

# Development Consent

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

I, the Minister for Infrastructure and Planning, approve the Development Application referred to in schedule 1, subject to the conditions in schedules 3 to 6.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the on-going environmental management of the development.

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

Sydney, 8 December 2004

File No: S02/02289

### SCHEDULE 1

Blue type represents November 2010 modification

Red type represents November 2014 modification

<b>Development Application:</b>	DA 14-1-2004.
<b>Applicant:</b>	Hunter Valley Coal Corporation Pty Ltd.
<b>Consent Authority:</b>	Minister for Infrastructure and Planning.
<b>Land:</b>	See Appendix 1.
<b>Proposed Development:</b>	<p>The development of open cut mining operations at the Mt Owen coal mine in general accordance with the Environmental Impact Statement for the Mt Owen Operations project, which includes:</p> <ul style="list-style-type: none"><li>• continuing existing and approved mining operations;</li><li>• extending open cut mining operations in Pit B and Pit C over a 17 to 21 year mine life;</li><li>• developing the Eastern Rail Pit;</li><li>• developing an out-of-pit overburden emplacement area known as the West Dump;</li><li>• increasing Run of Mine (ROM) coal production at the Mount Owen mine from 8 to 10 million tonnes <a href="#">in a calendar year</a>;</li><li>• constructing and operating a ROM coal receival facility and haul road to enable Mt Owen Coal Handling and Preparation Plant (CHPP) to receive and process ROM coal from the Ravensworth East and Glendell coal mines;</li><li>• increasing the approved processing rate of the Mt Owen CHPP to <a href="#">17</a> million tonnes of ROM coal <a href="#">in a calendar year</a>;</li><li>• establishing additional product coal stockpile capacity at the Mount Owen mine;</li><li>• increasing the approved capacity of the Mount Owen rail loading facility and rail spur line to up to <a href="#">17</a> million tonnes of ROM coal <a href="#">in a calendar year</a>;</li><li>• continuing the disposal of tailings from the Mt Owen CHPP in voids at Ravensworth East coal mine;</li></ul>

- modifying the mine's water management system; and
- making minor modifications to existing office and other infrastructure

**State Significant Development:**

The proposal is classified as State significant development, under section 76A(7) of the *Environmental Planning and Assessment Act 1979*, because it satisfies the criteria in Schedule 1 of *State Environmental Planning Policy 34 - Major Employment Generating Industrial Development*.

**Integrated Development:**

The proposal is classified as integrated development, under section 91 of the *Environmental Planning and Assessment Act 1979*, because it requires additional approvals under the:

- *Water Act 1912*;
- *Rivers and Foreshore Improvement Act 1948*;
- *Protection of the Environment Operations Act 1997*;
- *National Parks and Wildlife Act 1974*;
- *Roads Act 1993*; and
- *Mine Subsidence Compensation Act 1961*.

**Designated Development:**

The proposal is classified as designated development, under section 77A of the *Environmental Planning and Assessment Act 1979*, because it is for a coal mine that would "produce or process more than 500 tonnes of coal a day", and consequently meets the criteria for designated development in schedule 3 of the *Environmental Planning and Assessment Regulation 2000*.

*Note:*

- 1) *To find out when this consent becomes effective, see section 83 of the Environmental Planning and Assessment Act 1979;*
  - 2) *To find out when this consent is liable to lapse, see section 95 of the Environmental Planning and Assessment Act 1979; and*
  - 3) *To find out about appeal rights, see section 97 of the Environmental Planning and Assessment Act 1979.*
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## SCHEDULE 2 DEFINITIONS

Applicant	Hunter Valley Coal Corporation Pty Ltd, or its successors
BCA	Building Code of Australia
CCC	Community Consultative Committee
Council	Singleton Shire Council
DA	Development Application
Day	Day is defined as the period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
Department	Department of Planning and Environment
DPI	Department of Primary Industries within the NSW Department of Trade and Investment, Regional Infrastructure and Services
DRE	Division of Resources and Energy within the NSW Department of Trade and Investment, Regional Infrastructure and Services
EIS	Environmental Impact Statement, including: <ul style="list-style-type: none"> <li>o Environmental Impact Statement, titled Mt Owens Operations EIS, volumes 1-5, dated December 2003, and prepared by Umwelt (Australia) Pty Ltd;</li> <li>o Primary Submission to the Commission of Inquiry, dated June 2004, and prepared by Umwelt (Australia) Pty Ltd;</li> <li>o Submission in Reply to the Commission of Inquiry, dated July 2004, prepared by Umwelt (Australia) Pty Ltd;</li> <li>o modification application DA 14-1-2004 MOD 1 and the accompanying letter prepared by Umwelt (Australia) Pty Ltd, dated July 2010; and</li> <li>o modification application DA 14-1-2004 MOD 2 and the accompanying letters from Mt Owen Pty Ltd, dated 5 August and 10 September 2014.</li> </ul>
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPA	Environment Protection Agency
Evening	Evening is defined as the period from 6 pm to 10 pm
GTA	General Terms of Approval
HCFFAC	Hunter Coalfield Flora and Fauna Advisory Committee: the committee established by the <b>Secretary</b> to provide advice on flora and flora management in the Hunter Coalfield (or specific mines in the Hunter Coalfield). However, until this committee is established the current Mount Owen Interagency Advisory Group will carry out any function assigned to the HCFFAC in the conditions of consent.
Incident	A set of circumstances that either causes or threatens to cause material harm to the environment, and/or breaches or exceeds the limits of performance measures/criteria in this approval
Land	Land means the whole of a lot, or contiguous lots owned by the same landowner, in a current plan registered at the Land Titles Office at the date of this consent
Minister	Minister for Planning, or delegate
Mt Owen Mining Complex	The development approved under this consent, together with the development approved under the consents for the Glendell open cut coal mine (DA 80/952) and the Ravensworth East coal mine (DA 52-03-99), considered collectively
Night	Night is defined as the period from 10 pm to 7 am on Monday to Saturday, and 10 pm to 8 am on Sundays and Public Holidays
NOW	NSW Office of Water within DPI
OEH	Office of Environment Heritage
Biodiversity Offset Strategy	The revegetation and enhancement program described in the EIS for the Mt Owen Operations project, dated December 2003
Privately owned land	Land that is not owned by a public agency, or a mining company or its subsidiary
Receiver	As defined in the <i>NSW Industrial Noise Policy</i> (EPA 2000)
ROM	Run of Mine
RMS	Roads and Maritime Services
Secretary	Secretary of the Department, or nominee
Site	Land to which the DA applies, refer Appendix 1

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### SCHEDULE 3 ADMINISTRATIVE CONDITIONS

#### Obligation to Minimise Harm to the Environment

1. The Applicant shall implement all practicable measures to prevent and/or minimise any harm to the environment that may result from the construction, operation, or rehabilitation of the development.

