Development Consent

Section 80 of the *Environmental Planning & Assessment Act 1979*

I, the Minister Assisting the Minister for Infrastructure and Planning approve the Development Application referred to in Schedule 1, subject to the conditions in Schedules 2 to 6.

These conditions are required to:
(i) Prevent, minimise, and/or offset adverse environmental impacts;
(ii) Set standards and performance measures for acceptable environmental performance;
(iii) Require regular monitoring and reporting; and
(iv) Provide for the on-going environmental management of the development.

Diane Beamer, MP
Minister Assisting the Minister for Infrastructure and Planning (Planning Administration)

Sydney, 2003 File No. S02/02820

SCHEDULE 1

Development Application:	DA-122-3-2003.
Applicant:	Charbon Coal Pty Limited.
Consent Authority:	Minister for Infrastructure and Planning.
Land:	See Appendix 1.
Proposed Development:	The development of new open cut areas at Charbon Colliery, which include: • Developing Areas 3 and 4 west of open cut Areas 1 and 2 in the north west; • Developing the Southern Open Cut area; • Developing an internal access road between the existing Third Entry and the Southern Open Cut area; • Constructing a new light vehicle access road to the Southern Open Cut mine;

- Continuing use of existing facilities and infrastructure including coal washery, reject emplacement and rail loop;
- Producing up to a total of 600,000 tonnes a year of ROM coal from the mine by open cut mining methods; and
- Operating the mine between 6 am and 10 pm Monday to Friday, 7 am and 6 pm Saturdays with no operations to be conducted on Sundays and public holidays, unless approved by the Director-General.

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 involves coal mining-related development satisfying the criteria in the Minister's declaration, dated 29 June 2001.

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 from the:

- The Department of Environment and Conservation under the *Protection of the Environment Operations Act 1997*;
- The Department of Environment and Conservation under the *National Parks & Wildlife Act 1974*; and
- Rylstone Shire Council under the *Roads Act 1993*.

Designated Development: The proposal is classified as designated development, under Section 77A of the *Environmental Planning & Assessment Act 1979*, because it is for an open cut coal mine that would produce or process more than 500 tonnes of coal a day and disturb more than 4 hectares of land, and consequently meets the criteria for designated development in Schedule 3 of the *Environmental Planning & Assessment Regulation 2000*.

BCA Classification:

Class 5	Offices
Class 7:	Car park
Class 8:	Workshop
Class 9b:	Bathhouse
Class 10a:	Car Park
Class 10b:	Store, fuel and oil storages

Note:

1) *To find out when this consent becomes effective, see Section 83 of the Act;*
2) *To find out when this consent is liable to lapse, see Section 95 of the Act; and*
3) *To find out about appeal rights, see Section 97 of the Act.*

SCHEDULE 2
DEFINITIONS

AEMR	Annual Environmental Management Report
Areas 3 & 4	Land shown as *"Proposed Extensions to Opencut (Areas 3 &4)"* on Figure 2.3 in the EIS dated March 2003
Applicant	Charbon Coal Pty Limited
BCA	Building Code of Australia
CCC	Community Consultative Committee
Council	Rylstone Shire Council
DA	Development Application
DA area	Southern Open Cut area and Areas 3 & 4
DEC	The Department of Environment and Conservation (formerly the EPA and NPWS)
Day	Day is defined as the period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays
Department	Department of Infrastructure, Planning and Natural Resources
DIPNR	The Department of Infrastructure, Planning and Natural Resources
Director-General	Director-General of the Department of Infrastructure, Planning and Natural Resources, or delegate
DMR	The Department of Mineral Resources
EIS	Environmental Impact Statement
EMP	Environmental Management Plan
EPA	Environment Protection Authority (now DEC)
EP&A Act	*Environmental Planning and Assessment Act 1979*
EP&A Regulation	*Environmental Planning and Assessment Regulation 2000*
Evening	Evening is defined as the period from 6pm to 10pm
GTA	General Term of Approval
HMA	Habitat Management Area
Land	Land means the whole of a lot in a current plan registered at the Land Titles Office at the date of this consent
Minister	Minister for Infrastructure and Planning
MOP	Mining Operations Plan
Night	Night is defined as the period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
PCA	Principal Certifying Authority appointed under Section 109E of the Act
Privately-owned land	Land where: • A private agreement does not exist between the Applicant and the land owner; and • There are no land acquisition provisions requiring the Applicant to purchase the land upon request from the land owner
NPWS	The National Parks and Wildlife Service (now DEC)
ROM	Run of Mine
RTA	Roads and Traffic Authority
Site	Land to which the DA applies
Southern Open Cut area	Land shown as *"Southern Open Cut"* on Figure 2.3 in the EIS dated March 2003, including the *"Light vehicle access road"* and *"Internal Access Road"* shown on that figure.

Vacant land	Vacant land is defined as the whole of the lot in a current plan registered at the Land Titles Office that does not have a dwelling situated on the lot and is permitted to have a dwelling on that lot at the date of this consent.

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 decommissioning of the development.

Terms of Approval

2. [1]The Applicant shall carry out the development generally in accordance with the:
   (a) DA 122-3-2003;
   (b) EIS entitled *Charbon Colliery Proposed Southern Open Cut*, dated March 2003, and prepared by International Environmental Consultants Pty. Ltd.;
   (c) Indigenous Heritage Report from Therin Archaeological Consulting, dated September 2003 and entitled *Aboriginal Heritage Assessment for the Proposed Charbon Colliery Southern Open Cut, Charbon Colliery, 8 km South of Kandos*;
   (d) Letter from Charbon Coal Pty Limited to the Department dated 2 October 2003 and entitled *Charbon Colliery – Southern Open Cut EIS, Flora and Fauna;* and
   (e) Conditions of this consent.

