mangoola, following 2 June 2013, we received:

28 May 2013

Please find attached an acoustic report for 740 Ridgeland. I understand that you may not have been provided with the attached report previously. The report is a desk top evaluation of noise mitigation measures for the property in which you live. Also I understand you require some more information on the detail of our offer of noise mitigation (letter attached for reference). The dot points from the letter are shown below:-

1. Sealing around existing doors and windows on the southern and eastern sides.
 - Comments: Generally this is done using products such as weather seals and acoustic sealants. The builder will decide at the time of work in consultation with landowners and/or yourself.
2. Sealing gaps in the roof.
 - Comments: As above, builder will advise in consultation with landowners and/or yourself

3. Lining of the underside of the roof and insulate.
 - Comments: Insulate the underside of the roof and line with something like plywood sheeting, builder will advise in consultation with landowners and/or yourself
4. Replace the existing window mounted air conditioning unit to the existing power supply.
 - Comments: Not to much more info I can provide on this point, other then we can replace the existing unit with something similar using the existing power supply.

And 30 May 2013, from the Department of Planning Singleton Compliance office:

To progress the matter I am hoping that you will agree to meet at your property with Tony Israel (Xstrata Mangoola Operations Manager), Ben Clibborn (Xstrata Mangoola Environment and Community Manager), Mat Pringle (Builder/Engineer that attended your property), Ben Ison (Acoustic Engineer who did the desk top acoustic study Ben Clibborn sent you recently) and myself so that they can explain the detail around the proposed measures, how they will be implemented and what the potential acoustic value of the measures will be. Can you please advise if you are willing to meet as per above and if so, maybe suggest a few dates which would be convenient.

On 16 June 2013 we wrote to the Department of Planning Singleton Compliance office:

Just a note to acknowledge receipt of your email and receipt of emails delayed from 12 April to 8 June. As regards noise treatment at our residence I have fwd. your email re: the proposed meeting and am awaiting instructions. Quotations are being obtained for the necessary works and our proposal for resolution will be forwarded to you with that reply as early as possible. Indications at this stage are that there are no serious problems with the electrical supply (as claimed by Xstrata). Commensurate works are no lesser than those which we have outlined to RHM and referred to in our letters to the Director-General of 19 October 2012 and letter to Tony Israel of 12 March 2013. I do believe that noise treatment issue which is currently managed in an ad hoc, uncoordinated fashion by individual mine managers to non-existent standards between mines and managers will become a more significant issue for the Department.

On 4 May 2013 I was diagnosed by Dr Meeran, Muswellbrook, as having acute depression - as a consequence of the treatment I and my family have received from Xstrata Mangoola and was provided medication and referral to a psychologist. The depression is accompanied by significant weight loss from October 2012 (115kg) to date (78kg).

On 7 June 2013 I was diagnosed as having an acute spinal condition for which I am also receiving treatment.

As of Feb 2013 my entire family have abandoned our home where I now reside alone due to it being unliveable during times of peak noise (always in sleeping hrs.), the behaviour of Xstrata Mangoola toward us and my inability to further cope mentally with Xstrata Mangoola.

We do not believe it appropriate that Messrs' Hendry, Clibborn, Israel and Ison enter on our property at any time given the manner in which they have behaved toward us, their refusal to provide noise treatment to our bedrooms and home – which they maintain, and the frustration of the Director-General's will that our home No. 205, in Table 1 of Schedule 3 of the Consent, amongst others, be noise treated - commensurate with every other dwelling noise treated by Xstrata Mangoola.

Currently we have engaged RMS Services to quote on air-conditioning and await receipt. We have obtained verbal quotations for power supply. We have been unable to locate a builder to quote on insulation etc. at this stage and are seeking access to the Noise Treatment report prepared by RHM engineers in the interim in this regard.

On 17 June 2013 we received from the Department of Planning Singleton Compliance office:

We await your proposal of works and reply regarding the meeting.

We honestly believe that Xstrata Mangoola have no intention of ever providing our home (which they have destroyed as a home for my family) with noise amelioration regardless of the will of the Director-General of Planning. The Acoustic Treatment Report supports this conclusion as it was obtained unnecessarily by Xstrata Mangoola (their model identifies 37 db(A) and thus our home is listed in Table 1 like all others so impacted), without the author conducting any site visit and such report was not required for any other noise treatment at any other property.

Therefore we request that the Director-General of Planning order Xstrata Mangoola to Noise Treat our home forthwith and continue Conditions 3 and 8 as they stand prior to Modification 6 and add the additional homes impacted by Modification 6 to Table 1.

Further we request that Commitment 6.4.10 "Xstrata Mangoola confirms that those residences identified as having rights for noise mitigation and management in accordance with the original Project Approval No 06-0014, will still have those rights available to them, irrespective of whether the modification (Mod 4) results in their property no longer being predicted to receive the level of noise impacts above the relevant trigger level specified in the current Project Approval be retained and amended to read "...irrespective of any mine plan modification..." Also that the Noise Management Plan and Consent Conditions be amended to "will operate below the lowest topographical point of the OEA and surrounding topography at night" to give proper effect to the Condition.

Finally we request that the Director-General direct that the 240m RL OEA at the North East of the mine be fully constructed (currently non-existent at 180 RL) and that any approval for modification 6 be with-held until such time as the excessive Mangoola Noise issue at our home and on the Hordern subdivision at Brogheda are ameliorated by Noise Treatments.