#### Terms of Approval

2. The Applicant shall carry out the development generally in accordance with the:
  - (a) DA 14-1-2004;
  - (b) EIS; and
  - (c) the conditions of this consent.
3. If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any inconsistency.
4. The Applicant shall comply with any reasonable requirement/s of the Secretary arising from the Department's assessment of:
  - (a) any reports, plans or correspondence that are submitted in accordance with this consent; and
  - (b) the implementation of any actions or measures contained in these reports, plans or correspondence.

#### Surrender of Consents

5. Within 12 months of this consent, the Applicant shall surrender all previous development consents for the Mt Owen coal mine to the satisfaction of the Secretary.

#### Limits on Approval

6. Apart from the conditions relating to the implementation of the Biodiversity Offset Strategy, this consent shall lapse 21 years after the date it commences.

*Note: Under this consent, the Applicant is required to implement the Biodiversity Offset Strategy for the life of the impact (as determined by the Secretary in consultation with the HCFFAC). This consent will continue to operate during this period.*

7. The Applicant shall not extract more than 10 million tonnes of ROM coal in a calendar year from the Mt Owen mine.
8. The Applicant shall not process more than 17 million tonnes of ROM coal in a calendar year at the Mt Owen CHPP.
9. The Applicant shall ensure that the Mt Owen rail loading facility and rail spur do not transport more than 17 million tonnes of ROM coal in a calendar year.

#### Structural Adequacy

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

##### Notes:

- Under Part 4A of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of development.
- The development is located partly in the Patrick Plains Mine Subsidence District. Under section 15 of the Mine Subsidence Compensation Act 1961, the Applicant is required to obtain the Mine Subsidence Board's approval before constructing or relocating any improvements in a Mine Subsidence District.

#### Demolition

11. The Applicant shall ensure that all demolition work is carried out in accordance with Australian Standard AS 2601-2001: The Demolition of Structures, or its latest version.

#### Operation of Plant and Equipment

12. The Applicant shall ensure that all plant and equipment used at the site is:
- (a) maintained in a proper and efficient condition; and
  - (b) operated in a proper and efficient manner.
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## SCHEDULE 4 SPECIFIC ENVIRONMENTAL CONDITIONS

### ACQUISITION UPON REQUEST

1. Upon receiving a written request for acquisition from the landowner of the land listed in Table 1, the Applicant shall acquire the land in accordance with the procedures in [conditions 7-8](#) of schedule 5:

*Table 1: Land subject to acquisition upon request (project specific)*

64 – Richards	84 - Lawlor
66 – Cramp	85 - Frost
67 – Robinson and Brandl	87 - Westcott
68 - Deaves	88 - Flynn
69 - Fairfull	89 - White
70 – Johnson	91 - Lancaster
72 – Baker and Ellis	108 – Gardener (north of Glennies Creek Road)
73 - Cole	109 - Noble
83 – Rose	110 - Donellan

*Note: For more information on the numbering and identification of properties used in this consent, see Appendix 5 of the Applicant's Primary Submission to the Commission of Inquiry, dated June 2004.*

### <sup>1</sup>NOISE

#### Noise Impact Assessment Criteria

2. The Applicant shall ensure that the noise generated by the development does not exceed the noise impact assessment criteria in Table 2.

*Table 2: Noise impact assessment criteria dB(A)*

<b>Day</b> <i>L<sub>Aeq</sub>(15 minute)</i>	<b>Evening/Night</b> <i>L<sub>Aeq</sub>(15 minute)</i>	<b>Night</b> <i>L<sub>A1</sub>(1 minute)</i>	<b>Land Number</b>
37	37	45	29 - Nagle and Partridge
			55 - Bodiam
36	36	45	40 - Holmes
			53 - Cullinan
			54 - Reid
			93 - Scott
			90 – Wilson
35	35	45	All other privately owned land, excluding the land listed in Table 1 apart from 91 – Lancaster

<sup>1</sup> Incorporates EPA GTA

However, if the Applicant has a written negotiated noise agreement with any landowner of the land listed in Table 2, and a copy of this agreement has been forwarded to the Department and the EPA, then the Applicant may exceed the noise limits in Table 2 in accordance with the negotiated noise agreement.

**Notes:**

a) Noise from the development is to be measured at the most affected point or within the residential boundary, or at the most affected point within 30 metres of a dwelling (rural situations) where the dwelling is more than 30 metres from the boundary, to determine compliance with the  $L_{Aeq(15 \text{ minute})}$  noise limits in the above table. Where it can be demonstrated that direct measurement of noise from the development is impractical, the EPA may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy). The modification factors in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise levels where applicable.

b) Noise from the development is to be measured at 1 metre from the dwelling façade to determine compliance with the  $L_{A1(1 \text{ minute})}$  noise limits in the above table. Where it can be demonstrated that direct measurement of noise from the development is impractical, the EPA may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy).

c) The noise emission limits identified in the above table apply under meteorological conditions of:

- Wind speeds of up to 3 m/s at 10 metres above ground level; or
- Temperature inversion conditions of up to 3°C/100m, and wind speeds of up to 2 m/s at 10 metres above ground level.

- While the land listed in Table 1 (excluding 91 – Lancaster) is privately owned, the Applicant shall ensure that the noise generated by the development does not exceed the noise predictions in the EIS for any residence on this land.

### Additional Noise Mitigation Measures

- Upon receiving a written request from:
  - a landowner of the land listed in Table 1 (excluding 91 – Lancaster); or
  - a landowner of the land numbered 29 (Nagle and Partridge) and 55 (Bodiam) in the EIS; or
  - the owner of any residence where subsequent noise monitoring shows the noise generated by the development is greater than, or equal to,  $L_{Aeq(15 \text{ minute})}$  37 dB(A),
 the Applicant shall implement additional noise mitigation measures in the form of 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 Applicant 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 Secretary for resolution.

### Land Acquisition Criteria

- If the noise generated by the development exceeds the criteria in Table 3, the Applicant shall, upon receiving a written request for acquisition from the landowner, acquire the land in accordance with the procedures in conditions 7-8 of schedule 5.

Table 3: Land acquisition criteria dB(A)

Day/Evening/Night $L_{Aeq(15 \text{ minute})}$	Land
40	All privately owned land, excluding the land listed in Table 1

Note: Noise generated by the development is to be measured in accordance with the notes presented below Table 2.

