DETERMINATION OF A DEVELOPMENT APPLICATION PURSUANT TO SECTION 101 OF THE UNAMENDED ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

I, the Minister for Urban Affairs and Planning, pursuant to Section 101 of the Unamended Environmental Planning and Assessment Act 1979 ("the Unamended Act"), determine the development application ("application") referred to in Schedule 1 by granting consent to the application subject to the conditions set out in Schedule 2.

The reason for the imposition of conditions generally is to minimise any adverse effects from the development and to provide for environmental monitoring and reporting. These conditions are listed in Schedule 2.

Craig Knowles
Minister for Urban Affairs and Planning
Minister for Housing

Sydney, 20/8/ 1998 File No. S97/00573/001

Schedule 1

Application made by:	Coalpac Pty Limited ("The Applicant")
To:	Council of the City of Greater Lithgow ("Council").
In respect of:	Part of Lot 12 of D.P. 614429 and part of Ben Bullen State Forest No. 434, Parish Cullen Bullen County Roxburgh, subject to the Mining Lease Application No.70.
For the following:	Construction and operation of an open cut coal mine, associated facilities, an internal haulage road, and rehabilitation of the abandoned open cut mines ("the development"). Note. The application does not include the two mine entries off the proposed open cut high wall, which are for the potential extension of underground mining operation to North Invincible, which is subject to an existing mining lease.

NOTE:

(1) To ascertain the date upon which the consent becomes effective, refer to section 101(9) of the Unamended Act.

(2) To ascertain the date upon which the consent is liable to lapse, refer to section 99 of the Unamended Act.

Schedule 2 - Conditions of Consent

Glossary of terms

AEMR	Annual Environmental Management Report
Council	Council of the City of Greater Lithgow
DA	Development application
Director- General	Director-General of the Department of Urban Affairs and Planning
DLWC	Department of Land and Water Conservation
DMR	Department of Mineral Resources
EPA	Environment Protection Authority
NPWS	National Parks and Wildlife Service
RTA	Roads and Traffic Authority
RAC	Rail Access Corporation
The Applicant	Coalpac Pty Ltd.
The Department	The Department of Urban Affairs and Planning

General

1. The development for open cut mining, haulage of coal, is to be carried out generally in accordance with the Environmental Impact Statement dated February 1998, prepared by Craven Elliston & Hayes (Lithgow) Pty Ltd and certified in accordance with Section 77(3) of the Act, and as may be modified by the following conditions.

   This consent relates to the area covers by Mining Lease Application No. 70, and comprising part of Ben Bullen State Forest No. 434 and part of Lot 12 of D.P. 614429, Parish Cullen Bullen County Roxburgh.

Duration

2. (i) This approval is for a period of 5 years from the date of consent.

   (ii) The rate of coal extraction (ROM) shall not exceed 300,000 tonnes per annum.

   (iii) The date of commencement of construction works and commencement of coal processing operations is to be notified to the Director-General of the Department of Urban Affairs and Planning and the Greater Lithgow City Council (the Council), prior to the commencement of construction works and coal processing operations respectively.

Statutory Requirements

3. The Applicant shall ensure that all statutory requirements, including all relevant legislation, Regulations, Australian Standards, Codes, Guidelines and Notices, Conditions, and Directions of:- the Council; EPA; DMR; NPWS; DLWC; RTA and RAC are fully met.

Noise Levels

4. The Applicant shall ensure that any noise levels due to operation of the mine, at the 2 locations specified on the attached map (Map 1) do not exceed the $L_{A10,15\ min}$ noise emission limits of 45 dBA during daytime (7:00am to 7:00pm), 40 dBA during evening (7:00pm to 10:00pm) and 35 dBA during night time (10:00pm to 7:00am). The limits are to apply for prevailing meteorological conditions (winds up to 3m/s) except under conditions of temperature inversions that would be expected to occur at the site.

   If the noise limits are exceeded during operation of the mine, the provisions of Conditions 24 to 29 inclusive shall apply.

