

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

INTEGRATED STATE SIGNIFICANT DEVELOPMENT

**DETERMINATION OF DEVELOPMENT APPLICATION
PURSUANT TO SECTIONS 76(A)9 & 80**

I, the Minister for Urban Affairs and Planning, pursuant to Sections 76(A)9 & 80 of the Environmental Planning and Assessment Act, 1979 (“the Act”) determine the development application (“the application”) referred to in Schedule 1 by granting consent to the application subject to the conditions set out in Schedule 2.

The reasons for the imposition of the conditions are to:

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

Andrew Refshauge MP
Minister for Urban Affairs and Planning

Sydney,

1999

File No. N91/00461

Schedule 1

Application made by:	Bulga Coal Management Pty Ltd (“the Applicant”) A.C.N. 000 416 760.
To:	Minister for Urban Affairs and Planning (DA 41-03-99)
In respect of:	Land described in Schedule “A”
For the following:	Continued mining of the Bulga Open Cut Pit operations in Coal Lease Areas 372 and 224, and out-of-pit emplacement of overburden on the new South Whybrow site (“the Development”).
BCA Classification:	Not applicable

NOTE:

- 1) To ascertain the date upon which the consent becomes effective, refer to section 83 of the Act.
- 2) To ascertain the date upon which the consent is liable to lapse, refer to section 95 of the Act.
- 3) Section 97 of the Act confers on an Applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court exercisable within 12 months after receipt of notice

SCHEDULE 2

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DEFINITIONS:

AEMR - *Annual Environmental Management Report*

CCC - *Community Consultative Committee*

Commencement of mining – *open cut mining operations in the Bulga Open Cut Pit as described in the EIS*

Construction – *Construction of surface structures or road works on a public road*

DA - *Development Application*

DA area - *Development Application area that includes all works described in the DA.*

Director-General - *Director-General of the Department of Urban Affairs and Planning or delegate.*

EIS - *Environmental Impact Statement – Bulga Open Cut Continued Mining, February 1999*

MOP – *Mining Operations Plan*

ROM - *Run-of-Mine coal production*

Mining operations - *includes soil stripping, overburden removal, and coal extraction as described in the EIS*

Government Authorities

DLWC - *Department of Land and Water Conservation*

DMR - *Department of Mineral Resources*

EPA - *Environment Protection Authority*

SSC – *Singleton Shire Council*

MSB - *Mine Subsidence Board*

NPWS - *National Parks and Wildlife Service*

NSW Agriculture - *New South Wales Agriculture*

NSW Fisheries – *New South Wales Fisheries*

RAC - *Rail Access Corporation*

RTA - *Roads and Traffic Authority*

1. General

1.1 There is an obligation on the Applicant to prevent and minimise harm to the environment throughout the life of the project. This requires that all practicable measures be taken to prevent and minimise harm that may result from construction, operation and, where relevant, decommissioning activities related to the development.

1.2 *Adherence to Terms of DA, EIS, etc.*

- (a) The development is to be carried out generally in accordance with DA 41-03-99 and:
 - (i) the EIS titled “*Bulga Open Cut Continued Mining*” dated February 1999 (two volumes), prepared by ERM Mitchell McCotter Pty Limited in accordance with clause 54A and 55 of the Environmental Planning and Assessment Regulations 1998, and certified in accordance with Section 78(A)8 of the Environmental Planning and Assessment Act 1979, and other relevant information included in Noise Information provided to DUAP on 24 June 1999, Air Quality Information provided to DUAP on 30 June 1999, and Aboriginal Heritage Information provided to DUAP on 20 July 1999
 - (ii) Bulga Coal Project Environmental Impact Statement, February 1990;
 - (iii) Bulga Coal Project Variation to Development Consent, 28 October 1994;
 - (iv) Modification to Development Consent Bulga Coal Project, Proposal to Extend Overburden Dump, April 1995;.

as may be modified by the conditions set out herein.

- (b) In accordance with section 80A(5) of the Environmental Planning and Assessment Act 1979 and clause 68 of the Environmental Planning and Assessment Regulation 1994, the Applicant shall, surrender to the Minister of Urban Affairs and Planning, the development consent for the Saxonvale Coal Lease (CL224) issued by the then Minister for Planning and Environment to Dampier Mining Company Limited on 26 March 1981, and the development consent for the Bulga Mine on Coal Lease (CL372) issued by the Minister for Local Government and Planning on 21 December 1990, by the date of the consolidation of the coal leases.
- (c) If, at any time, the Director-General is aware of environmental impacts from the proposal that pose serious environmental concerns due to the failure of existing environmental management measures to ameliorate the impacts, the Director-General may order the Applicant to cease the activities causing those impacts until those concerns have been addressed to the satisfaction of the Director-General.
- (d) If any licence conditions are breached the applicant shall comply with any modification to the work as specified by the relevant agency.

1.3 Period of Approval/Project Commencement

- (a) The approval for mining is for the period of up to 21 years from the date of mine consolidation of the Saxonvale Coal Lease (CL224) and Bulga Coal Lease (CL372), or the expiry of the Saxonvale Coal Lease, whichever is the sooner, pursuant to this consent.
- (b) At least one month prior to the commencement of mining, or within such period as agreed by the Director-General, the Applicant shall submit for the approval of the Director-General a compliance report detailing compliance with all relevant conditions that apply prior to the commencement of mining operations. Mining operations shall not commence until the report is approved by the Director-General.
- (c) Date of commencement of mining is to be notified in writing to the Director-General and SSC, at least two weeks prior to commencement of mining.

1.4 Dispute Resolution

In the event that the Applicant and the SSC or a Government agency, other than the Department of Urban Affairs and Planning, cannot agree on the specification or requirements applicable under this consent, the matter shall be referred by either party to the Director-General or if not resolved, to the Minister for Urban Affairs and Planning, whose determination of the disagreement shall be final and binding on the parties.

1.5 Security Deposits

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

1.6 Year 2000 Conformity

One month prior to the commencement of operation of any automated system, including embedded systems used for operation, pollution control, monitoring and safety (including fire safety), the Applicant shall ensure that the system has been tested in accordance with the most recent edition of BSI/DISC PD2000-1 or equivalent standard to confirm continuous time and date functionality of that system.

2. Mine Management

2.1 Mine Management Plan, Operations and Methods

- (a) The Applicant shall submit and have accepted by the Director-General of DMR, a Mining Operations Plan (MOP) in accordance with current guidelines issued by DMR, as an extension of the MOP prepared for Bulga Open Cut Pit. The Plan is to cover mining operations for a period of up to seven years.
- (b) The MOP shall:
 - (i) be prepared in accordance with DMR Guidelines for the Preparation of Mining Operations Plans (Document 08060002.GUI or its most recent version);
 - (ii) demonstrate consistency with the conditions of this consent and any other statutory approvals;
 - (iii) demonstrate consistency with the Environmental Management Plans for the project site;
 - (iv) provide the basis for implementing mining operations, environmental management, and ongoing monitoring; and
 - (v) identify a schedule of proposed mine development for the period covered by the plan and include:
 - the area proposed to be impacted by mining activity and resource recovery mining methods and remediation measures
 - areas of environmental, heritage or archaeological sensitivity and mechanisms for appropriately minimising impact
 - water management, and
 - proposals to appropriately minimise surface impacts.
- (c) In preparing the MOP, the Applicant shall consult with affected service authorities and make arrangements satisfactory to those authorities for the protection or relocation of those services.
- (d) A copy of the MOP, excluding commercial in confidence information, shall be forwarded to SSC and Director-General within 14 days of acceptance by DMR.