### Cumulative Noise Criteria

- The Applicant shall take all reasonable and feasible measures to ensure that the noise generated by the development combined with the noise generated by other mines does not exceed the following amenity criteria on any privately owned land, excluding the land listed in Table 1 (excluding 91 – Lancaster):
  - $L_{Aeq(11 \text{ hour})}$  50 dB(A) – Day;
  - $L_{Aeq(4 \text{ hour})}$  45 dB(A) – Evening; and
  - $L_{Aeq(9 \text{ hour})}$  40 dB(A) – Night.



7. If the cumulative noise generated by the development combined with the noise generated by other mines exceeds the following amenity criteria on any privately owned land, excluding the land listed in Table 1, then upon receiving a written request from the landowner, the Applicant shall acquire the land on as equitable basis as possible with the relevant mines, in accordance with the procedures in [conditions 7-8](#) of schedule 5:
- $L_{Aeq(11\text{ hour})}$  53 dB(A) – Day;
  - $L_{Aeq(4\text{ hour})}$  48 dB(A) – Evening; and
  - $L_{Aeq(9\text{ hour})}$  43 dB(A) – Night.

### Monitoring

8. Within 6 months of this consent, the Applicant shall prepare and implement a Noise Monitoring Program for the development, to the satisfaction of the [Secretary](#). The Noise Monitoring Program shall include a combination of real-time and supplementary attended monitoring measures, and a noise monitoring protocol for evaluating compliance with the noise impact assessment and land acquisition criteria in this consent.

### Continuous Improvement

9. The Applicant shall:
- investigate ways to reduce the noise generated by the development, including maximum noise levels which may result in sleep disturbance;
  - implement all reasonable and feasible best practice noise mitigation measures on the site; and
  - report on these investigations and the implementation of any new noise mitigation measures on site in the [annual review](#), to the satisfaction of the [Secretary](#).

## <sup>2</sup>BLASTING AND VIBRATION

### Airblast Overpressure Criteria

10. The Applicant shall ensure that the airblast overpressure level from blasting at the development does not exceed the criteria in Table 4 at any residence on privately owned land.

Table 4: Airblast overpressure impact assessment criteria

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

### Ground Vibration Impact Assessment Criteria

11. The Applicant shall ensure that the ground vibration level from blasting at the development does not exceed the criteria in Table 5 at any residence on privately owned land.

Table 5: Ground vibration impact assessment criteria

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

### Blasting Hours

12. The Applicant shall only carry out blasting at the development between 9 am and 5 pm (EST) and 9 am and 6 pm (DST) Monday to Saturday inclusive. No blasting is allowed on Sundays, public holidays, or at any other time without the written approval of the [EPA](#).

<sup>2</sup> Incorporates [EPA](#) GTA

### **Blasting Frequency**

13. The Applicant shall not carry out more than 2 blasts a day at the site without the written approval of the **Secretary**.

### **Blasting Trial**

14. The Applicant shall prepare and implement a Blasting Trial Program to evaluate the merits of blasting from 7 am for a 12 month trial period, in consultation with **EPA**, and to the satisfaction of the **Secretary**. After evaluating the results of this program, the **Secretary** may approve up to a 12 blasts in a calendar year at the development between 7 am and 9 am Monday to Saturday (inclusive).

### **Blast Management Plan**

15. Within 6 months of this consent, the Applicant shall prepare and implement a Blast Management Plan for the development, in consultation with the CCC, and to the satisfaction of the **Secretary**. This plan must include:
  - (a) a description of what actions and measures would be implemented to:
    - ensure the safety of people, property and livestock;
    - minimise the dust and fume emissions from blasting at the development, particularly during adverse meteorological conditions; and
    - minimise the cumulative impacts of blasting (associated with blasting at the development and at surrounding mines – such as Camberwell, Ravensworth East and Glendell); and
  - (b) a detailed Blast Monitoring Program.
16. Prior to carrying out any blasting within 500 metres of active mining areas at Glennies Creek Colliery or any privately owned land, the Applicant shall revise the Blast Management Plan for the development, in consultation with Glennies Creek Coal Management Pty Ltd (or its assigns or successors in title) or the relevant landowner, to the satisfaction of the **Secretary**.

### **Public Notice**

17. During the life of the development, the Applicant shall:
  - (a) notify the landowner/occupier of any residence within 3 km of the development who registers an interest in being notified about the blasting schedule at the mine;
  - (b) operate a Blasting Hotline, or alternate system agreed to by the **Secretary**, to enable the public to get up-to-date information on the blasting schedule at the development; and
  - (c) advertise the blasting hotline number in a local newspaper at least 4 times each year, to the satisfaction of the **Secretary**.

### **Property Inspections**

18. Within 3 months of this consent, the Applicant shall advise all landowners within 3 km of the development that they are entitled to a structural property inspection.
19. If the Applicant receives a written request for a structural property inspection from any landowner within 3 km of the development, the Applicant shall within 3 months of receiving this request:
  - (a) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the **Secretary**, to inspect the condition of any building or structure on the land, and recommend measures to mitigate any potential blasting impacts; and
  - (b) give the landowner a copy of the property inspection report.

### **Property Investigations**

20. If any landowner within 3 km of the site claims that buildings and/or structures on his/her land have been damaged as a result of blasting at the development, the Applicant shall within 3 months of receiving this request:
  - (a) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the **Secretary**, to investigate the claim; and
  - (b) give the landowner a copy of the property investigation report.

If this independent property investigation confirms the landowner's claim, and both parties agree with these findings, then the Applicant shall repair the damages to the satisfaction of the **Secretary**.

If the Applicant or landowner disagrees with the findings of the independent property investigation, then either party may refer the matter to the **Secretary** for resolution.

If the matter cannot be resolved within 21 days, the **Secretary** shall refer the matter to an Independent Dispute Resolution Process (see Appendix 2).

## AIR QUALITY

### Impact Assessment Criteria

21. The Applicant shall ensure that the dust emissions generated by the development do not cause additional exceedances of the air quality impact assessment criteria listed in Tables 6, 7, and 8 at any residence on, or on more than 25 percent of, any privately owned land, excluding the land listed in Table 1.

Table 6: Long term impact assessment criteria for particulate matter

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

Table 7: Short term impact assessment criterion for particulate matter

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

Table 8: Long term impact assessment criteria for deposited dust

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

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

22. While the land in Table 1 is privately owned, the Applicant shall ensure that the dust emissions generated by the development do not cause additional exceedances of the air quality criteria in Tables 6, 7, and 8 at any residence on this land. However, where the air quality predictions in the EIS suggest that the dust emissions generated by the development are likely to exceed these criteria at any residence on this land, the Applicant shall comply with the predictions in the EIS for this residence.