Noise Monitoring and Management

5. The Applicant shall:

   (i) measure, record and report the $L_{A10,15\ min}$ noise level over a representative 72 hour period during normal operations of the mine. Noise monitoring shall be undertaken including at those locations nominated in Condition 4. ;

   (ii) prepare in consultation with EPA a Noise Management Plan, and submit for the information of the Department, Council and the EPA. The Noise Management Plan shall detail noise safeguards and procedures for dealing with noise episodes which exceed the above established $L_{A10,15\ min}$ noise level;

   (iii) noise impacts that may be enhanced by temperature inversions shall be addressed by:

   (a)documenting noise complaints received and incidences of temperature inversion to identify any higher level of impacts or patterns of temperature inversions; and

   (b)where levels of noise complaints indicate a higher level of impact during incidences of temperature inversion, then actions to quantify and ameliorate any enhanced impacts under temperature inversion conditions should be detailed in the noise management plan.

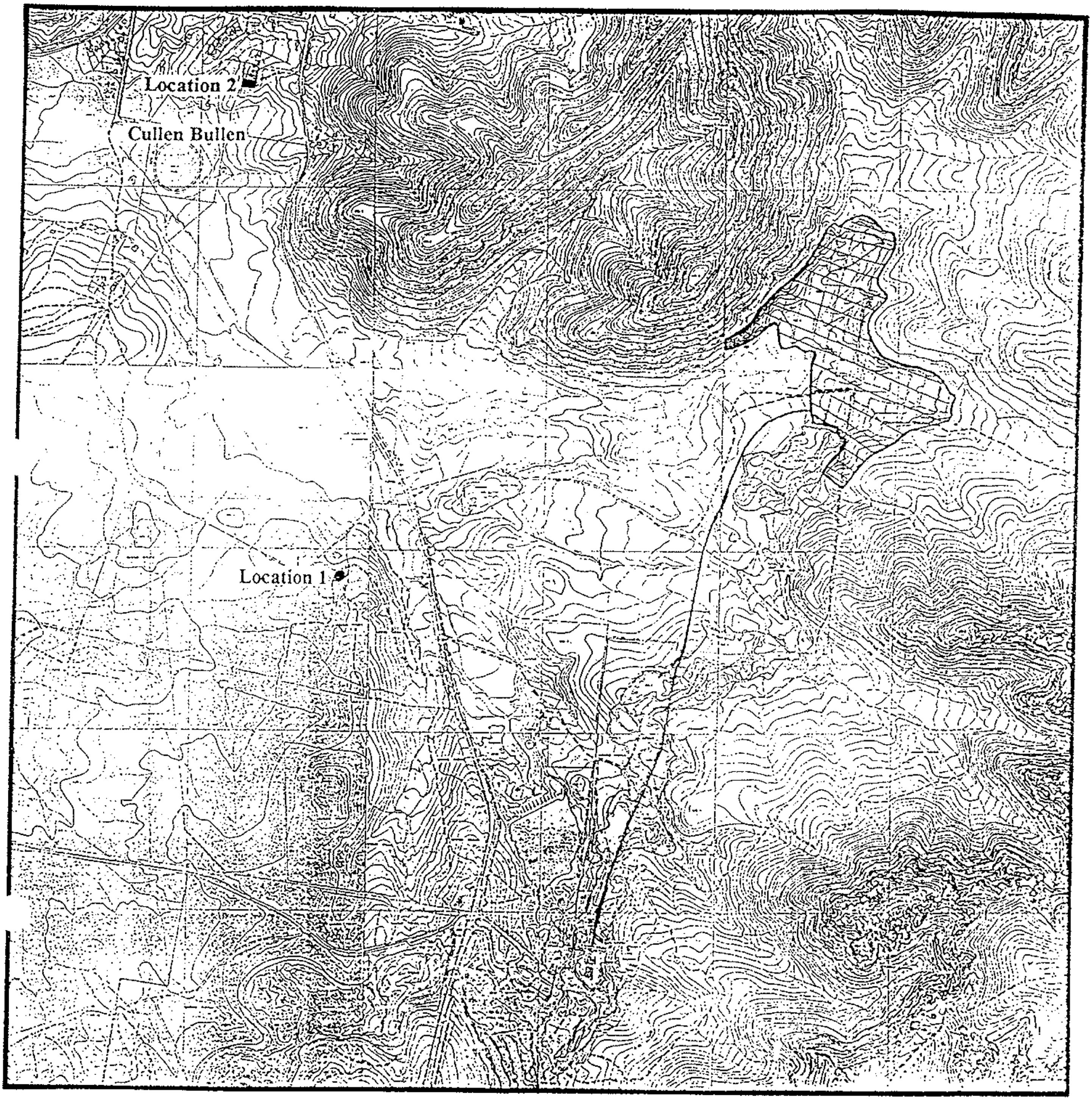
   (iv) survey and investigate noise reduction measures from plant and equipment every three years or as directed by the EPA, and where applicable, carry out remedial measures as directed by the EPA through licence conditions;