2.2 Limits on Production

The production levels of coal for the Bulga Open Cut Mine from the consolidated Saxonvale Lease (CL224) and Bulga Lease (CL372) shall not exceed a maximum of 12.2 million tonnes per annum Run-of-Mine (ROM) coal.

3. Land and Site Environmental Management

3.1 *Appointment of Environmental Officer(s)*

- (a) The Applicant shall employ a suitably qualified Environmental Officer(s) throughout the life of the mine whose qualifications are acceptable to the Director-General. The Officer(s) will:
 - (i) be responsible for the preparation of the Environmental Management Plans (refer condition 3.2);
 - (ii) be responsible for considering and advising on matters specified in the conditions of this consent and compliance with such matters;
 - (iii) be responsible for receiving and responding to complaints in accordance with condition 10.1;
 - (iv) facilitate an induction and training program for all persons involved with construction activities, mining and remedial activities; and
 - (v) have the authority and independence to require reasonable steps to be taken to avoid or minimise unintended or adverse environmental impacts and failing the effectiveness of such steps, to stop work immediately if an adverse impact on the environment is likely to occur.
- (b) The Applicant shall notify the Director-General, DMR, EPA, NPWS, DLWC, SSC and the CCC of the name and contact details of the Environmental Officer(s) upon appointment and any changes to the appointment(s).

3.2 *Environmental Management Strategies and Plans*

- (a) The Applicant shall prepare an Environmental Management Strategy providing a strategic context for the environmental management plans [refer condition 3.2d)]. The Environmental Management Strategy shall be prepared in consultation with the relevant authorities and the CCC (refer condition 10) and to the satisfaction of the Director-General, prior to submission of any of the environmental management plans.
- (b) The Environmental Management Strategy shall include:
 - (i) statutory and other obligations which the Applicant is required to fulfil during mining, including all approvals and consultations and agreements required from authorities and other stakeholders, and key legislation and policies;
 - (ii) definition of the role, responsibility, authority, accountability and reporting of personnel relevant to environmental management, including the Environmental Officer(s);
 - (iii) overall environmental management objectives and performance outcomes, during mining and decommissioning of the mine, for each of the key environmental elements for which environmental management plans are required under this consent;

- (iv) overall ecological and community objectives for the project and a strategy for the restoration and management of the area affected by mining operations;
 - (v) identification of cumulative environmental impacts and procedures for dealing with these at each stage of the development;
 - (vi) overall objectives and strategies to protect existing economic productivity within the area affected by mining, including agricultural productivity and other businesses;
 - (vii) steps to be taken to ensure that all approvals, plans, and procedures are being complied with;
 - (viii) processes for conflict resolution in relation to the environmental management of the project; and
 - (ix) documentation of the results of consultations undertaken in the development of the Environmental Management Strategy.
- (c) The Applicant shall make copies of the Environmental Management Strategy available to SSC, EPA, DLWC, NPWS, DMR, and the CCC within fourteen days of approval by the Director-General.
- (d) The Applicant shall prepare the following Environmental Management Plans:
- Archaeology and Cultural Management Plan (refer condition 3.3)
 - Flora and Fauna Management Plan (refer condition 3.4)
 - Erosion and Sediment Control Plan (refer condition 3.5(a))
 - Soil Stripping Management Plan (refer condition 3.5(c))
 - Landscape Management Plan (refer condition 3.7)
 - Bushfire Management Plan (refer condition 3.8(a))
 - Land Management Plan (refer condition 3.9(a))
 - Site Water Management Plan (refer condition 4.1(a))
 - Dust Management Plan (refer condition 6.1.1(a))
 - Blast and Vibration Management Plan (refer condition 6.2(a))
 - Noise Management Plan (refer condition 6.3.2(a))
 - Light Management Plan (refer condition 6.4(a)).
- (e) The management plans are to be revised/updated at least every 5 years or as otherwise directed by the Director-General in consultation with the relevant government agencies. Changes shall be made and approved in the same manner as the initial environmental management plan. The plans shall also be made publicly available at SSC within two weeks of approval of the relevant government authority.

Note: The reason for condition (e) is to reflect changing environmental requirements or changes in technology/operational changes that may affect or be introduced to maintain the approved operations.

3.3 Heritage Assessment and Management

Aboriginal Cultural Heritage

- (a) The Applicant shall prepare an Archaeology and Cultural Management Plan to address Aboriginal and European cultural heritage issues. The Plan shall be prepared in consultation with the Wonnarua Tribal Council and NPWS, and to the satisfaction of the Director-General prior to the commencement of mining operations. The Plan shall include but not be limited to:
 - (i) identification of all areas of conservation within the DA area;
 - (ii) provision of management strategies for all parts of the DA area not affected by mining;
 - (iii) identification and monitoring of future salvage, excavation, and any heritage/archaeological sites within the DA area, prior to and during development;
 - (iv) the proposed program for collection of artefacts prior to commencement of mining in the area including the waste emplacement area;
 - (v) measures to protect and preserve the undisturbed deposits in Area 2 as identified in Figure 12.3 of the EIS; and
 - (vi) details of measures to assist the Aboriginal community to maintain and manage cultural heritage in the DA area.
- (b) Within six months of the commencement of Mining Operations, the Applicant shall make a \$50,000 contribution towards the establishment of a trust fund set up by the Department of Urban Affairs and Planning through the Public Trustee. The funds are to be used for a regional study of Aboriginal sites and other cultural heritage projects agreed to by the Wonnarua Tribal Council.
- (c) If, during the course of construction of any surface facilities or mining activities, the Applicant becomes aware of any heritage or archaeological material not previously identified, all work likely to affect the material shall cease immediately and the relevant authorities consulted about an appropriate course of action prior to recommencement of work. The relevant authorities may include NPWS, the NSW Heritage Office, and the relevant the local Aboriginal community. Any necessary permits or consents shall be obtained and complied with prior to recommencement of work.
- (d) ¹The Applicant shall ensure that archaeologically sensitive in situ deposits in Area 2 as identified in Figure 12.3 of the Bulga Open Cut Continued Mining EIS, February 1999, will not be disturbed by mining works.
- (e) ²The Applicant shall invite the Wonnarua Tribal Council and the Wonnarua Aboriginal Land Council to collect the artefacts in Area 1 prior to mining commencing in the development area.