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

4. The Applicant shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
   (a) Any reports, plans or correspondence that are submitted in accordance with this consent; and
   (b) The implementation of any actions or measures contained in these reports, plans or correspondence.

   Note: Before any mining is carried out in the Southern Open Cut area in accordance with this consent, the Applicant is required to produce a Mining Operations Plan, approved by the DMR.

Limits of Approval

5. With regards to mining-related development, this consent lapses 12 years after DMR approves the initial MOP for development in the DA area.

   Note: Once the mining-related development is completed, the Applicant is required, under this consent, to continue implementing the flora and fauna offset strategy for the life of the impact, which could take between 2 to 5 years. Conditions of this consent applying to the flora and fauna offset strategy will continue to operate during this period.

6. The Applicant shall extract no more than 600,000 tonnes of ROM coal by open cut mining methods from the development in any 12 month period.

---

[1] Incorporates DEC's GTA

7. [2]The Applicant shall obtain, from the DEC, a variation to the Environmental Protection Licence held by the Applicant for the site before commencing any work at the Southern Open Cut area (including development and construction work).

Boundary Delineation and Protection

8. Prior to any clearing/construction work, the Applicant shall, in accordance with the requirements of NSW State Forests, survey all common boundaries of State Forests in proximity to the development. This survey shall include all boundaries in the vicinity of the internal access road and the Southern Open Cut.

9. No part of the development shall lie within State Forests' property.

Structural Adequacy

10. The Applicant shall ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures within the DA area, 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 detailed requirements for the certification of development.*

Demolition

11. The Applicant shall ensure that all demolition work within the DA area is carried out in accordance with *AS 2601-2001: The Demolition of Structures*.

Protection of Public Infrastructure

12. The Applicant shall, unless otherwise addressed by the conditions of this consent:
    (a) Repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development;
    (b) Relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

Operation of Plant and Equipment

13. The Applicant shall ensure that all plant and equipment at the site, or used in connection with the development, are:
    (a) Maintained in a proper and efficient condition; and
    (b) Operated in a proper and efficient manner.

Section 94 Contribution

14. The Applicant shall pay Council $0.035 per tonne per kilometre of local road use for domestic coal sales transported on public roads. The payment shall be made by the 21 July of each year and be calculated on the tonnes of coal transported in the 12 months prior to 30 June of that year.

    Note: This contribution is subject to indexation by the Implicit Price Deflator, as published by the Australian Bureau of Statistics.

---

[2] Incorporates DEC's GTA

15. The Applicant shall make a one-off payment of $15,000 to Council within 21 days of the date of this development consent.

    Note: This contribution includes provisions under the Council's Developer Contribution Plans of $1425 for Roads Rural, $4427.50 for Bushfire Services and $3109.26 for Community Facilities.

SCHEDULE 4
SPECIFIC ENVIRONMENTAL CONDITIONS

FAUNA & FLORA

1. The Applicant shall provide or establish at least 54 hectares of compensatory habitat on the surface colliery holding, in accordance with the letter of 2 October 2003 from the Applicant to the Department, and to the satisfaction of the Director-General, to replace the woodland vegetation removed by the development.

Compensatory Habitat Plan

2. Within 6 months of the date of this consent, the Applicant shall submit a Compensatory Habitat Plan to the Department. This plan must:
   (a) Describe the compensatory habitat proposal and its implementation;
   (b) Establish baseline data for the existing habitat in the proposed compensatory habitat area;
   (c) Set completion criteria for the compensatory habitat proposal; and
   (d) Describe how the performance of the compensatory habitat management proposal would be monitored over time.

Reporting

3. The Applicant shall include a progress report on the implementation of the compensatory habitat proposal in the AEMR.

Deed of Agreement

4. Within 6 months of the date of this consent, the Applicant shall enter into a Deed of Agreement with the Minister. In this agreement, the Applicant shall agree to:
   (a) Conserve and manage the land in the Compensatory Habitat Area in accordance with the compensatory habitat strategy (see Conditions 1 and 2), and best practice; and
   (b) Permanently protect the land in the Compensatory Habitat Area and exclude open cut mining.

Operating Conditions

5. The Applicant shall implement best practice fauna and flora management to minimise the impacts of the development.

6. The Applicant shall salvage and reuse as much material as possible from the land that will be mined, such as soil, seeds, tree hollows, rocks and logs.

7. The Applicant shall develop a detailed vegetation clearing protocol to reduce the potential impact of the development on threatened fauna.

8. To the greatest extent possible, the Applicant shall collect and use seed from the local area for any planting associated with the development.

9. If during the course of the development, the applicant becomes aware of the presence of threatened species not identified and assessed in the EIS and which are likely to be affected, the applicant must:
   (a) Immediately cease all work likely to affect the threatened species;
   (b) Inform the Director-General of DEC and/or NSW Fisheries as relevant; and

(c) Not recommence work likely to affect the threatened species until receiving advice from an ecologist to do so.

Monitoring

10. The Applicant shall prepare and implement a detailed Fauna & Flora Monitoring Program for the development, in consultation with the Department. The Applicant shall submit a copy of this Program to the Director-General for approval within 6 months of the date of this consent.

Annual Review

11. The Applicant shall
    (a) Review the performance of the Compensatory Habitat Plan and Fauna and Flora Monitoring Program annually, in consultation with the Department; and, if necessary,
    (a) Revise these documents to take into account any recommendations from the annual review.

Independent Audit

12. At the end of year 2 of the development, and every 5 years thereafter, unless the Director-General directs otherwise, the Applicant shall commission, and pay the full cost of, an independent Audit of the offset strategy. This audit must:
    (a) Be conducted by a suitably qualified, experienced, and independent person whose appointment has been endorsed by the Director-General;
    (b) Assess the performance of the offset strategy;
    (c) Review the adequacy of the Compensatory Habitat Plan and Flora & Fauna Monitoring Program; and, if necessary
    (d) Recommend actions or measures to improve the performance of the offset strategy, and the adequacy of the Compensatory Habitat Plan and/or the Flora & Flora & Fauna Monitoring Program.