   (v) arrange independent monitoring as provided by Condition 25; and

   (vi) review, revise and update the noise management plan as required and include any significant changes in the Annual Environmental Management Report (refer Condition 37).

Blasting

6. The Applicant shall ensure that air blast overpressure and vibration monitoring and control is generally carried out in accordance with the recommendations of Australian Standard AS-2187-1993 or its latest version and in terms of ANZECC Guidelines, to the satisfaction of the EPA.



MAP 1
Locations 1 and 2
Invincible Open Cut Mine
(Conditions 4 and 24)

Air Quality

7. The Applicant shall:

   (i) utilise a wind direction, velocity monitoring and recording station at a non-protected location adjacent to the area to be mined or as directed by the EPA. Monitoring of wind direction and velocity as well as of dust deposition rates and concentrations of total suspended particulates (TSP) should continue for the life of the mine;

   (ii) compile the meteorological data on a monthly basis to adequately characterise the site;

   (iii) use the data collected by the wind monitoring and recording station referred to in sub-clause (i) above to determine when and how the mine operation is to be modified to minimise the potential for dust emissions;

   (iv) before commencement of construction, install and maintain dust deposition gauges as specified by the EPA and in each calendar month determine the dust deposition rate in gm/m^2/month, so that any increases in dust deposition rates can be plotted in the Annual Environmental Management Report (refer Condition 37);

   (v) except as otherwise agreed to, or required by the EPA, have not less than 2 high volume samplers located in positions and recording frequencies approved by the EPA. Samplings are to be undertaken every 6th day for 24 hours with averaging periods (annual means) as well as monitoring equipment/ procedures to follow AS2724.3 and AS3508.9.6;

   (vi) provide the Director-General, or nominee, EPA, DMR, and Council with results and analysis of air quality monitoring on a six monthly basis, or as otherwise agreed;

   (vii)prior to commencement of construction works on the site, prepare in consultation with EPA an Air Quality Management Plan, and submit for information of the Department, Council and the EPA. The Plan shall detail air quality safeguards and procedures for dealing with dust emissions. This management plan shall be updated as required by the Director General and/or the EPA, and be included in the AEMR (Condition 37);

Dust Suppression

8. The Applicant shall:

   (i) maintain and use sufficient equipment with the capacity to apply water to all unsealed trafficked areas at a rate which effectively suppresses dust emissions during both day and night time operations;

   (ii) ensure the prompt and effective rehabilitation of all disturbed areas to minimise generation of wind blown dust, in accordance with the requirements of the DMR;

   (iv) keep the surface of the coal stockpiles sufficiently damp or otherwise treated to minimise windblown dust.

   All works and operations carried out within the DA area must be carried out in a manner that will not cause the dust deposition rate to exceed 2.0 g/m^2/month above ambient dust levels, when measured at the boundary of the premises.