¹ General Terms of Approval from NPWS

- (f) The Applicant shall continue to preserve the site of the axe grinding grooves in accordance with relevant recommendations set out in the EIS (1990) and the requirements of the Director of NPWS and provide a buffer zone and protective fence around the site in accordance with the requirements of the Director of NPWS.
- (g) The Applicant shall take all practicable steps to ensure that the building known as 'Mount Leonard' is not damaged by blasting arising from the development.
- (h) The Applicant is to consult regularly with the Wonnarua Tribal Council using consultation principles and strategies consistent with those outlined in the "*Guidelines for best practice community consultation in the NSW Mining and Extractive Industries*". The results of these consultations shall be documented in the AEMR.

Notes

1. No Aboriginal archaeological sites, that have been identified, shall be destroyed without the approval of the Director-General of NPWS, under section 90 of the *National Parks and Wildlife Act 1974*, prior to any disturbance of the identified sites by mining operations.
2. Wherever possible, the Applicant is to contract representatives of the Wonnarua Tribal Council to assist in the proposed archaeological investigations and to undertake salvage of artefacts.

3.4 Flora and Fauna Assessment and Management

- (a) The Applicant shall prior to commencement of mining, prepare and implement a Flora and Fauna Management Plan for the management of flora and fauna issues for the DA area. The Plan shall be prepared in consultation with NPWS and SSC, and to the satisfaction of the Director-General, and shall include but not be limited to:
 - (i) a detailed assessment of the current characteristics and ecological values of existing ecosystems likely to be affected by the development;
 - (ii) strategies to minimise the net loss of ecologically significant vegetation communities within the DA area as a result of the development, including the provision of compensatory areas of equivalent ecological and habitat value where necessary;
 - (iii) strategies to manage the impact of surface water runoff, erosion and sediment control measures on flora and fauna, and also the impact of heavy machinery;
 - (iv) details of monitoring the mine's impacts on native vegetation are to be reported in the Annual Environmental Management Report.

² General Terms of Approval from NPWS

3.5 Prevention of Soil Erosion

- (a) The Applicant shall prepare an Erosion and Sediment Control Plan for the DA area in consultation with the DLWC taking account of the DLWC “*Draft Guideline for Establishment of Stable Drainage Areas on Rehabilitated Minesites*” or its latest version, and to the satisfaction of the DLWC and the Director-General. The Plan shall be prepared and implemented prior to the commencement of mining operations.
- (b) ³The Erosion and Sediment Control Management Plan in sub-clause 3.5(a) above must describe the measures that will be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during mining. The Erosion and Sediment Control Management Plan should also be consistent with the requirements for such plans outlined in the Department of Housing’s “*Managing Urban Stormwater: Soils and Construction*” or its latest version.
- (c) The Erosion and Sediment Control Plan shall include:
 - (i) details of temporary and permanent sediment and erosion control systems to be used during mining, including for earthworks associated with landscaping;
 - (ii) details of salinity management;
 - (iii) consideration and management of erosion and sedimentation of all surface watercourses/water-bodies within the DA area; and
 - (iv) a program for reporting on the effectiveness of the sediment and erosion control systems and performance against objectives contained in the approved Erosion and Sediment Control Management Plan, and EIS.
- (d) The Applicant shall also prepare a Soil Stripping Management Plan to the requirements of DMR and DLWC that shall include, but not be limited to:
 - (i) details of the management of soil stockpiles, soil stripping techniques and scheduling;
 - (ii) a program for reporting on the effectiveness of the soil stripping methods and performance against objectives contained in the Soil Stripping Management Plan, and EIS; and
 - (iii) The Applicant shall ensure works shall not interfere in any way with the stability of adjacent or nearby watercourses.

³ General Terms of Approval from the EPA

3.6 Site Rehabilitation Management

- (a) The Applicant shall carry out rehabilitation of all mine areas in accordance with the requirements of any Mining Lease granted by the Minister for Mineral Resources and to the satisfaction of DLWC.
- (b) The Applicant shall liaise with the owner of the Mt Thorley Mine in order to attempt to ensure that post mining landform profile, drainage and revegetation shall integrate with the Mt Thorley Mine rehabilitation area along the lease boundary with the Bulga Mine. The rehabilitation shall also have regard to the '*Synoptic Plan – Integrated Landscapes for Minesite Rehabilitation*' (1999) in the Upper Hunter, or its latest version.
- (c) The Applicant shall ensure that mined areas are rehabilitated and where practicable equivalent areas of pre-mining land capability are established to ensure a minimum loss of land capability, irrespective of the proposed final land use, to the satisfaction of DLWC.

3.7 Visual Amenity and Landscaping

- (a) The Applicant shall prior to the commencement of mining, or within a further period as the SSC may permit, submit for the approval of SSC a detailed Landscape Management Plan for the development, prepared by a suitably qualified person. The plan shall provide for, but not be limited to:
 - (i) details of the establishment of vegetation and the construction of mounding or bunding, for the purposes of maintaining satisfactory visual amenity, ecological functioning and habitat provision;
 - (ii) the establishment of trees and shrubs within the mining lease boundary adjacent to Broke and Charlton Roads, to screen the proposed southern overburden emplacement area;
 - (iii) consideration of revegetation works incorporating erosion control and sedimentation control practices for earthworks associated with the development;
 - (iv) use of indigenous species;
 - (v) details of the visual appearance of all buildings, structures, facilities or works (including paint colours and specifications). Buildings and structures shall be designed and constructed so as to blend as far as possible with the surrounding landscape;
 - (vi) details, specifications and staged work programs to be undertaken, including a maintenance program of all landscape works, building materials and cladding.

3.8 Bushfire and other Fire Controls

- (a) The Applicant shall:

- (i) prior to commencement of construction of surface facilities/works prepare a Bushfire Management Plan for all its holdings contained in the DA area to the satisfaction of the SSC.
- (ii) provide adequate fire protection works on site. This shall include at least one emergency fire fighting unit on the site.

3.9 Land Management

- (a) The Applicant shall:
 - (i) prior to commencement of mining, prepare a Land Management Plan for the DA area, to provide for proper land management in consultation with DLWC, NSW Agriculture, and SSC, and to the satisfaction of the Director-General . The plan shall include, but not be limited to:
 - (a) pastures and remnant vegetation management;
 - (b) prevention and rehabilitation of land degradation;
 - (c) eradication of vermin and noxious weeds as required by the Rural Lands Protection Authority and other relevant authorities;
 - (d) feral animal control.
 - (ii) minimise the removal of trees and other vegetation, particularly the overburden dump areas, and restrict any clearance to the areas occupied by mine activity, buildings and paved surfaces, and those areas necessary for fire control in accordance with SSC's requirements.