### Land Acquisition Criteria

23. If the dust emissions generated by the development exceed the criteria in Tables 9, 10, and 11 at any residence on, or on more than 25 percent of, any privately owned land, the Applicant shall, upon receiving a written request for acquisition from the landowner, acquire the land in accordance with the procedures in [conditions 7-8](#) of schedule 5.

Table 9: Long term land acquisition criteria for particulate matter

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

Table 10: Short term land acquisition criteria for particulate matter

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

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

<sup>2</sup>Excludes extraordinary events such as bushfires, prescribed burning, dust storms, sea fog, fire incidents, illegal activities or any other activity agreed by the **Secretary** in consultation with the **EPA**.

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

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

Table 11: Long term land acquisition criteria for deposited dust

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

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

#### PM<sub>10</sub> Calibration Factor

24. Within 18 months of this consent, the Applicant shall validate the calibration factor applied to the 24-hour average PM<sub>10</sub> predictions in the EIS, and if necessary, revise the 24-hour average PM<sub>10</sub> predictions for the development, in consultation with **EPA**, and to the satisfaction of the **Secretary**. If the revised 24-hour average PM<sub>10</sub> predictions identify land, excluding the land in Table 1, where the dust generated by the development (on its own) is likely to cause exceedances of the 24-hour average PM<sub>10</sub> acquisition criteria at the residence on that land, then the Applicant shall notify the relevant landowner accordingly. Upon receiving a written request for acquisition from any of these landowners, the Applicant shall acquire the relevant land in accordance with **conditions 7-8** of schedule 5.

#### Additional Air Quality Mitigation Measures

25. Upon receiving a written request from:
- a landowner of the land numbered 66 (Cramp), 67 (Robinson and Brandl) and 68 (Deaves) in the EIS; or
  - any landowner where subsequent dust monitoring shows the dust generated by the development is greater than the deposited dust criteria in Table 8,
- the Applicant shall, in consultation with the landowner, install a first flush system (or similar) on any water tank used as a drinking water supply on the land. If within 3 months of receiving this request, the Applicant 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 **Secretary** for resolution.

## Operating Conditions

26. The Applicant shall:
- (a) ensure any visible air pollution generated by the development is assessed regularly, and that mining operations are relocated, modified, and/or stopped as required to minimise air quality impacts on privately owned land;
  - (b) ensure real-time air quality monitoring for 24-hour average PM<sub>10</sub> and the meteorological monitoring data are assessed regularly, and that mining operations are relocated, modified and/or stopped as required to ensure compliance with the relevant air quality criteria; and
  - (c) implement all practicable measures to minimise the off-site odour and fume emissions generated by any spontaneous combustion at the development,
- to the satisfaction of the **Secretary**.

## Air Quality & Greenhouse Gas Management Plan

27. The Applicant shall prepare and implement a detailed Air Quality & Greenhouse Gas Management Plan for the Mt Owen Mining Complex to the satisfaction of the **Secretary**. This plan must:
- (a) be prepared in consultation with **EPA**, and submitted to the **Secretary** for approval by 31 March 2011;
  - (b) describe the measures that will be implemented to ensure compliance with the relevant conditions of this consent, including the real-time air quality management system;
  - (c) include an air quality monitoring program that:
    - uses a combination of real-time monitors, high volume samplers and dust deposition gauges to monitor the performance of the development, and inform the real-time air quality management system; and
    - includes a protocol for determining exceedances with the relevant conditions of this consent; and
  - (d) includes a protocol that has been prepared in consultation with the owners of the adjoining mines for minimising and managing the potential cumulative air quality impacts of the mines in the area.

## <sup>3</sup>METEOROLOGICAL MONITORING

28. Within 6 months of this consent, the Applicant shall ensure that there is a suitable meteorological station operating in the vicinity of the development in accordance with the requirements in *Approved Methods for Sampling of Air Pollutants in New South Wales*, and to the satisfaction of the **EPA** and the **Secretary**.

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

### Discharge Limits

29. The Applicant shall only discharge water from the development in accordance with the provisions of a **EPA** Environment Protection Licence or the *Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Regulation 2002*.

### Water Supply

- 29A The Applicant shall ensure it has sufficient water for all stages of the development, and if necessary, adjust the scale of the operations on site to match its available water supply.

### Creek Inspections

30. Prior to carrying out any of the proposed creek diversion works, the Applicant shall conduct a detailed survey of the condition of Bettys Creek and Main Creek, and any buildings or structures adjoining the creeks downstream of the proposed diversion works, to the satisfaction of the **Secretary**.

### Bettys Creek Diversion

31. The Applicant shall design, construct, maintain, and rehabilitate the proposed diversion of Bettys Creek around the proposed Eastern Rail Pit, to the satisfaction of the **Secretary**.
32. The Applicant shall design, construct, and maintain the proposed diversion of Bettys Creek into Main Creek to ensure that it does not increase the peak flow or velocity of flows in Main Creek, or increase

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<sup>3</sup> Incorporates **EPA** GTA

<sup>4</sup> Incorporates the **NOW** GTA

the extent or level of flooding in Main Creek and at the Glennies Creek Road bridge for the rain events modelled in the EIS, to the satisfaction of the **Secretary**.

#### **Site Water Balance**

33. The Applicant shall:
- (a) prepare a detailed site water balance for the development;
  - (b) measure:
    - water use on site;
    - water transfers across the site;
    - water transfers between the site and surrounding mines;
  - (c) review the site water balance for the development annually; and
  - (d) report the results of this review in the [annual review](#), to the satisfaction of the **Secretary**.

#### **Erosion of Sediment Control**

34. The Applicant shall implement a range of standard erosion and sediment controls at the development, in general accordance with the requirements of the Department of Housing's *Managing Urban Stormwater: Soils and Construction* manual.

#### **Surface Water Monitoring**

35. The Applicant shall regularly monitor:
- (a) the volume and quality of water discharged from the site under the Hunter River Salinity Trading Scheme;
  - (b) surface water flows and quality upstream and downstream of the development in Yorks Creek, Swamp Creek, Bettys Creek and Main Creek;
  - (c) channel stability in Yorks Creek, Swamp Creek, Bettys Creek and Main Creek;
  - (d) waterlogging adjacent to the lower reaches of Main Creek; and
  - (e) report the results of this monitoring in the [annual review](#), to the satisfaction of the **Secretary**.

#### **Ground Water Monitoring**

36. The Applicant shall regularly monitor:
- (a) the volume of ground water seeping into the open cut mine workings;
  - (b) regional groundwater levels and quality in the surrounding aquifers;
  - (c) the groundwater pressure response in the surrounding coal measures; and
  - (d) report the results of this monitoring in the [annual review](#), to the satisfaction of the **Secretary**.