Water Management

9. The Applicant shall submit a site water management plan to the satisfaction of the Director-General or nominee, in consultation with DLWC, and EPA prior to the commencement of construction works. The plan shall include, but not be limited to, the following matters:

   (i) management of the quality and quantity of surface and ground water within and around the DA area, including water in dirty water dams and clean water diversion dams, which shall include preparation of monitoring programs as provided by condition 10;

   (ii) storm water and general surface runoff diversion within and around the site, to ensure separate effective management of clean and dirty water within the DA area including the potential pollution from any acid mine drainage;

   (iii) identification of any possible adverse effects on water supply sources of surrounding/down stream land holders as a result of the mining operations, and implementation of mitigation measures as necessary;

   (iv) the quantity and quality of water discharged from the site including the run-off from the mine, haul road, stockpile and vehicle washing area;

   (v) development of a strategy for the decommissioning of water management structures, including dirty water dams and clean water diversion dams; and

   (vi) a program for reporting on the effectiveness of the water management system and compliance with EIS predictions.

Water Monitoring and Reporting

10. (i) The Applicant shall construct and locate surface and groundwater monitoring positions (within the existing development application area) to the satisfaction of DLWC and EPA, prior to the commencement of construction works;

   (ii) The Applicant shall prepare a detailed monitoring program in respect of ground and surface water, including water in dirty water dams and clean water diversion dams, in and around the DA area, both during and post mine operations to the satisfaction of DLWC, EPA and DMR; and

   (iii) The results and interpretation of surface and ground water monitoring are to be provided by the Applicant in an approved form to the DLWC, EPA and the Community Consultative Committee on a quarterly basis during construction and the first 12 months of mining operations and thereafter on a twelve monthly basis. The results and analysis are also to be included in the Annual Environmental Management Report (AEMR) (refer to Condition 37).

Erosion and Sediment Control

11. Prior to the commencement of construction works, the Applicant shall:

   (i) prepare and implement an Erosion and Sediment Control Plan to cover the proposed mine site to meet the requirements of the DLWC and the EPA for all permanent and temporary structures, which should include but not be limited to, the location of sediment control traps, and erosion control as a result of topsoil stripping, stockpiling and landscaping; and

(ii) make available details of the above approved Plans to the Council and the Community Consultative Committee.

Visual Amenity and Landscaping/ Revegetation

12. The Applicant shall, within six months of the date of this consent or within such further period as the Council may require, submit for the Council's approval a detailed landscaping and revegetation management plan prepared by a suitably qualified person. The plan shall include:

    (i) provision for the establishment of trees and shrubs and the construction of mounding or bunding along the access road to the mine site, around the water storage dams and surface facilities area, and any other areas identified as necessary by Council for the maintenance of satisfactory visual amenity and re-establishment of flora and fauna corridors and habitats using locally occurring plant species;

    (ii) details of the visual appearance of all buildings, structures, facilities or works (including paint colours and specifications); and

    (iii) details, specifications and staged work programs to be undertaken, including a maintenance programme of all landscape works and building materials and cladding.

13. The mine plan shall be varied to ensure that any cliff lines are protected to the satisfaction of DMR.

NOTE: Any proposed destruction or injury to trees on protected lands will require prior approval from DLWC.

Flora and Fauna Habitats

14. The Applicant shall prepare a Flora and Fauna Management and Habitat Restoration Strategy to the satisfaction of the Director-General. The Strategy shall outline the measures of fauna management and habitat restoration, including but not limited to the following:

    (i) re-establishing the tree, shrub and grass communities which pre-existed in the forest and woodland areas, and making use of hollow logs, bark and rocks to provide habitat where appropriate,

    (ii) re-establish the disturbed pasture with locally sourced species of shade trees,

    (iii) control introduction of weed species during mining operations as well as rehabilitation of the site,

    (iv) restoring vegetation links between the retained habitats (woodlands to the west of old open cut and a small wetland) with the surrounding natural areas,

    (v) re-establishment of Eucalyptus viminalis contiguous to preserved stands and in a density which would ensure restoration of koala habitat values,

    (vi) limit the speed of truck movements around the fauna habitat,

    (vii) inspection of significant habitat which would be disturbed during construction or operation; if fauna is found, the animal needs to be moved in a manner which minimise the harm to it, and (viii)fresh water dams adjoining the site should be maintained free from contamination and disturbance so as to preserve watering sites for fauna and breeding sites for amphibian.