13. Within 3 months of commissioning this audit, the Applicant shall submit a copy of the audit report to the Director-General with a detailed response to any of the recommendations in the audit report.

AIR QUALITY

Impact Assessment Criteria

14. Except as may be expressly provided by a DEC licence, the Applicant shall ensure that the air pollution generated by the development does not exceed the criteria listed in Tables 1, 2 and 3 at any privately-owned land.

Pollutant	Averaging period	Criterion
Total suspended particulate (TSP) matter	Annual	90 $\mu g/m^3$
Particulate matter < 10 µm (PM_{10})	Annual	30 $\mu g/m^3$

Table 1: Long term impact assessment criteria for particulate matter

Pollutant	Averaging period	Criterion
Particulate matter < 10 µm (PM_{10})	24 hour	50 µg/m^3

Table 2: Short term impact assessment criterion for particulate matter

Excludes extraordinary events such as bushfires, prescribed burning, dust storms, sea fog, fire incidents, illegal activities or any other activity agreed by the Director-General in consultation with DEC.

Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level
Deposited dust*	Annual	2 g/m^2/month	4 g/m^2/month

Table 3: Long term impact assessment criteria for deposited dust

**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.*

Odour

15. [3]Offensive odour must not be emitted from the premises.

Operating Conditions

16. [4]The Applicant shall carry out the development in a way that prevents and/or minimises the air pollution generated by the development.

17. [5]The Applicant shall ensure that all plant and equipment installed at the mine, or used in connection with the mine, must be:
    (a) Maintained in a proper and efficient condition; and
    (b) Operated in a proper and efficient manner.

18. [6]The Applicant shall ensure that all vehicles entering or leaving the site, carrying a load that may generate dust, are covered to prevent and/or minimise the emission of air pollution, except during loading and unloading.

19. The Applicant shall ensure that any visible air pollution generated by the development is assessed regularly, and that mining operations are relocated, modified, and/or stopped as required to prevent air quality impacts occurring on any privately-owned land, and ensure that the visibility and safety of motorists using the surrounding public roads are not compromised.

[3] DEC GTA
[4] Incorporates DEC's GTA
[5] Incorporates DEC's GTA
[6] Incorporates DEC's GTA

Monitoring

20. The Applicant shall establish air quality monitoring stations at the residences identified as Tannhausen and Mountview in the EIS, whilst privately-owned, and at other locations as directed by the DEC. These stations shall monitor the dust deposition rate.

21. The Applicant shall monitor (by sampling and obtaining results by analysis) the concentration of each pollutant in Table 4, using the specified units of measure, averaging period, frequency, and sampling method in the table.

Pollutant	Units of measure	Averaging period	Frequency	Sampling method[1]
Dust deposition	$g/m^2/month$	Month, annual	Continuous	AM-19
Siting	-		-	AM-1

Table 4: Air quality monitoring

[1] NSW EPA, 2001, Approved Methods for the Sampling and Analysis of Air Pollutants in NSW.

22. The Applicant shall prepare and implement a detailed Air Quality Monitoring Program for the development in consultation with the DEC. The Applicant shall not carry out any development in the Southern Open Cut area before the Director-General has approved this program.

Meteorological Monitoring

23. [7]The Applicant shall establish a permanent meteorological station at a location approved by the DEC, and to the satisfaction of the Director-General. The meteorological station shall continuously measure and record wind speed, wind direction, temperature, sigma theta and rainfall.

    The Applicant shall monitor the parameters specified in Table 5, using the specified units of measure, averaging period, frequency, and sampling method in the table.

Parameter	*Units of measure*	*Averaging period*	Frequency	*Sampling method[1]*
Rainfall	*mm/hr*	*1 hour*	*Continuous*	*AM-4*
Sigma Theta @ 10 m	*°*	*1 hour*	*Continuous*	*AM-2*
Siting	-	-	-	*AM-1*
Temperature @ 10 m	*^{o}C*	*1 hour*	*Continuous*	*AM-4*
Wind Direction @ 10 m	*°*	*1 hour*	*Continuous*	*AM-2*
Wind Speed @ 10 m	*m/s*	*1 hour*	*Continuous*	*AM-2*

Table 5: Meteorological monitoring

[1] NSW EPA, 2001, Approved Methods for the Sampling and Analysis of Air Pollutants in NSW.

[7] Incorporates DEC's GTA

NOISE

Impact Assessment Criteria

24. [8]Except as may be expressly provided by a DEC licence, the Applicant shall ensure that the noise generated by the development does not exceed the criteria in Table 6 at any privately-owned land.

dB(A) $L_{Aeq(15\ minute)}$			Land Number
Day	**Evening**	**Night**	
36	*35*	*35*	*R1 – North West of Areas 3 & 4*
36	*35*	*35*	*R2 - Tannhausen*
36	*35*	*35*	*R3 – South West of Areas 3 & 4*
35	*35*	*35*	*R4 – Nioka*
35	*35*	*35*	*R5 – Mount View*
35	*35*	*35*	*R6 – West of Southern Open Cut – Brogans Creek Road*
35	*35*	*35*	*R7 – Eaglevale*
35	*35*	*35*	*All other land*

Table 6: Noise impact assessment criteria

Notes:

a) Noise from the development is to be measured at the most affected point on 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 $L_{Aeq(15\ minute)}$ noise limits in the above table. If it can be demonstrated that direct measurement of the noise from the development is impractical, the DEC may accept alternative means of determining compliance (see Chapter 11 of the Industrial Noise Policy).