4. Water Management

4.1 Surface & Ground Water Management

- (a) The Applicant shall prior to the commencement of mining operations, update the Site Water Management Plan for the Bulga Open Cut mine operations including the operations proposed in the EIS, in consultation with DLWC and to the satisfaction of the DLWC and the Director-General. The upgraded Site Water Management Plan shall include, but not be limited to, the following matters:
- (i) management of the quality and quantity of surface and ground water within the areas covered by the Site Water Management Plan, which shall include preparation of monitoring programs;
 - (ii) management of stormwater and general surface runoff diversion to ensure separate effective management of clean and dirty water and measures to integrate water management into the Bulga Open Cut Mine water management system;
 - (iii) measures to prevent the quality of any surface waters being degraded below the relevant ANZECC water quality classification prior to mining works, due to the operation of the expanded mine;
 - (iv) investigation into opportunities to reduce the mine water discharge from the site and include the results of such investigations in the Annual Environmental Management Report;
 - (v) identification of any possible adverse effects on water supply sources of surrounding land holders, as a result of the mining operations as outlined in the EIS, and implementation of mitigation measures as necessary;
 - (vi) contingency plans for managing adverse impacts of the development on surface or ground water quality and quantity below its current beneficial use;
 - (vii) projection of potential groundwater changes during mining (short term) and post-mining (long term) with particular attention given to the effect of changes to groundwater quality and mobilisation of salts;
 - (viii) a program for reporting on the effectiveness of the water management systems and performance against objectives contained in the approved site water management plans.
 - (ix) ⁴except as may be expressly provided in the licence issued by the EPA, the applicant must comply with Section 120 of the Protection of the Environment Operations Act 1997 prohibiting the pollution of waters.
- (b) ⁵Any release of excess mine water from the Bulga Open Cut must:

⁴ General Terms of Approval from EPA

- (i) be released from the approved common discharge points for the Bulga Complex;
 - (ii) must comply with the requirements of the Hunter River Salinity Trading Scheme (HRSTS) unless otherwise directed by the EPA. The HRSTS embodies the conditions of the EPA licence, the HRSTS rulebook (dated 1 December 1998), monitoring of the Hunter River by the DLWC on behalf of the participating industries.
- (c) ⁶The Applicant shall obtain a licence from DLWC under Part 2 of the Water Act 1912 for the nominated diversion works associated with the 200 ML dam works. The licence shall include the following conditions:
 - (i) the Applicant shall submit all plans for any notifiable structure to the NSW Dam Safety Committee;
 - (ii) the applicant shall not permit any deterioration of water quality in the licensed diversion channels;
 - (iii) The works shall be constructed in a safe and proper manner to prevent erosion or failure, or any damage to upstream or downstream property;
 - (iv) The applicant shall submit plans for the banks and diversion channels to DLWC for approval;
 - (v) The Applicant shall construct the diversion channels to grade as specified by the DLWC, with appropriate protection works installed to prevent erosion or scour;
 - (vi) The Applicant shall keep plans of the licensed works and all engineering details in their construction, to be produced on demand.
- (d) The Applicant shall obtain a licence under Part 5 of the Water Act 1912 for any:
 - (i) bores, excavations or any other structures that intercept the groundwater table, where used or intended to be used for extraction of groundwater;
 - (ii) all bores/wells/excavations that intersect the groundwater table, including monitoring bores.
- (e) In the event that the development adversely affects groundwater users in the area of the mine the Applicant shall, to the satisfaction of the DLWC, liaise with the users to provide a replacement water supply of similar quality and quantity to that affected, until such time as the development ceases to impact on the users' water supply

4.2 *Surface and Ground Water Monitoring*

- (a) The Applicant shall construct and locate surface and ground water monitoring locations, as identified in the Site Water Management Plan (condition 4.1 (a)), in consultation with DLWC, and to the satisfaction of the DLWC and the Director-General, prior to the commencement of mining operations;

⁵ General Terms of Approval from EPA

⁶ General Terms of Approval from DLWC

- (b) The Applicant shall prepare a detailed monitoring program for surface water quality and quantity, including water in and around the DA area during mining works and post mine operations, including appropriate biological and riparian vegetation assessments, in consultation with DLWC, and to the satisfaction of the Director-General. The monitoring program shall be prepared at the same time as the Site Water Management Plan. The monitoring program for post-mining shall be prepared at least twelve months prior to the cessation of mine operations.
- (c) The Applicant shall take into account the latest version of the DLWC Guideline on stability of drainage areas on mine sites, in the preparation of the detailed groundwater monitoring program. Monitoring sites are to be chosen in the vicinity of the mining, tailing disposal area and the overburden emplacement area and established to the satisfaction of the DLWC and the Director-General.
- (d) The results and interpretation of surface and ground water monitoring are to be contained and analysed in the Annual Environmental Management Report (Condition 9.1(a)).
- (e) ⁷The Applicant must monitor waters and any discharge as specified by the HRSTS and as set out in an environment protection licence issued by the EPA.
- (f) ⁸Monitoring for the concentration of a pollutant discharged to waters or applied to the development area must be done in accordance with:
- the EPA's Approved Methods Publication; or
 - if there is no methodology required by the Approved Methods Publication or by 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 EPA in writing before any tests are conducted, unless otherwise expressly provided in the licence.

⁷ General Terms of Approval from EPA

⁸ General Terms of Approval from EPA

5. Hazardous Materials and Tailings Management

5.1 Overburden Emplacement and Management

The Applicant shall construct and manage the overburden emplacements as set out in the EIS and to the approval of the DMR.

5.2 Fine Rejects/Tailings Emplacement and Management

The Applicant shall prepare a Fine Rejects Management Plan for the placement of fine rejects into the Deep Pit North fine rejects emplacement area to the satisfaction of the DMR prior to any placement of fine rejects in the emplacement areas.

5.3 Waste

- (a) ⁹The Applicant must not cause, permit or allow any waste generated outside of the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.
- (b) ¹⁰This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the Protection of the Environment Operations Act 1997.
- (c) Hazardous or industrial waste must be stored and disposed of in a manner to minimise its impact on the environment including appropriate segregation for storage and separate disposal by a waste transporter licensed by the EPA.

5.4 Chemical and Hazard Management

- (a) The Applicant shall ensure that:
 - (i) The location for storage of LPG, with respect to separation from other dangerous goods and safety measures, shall be in accordance with AS 1596:1997- Storage and Handling of LPG Gas;
 - (ii) The procedures for storage, handling and use of Class 1 explosive materials shall be in accordance with the requirements of Workcover New South Wales.

⁹ General Terms of Approval from the EPA

¹⁰ General Terms of Approval from the EPA

6. Air Quality, Blast, Noise and Light Management

6.1 *Air Quality Management*

6.1.1 *Dust Management Plan*

- (a) The Applicant shall, prior to commencement of mining operations, prepare a Dust Management Plan detailing air quality safeguards and procedures for dealing with dust emissions to the satisfaction of the Director-General. The management plan shall be updated as required by the Director-General. The plan shall include, but not be limited to, details to:
- identify dust affected properties and the relevant dust limits consistent with the EIS and any subsequent submissions to the Department;
 - specify the procedures for the dust monitoring program for the purpose of undertaking independent dust investigations;
 - outline the procedure to notify property owners and occupiers likely to be affected by dust from the mine;
 - establish a protocol for handling dust complaints that include recording, reporting and acting on complaints;
 - record appropriate mechanisms for community consultation;
 - outline mitigation measures to be employed to minimise dust emissions;
 - ensure that equipment is available and used to control dust generation;
 - identify longer term strategies directed towards mitigating dust levels that exceed the EPA target dust criteria;
 - detail locations for dust monitoring and deposition gauges at the residential areas and frequency of monitoring, as agreed with the EPA;
 - continue the baseline monitoring program undertaken prior to development consent.