Threatened Species

15. In the event that threatened species are identified on the site during development through construction or operation of the coal mine, the Applicant shall contact the NPWS and cease work in the relevant location pending investigation and negotiation of amelioration measures.

Rehabilitation

16. The Applicant shall carry out rehabilitation of all mine areas in accordance with the requirements of the Mining Operations Plan submitted to DMR.

Archaeology

17. In the event that artefacts are identified on the site during development through earthworks, construction or operation of the coal mine, the Applicant shall contact the NPWS and cease work in the relevant location pending investigation and assessment of its heritage value.

Surface Facilities Area

18. A complete description and location of the surface facilities, hardstand area and the vehicle washdown facility shall be provided for the information of DUAP and for the approval of the EPA prior to construction. Disposal of waste water will need to be addressed in the Water Management Plan referred to in Condition 9.

NOTE: All surface facilities will be subject to a Building Application to be lodged with the Council for approval.

Private Haul Road/Coal Transport

19. The Applicant shall design and construct the private haul road between the proposed open cut mine and the existing haul road connected to the Invincible Colliery pit top to the satisfaction (and approval where necessary) of the Council.

20. The Applicant shall implement proper maintenance of the turnout to the mine and to provide appropriate and adequate signage in the area and at sufficient distance from the mine entrance as required by RTA.

21. A maximum of 300,000 tonnes per annum may be transported by public roads. All loads leaving the development are to be covered to prevent dust and materials from falling on the roadway, and the Applicant shall be responsible for sweeping away any product which has fallen from the turning trucks.

NOTE: Any agreements or negotiations reached between the Applicant and the Council and/ or the RTA shall be provided to the Director-General.

Fire Protection

22. The Applicant shall prepare and implement a Bushfire Management Plan in consultation with Council and shall provide adequate fire protection measures on-site. This shall include one (1) fully equipped fire fighting unit on standby and annual hazard reduction

works (to be undertaken at a time determined by the Council) with particular attention to boundaries of adjoining land holdings.

Flood Lighting

23. The Applicant shall prepare and submit an engineering report on lighting impacts from the operation of the mine for Council's approval prior to any use of night lighting. The report shall identify:

    (i) all potential light sources and their impacts upon residences in the vicinity of the mine operations; and

    (ii) technical measures and work practices necessary to minimise the spillage of light from immediate areas to be illuminated, and to minimise the total night time glow from the operations.

Acquisition of Land

24. If the noise limits as specified in Condition 4 are exceeded, and the owner of the land which is marked "Location 1" or the owner of the land which is marked "Location 2" as defined on the attached map (refer Map 1) as at the date of this consent, so requests, during the term of this consent, the Applicant shall, negotiate and purchase, at a price to be determined in accordance with Conditions 26 and 27 below, the property as requested. The Applicant shall negotiate and purchase the property as requested within six (6) months of receipt of a written request from the relevant affected land owner.

25. In the event that landowners within the area shown on the attached map (refer Map 1) consider that noise or blasting from the Invincible open cut mining operation at their residence is in excess of the relevant criteria defined in this consent or that dust from Invincible open cut mining operation is in excess of relevant EPA criteria for dust levels, the Applicant shall, upon receipt of a written request:

    (i) undertake direct discussions with the land owner and residents affected to ascertain their concerns;

    (ii) make arrangements for and bear the cost of independent monitoring at the residence to quantify the impact and determine the source of the effect; and

    (iii) if adverse impacts are identified, modify these areas of the mining operation that may be causing the impacts.