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

i. Wind speeds of up to 3 m/s at 10 metres above ground level; and

ii. Temperature inversion conditions of up to 3ºC/100m.

c) The modification factors in Section 4 of the NSW EPA (2000) Industrial Noise Policy shall be applied to the measured noise levels where applicable.

d) Day means the hours of 7 am to 6 pm, evening means the hours of 6 pm to 10 pm, and night means the hours of 10pm to 7am.

[8] Incorporates DEC's GTA

Land Acquisition Criteria

25. The land acquisition criteria for noise generated by the development are listed in Table 7.

dB(A) $L_{Aeq(15\ minute)}$			Land Number
Day	**Evening**	**Night**	
41	*40*	*40*	*R1 – North West of Areas 3 & 4*
41	*40*	*40*	*R2 - Tannhausen*
41	*40*	*40*	*R3 – South West of Areas 3 & 4*
40	*40*	*40*	*R4 – Nioka*
40	*40*	*40*	*R5 – Mount View*
40	*40*	*40*	*R6 – West of Southern Open Cut – Brogans Creek Road*
40	*40*	*40*	*R7 – Eaglevale*
40	*40*	*40*	*All other land*

Table 7: Land acquisition criteria

Operating Conditions

26. The Applicant shall carry out the development in a way that prevents and/or minimises the noise generated by the development.

Monitoring

27. The Applicant shall conduct noise monitoring at the residences on the land numbered R1 to R7 in the EIS, whilst privately-owned. Noise monitoring shall be conducted strictly in accordance with the NSW Industrial Noise Policy and AS 1055: Acoustics – *Description and Measurement of Environmental Noise*.

28. The Applicant shall prepare a detailed Noise Monitoring Program for the development, in consultation with the DEC, which includes a detailed noise monitoring protocol for evaluating compliance with the criteria, and at the locations, identified in Condition 24. The Applicant shall not carry out any development in the Southern Open Cut area before the Director-General has approved this program.

BLASTING and VIBRATION

29. [9]There shall be no blasting carried out on or around the DA area without the prior written agreement of the DEC.

30. Vibration, or low frequency noise, associated with handling and processing of coal shall not have a discernible impact at any privately-owned residence.

SURFACE WATER

Pollution of Waters

31. [10]Except as may be expressly provided by an Environmental Protection Licence, the Applicant shall comply with Section 120 of the *Protection of the Environment Operations Act 1997* during the carrying out of the development.

---

9 Incorporates DEC's GTA

10 Incorporates DEC's GTA

32. The Applicant shall ensure that coal processing does not impact on Reedy and Cumbermelon Creeks. This shall be demonstrated through a monitoring program.

Discharge Limits

33. [11]Unless otherwise specified by DEC, for each of discharge points 3 and 4, the concentration of a pollutant discharged at that point must not exceed the concentration limits specified for that pollutant in Table 8.

Pollutant	Units of measure	100 percentile concentration limit
pH	pH	6.5 = pH = 8.5
Total suspended solids	mg/litre	TSS = 50
Biological oxygen demand	mg/litre	BOD = 30
Oil and grease	mg/litre	= 10

Table 8: Discharge Limits

Note: (a). For the specified pH quality limit, the specified percentage of samples must be within the specified ranges.
(b). This condition does not authorise the pollution of waters by any other pollutant other than those specified in the table.

34. [12]For the wastewater utilisation area, the volume of liquids applied to the area must not exceed the volume limit specified for that discharge point or area in Table 9, unless otherwise specified by DEC.

Point	Units of measure	Volume
4	kL/d	20

Table 9: Discharge volume limit

35. Before carrying out any development in the Southern Open Cut area, the Applicant shall establish a set of surface water impact assessment criteria for the surface water monitoring locations determined by DEC to the satisfaction of DEC and the Director-General.

Operating Conditions

36. The Applicant shall carry out the development in a way that prevents and/or minimises the potential surface water impacts of the development.

37. The Applicant shall take all practicable measures to minimise the diversion of run-on water into the mine water management system.

Monitoring

38. [13]For monitoring/discharge point 4, the Applicant shall monitor (by sampling and obtaining results by analysis) the concentration of each pollutant specified in column 1 of Table 10. The Applicant shall use the relevant sampling method, units

[11] Incorporates DEC's GTA
[12] Incorporates DEC's GTA
[13] Incorporates DEC's GTA

of measure and frequency specified. The Applicant shall test for salinity and develop a limit on the basis of salinity limits upstream of the mine in consultation with DEC.

Pollutant	Units of measure	Frequency	Sampling method[1]
TSS	mg/L	Monthly during discharge	Grab sample
Oil and grease	mg/L	Monthly during discharge	Grab sample
pH		Monthly during discharge	Grab sample

Table 10: Water sampling requirements

39. [14]For the wastewater utilisation area, the Applicant must monitor the volume of liquids applied to the area over the interval at the frequency and using the methods and units of measure specified in Table 11, unless otherwise specified by DEC.

Discharge Point	Units of measure	Frequency	Sampling method[1]
3	kL	Daily during discharge	To be specified by DEC
4	kL	Daily	Pump run meter

Table 11: Volume monitoring requirements

Note: Monitoring for the concentration of a pollutant discharged to waters or applied to a utilisation area must be done in accordance with:

- *the EPA Approved Methods Publication; or*
- *if there is no methodology required by the EPA's Approved Methods Publication or the general terms of approval or in the licence under the Protection of the Environment Operations Act 1997, in relation to the development or the relevant load calculation protocol, a method approved by the DEC in writing before any tests are conducted;*
- *unless otherwise expressly provided in the licence.*

40. The Applicant shall, during and immediately after large stormwater events, conduct an audit of water storages in the development area and their adequacy in containing stormwater. Where storages are inadequate the Applicant shall undertake all necessary works subject to relevant approvals, in a timely manner.

GROUNDWATER

Operating Conditions

41. The Applicant shall carry out the development in a way that prevents and/or minimises the potential groundwater impacts of the development.