6.1.2 *Air Quality and Dust Monitoring*

- (a) The Applicant shall:
- (i) undertake monitoring at locations described in the Dust Management Plan;
 - (ii) establish dust deposition and total suspended particulate (TSP) monitoring locations for the mine operations, including sites for monitoring impacts of dust at the nearest non-mined owned residences, and locations as may be determined to be necessary by the Director-General in consultation with the EPA and in accordance with the Dust Management Plan referred to in Condition 6.1(a);
 - (iii) provide all results and analysis of air quality monitoring in the AEMR including a determination of the dust deposition rate in $\text{gm/m}^2/\text{month}$, which shall be plotted to provide trend analysis in the AEMR.;

- (iv) ¹¹Monitoring of dust deposition and for the concentration of PM₁₀, total suspended particulate (TSP) in ambient air must be carried out at locations agreed to in consultation with the EPA.
- (v) Monitoring for the concentration of PM₁₀, TSP and deposited dust are to be carried out as required to be conducted by the general terms of approval, or in accordance with a licence under the Protection of the Environment Operations Act 1997, in relation to the development or in order to comply with a relevant local calculation protocol, must be done in accordance with:
- any methodology which is required by or under the POEO Act 1997 to be used for the testing of the concentration of the pollutant; or
 - if no such requirement is imposed by or under the POEO Act 1997, any methodology which the general terms of approval or a condition of the licence or the protocol (as the case may be) requires to be used for that testing; or
 - if no such requirement is imposed by or under the POEO Act 1997 or by the general terms of approval or a condition of the licence or the protocol (as the case may be), any methodology approved in writing by the EPA for the purposes of that testing prior to the testing taking place.
- (b) Monitoring of the concentration of PM₁₀ particulate matter in ambient air must be carried out at locations agreed to in consultation with the EPA. The sampling method, units of measure, interval and frequency of monitoring will be as set out in the “(Draft) *Approved Methods for the Sampling and Analysis of Air Pollutants in NSW*” or its latest version.
- (c) ¹²The applicant shall ensure that the dust emission from the operation of Bulga Open Cut Mine shall not exceed the EPA dust criteria at non-mine owned residences. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.
- (d) In the event that a landowner or occupier considers that dust from the project is in excess of the EPA criteria for dust levels, at their dwelling, and the Director-General, is satisfied that an investigation is required, the Applicant shall upon the receipt of a written request:
- (i) consult with the landowner or occupants affected to determine their concerns;
 - (ii) make arrangements for appropriate independent dust investigations in accordance with the Dust Management Plan, and to the satisfaction of the Director-General, to quantify the impact and determine the source of the effect;

¹¹ General Terms of Approval from EPA

¹² EPA General Terms of Approval

- (iii) modify the mining activity in accordance with a Dust Management Plan if exceedences are demonstrated to result from the mine related activity. This shall include:
 - introduction of additional controls, either of dust generation from individual sources on the site or on site operations or modify operations, to ensure that the dust criteria are achieved;
 - enter into an agreement with the landowner or provide such forms of benefit or amelioration as may be agreed between the parties as providing acceptable compensation for the dust levels experienced;
 - (iv) conduct follow up investigations to the satisfaction of the Director-General where necessary.
- (e) If the independent dust investigations in sub-clause (d) above confirm that dust limits are in excess of the relevant EPA criteria, the Applicant shall at the written request of the owner acquire the relevant property. Acquisition shall be in accordance with the procedures set out in condition 11.1.
- (f) Further independent investigations shall cease if the Director-General is satisfied that the relevant consent limits or relevant EPA amenity criteria are not being exceeded and are unlikely to be exceeded in the future

6.1.4 Dust Suppression and Control

- (a) The Applicant shall:
- (i) maintain and use sufficient equipment with the capacity to apply water to all unsealed trafficked areas at a rate which minimises dust emissions;
 - (ii) ensure the prompt and effective rehabilitation of all disturbed areas to minimise generation of wind erosion dust, in accordance with the requirements of DMR;
 - (iii) keep the surface of the coal product and stackout stockpiles sufficiently damp to minimise windblown dust; and
 - (iv) ¹³ensure activities occurring at the mine are carried out in a manner that will minimise emissions of dust from the premises.

6.2 Blast Management

- (a) The Applicant shall, prior to the commencement of mining, update or prepare a Blast and Vibration Management Protocol for the mining operations described in the EIS, to the satisfaction of the Director-General . The plan shall identify the blast provisions detailed in the ANZECC document titled “*Technical Basis for Guidelines to Minimise Annoyance due to Blasting Overpressure, and Ground Vibration*” or its latest version.

¹³ General Terms of Approval from EPA

- (b) ¹⁴The Blast and Vibration Management Plan in subclause (a) must be prepared and implemented by the Applicant, and shall include, but need not be limited to:
- Compliance standards
 - Mitigation measures
 - Remedial action
 - Monitoring methods and program
 - Monitoring program for fly-rock distribution
 - Measures to protect underground utilities (rising mains, subsurface telecommunication and electric cables)
 - Notification of procedures for neighbours prior to detonation of each blast
 - Measures to ensure no damage by fly-rock to people, property, livestock and powerlines.
- (c) The applicant shall advise residents within two (2) kilometres of the active mining area of future blasting events on a monthly basis, and of any changes to monthly programs.
- (d) Upon written request of the owner of any dwellings located within two (2) kilometres of the active mining area, the Applicant shall arrange at its own costs, for the inspection by a technically qualified person agreed to by both parties, to record the material condition of any structure on such property within 14 days of receipt of the request. The Applicant shall supply a copy of any inspection report, certified by the person who undertook the inspection, to the relevant property owner within fourteen (14) days of receipt of the report;
- (e) ¹⁵The overpressure level from blasting operations on the premises must not:
- (i) exceed 115dB (Lin Peak) for more than 5% of the total number of blasts over a period of 12 months; and
 - (ii) exceed 120dB (Lin Peak) at any time,
- when measured or computed at a free field location within 3.5 metres of any potentially affected residential building or other noise sensitive location such as a school or hospital unless otherwise approved in writing by the EPA.
- (f) ¹⁶Ground Vibration peak particle velocity (ppv) from the blasting operations on the premises must not:
- (i) exceed 5mm/s for more than 5% of the total number of blasts over a period of 12 months; and
 - (ii) exceed 10mm/s at any time,

¹⁴ General Terms of Approval from EPA

¹⁵ General Terms of Approval from EPA

¹⁶ General Terms of Approval from EPA

when measured or computed at a free field location within 30 metres of any potentially affected residential boundary or other noise sensitive location such as a school or hospital.