#### **Water Management Plan**

37. Within 6 months of this consent, the Applicant shall prepare and implement a Water Management Plan for the mine, to the satisfaction of the **Secretary**. This plan must include:
- (a) the detailed plans for the proposed diversions of Bettys Creek;
  - (b) a site water balance;
  - (c) an Erosion and Sediment Control Plan;
  - (d) a Surface Water Monitoring Program;
  - (e) a Ground Water Monitoring Program; and
  - (f) a Surface and Ground Water Response Plan, to address any potential adverse impacts associated with the development.

*Note: The Department accepts that the initial Water Management Plan may not include the detailed plans for the proposed diversions of Bettys Creek. If that occurs, however, the Applicant will be required to review and revise the Water Management Plan for the development to the satisfaction of the **Secretary** prior to carrying out any of the proposed diversions.*

38. Within 3 months of the completion of the Independent Environmental Audit (see condition 8 of Schedule 6), the Applicant shall review and revise the Water Management Plan for the development to the satisfaction of the **Secretary**.

## Final Void Management

39. At least 5 years before the cessation of mining, the Applicant shall prepare and implement a Final Void Management Plan for the development, in consultation with the **NOW**, and to the satisfaction of the **Secretary**. This plan must:
- investigate options for the future use of the final void;
  - assess the potential interactions between the proposed diversion of Bettys Creek into Main Creek and the final void; and
  - describe what actions and measures would be implemented to:
    - minimise any potential adverse impacts associated with the final void; and
    - manage and monitor the potential impacts of the final void over time.

## FAUNA AND FLORA

### Southern Remnant

40. The Applicant shall not reduce the area of the Southern Remnant below 25 hectares without the written approval of the Minister. In seeking this approval, the Applicant shall submit a report to the Minister that has been prepared in consultation with the HCFFAC. The report shall include:
- the proposal to increase the amount of vegetation clearing in the Southern Remnant, including any offsets;
  - the results of any consultation conducted during the preparation of the report;
  - an assessment of the ecological, social and economic impacts of the proposal; and
  - justification for the proposal.

*Note: Within 4 weeks of receiving this report, the Minister will endeavour to:*

- make the report public;*
- seek independent expert advice on the proposal;*
- seek advice from the **OEH** on the proposal;*
- determine the proposal; and*
- make this determination public.*

### Biodiversity Offset Strategy

41. The Applicant shall implement the Biodiversity Offset Strategy in accordance with best practice flora and fauna management, and to the satisfaction of the **Secretary**.
42. Within 3 years of this consent, the Applicant shall implement suitable arrangements to provide long-term security for the offset in the Biodiversity Offset Strategy to the satisfaction of the **Secretary**.

*Note: The long-term security of the offset can be achieved through a combination of the following: Deed of Agreement with the Minister, rezoning the land under the Singleton Local Environment Plan 1996, caveats on the title under the Conveyancing Act 1919, transfer of land to Forests NSW and protection through the forest management zoning system, etc.. However, the precise combination of measures that would be used is likely to take some time to finalise.*

### Green and Golden Bell Frog Habitat

43. Within 18 months of this consent, the Applicant shall create alternative habitat for the Green and Golden Bell Frog in the Biodiversity Offset Strategy area, enhance the existing habitat for this species and implement a captive breeding program if the Green and Golden Bell Frog is rediscovered within the site, in consultation with **OEH**, to the satisfaction of the **Secretary**. Details of the location, number, design and maintenance of the alternative habitat and the captive breeding program are to be provided in the Flora and Fauna Management Plan (see condition 45 below), and are to include:-
- a minimum of 6 alternative Green and Golden Bell Frog breeding habitat areas (scrapes with appropriate planting and shelter/over wintering sites) in the proposed offset area north (3) and south (3) of the original Betty's Creek alignment;
  - details of the captive breeding program that is to be managed by a professional, experienced and appropriately licensed facility (i.e. one where there are full time professional staff engaged in the husbandry of captive animals) to the satisfaction of the **Chief Executive Officer** of the **OEH**;
  - the captive breeding program, once established, is to be maintained until such time that the alternative habitat has been created and demonstrated to be providing suitable breeding habitat for Green and Golden Bell Frogs (likely to be a minimum of 4 years after the rediscovery, capture and reintroduction of any Green and Golden Bell Frogs).



### **Eastern Free-tail Bat**

44. The Applicant shall implement all reasonable and feasible measures to minimise the impacts of the development on the Eastern Free-tail Bat on the site, in consultation with the **OEH**, and to the satisfaction of the **Secretary**.

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

45. Within 6 months of this consent, the Applicant shall prepare and implement a detailed Flora and Fauna Management Plan for the development in consultation with the HCFFAC, and to the satisfaction of the **Secretary**. This plan must include:
- (a) a description of the Biodiversity Offset Strategy in broad terms, including its objectives, and its relationship to the Ravensworth State Forest and the rehabilitation of the mine over time;
  - (b) assessment and completion criteria for the Biodiversity Offset Strategy;
  - (c) a detailed description of what actions and measures will be implemented including:
    - details, timeframes and locations of all ameliorative measures proposed in the Species Impact Statement for the development;
    - timeframes for the cessation of grazing and timber/firewood collection;
    - the design, location and maintenance regime for the Green and Golden Bell Frog habitat created as a requirement of condition 43 and the Green and Golden Bell Frog captive breeding program;
  - (d) a detailed flora and fauna monitoring program for the development that is based on sound statistical principles; and
  - (e) a detailed description of the procedures to:
    - salvage and reuse material from the site;
    - clear vegetation on site;
    - control erosion and sedimentation in the Biodiversity Offset Strategy area;
    - manage soil and water in the Biodiversity Offset Strategy area;
    - manage bushfires in the Biodiversity Offset Strategy area;
    - collect and propagate seed from the local area;
    - control weeds and feral pests;
    - control access; and
    - manage any potential conflicts between the Biodiversity Offset Strategy and Aboriginal cultural heritage in the Biodiversity Offset Strategy area, in consultation with the **OEH**, and to the satisfaction of the **Secretary**.

### **Annual Review of Biodiversity Offset Strategy and Flora and Fauna Management Plan**

46. The Applicant shall:
- (a) annually review the performance of the Biodiversity Offset Strategy and Flora and Fauna Management Plan, in consultation with the HCFFAC; and
  - (b) if necessary, revise the Biodiversity Offset Strategy implementation measures and/or Flora and Fauna Management Plan, to the satisfaction of the **Secretary**.