[14] Incorporates DEC's GTA

Monitoring

42. The Applicant shall implement, in consultation with DIPNR, a groundwater monitoring program to monitor the effects of the development.

    Note: The Applicant is required to obtain a licence from DIPNR under Part 5 of the Water Act 1912 for bores, wells and excavations that will intersect the groundwater table.

Investigations

43. If any landowner of land on Figure 2.3 of the EIS, claims that the development is adversely affecting his/her groundwater supply, the Applicant shall, in consultation with DIPNR:
    (a) Commission a suitably qualified person within 14 days of receiving this claim in writing – whose appointment is acceptable to both parties – to investigate the claim in detail; and
    (b) Give the landowner a copy of the groundwater investigation report within 14 days of receiving this report.

    If this investigation confirms the landowner's claim, and both parties agree with the findings of the report, then the Applicant shall provide the landowner with a replacement water supply or suitable compensation, to the satisfaction of DIPNR.

    If the Applicant or the landowner disagrees with the findings of the report, then either party may refer the matter to the Director-General for resolution.

    If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process (See Appendix 2).

EROSION AND SEDIMENT CONTROL

44. The Applicant shall implement all practicable measures to minimise soil erosion and the discharge of sediments and water pollutants from the site.

45. [15]The Applicant shall prepare and implement an Erosion and Sediment Control Plan for the Southern open Cut area, in consultation with Council and DIPNR. This plan must:
    (a) Be consistent with the requirements in DIPNR's draft guideline for the *Establishment of Stable Drainage Areas on Rehabilitated Mine Sites*, and the Department of Housing's *Managing Urban Stormwater: Soils and Construction* manual;
    (b) Identify the development that could cause soil erosion or discharge sediment or water pollutants from the site;
    (c) Describe the location and capacity of all erosion and sediment control structures, and nominate which, if any, of these structures would be used as water sources for the development;
    (d) Describe in detail what actions and measures would be implemented to minimise soil erosion and the discharge of sediments or water pollutants from the site; and
    (e) Describe how the effectiveness of these actions and measures would be monitored during the development;

[15] Incorporates DEC's GTA

The Applicant shall not carry out any development in the Southern Open Cut area before the Director-General has approved this plan. However, with the agreement of the Director-General, this plan may be prepared and approved in stages, during the life of the development; and the Applicant may carry out any development that is covered by an approved Erosion and Sediment Control Plan.

46. The Applicant shall ensure that there is no downstream impact associated with the proposal.

Out of Pit Emplacement

47. Absorption banks shall not be constructed on the Out of Pit Emplacement.

48. On the Out of Pit Emplacement, the Applicant shall use graded banks designed with trapezoidal shaped channels. Bank grades shall not exceed 1% grade, or velocities of 2 metres/second, unless armouring is provided.

49. The Applicant shall ensure that Out of Pit Emplacement bank discharge shall be over the batter of the emplacement at suitable disposal points to the satisfaction of DIPNR. Each disposal point shall be designed and constructed to handle the specific catchment that feeds it. The disposal points shall be constructed within each lift in the emplacement and shall consist of trapezoidal channels cut into the embankment.

50. Each lift on the Out of Pit Emplacement shall be no greater than 5 metres to avoid erosion of batters.

51. Once established, the trapezoidal channels associated with each lift of the Out of Pit Emplacement shall be covered with a geo-fabric to prevent fines being eroded and the fabric shall be covered with suitably sized rock. Geotechnical advice shall be sought to ensure that the correct rock size is used.

52. Each Out of Pit Emplacement disposal point shall discharge onto an armoured area and thence into a concrete lined water channel leading around the emplacement.

Culvert Design

53. The Applicant shall design and construct a box culvert on the light vehicle access road from the Mount View Road to the Southern Open Cut to handle a 1 in 20 year storm event to the satisfaction of DIPNR.

Dewatering

54. In the event that groundwater is encountered which warrants de-watering, the Applicant shall consult with DIPNR's Water Administration Unit at Dubbo to obtain any licence deemed necessary under the *Water Act* 1912 or the *Water Management Act* 2000.

Wastewater Use

55. [16]Wastewater shall only be applied to the wastewater utilisation area specified in the EIS.

---

[16] DEC GTA

56. [17]Spray from wastewater application shall not drift beyond the boundary of the wastewater utilisation area to which it is applied.

57. [18]Wastewater utilisation areas must effectively utilise the wastewater applied to those areas. This includes the use for pasture or crop production, as well as ensuring the soil is able to absorb the nutrients, salts, hydraulic load and organic materials in the solids or liquids. The Applicant shall consult with the DEC to determine if monitoring of wastewater application lands and receiving waters is required.

Slope Stability

58. The development shall not affect the slope stability of Cumbermelon Mountain.

ABORIGINAL HERITAGE

Archaeological Salvage

59. [19]The Applicant shall conduct archaeological salvage along the creek line between sites C-OS-2 and C-IF-2.

60. [20]The salvage proposal shall be developed in consultation with the DEC and the Aboriginal community.

Consent to Destroy

61. Prior to any works within 50 metres of identified Aboriginal sites and artifacts, [21]the Applicant must obtain consent from the DEC, under section 90 of the *National Parks & Wildlife Act 1974,* for the Aboriginal sites and objects listed in Table 12 and the deposits between them, as depicted in Sketches 1 and 2 of Appendix D of the EIS, Figure 4.3 of the EIS and Figure 3 of Therin (2003):

Site Name	***Site Type***	***Landform Zone***
C-IF-2	Object	North western side of large dam
CC2	Open camp site	Lower hill slope
C-OS-1	Open camp site	Creek line/gentle slope
C-OS-2	High density of surface objects, open camp site	Creek line/valley floor

Table 12: List of Section 90 Objects and Sites

Conservation

62. The Applicant shall actively protect and preserve the site known as site C-AS-1 and shall ensure a buffer of at least 50 metres is provided.