- (g) ¹⁷In relation to blasting:
- (i) ¹⁸Blasting associated with mining operations may only take place between the hours of 9am and 5pm Monday to Saturday inclusive.
 - (ii) ¹⁹The hours of operation for blasting operations specified in this condition may be varied if the EPA, having regard to the effect that the proposed variation would have on the amenity of the residents in the locality, gives written consent to the variation. Approved hours and number of blasts per day must be approved and may be varied with the written consent of the EPA.
 - (iii) For the purpose of blast monitoring, the ground vibration or the overpressure must be measured at noise sensitive sites (eg. residences, hospitals, schools etc), selected in consultation with the EPA.
 - (iv) The Applicant shall ensure that air blast overpressure and vibration monitoring is generally carried out in accordance with the recommendations of Australian Standard AS-2187-1993 or its latest version, and in terms of ANZECC guidelines, including compliance with the guideline titled “*Technical Basis for Guidelines to Minimise Annoyance due to Blasting Overpressure and Vibration*” or its latest version, to the satisfaction of the EPA.
 - (v) ²⁰The Applicant must monitor ground vibration and overpressure of all blasts at locations agreed to in consultation with the EPA.

6.3 Noise Control

6.3.1 Noise Levels

Areas of affectation predicted in the EIS

- (a) If a dwelling is identified in the EIS to be within the area of noise affectation, the Applicant shall, within six months of receipt of a written request from the owner of the dwelling, purchase the whole of the properties. The procedures for acquisition outlined in Condition 11.1 shall be followed.

The areas of affectation are those that experience the noise levels under non-adverse conditions in Table 1:

Table 1 Non-Adverse Noise Levels

Time	Non- Adverse
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¹⁷ General Terms of Approval from EPA

¹⁸ General Terms of Approval from the EPA

¹⁹ General Terms of Approval from the EPA

²⁰ General Terms of Approval from the EPA

Day	40 dB(A) _{LA10}
Night	35 dB(A) _{LA10}

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

Noise limits during mining operations

- (b) The applicant shall ensure that the noise emission from the operation of Bulga Open Cut Mine shall not exceed the noise limits in Table 2 at the nominated residences.

Table 2: Noise limits at Each Residence

Residential Location as identified in the EIS	Noise Limit L _{A10} dB(A)	
	Daytime	Night-time
Myers	43	37
McInerney	43	37
Lewis	43	39
Dawtre	39	39

The noise emission limits above apply for adverse weather conditions.

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

Area of affectation during mine operations

- (c) Notwithstanding sub-clause (a) or (b) above, the area of noise affectation during mining operations is defined by demonstrated exceedence of noise levels in accordance with the requirements of the Noise Management Plan (at non-mine owned dwellings) shown in Table 3 below.

Table 3 Noise Affectation Levels

Time	Non- Adverse	Adverse
Day	40 dB(A) _{LA10}	45 dB(A) _{LA10}
Night	35 dB(A) _{LA10}	40 dB(A) _{LA10}

Requests for independent monitoring

- (d) In the event that a landowner or occupier considers that noise from the project at their dwelling is in excess of the noise levels depicted in Table 2 or 3 above, and the Director-General, is satisfied that an investigation is required, the Applicant shall upon the receipt of a written request:

- (i) consult with the landowner or occupants affected to determine their concerns;
 - (ii) make arrangements for appropriate independent noise investigations in accordance with the Noise Management Plan to the satisfaction of the Director-General, to quantify the impact and determine the source of the effect;
 - (iii) modify the mining activity in accordance with a noise reduction plan prepared as part of the Noise Management Plan, if exceedences are demonstrated to result from the mine related activity. This shall include:
 - introduction of additional controls, either on noise emission from individual sources on the site or on site operations or modify operations, to ensure that the criteria in the Table 1 are achieved;
 - with the agreement of the landowner, undertaking of noise mitigation measures at the dwelling to achieve acceptable internal noise levels;
 - enter into an agreement with the landowner or provide such other forms of benefit or amelioration as may be agreed between the parties as providing acceptable compensation for the noise levels experienced.
 - (iv) conduct follow up investigations to the satisfaction of the Director-General, where necessary.
- (e) If the independent noise investigations in sub-clause (d) above confirm that noise limits in Table 3 are being exceeded, the Applicant shall at the written request of the owner acquire the relevant property. Acquisition shall be in accordance with the procedures set out in condition 11.1.
- (f) If continued complaints and noise investigations confirm that noise levels are less than the noise limits in Table 3, the Applicant shall continue to negotiate with the landowner until an acceptable resolution is reached.
- (g) All plant and equipment operated within the premises are not to exceed the maximum Sound Power Level (dB(A)), as listed in Table 8.4 (Noise and Blasting Impact Assessment) of the EIS when measured in accordance with Australian Standard 1217.7.1985.

6.3.2 *Noise Management Plan*

- (a) The Applicant shall prior to commencement of mining operations proposed in the EIS, develop a Noise Monitoring Plan to the satisfaction of the Director-General, to conduct noise investigations at three monthly intervals or other intervals as agreed by the Director-General, to evaluate, assess and report the ^L_{A10 (15 minute)} noise emission levels due to normal operations of the mine under adverse weather conditions. The methodologies including establishing the

mine's operating configuration; determining survey intervals; weather conditions and seasonal variations; selecting variations, locations, periods and times of measurements; and design of any noise modelling or other studies including the means for determining the noise levels emitted by the mining activities, shall be in accordance with the requirements of the EPA;

(b) A Noise Management Plan shall be developed to the satisfaction of the Director-General. Particular attention must be given to management of night-time noise (10.00pm – 7.00am) for each year of operation. The Noise Management Plan must:

- identify noise affected properties and the relevant noise limits consistent with the EIS and the subsequent submission of Noise Information submitted to the Department on 24 June 1999;
- specify the procedures for the noise monitoring program for the purpose of undertaking independent noise investigations;
- outline the procedure to notify property owners and occupiers likely to be affected by noise from the mine;
- establish a protocol for handling noise complaints that include recording, reporting and acting on complaints;
- record appropriate mechanisms for community consultation;
- outline mitigation measures to be employed to limit noise emissions including particularly noise emissions from construction and operation of the South Whybrow Emplacement Area;
- identify longer term strategies directed towards mitigating noise levels that exceed the EPA target noise criteria;
- outline measures to be used to reduce the impact of intermittent, low frequency and tonal noise (including truck reversing alarms);
- specify measures to be taken to document any higher level of impacts or patterns of temperature inversions, and detail actions to quantify and ameliorate enhanced impacts if they occur.

(c) The Applicant shall make copies of the Noise Management Plan available to the EPA, SSC, and CCC within fourteen days of approval or as otherwise agreed by the Director-General.