### **Independent Audit of the Biodiversity Offset Strategy and Flora and Fauna Management Plan**

47. Within 3 years of the date of this consent, and every 3 years thereafter, the Applicant shall commission, and pay the full cost of, an Independent Audit of the Biodiversity Offset Strategy and Flora and Fauna Management Plan. This audit must:
- (a) be conducted by a suitably qualified, experienced, and independent person whose appointment has been approved by the **Secretary**;
  - (b) assess the performance of the Biodiversity Offset Strategy and Flora and Fauna Management Plan; and
  - (c) if necessary, recommend actions or measures to improve the performance of the Biodiversity Offset Strategy and Flora and Fauna Management Plan.

### **Conservation Bond**

48. Following the independent audit of the Biodiversity Offset Strategy at the end of year 9 of the development, or prior to the cessation of mining, whichever occurs first, the Applicant shall lodge a reasonable conservation bond with the Department to ensure that there are sufficient resources available to fully implement the Biodiversity Offset Strategy. The amount of the bond shall be set by the **Secretary**, in consultation with the Applicant and the HCFFAC, and reflect the costs, at that time, of fully implementing the Biodiversity Offset Strategy. The amount of the bond may be adjusted by the **Secretary**, in consultation with the Applicant and the HCFFAC, after each subsequent independent audit of the Biodiversity Offset Strategy.



### **Hunter Coalfield Flora and Fauna Advisory Committee Contribution**

49. The Applicant shall contribute a reasonable amount (up to a maximum of \$20,000) each year towards the operation of the HCFFAC.

### **Strategic Study Contribution**

50. If, during the development, the Department commissions a strategic study into the regional vegetation corridor stretching from the Wollemi National Park to the Barrington Tops National Park, then the Applicant shall contribute a reasonable amount (up to a maximum of \$10,000) towards the completion of this study.

### **MT PLEASANT PUBLIC SCHOOL**

#### **Enhancement Program**

51. Within 6 months of this consent, the Applicant shall prepare and implement an enhancement program for the Mt Pleasant Public School, in consultation with the principal of the school and representatives of the Mt Pleasant Public School P&C Association, and to the satisfaction of the **Secretary**.

*Note: This enhancement program should be in general accordance with the proposal outlined in the Applicant's Submission in Reply to the Commission of Inquiry, dated July 2004.*

### **<sup>5</sup>ABORIGINAL CULTURAL HERITAGE**

#### **Section 90 Consents**

52. The Applicant shall obtain section 90 consents from **OEH**, under section 90 of the *National Parks and Wildlife Act 1974*, prior to disturbing any of the following Aboriginal sites and artefacts (sites shown in Figure 12.2 of the EIS): MC 1; MC 2; MC 3; MC 4; MC 5; MC 6; BC 44 – 67; and SC 13.

#### **Archaeological Salvage Program**

53. The Applicant shall prepare and implement a salvage program to the satisfaction of **OEH** that is based on landform context, including open area excavations in three or four locations, to complement and extend the previous investigations and salvages in the local area. The Aboriginal community must have input into the salvage program.

#### **Trust Fund Contribution**

54. Within 6 months of this consent, or as otherwise agreed by the **Secretary**, the Applicant shall contribute \$50,000 to the Hunter Aboriginal Cultural Heritage Trust Fund for further investigations into Aboriginal cultural heritage, as defined by the Trust Deed.

### **HERITAGE**

*Note: For more information on the references used in the following conditions see Figure 12.3 of the EIS.*

#### **Conservation Measures**

55. The Applicant shall prepare a photographic record of the condition and integrity of heritage site MOH5 (homestead and dairy), and to update this record every 5 years until the cessation of mining, to the satisfaction of the **Secretary**.

#### **Archival Record**

56. The Applicant shall prepare an archival record of heritage sites MOH1, MOH2, MOH3 and MOH4, prior to any activity associated with the development that may disturb these sites, in accordance with the requirements of the NSW Heritage Office, and to the satisfaction of the **Secretary**.

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<sup>5</sup> Incorporates **OEH** GTA

## TRAFFIC AND TRANSPORT

### Monitoring of Coal Transport

57. The Applicant shall:
- (a) keep records of the:
    - amount of coal transported from the site each year; and
    - number of coal haulage train movements generated by the development (on a daily basis); and
  - (b) include these records in the [annual review](#).

### Traffic Management

58. Prior to carrying out any construction on site, the Applicant shall prepare and implement a Construction Traffic Management Plan for the development to the satisfaction of the **RMS** and Council. This plan shall include a review of clearances and loads of bridges which may be affected by traffic associated with the development, a road safety audit of the single-lane bridge on Hebden Road and its approaches, and consideration of whether the bridge needs to be widened and whether the signage or its approaches needs to be improved. Any road works, bridge widening and ancillary works, as recommended in the road safety audit or Construction Traffic Management Plan, shall be carried out at full cost to the Applicant, to the satisfaction of Council.

## VISUAL IMPACT

### Visual Amenity

59. The Applicant shall implement measures to mitigate the visual impacts, including the design and construction of development infrastructure in a manner that minimises visual contrasts, to the satisfaction of the **Secretary**.

### Lighting Emissions

60. The Applicant shall:
- (a) take all practicable measures to mitigate off-site lighting impacts from the development; and
  - (b) ensure that all external lighting associated with the development complies with *Australian Standard AS4282 (INT) 1995 – Control of Obtrusive Effects of Outdoor Lighting*, to the satisfaction of the **Secretary**.

## GREENHOUSE GAS

61. The Applicant shall:
- (a) monitor the greenhouse gas emissions generated by the development;
  - (b) investigate ways to reduce greenhouse gas emissions generated by the development; and
  - (c) report on greenhouse gas monitoring and abatement measures in the [annual review](#), to the satisfaction of the **Secretary**.

## WASTE MINIMISATION

62. The Applicant shall:
- (a) monitor the amount of waste generated by the development;
  - (b) investigate ways to minimise waste generated by the development;
  - (c) implement reasonable and feasible measures to minimise waste generated by the development; and
  - (d) report on waste and management and minimisation in the [annual review](#), to the satisfaction of the **Secretary**.

## BUSHFIRE MANAGEMENT

63. The Applicant shall:
- (a) ensure that the development is suitably equipped to respond to any fires on site; and
  - (b) assist the Rural Fire Service and emergency services as much as possible if there is a fire on site during the development; and
  - (c) prepare a conservation sensitive Bushfire Management Plan for the site in consultation with the HCFFAC, to the satisfaction of Council and the Rural Fire Service.