63. Management of site C-AS-1 shall be undertaken in negotiation with the Aboriginal community. [22]No section 90 consent will be considered for the site.

---

[17] DEC GTA
[18] DEC GTA
[19] DEC GTA
[20] DEC GTA
[21] Incorporates DEC GTA
[22] DEC GTA

64. A protective barrier shall be installed and maintained by the Applicant to prevent dust damaging C-AS-1 during the development. The protection shall include wire mesh and plastic coverings.

Archaeology and Cultural Heritage Management Plan

65. The Applicant shall prepare and implement an Archaeology and Cultural Heritage Management Plan, in consultation with the NPWS and local Aboriginal groups including the Bathurst Local Aboriginal Land Council, the Warrabinga Native Title Claimants Corporation and the Wiradjurie Council of Elders. This plan must:
    (a) Describe the following in detail:
    - Archaeological Salvage Excavation Program;
    - Cultural Salvage Program;
    - Destruction Program; and
    - Conservation Program.

    (b) Establish a consultation protocol for Aboriginal Cultural Heritage Management on-site during the development; and
    (c) Describe the procedures that would be implemented if any new heritage or archaeological sites were discovered during the development.

    The Applicant shall not carry out any development in the Southern Open Cut area prior to the Applicant obtaining the relevant consents from DEC.

Reporting

66. The Applicant shall give a detailed progress report on the Archaeological Salvage Excavation, Cultural Salvage, Destruction, and Conservation programs in the AEMR.

TRAFFIC & TRANSPORT

Road Works on Mount View and Brogans Creek Roads

67. Before carrying out any development in the Southern Open Cut, the Applicant shall execute a Deed of Agreement with Rylstone Council for the proposed construction, operation, and maintenance of Mount View Road reserve and works required on the part of Brogans Creek Road used for light vehicle access.

68. The Applicant shall bear all the costs associated with the design, survey, approval, construction, maintenance and monitoring associated with these works.

69. The Applicant shall ensure that the development in the Mount View and Brogans Creek Road reserves complies with current RTA and Austroads Design Standards, and the RTA's Quality Assurance Specifications.

70. Before carrying out any development in the Mount View and Brogans Creek Road reserves, the Applicant shall submit detailed engineering plans and a Traffic Control Plan for the proposed development to Rylstone Council for approval. The Applicant shall not carry out any of this development before the Council has approved these plans.

71. The Applicant shall ensure that a contractor, whose appointment has been approved in writing by the Council before construction starts, carries out all development in the Mount View and Brogans Creek Road reserves.

72. Following the construction of any development in the Mount View and Brogans Creek Road reserves, the Applicant shall commission a suitably qualified person to carry out an annual inspection of this development, and provide the Council with a written report detailing the condition and safety of the development, identifying any maintenance works that are required, and describing when and how these works would be carried out.

Contributions for Road Works

73. The Applicant shall pay Council $0.05 per tonne of coal transported on local roads to be applied for the maintenance and upgrade of Charbon Road and Cooper Drive at Charbon Village, or other roadworks agreed between the Applicant and the Council. In the event that agreement cannot be reached within 21 days, the matter shall be referred to the Director-General for resolution.

The payment shall be made by the 21 July of each year, and be calculated on the tonnes of coal transported on local roads in the 12 months prior to 30 June of that year.

Note: This contribution is subject to indexation by the Implicit Price Deflator, as published *by the Australian Bureau of Statistics.*

WASTE MANAGEMENT

74. [23]The Applicant shall not cause, permit or allow any waste generated outside the DA area to be received at the DA area for storage, treatment, processing, reprocessing or disposal, or any waste generated at the mine to be disposed of at the mine, except as expressly permitted by a licence under the *Protection of the Environment Operations Act* 1997.

Note: This condition only applies to the storage, treatment, processing, reprocessing, or disposal of waste that requires an Environment Protection Licence under the Protection of the Environment Operations Act 1997*.*

VISUAL IMPACT

Visual Amenity

75. The Applicant shall carry out the development in a way that prevents and/or minimises the visual impacts of the development.

76. The Applicant shall install vegetated bunds at strategic locations around the site, and plant additional trees along the boundary of the site to the satisfaction of the Director-General in order to screen the development, as far as is practicable, from external viewers including adjacent residents.

77. If a landowner whose residence lies within the visual catchment of the development is of the opinion that the visual amenity of that property is significantly impacted by the development and requests the Applicant in writing to investigate ways to minimise the visual impact of the development on his/her dwelling, the Applicant shall:

---

[23] Incorporates DEC's GTA

a) Commission a suitably qualified person within 14 days of receiving this request – to investigate ways to minimise the visual impacts of the development on the landowner's dwelling;

b) Give the landowner a copy of the visual impact mitigation report within 14 days of receiving this report.

If both parties agree on the measures that should be implemented to minimise the visual impact of the development, then the Applicant shall implement these measures to the satisfaction of the Director-General.

If the Applicant and the landowner disagree on the measures that should be implemented to minimise the visual impact of the development, then either party may refer the matter to the Director-General for resolution.

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

Lighting Emissions

78. The Applicant shall take all practicable measures to prevent and/or minimise any off-site lighting impacts from the development.

79. All external lighting associated with the development shall comply with *Australian Standard AS4282(INT) 1995 – Control of Obtrusive Effects of Outdoor Lighting*.

80. Lighting shall only be used at night or on overcast days during the time required to mine or undertake maintenance and shall be turned off at all other times.

HAZARDS MANAGEMENT

Spontaneous Combustion

81. The Applicant shall take the necessary measures to prevent, as far as is practical, spontaneous combustion on the site.