6.3.3 ²¹Noise measurements

²¹ EPA General Terms of Approval

- (a) For the purpose of noise measurement, the L_{A10} noise level must be measured or computed at the most affected area within 30 metres from a dwelling or the property boundary, whichever is the lesser, over a period of 15 minutes using “FAST” response on the sound level meter.
- (b) For the purpose of the noise measurements referred to in Tables 1 or 2 above, 5dB must be added to the measured level if the noise is substantially tonal or impulsive in character.

6.3.4 ²²Noise Monitoring

- (a) The levels of noise emitted from the mining operations must be monitored for 72 hrs each 3 months or other time interval agreed with the EPA, and at locations agreed to in consultation with the EPA. The monitoring must determine the $L_{A10, 15min}$, $L_{A90, 15min}$, and $L_{A1,15}$ and include an assessment of the impact of operational noise on adjoining residents.
- (b) Noise monitoring at the specified locations must be undertaken during daytime (7.00am-10.00pm) and nighttime (10.00pm-7.00am).

6.4 Light Emissions

- (a) The Applicant shall prepare a Light Management Plan for the mine operations to address the control of the potential impact of flood lighting and equipment lighting from the site activities including the mine, haul roads and emplacement areas, and submit to the SSC for approval, prior to the start of mining activities associated with this development application.
- (b) Any flood lighting on the site shall be located to the satisfaction of the SSC. The Applicant shall not locate flood lighting that will directly emit light onto the Broke or Charlton Roads or towards any dwellings. The Applicant shall screen or direct all on-site lighting away from residences and roadways to the satisfaction of SSC.

²² EPA General Terms of Approval

7. Transport and Utilities

7.1 Road Transport

- (a) No coal shall be hauled on public roads.

Note: All product coal will be transported by rail from the train loading system. The haulage rate of product coal by rail is limited by the coal handling and preparation plant approved ROM throughput of 13 mtpa (in accordance with the South Bulga Colliery development consent 5 August 1993, as modified on 29 March 1994 and 27 January 1998).

8. Monitoring/Auditing

8.1 In addition to the requirements contained elsewhere in this consent, the Director-General may in consultation with the relevant government authorities and the Applicant, require the monitoring programs to be revised/updated at any time to reflect changing environmental requirements or changes in technology/operational practices related to the mining operations. Changes shall be made and approved in the same manner as the initial monitoring programs. All monitoring programs shall also be made publicly available at SSC within two weeks of approval of the relevant government authority.

8.2 All sampling strategies and protocols undertaken as part of any monitoring program shall include a quality assurance/quality control plan and shall require approval from the relevant regulatory agencies to ensure the effectiveness and quality of the monitoring program.

8.3 *Meteorological*

The Applicant shall continue meteorological monitoring by utilising and maintaining the existing weather station at the Bulga Complex. The meteorological data shall be particularly used for assessment of noise, dust and blasting impacts on nearby residences.

8.4 *Third Party Monitoring/Independent Environmental Audit*

- (a) Every three years until completion of mining operations, or as otherwise directed by the Director-General, the Applicant shall conduct an environmental audit of the mining and infrastructure areas of the development in accordance with ISO 14010 - Guidelines and General Principles for Environmental Auditing, and ISO 14011 - Procedures for Environmental Auditing (or the current versions), and in accordance with any specifications required by the Director-General. Copies of the report shall be submitted by the Applicant to the Director-General, SSC, EPA, DLWC, DMR, NPWS and CCC within two weeks of the report's completion for comment.
- (b) The audit shall:
 - (i) assess compliance with the requirements of this consent, licences and approvals;
 - (ii) review the effectiveness of the environmental management of the mine, including any mitigation works;
 - (iii) be carried out at the Applicant's expense; and
 - (iv) be conducted by a duly qualified independent person or team approved by the Director-General in consultation with SSC.
- (c) The Director-General may, after considering any submission made by the relevant government agencies, SSC and CCC on the report, notify the Applicant of any requirements with regard to any recommendations in the report. The Applicant shall comply with those reasonable requirements within such time as the Director-General may require.

9. Reporting

9.1 *Annual Environmental Management Report (AEMR)*

- (a) The Applicant shall, throughout the life of the mine and for a period of at least three years after the completion of mining operations, prepare and submit an Annual Environmental Management Report (AEMR) to the satisfaction of the Director-General. The AEMR shall review the performance of the mine against the Environmental Management Strategy, the environmental management plans and the relevant Mining Operations Plans, the conditions of this consent, and other licences and approvals relating to the mine. To enable ready comparison with the EIS's predictions, diagrams and tables, the report shall include, but not be limited to, the following matters:
 - (i) an annual compliance audit of the performance of the project against conditions of this consent and statutory approvals;
 - (ii) a review of the effectiveness of the environmental management of the mine in terms of EPA, DLWC, DMR, and SSC requirements;
 - (iii) results of all environmental monitoring required under this consent or other approvals, including interpretations and discussion by a suitably qualified person;
 - (iv) identify trends in monitoring over the life of the mine;
 - (v) an assessment of any changes to agricultural land suitability resulting from the mining operations, including cumulative changes;
 - (vi) a listing of any variations obtained to approvals applicable to the subject area during the previous year;
 - (vii) the outcome of the water management budget for the year, the quantity of water used from water storage and details of discharge of any water from the site;
 - (viii) rehabilitation report; and
 - (ix) environmental management targets and strategies for the next year, taking into account identified trends in monitoring results.
- (b) In preparing the AEMR, the Applicant shall:
 - (i) consult with the Director-General during preparation of each report for any additional requirements;
 - (ii) comply with any requirements of the Director-General or other relevant government agency; and
 - (iii) ensure that the first report is completed and submitted within twelve months of this consent, or at a date determined by the Director-General in consultation with the DMR and the EPA.
- (c) The Applicant shall ensure that copies of each AEMR are submitted at the same time to DUAP, EPA, DLWC, NPWS, SSC and CCC, and made available for public information at Council within fourteen days of submission to these authorities.

9.2 ²³*General Reporting*

- (a) The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained.
- (b) All records required to be kept by the licence must be:
- in a legible form, or in a form that can readily be reduced to a legible form;
 - kept for at least 4 years after the monitoring or event to which they relate took place; and
 - produced in a legible form to any authorised officer, on request.
- (c) The following records must be kept in respect of any samples required to be collected:
- The date(s) on which the sample(s) were taken;
 - The time(s) at which the sample(s) were collected;
 - The point(s) at which the sample(s) were taken; and
 - The name of the person who collected the sample(s).

²³ General Terms from the EPA

10. Community Consultation/Obligations

10.1 Community Consultation

(a) Complaints

The Environmental Officer(s) (refer condition 3.1) shall be responsible:

- (i) for the receipt of complaints with respect to construction works and mine operations on a dedicated and publicly advertised telephone line, 24 hours per day 7 days per week, the entering of complaints or comments in an up to date log book, and ensuring that a response is provided to the complainant within 24 hours; and
- (ii) providing a report of complaints received every six months throughout the life of the project to the Director-General, SSC, EPA, DMR, and CCC, or as otherwise agreed by the Director-General. A summary of this report shall be included in the AEMR (condition 9.1(a)).