## **MINE CLOSURE STRATEGY**

64. At least 5 years prior to the cessation of mining, the Applicant shall prepare a Mine Closure Strategy for the development, in consultation with the **DRE** and Council, and to the satisfaction of the **Secretary**.
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## SCHEDULE 5 ADDITIONAL PROCEDURES FOR AIR QUALITY AND NOISE MANAGEMENT

### Notification of Landowners

1. The Applicant shall notify the landowners of the land listed in Table 1 in writing that they have the right to require the Applicant to acquire their land at any stage during the development.
2. If the results of the air quality and/or noise monitoring required in schedule 4 identify that the air pollution and/or noise generated by the development is greater than any of the air quality and/or noise criteria in schedule 4, except where this is predicted in the EIS, then the Applicant shall notify the **Secretary** and the affected landowners and/or existing or future tenants (including tenants of mine owned properties) accordingly, and provide quarterly monitoring results to each of these parties until the results show that the development is complying with the air quality and/or noise criteria in schedule 4.
3. Within 6 months of this consent, the Applicant shall develop a brochure to advise landowners and/or existing or future tenants (including tenants of mine owned properties) of the possible health and amenity impacts associated with exposure to particulate matter, in consultation with NSW Health, and to the satisfaction of the **Secretary**.

The Applicant shall review relevant human health studies and update this brochure every 3 years, to the satisfaction of the **Secretary**.

The Applicant shall provide this brochure (and associated updates) to:

- (a) all landowners and/or existing or future tenants (including tenants of mine owned properties) in areas where the air dispersion model predictions in the EIS identify that the dust emissions generated by the development are likely to be greater than the air quality land acquisition criteria in condition 23 of schedule 4; and
- (b) all landowners and/or existing or future tenants (including tenants of mine owned properties) of properties where the monitoring results identify that the mine is exceeding the air quality land acquisition criteria in condition 23 of schedule 4.

### Independent Review

4. If an owner of privately-owned land considers the development to be exceeding the relevant criteria in schedule 4, except where this is predicted in the EIS, then he/she may ask the **Secretary** in writing for an independent review of the impact of the development on his/her land.

If the **Secretary** is satisfied that an independent review is warranted, then within 2 months of the **Secretary's** decision, the Applicant shall:

- (a) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the **Secretary**, to:
    - consult with the landowner to determine his/her concerns;
    - conduct monitoring to determine whether the development is complying with the relevant criteria in schedule 4; and
    - if the development is not complying with these criteria then:
      - determine if there is more than one mine responsible for the exceedance, and if so the relative share of each mine towards the impact on the land;
      - identify the measures that could be implemented to ensure compliance with the relevant criteria; and
  - (b) give the **Secretary** and landowner a copy of the independent review.
5. If the independent review determines that the development is complying with the relevant criteria in schedule 4, then the Applicant may discontinue the independent review with the approval of the **Secretary**.

If the independent review determines that the development is not complying with the relevant criteria in schedule 4, and that the development is primarily responsible for this non-compliance, then the Applicant shall:

- (a) implement all reasonable and feasible mitigation measures, in consultation with the landowner and appointed independent person, and conduct further monitoring until the development complies with the relevant criteria; or
- (b) secure a written agreement with the landowner to allow exceedances of the relevant criteria, to the satisfaction of the **Secretary**.

If the independent review determines that the development is not complying with the relevant land acquisition criteria in schedule 4, and that the development is primarily responsible for this non-compliance, then upon receiving a written request from the landowner, the Applicant shall acquire all or part of the landowner's land in accordance with the procedures in conditions 7-8 below.

6. If the independent review determines that the relevant criteria in schedule 4 are being exceeded, but that more than one mine is responsible for this non-compliance, then the Applicant shall, together with the relevant mine/s:
- (a) implement all reasonable and feasible mitigation measures, in consultation with the landowner and appointed independent person, and conduct further monitoring until there is compliance with the relevant criteria; or
  - (b) secure a written agreement with the landowner to allow exceedances of the relevant criteria, to the satisfaction of the **Secretary**.

If the independent review determines that the relevant land acquisition criteria in schedule 4 are being exceeded, but that more than one mine is responsible for this non-compliance, then upon receiving a written request from the landowner, the Applicant shall acquire all or part of the landowner's land on as equitable a basis as possible with the relevant mine/s, in accordance with the procedures in conditions 7-8 below.

### Land Acquisition

7. Within 3 months of receiving a written request from a landowner with acquisition rights, the Applicant shall make a binding written offer to the landowner based on:
- (a) the current market value of the landowner's interest in the property at the date of this written request, as if the property was unaffected by the development, having regard to the:
    - existing and permissible use of the land, in accordance with the applicable planning instruments at the date of the written request; and
    - presence of improvements on the property and/or any approved building or structure which has been physically commenced at the date of the landowner's written request, and is due to be completed subsequent to that date, but excluding any improvements that have resulted from the implementation of the 'additional noise mitigation measures' in condition 4 of schedule 4;
  - (b) the reasonable costs associated with:
    - relocating within the Singleton or Muswellbrook local government area, or to any other local government area determined by the **Secretary**; and
    - obtaining legal advice and expert advice for determining the acquisition price of the land, and the terms upon which it is to be acquired; and
  - (c) reasonable compensation for any disturbance caused by the land acquisition process.

However, if at the end of this period, the Applicant and landowner cannot agree on the acquisition price of the land and/or the terms upon which the land is to be acquired, then either party may refer the matter to the **Secretary** for resolution.

Upon receiving such a request, the **Secretary** shall request the President of the NSW Division of the Australian Property Institute to appoint a qualified independent valuer to:

- consider submissions from both parties;
- determine a fair and reasonable acquisition price for the land and/or the terms upon which the land is to be acquired, having regard to the matters referred to in paragraphs (a)-(c) above;
- prepare a detailed report setting out the reasons for any determination; and
- provide a copy of the report to both parties.

Within 14 days of receiving the independent valuer's report, the Applicant shall make a binding written offer to the landowner to purchase the land at a price not less than the independent valuer's determination.

However, if either party disputes the independent valuer's determination, then within 14 days of receiving the independent valuer's report, they may refer the matter to the **Secretary** for review. Any request for a review must be accompanied by a detailed report setting out the reasons why the party disputes the independent valuer's determination. Following consultation with the independent valuer and both parties, the **Secretary** will determine a fair and reasonable acquisition price for the land, having regard to the matters referred to in paragraphs (a)-(c) above, the independent valuer's report, the detailed report disputing the independent valuer's determination, and any other relevant submissions.

Within 14 days of this determination, the Applicant shall make a binding written offer to the landowner to purchase the land at a price not less than the **Secretary's** determination.

If the landowner refuses to accept the Applicant's binding written offer under this condition within 6 months of the offer being made, then the Applicant's obligations to acquire the land shall cease, unless the **Secretary** determines otherwise.