BUSHFIRE MANAGEMENT

82. The Applicant shall:
    (a) Ensure that the development is suitably equipped to respond to any fires on-site;
    (b) Assist the Rural Fire Service and emergency services as much as possible if there is a fire on-site during the development.

83. Before carrying out any development, the Applicant shall prepare a Bushfire Management Plan for the site, to the satisfaction of Council and the Rural Fire Service.

SCHEDULE 5
ADDITIONAL PROCEDURES FOR AIR QUALITY & NOISE MANAGEMENT

Notify Landowners

1. If the air dispersion and/or noise dispersion model predictions in the documents listed in Condition 2 (of Schedule 3) suggest that the air pollution and/or noise generated by the development are likely to be greater than the air quality and/or noise impact assessment criteria in Conditions 14 & 24 (of Schedule 4), then the Applicant shall notify the relevant landowners and/or existing or potential tenants (including tenants of mine-owned properties) accordingly before it carries out any development in the DA area.

2. If the results of the air quality and/or noise monitoring required in Schedule 4 suggest that the air pollution and/or noise generated by the development are greater than the air quality and/or noise impact assessment criteria in Schedule 4, then the Applicant shall notify the relevant landowners and/or existing or potential tenants (including tenants of mine-owned properties) accordingly on a quarterly basis.

Independent Review

3. If a landowner considers the development to be exceeding the air quality and/or noise impact assessment criteria listed in Schedule 4 at his/her dwelling, or at any proposed dwelling on his/her vacant land, then he/she may ask the Applicant for an independent review of the air pollution and/or noise impacts of the development on his/her dwelling, or proposed dwelling.

   If the Director-General is satisfied that an independent review is warranted, the Applicant shall:
   (a) Consult with the landowner to determine his/her concerns; and
   (b) Commission a suitably qualified person – whose appointment has been approved by the Director-General – to conduct air quality and/or noise monitoring at the relevant dwelling to determine whether the development is complying with the relevant impact assessment criteria, and identify the source(s) and scale of any air quality and/or noise impact at the dwelling, and the development's contribution to this impact.

   Within 14 days of receiving the results of this independent review, the Applicant shall give a copy of these results to the Director-General and landowner.

4. If the independent review (referred to in Condition 3) determines that the development is complying with the relevant impact assessment criteria listed in Schedule 4 at the dwelling, then the Applicant may discontinue the independent review with the approval of the Director-General.

5. If the independent review (referred to in Condition 3) determines that the development is not complying with the relevant impact assessment criteria listed in Schedule 4 at the dwelling, and that the development is primarily responsible for this non-compliance, then the Applicant shall:
   (a) Take all practicable measures, in consultation with the landowner, to ensure that the development complies with the relevant impact assessment criteria; and conduct further air quality and/or noise monitoring at the dwelling to determine whether these measures ensure compliance; or

(b) Secure a written agreement with the landowner to allow exceedances of the air quality and/or noise impact assessment criteria listed in Schedule 4.

6. If the additional monitoring referred to above subsequently determines that the development is complying with the relevant impact assessment criteria listed in Schedule 4 at the dwelling, then the Applicant may discontinue the independent review with the approval of the Director-General.

7. If the measures referred to in 5 (a) do not ensure compliance with the air quality and/or noise criteria listed in conditions 14 and 25 of Schedule 4 at the dwelling, and the Applicant cannot secure a written agreement with the landowner to allow exceedances of the air quality and/or noise impact assessment criteria listed in Schedule 4, then the Applicant shall, upon receiving a written request from the landowner, acquire all or part of the landowner's land in accordance with the procedures in Conditions 8-10 below.

8. If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process.

9. If, following the Independent Dispute Resolution Process, the Director-General decides that the Applicant shall acquire all or part of the landowner's land, then the Applicant shall acquire this land in accordance with the procedures in Conditions 10 - 12 below.

Land Acquisition

10. Within 6 months of receiving a written request from the landowner, the Applicant shall pay the landowner:

    (a)The current market value of the landowner's interest in the land at the date of this consent, as if the land was unaffected by the development the subject of the DA, having regard to the:

    - Existing and permissible use of the land, in accordance with the applicable planning instruments at the date of the written request; and
    - Presence of improvements on the land and/or any approved building or structure which has been physically commenced at the date of the landowner's written request, and is due to be completed subsequent to that date;

    (b)The reasonable costs associated with:

    - Relocating within the Rylstone local government area, or to any other local government area determined by the Director-General;
    - Obtaining legal advice and expert advice for determining the acquisition price of the land, and the terms upon which it is to be acquired; and

    (c)Reasonable compensation for any disturbance caused by the land acquisition process.

However, if within 6 months of receiving this written request, the Applicant and landowner cannot agree on the acquisition price of the land, and/or the terms upon which the land is to be acquired, then either party may refer the matter to the Director-General for resolution.

Upon receiving such a request, the Director-General shall request the President of the Australian Property Institute to appoint a qualified independent valuer or Fellow of the Institute, to consider submissions from both parties, and determine a fair and reasonable acquisition price for the land, and/or terms upon which the land is to be acquired.

If either party disputes the independent valuer's determination, then the independent valuer must refer the matter back to the Director-General.

Upon receiving such a referral, the Director-General shall appoint a panel to determine a fair and reasonable acquisition price for the land, and/or the terms upon which the land is to be acquired, comprising the:
(i) Appointed independent valuer,
(ii) Director-General or her nominee, and
(iii) President of the Law Society of NSW or his nominee.

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

If the landowner refuses to accept this offer within 6 months of the date of the Applicant's offer, the Applicant's obligations to acquire the land shall cease, unless otherwise agreed by the Director-General.

11. The Applicant shall bear the costs of any valuation or survey assessment requested by the independent valuer, panel, or the Director-General and the costs of determination referred to in Conditions 8 and 9.