Community Consultative Committee

(b) The Applicant shall:

- (i) establish a Community Consultative Committee and ensure that the first meeting is held before the commencement of construction works. Selection of representatives shall be agreed by the Director-General and the appointment of an independent Chairperson shall be to the satisfaction of the Director-General in consultation with the Applicant and SSC. The Committee shall comprise representatives of the Applicant (including an Environmental Officer, condition 3.1), one (1) representative of SSC, and four community representatives, to monitor compliance with conditions of this consent and other matters relevant to the operation of the mine during the term of the consent. The formation of the Committee may consider its interrelationship with any existing Consultative Committees of adjoining mines.

Representatives from relevant government agencies (including DUAP) or other authorities may be invited to attend meetings as required by the Chairperson. The Committee may make comments and recommendations about the implementation of the development and environmental management plans. The Applicant shall ensure that the Committee has access to the necessary plans for such purposes. The Applicant shall consider the recommendations and comments of the Committee and provide a response to the Committee and Director-General on matters arising.

- (ii) The Applicant shall, at its own expense:
 - (a) nominate representatives to attend all meetings of the Committee;

- (b) provide to the Committee regular information on the progress of work and monitoring results;
 - (c) promptly provide to the Committee such other information as the Chair of the Committee may reasonably request concerning the environmental performance of the development;
 - (d) provide access for site inspections by the Committee;
 - (e) provide meeting facilities for the Committee, and take minutes of Committee meetings. These minutes shall be available for public inspection at SSC within 14 days of the meeting.
- (iii) The Applicant shall establish a trust fund or other funding arrangement that may be agreed between the Applicant and the Committee, to be managed by the Chair of the Committee to facilitate the functioning of the Committee, and pay \$2000 per annum to the fund or other agreed arrangement, for the duration of mining operations. The monies are to be used only as required for the engagement of consultants to interpret technical information and the like. The annual payment shall be indexed according to the Consumer Price Index (CPI) at the time of payment. The first payment shall be made by the date of the first Committee meeting. A record of finances of the trust fund or other agreed arrangement, during each year shall be provided to the Director-General and the Applicant, by the Chairperson, on the anniversary of the first payment. Any unspent monies shall be returned to the Applicant each year.

11. Proponents Obligations

11.1 Area of Affection – Land Acquisition

Note: In Condition 11.1 (a)-(h) "land" means the whole of a lot in a current plan registered at the Land Titles Office as at the date of this consent.

- (a) The owner of any dwelling located in areas that exceed noise and/or air quality criteria established under this consent, and at any time after the granting of development consent, may request the Applicant in writing to purchase the whole of that property.
- (b) The Applicant shall negotiate and purchase a property, as identified in sub-clause (a) above, within six (6) months of a written request from the affected land owner.
- (c) In respect of a request to purchase land arising under this condition, the Applicant shall pay the owner the acquisition price that shall take into account and provide payment for:
 - (i) a sum not less than the current market value of the owner's interest in the land at the date of this consent, having regard to:
 - the existing use and permissible use of the land in accordance with the applicable planning instruments at the date of the written request; and
 - the presence of improvements on the land and/or any Council approved building or structure which although substantially commenced at the date of request is completed subsequent to that date;
 - (ii) the owner's reasonable compensation for disturbance allowance and relocation costs within the Singleton or Muswellbrook Local Government Area, or within such other location as may be determined by the Director-General in exceptional circumstances;
 - (iii) the owner's reasonable costs for obtaining legal advice and expert witnesses for the purposes of determining the acquisition price of the land and the terms upon which it is to be acquired.

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

- (d) In the event that the Applicant and any owner referred to in this condition cannot agree within the time limit upon the acquisition price of the land and/or the terms upon which it is to be acquired, then:

- (i) either party may refer the matter to the Director-General, who shall request the President of the Australian Institute of Valuers and Land Economists to appoint a qualified independent valuer or Fellow of the Institute, who shall determine, after consideration of any submissions from the owners, a fair and reasonable acquisition price for the land as described in sub-clause (c) and/or terms upon which it is to be acquired;
- (ii) in the event of a dispute regarding outstanding matters that cannot be resolved, the independent valuer shall refer the matter to the Director-General, recommending the appointment of a qualified panel. The Director-General, if satisfied that there is need for a qualified panel, shall arrange for the constitution of the panel. The panel shall consist of:
 - 1) the appointed independent valuer,
 - 2) the Director-General or nominee, and
 - 3) the President of the Law Society of NSW or nominee.

The qualified panel shall determine a fair and reasonable acquisition price as described in sub-clause (c) above and/or the terms upon which the property is to be acquired.

- (e) 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 sub clauses (c) and (d).
- (f) Upon receipt of a determination pursuant to sub-clauses (c) and (d), the Applicant shall, within 14 days, offer in writing to acquire the relevant land at a price not less than the determination. Should the Applicant's offer to acquire not be accepted by the owner within six (6) months of the date of such offer, the Applicant's obligations to purchase the property shall cease, unless otherwise agreed by the Director-General.
- (g) In the event that only part of the land is to be transferred to the Applicant, the Applicant shall pay all costs associated with obtaining Council approval to any plan of subdivision and registration of the plan at the Office of the Registrar-General
- (h) The provisions of this condition do not apply to a land owner who is the holder of an authority under the Mining Act, 1992.

12. Further Approvals and Agreements

12.1 Statutory Requirements

- (a) The Applicant shall ensure that all statutory requirements including but not restricted to those set down by the Local Government Act 1993, Protection of the Environment Administration Act 1991, Protection of the Environment Operations Act 1997, National Parks and Wildlife Act 1974, and all other relevant legislation, Regulations, Australian Standards, Codes, Guidelines and Notices, Conditions, Directions, Notices and Requirements issued pursuant to statutory powers by the SSC, EPA, DMR, NPWS, DLWC, RTA, are fully met.

(b) Structural Adequacy

Detailed plans and specifications relating to the design and construction of any structural elements associated with the proposed development are to be submitted to the Principal Certifying Authority prior to the commencement of construction works. Such plans and specifications must be accompanied by certification provided by a practicing professional structural engineer or an accredited certifier certifying the structural adequacy of the proposed building design and compliance with the Building Code of Australia.

(c) Verification of Construction

Upon completion of building works and prior to the issue of an occupation certificate, a certificate/s prepared by a suitably qualified person or a compliance certificate/s issued by an accredited certifier, is to be submitted to the Principal Certifying Authority certifying that the following building components, where relevant, have been completed in accordance with approved plans and specifications:

- (i) footings;
- (ii) concrete structures, including ground floor and any subsequent floors, retaining walls and columns;
- (iii) framing and roof structure;
- (iv) fire protection coverings to building elements required to comply with the Building Code of Australia; and
- (v) mechanical ventilation.

The certificate/s shall demonstrate at what stage of construction inspections were undertaken.