    Monitoring is to be carried out by a qualified independent person or team approved by the Director-General in consultation with the EPA, applicant and affected landowner. The approved person or team will report directly to the Director-General, Applicant and affected landowner on a quarterly basis. Monitoring shall commence within one (1) month from the appointment of the independent person or team.

    If the relevant EPA amenity criteria (including existing meteorological conditions excluding conditions of temperature inversion) are exceeded during two noise or dust monitoring periods as determined by the Director-General in consultation with the EPA, the Applicant shall undertake such measures, as agreed with the affected landowner, to ameliorate the effects of the impact, or purchase the property within six (6) months of receipt of a written request from the owner of the affected property. The provisions of this sub-clause do not apply to a landowner who is the holder of an authority under the Mining Act 1992, nor to a property that is subject to a requirement to purchase by another mining company.

26. In respect of a request to purchase land arising under Condition 24 or 25 above, the Applicant shall pay the owner the acquisition price which 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 used for its existing use at the date of consent whosoever is the occupier and all improvements thereon at this date as if the land was unaffected by mining operations;

    (ii)the owner's reasonable compensation for disturbance allowance and relocation costs within the Singleton local government area;

    (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.

27. In the event that the Applicant and any owner referred to in any part of Conditions 24 and 25 inclusive 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 for the time being of the Australian Institute of Valuers and Land Economists to appoint a qualified independent valuer, suitably qualified in compensation issues, who shall determine, after consideration of any submission from the land owner and the Applicant the acquisition price; and

    (ii)in the event that the independent valuer requires guidance on any contentious legal, planning or other issues, the independent valuer shall refer the matter to the Director-General, who, if satisfied that there is a need for a qualified panel, shall arrange for the constitution of the panel. The panel shall consist of:

    - the appointed independent valuer;

    - the Director-General or nominee; and

    - the President of the Law Society of NSW or nominee.

    The qualified panel shall, on the advice of the valuer, determine the issues referred to it and advise the valuer.

28. The Applicant shall bear the costs of any valuation or survey assessment requested by the Director-General in accordance with any part of Conditions 24 to 29 (inclusive).

29. Upon receipt of a valuation, the Applicant shall offer to acquire the relevant land at a price not less than the said valuation. 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 such owner and in respect of that property pursuant to Conditions 24 to 29 (inclusive) shall cease.

Environmental Officer

30. The Applicant shall employ an Environmental Officer whose qualifications are acceptable to the DMR who shall report to the Mine/General Manager and be responsible for ensuring that all environmental safeguards proposed for the development, and as required by this consent and other statutory approvals, are implemented and monitored from the commencement of construction of the mine. The Director-General is to be notified of the appointment of the Environmental Officer.

Complaints

31. The Environmental Officer shall be responsible

    (i) for receiving 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, entering complaints or comments in an up to date log book, and ensuring that action on the complaint is addressed within 24 hours.

    (i) providing a report of complaints received every three months throughout the life of the project to the Director-General/nominee, Council, EPA, and DMR, or as otherwise agreed. A summary of this report shall be included in the AEMR (refer Condition 37).

Dispute Resolution

32. In the event that the Applicant and the Council or a Government agency, other than the DUAP, cannot agree on the specification or requirements applicable under this consent, the matter shall be referred by either party to the Director-General/nominee 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.

Community Consultative Committee

33. The Applicant shall:

    (i) participate and co-operate in a Community Consultative Committee established by Council. The Committee will comprise a representative of DLWC and DMR, two (2) representatives of the Applicant, and four (4) members of the community. The committee shall be chaired by a representative of the Council, and should meet at least twice a year, or as otherwise agreed by the Committee to discuss compliance with conditions of this consent and other matters relevant to the operation of the mine during the term of the consent. The first meeting shall be held three months after the commencement of construction.

    (ii) The Applicant shall, at its own expense:

        (a) nominate two representatives to attend all meetings of the Committee;

        (b) provide to the Committee copies of the latest AEMR, referred to in Condition 37;

        (c) promptly provide to the Committee such other information as the Chairperson of the Committee may reasonably request concerning the environmental performance of the development;

        (d) provide access for site inspections by the Committee; and

(e) take and distribute minutes of Committee meetings and provide meeting facilities for the Committee.