8. The Applicant shall pay all reasonable costs associated with the land acquisition process described in condition 7 above, including the costs associated with obtaining Council approval for any plan of subdivision (where permissible), and registration of this plan at the Office of the Registrar-General.
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**SCHEDULE 6**  
**ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING AND REPORTING**

**ENVIRONMENTAL MANAGEMENT**

**Environmental Management Strategy**

1. The Applicant shall prepare and implement an Environmental Management Strategy for the development to the satisfaction of the **Secretary**. This strategy must:
  - (a) be submitted to the **Secretary** for approval within 6 months of this consent;
  - (b) provide the strategic framework for environmental management of the development;
  - (c) identify the statutory requirements that apply to the development;
  - (d) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
  - (e) describe the procedures that would be implemented to:
    - keep the local community and relevant agencies informed about the operation and environmental performance of the development;
    - receive, handle, respond to, and record complaints;
    - resolve any disputes that may arise during the course of the development;
    - respond to any non-compliance;
    - respond to emergencies; and
  - (f) include:
    - copies of any strategies, plans and programs approved under the conditions of this approval; and
    - a clear plan depicting all the monitoring required to be carried out under the conditions of this approval.

**Management Plan Requirements**

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

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

**Annual Review**

3. By the end of March each year, the Applicant shall review the environmental performance of the development to the satisfaction of the **Secretary**. This review must:
  - (a) describe the development (including any rehabilitation) that was carried out in the past calendar year, and the development that is proposed to be carried out over the next year;
  - (b) include a comprehensive review of the monitoring results and complaints records of the development over the past year, which includes a comparison of these results against:
    - the relevant statutory requirements, limits or performance measures/criteria;
    - the monitoring results of previous years; and

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

#### Revision of Strategies, Plans and Programs

4. Within 3 months of:
  - (a) the submission of an annual review under Condition 3 above;
  - (b) the submission of an incident report under Condition 6 below;
  - (c) the submission of an audit report under Condition 8 below; and
  - (d) any modification to the conditions of this consent, (unless the conditions require otherwise), the Applicant shall review, and if necessary revise, the strategies, plans, and programs required under this consent to the satisfaction of the **Secretary**.

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

#### Community Consultative Committee

5. The Applicant shall establish and operate a new Community Consultative Committee (CCC) for the developments within the Mt Owen Mining complex in general accordance with the *Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects* (Department of Planning, 2007, or its latest version), and to the satisfaction of the **Secretary**. This CCC must be operating within 6 months of this consent.

##### Notes:

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

#### REPORTING

##### Incident Reporting

6. The Applicant shall notify the **Secretary** and any other relevant agencies of any incident associated with the development as soon as practicable after the Applicant becomes aware of the incident. Within 7 days of the date of the incident, the Applicant shall provide the **Secretary** and any relevant agencies with a detailed report on the incident.

##### Regular Reporting

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

#### INDEPENDENT ENVIRONMENTAL AUDIT

8. By the end of December 2011, and every 3 years thereafter, unless the **Secretary** directs otherwise, the Applicant shall commission and pay the full cost of an Independent Environmental Audit of the development. This audit must:
  - (a) be conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the **Secretary**;
  - (b) include consultation with the relevant agencies;
  - (c) assess the environmental performance of the Mt Owen Mining Complex and assess whether it is complying with the requirements in this consent and any relevant development consent, EPL or Mining Lease (including any assessment, plan or program required under these consents) that apply to the Mt Owen Mining Complex;
  - (d) review the adequacy of strategies, plans or programs required under the above mentioned consents; and
  - (e) recommend appropriate measures or actions to improve the environmental performance of the projects, and/or any assessment, plan or program required under the above mentioned consents.



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

9. Within 6 weeks of the completion of this audit, or as otherwise agreed by the Secretary, the Applicant shall submit a copy of the audit report to the Secretary, together with its response to any recommendations contained in the audit report.

#### **ACCESS TO INFORMATION**

10. From the end of March 2011, the Applicant shall:
  - (a) make copies of the following publicly available on its website:
    - the documents referred to in Condition 2 of Schedule 3;
    - all current statutory consents for the Mt Owen Mining Complex;
    - all approved strategies, plans and programs required under the conditions of this consent;
    - the monitoring results of the Mt Owen Mining Complex, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
    - a complaints register, updated on a monthly basis;
    - minutes of CCC meetings;
    - the annual reviews of the development;
    - any independent environmental audit of the Mt Owen Mining Complex, and the Applicant's response to the recommendations in any audit;
    - any other matter required by the Secretary; and
  - (b) keep this information up-to-date, to the satisfaction of the Secretary.

**APPENDIX 1  
SCHEDULE OF LAND**

**Freehold Land**

DESCRIPTION	
Lot 2 DP 730978	Lot 121 DP 752462
Lot 11 DP 873459	Lot 100 DP 791739
Lot 1 DP 48490	Lot 101 DP 791739
Lot 8 DP 6830	Lot 4 DP 823167
Lot 2 DP 561235	Lot 5 DP 823167
Lot 4 DP 561235	Lot 3 DP 823167
Lot 1 DP 865784	Lot 2 DP 823167
Lot 354 DP 867083	Lot 1 DP 823167
Lot 353 DP 867083	Lot 4 DP 859544
Lot PT1 DP 940619	Lot 5 DP 859544
Lot 27 DP 6830	Lot 6 DP 859544
Lot 26 DP 6830	Lot 7 DP 859544
Lot 25 DP 6830	Lot 8 DP 859544
Lot 24 DP 6830	Lot 355 DP 867083
Lot 21 DP 6830	Lot 15 DP 873459
Lot 17 DP 6830	Lot 1 DP 925901
Lot 13 DP 665120	Lot 12 DP 1017435
Lot 1221 DP 709371	Lot 11 DP 6830
Lot 60 DP 752462	Lot 11 DP 6842
Lot 123 DP 752462	Lot 9 DP 6842
Lot 30 DP 752462	Lot 1 DP 135026
Lot 100 DP 752462	Lot 1 DP 380676
Lot 37 DP 752462	Lot 3 DP 859544
Lot 58 DP 752462	Lot 2 DP 859544
Lot 101 DP 752462	Lot 352 DP 867083
Lot 102 DP 752462	

**Crown Land Descriptions**

Ravensworth State Forest (No. 277, including extension No.1 and extension No. 2)

**Crown Roads**

All Crown roads shown within the Project Area on Figure 1.4 of the EIS titled *Mt Owens Operations EIS* (Umwelt, 2003)

**Council Roads**

Forest Road, Hebden Road, Glennies Creek Road

**Travelling Stock and Camping Reserve No. 89694**

**Rail Easement (Main Northern Line – approx. 252.375 to 253.733 kilometres)**

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**APPENDIX 2  
INDEPENDENT DISPUTE RESOLUTION PROCESS**