12. If the Applicant and landowner agree that only part of the land should be acquired, then the Applicant shall pay all reasonable costs associated with obtaining Council approval for any plan of subdivision, and registration of the plan at the Office of the Registrar-General.

SCHEDULE 6
ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING & REPORTING

ENVIRONMENTAL MANAGEMENT STRATEGY

1. The Applicant shall prepare and implement an Environmental Management Strategy for the Southern Open Cut area. This strategy must:
   - (a) Provide the strategic context for environmental management of the development;
   - (b) Identify the statutory requirements that apply to the development;
   - (c) Describe in general how the environmental performance of the development would be monitored and managed during the development;
   - (d) Describe the detailed procedures that would be implemented to:
     - Keep the local community and relevant agencies informed about the operation and environmental performance of the development;
     - Receive, handle, respond to, and record complaints;
     - Resolve any disputes that may arise during the course of the development;
     - Respond to any non-compliance;
     - Manage cumulative impacts; and
     - Respond to emergencies; and
   - (e) Describe the role, responsibility, authority, and accountability of all the key personnel involved in environmental management of the development.

2. The Applicant shall not carry out any development in the Southern open cut area before the Director-General has approved this strategy.

3. Within 14 days of the Director-General's approval, the Applicant shall:
   - (a) Send copies of the approved strategy to the relevant agencies, Council, and the CCC; and
   - (b) Ensure the approved strategy is publicly available during the development.

ENVIRONMENTAL MONITORING PROGRAM

4. The Applicant shall prepare a detailed Environmental Monitoring Program for the development in consultation with the relevant agencies. This program must consolidate the various monitoring requirements of this consent into a single document.

5. The Applicant shall not carry out any development in the Southern Open Cut area before the Director-General has approved this program.

6. The Applicant shall keep this program up to date, in consultation with the Director-General and the relevant agencies, and notify the relevant agencies, Council, CCC, and general public of any changes to the program.

7. The Applicant shall regularly review, and if necessary update, this program in consultation with the Director-General, and notify the relevant agencies, Council, CCC, and general public of any changes to the strategy.

ANNUAL REPORTING

8. The Applicant shall submit an Annual Environmental Management Report to the Director-General and the relevant agencies. This report must:
   - (a) Identify the standards and performance measures that apply to the development;

(b) Include a detailed summary of the complaints received during the past year, and compare this to the complaints received in the previous 5 years;
(c) Include a detailed summary of the monitoring results on the development during the past year,
(d) Include a detailed analysis of these monitoring results against the relevant:
- Impact assessment criteria;
- Monitoring results from previous years; and
- Predictions in the EIS;

(e) Identify any trends in the monitoring over the life of the development;
(f) Identify any non-compliance during the previous year; and
(g) Describe what actions were, or are being, taken to ensure compliance.

The report may be developed in conjunction with the AEMR provided to other agencies to avoid duplication of reporting requirements.

INDEPENDENT ENVIRONMENTAL AUDIT

9. At the end of year 2 of the development, and every 5 years thereafter until completion of the development, unless the Director-General directs otherwise, the Applicant shall commission and pay the full cost of an Independent Environmental Audit of the development. This audit must:
(a) Be conducted by a suitably qualified, experienced, and independent person whose appointment has been endorsed by the Director-General;
(b) Be consistent with *ISO 14010 – Guidelines and General Principles for Environmental Auditing*, and *ISO 14011 – Procedures for Environmental Auditing*, or updated versions of these guidelines/manuals;
(c) Assess the environmental performance of the development, and its effects on the surrounding environment;
(d) Assess whether the development is complying with the relevant standards, performance measures, and statutory requirements;
(e) Review the adequacy of the Applicant's Environmental Management Strategy and Environmental Monitoring Program; and, if necessary,
(f) Recommend measures or actions to improve the environmental performance of the development, and/or the environmental management and monitoring systems.

10. Within 3 months of commissioning this audit, the Applicant shall submit a copy of the audit report to the Director-General, with a detailed response to any of the recommendations contained in the audit report.

COMMUNITY CONSULTATIVE COMMITTEE

11. The Applicant shall ensure that there is a Community Consultative Committee to monitor the environmental performance of the development. The committee shall:
(a) Include:
- 2 representatives from the Applicant, including the person responsible for environmental management at the mine;
- 1 representative from Council; and
- 3 representatives from the local community,

whose appointment has been approved by the Director-General in consultation with the Council;
(b) Be chaired by the representative from Council;
(c) Hold meetings at least twice a year; and
(d) Review and provide comment on the environmental performance of the development, including any construction or environmental management plans, monitoring results, audit reports, or complaints.

12. The Applicant shall, at its own expense:
   (a) Ensure that 2 of its representatives attend the Committee's meetings;
   (b) Provide the Committee with regular information on the environmental performance and management of the development;
   (c) Provide meeting facilities for the Committee;
   (d) Arrange site inspections for the Committee, if necessary;
   (e) Take minutes of the Committee's meetings;
   (f) Make these minutes available to the public for inspection within 14 days of the Committee meeting, or as agreed to by the Committee;
   (g) Respond to any comments or recommendations the Committee may have in relation to the environmental management or performance of the development;
   (h) Provide a copy of the minutes of each Committee meeting, and any responses to the Committee's recommendations, to the Director-General with the AEMR.

13. The Applicant shall ensure that the Committee has its first meeting before the Environmental Management Strategy (see Condition 1) is submitted to the Director-General for approval.

APPENDIX 1

LAND DESCRIPTION

Parishes of Clandulla, County of Roxburgh

Lot No.	Deposited Plan
Lot 2, 4, 5, 6, 7, 8, 9, 10, 11 ,12, 13, 22, 23	DP 259893
Lot 42, 76, 90, 132, 146	DP 755765
Portion 63	DP 755765
Lot 8	DP 593262
Various unformed Crown road reserves	

Appendix 2

EXPLANATORY FLOWCHART