(iii)The applicant shall establish a trust fund to be managed by the Chair of the Committee to facilitate the functioning of the Committee, and pay $1,000 per annum to the fund for the duration of coal processing operations. The annual payment shall be indexed according to the Consumer Price Index (CPI) at the time of payment. The first payment shall be made by the date of the first Committee meeting.

Independent Environmental Audit

34. At two (2) year intervals, after the commencement of mining under this consent, and any additional periods as the Director-General or nominee may direct, 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 or nominee, to assess its compliance with the requirements of this consent. Four (4) copies of the report shall be submitted to the Director-General or nominee who shall provide a copy to EPA, the Council and the Community Consultative Committee.

35. The audit shall be carried out at the Applicant's expense and be conducted by a duly qualified independent person or team approved by the Director-General or nominee in consultation with the Council.

36. The Director-General or nominee may, after considering any submission made by the Council or the Community Consultative Committee 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 or nominee may require.

Mining Operations Plan & Annual Environmental Management Report (AEMR)

37. The Applicant shall:

(i) prepare and submit for the approval of the DMR a Mining Operations Plan in accordance with Document 08060001.GUI, or its most recent equivalent, issued by the DMR, prior to commencement of mining.

(ii) during the life of the mine, prepare and submit to the Director-General, an Annual Environmental Management Report (AEMR) according to Document 08060003.GUI, or its most recent equivalent, issued by the DMR. The AEMR shall review the performance of the mine against the Mining Operations Plan, the conditions of this consent, and other licences and approvals relating to the mine. To enable ready comparison with the Environmental Impact Statement's predictions, diagrams and tables, the report shall include, but not be limited to, the following matters:

(a) a review of the effectiveness of environmental management of the mine in terms of the EPA, DLWC, DMR, and Council requirements;

(b) results of environmental monitoring for air, water and noise pollution, including interpretations and discussion by a suitably qualified person;

(c) a listing of any variations obtained to approvals applicable to the subject area during the previous year;

(d) the outcome of the water budget for the year, the quantity of water used from water storages and details of discharge of any water from the site;

(e) rehabilitation report in respect of open cut operations; and

(f) set out environmental management targets for the next year.

(iii) consult with the Director-General or nominee during preparation of the report for any additional requirements.

(iv) within thirty days of receipt of the AEMR ensure that copies are submitted to the Director-General or nominee, EPA, DLWC, NPWS, DMR, Council, and the Community Consultative Committee and be available for public inspection at Council's offices.

(iv)ensure that the first report is completed and submitted within twelve (12) months of this consent, or at a date determined by the Director-General/nominee in consultation with the DMR.

Public Access to Reporting

38. The AEMR, Minutes from the Community Consultative Committee and results and interpretation of monitoring required by this consent are to be made available for public information by the Applicant at Council within fourteen (14) days of formal submission of information to the relevant authorities.

Waste Disposal

39. The Applicant shall prepare and implement a Waste Management to be approved by Council. The Strategy should include but not limited to the follows:

(i) separation of recyclable material;

(ii) all solid wastes other than recyclable material is to be disposed at the Lithgow Solid Waste Landfill. No waste is to be disposed of at any rural garbage depot; and

(iii) All septic tank waste and waste from portable toilets are to be disposed of at Lithgow Sewerage Treatment Works.

Notes:

1. **This approval does not relieve the Applicant of the obligation to obtain any other approval under the Local Government Act, 1993 as amended, the Ordinance made thereunder including approval of building plans, or any other Act.**

2. **Any acceptable levels relating to noise, dust deposition rates, air blast overpressure and vibration etc, contained in this consent are maximum levels. Other agencies, such as the EPA for example, may grant approvals/licences for certain aspects of the development, which may include consideration of matters such as noise levels etc.**

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