Notice of Modification
Section 96(2) of the Environmental Planning and Assessment Act 1979

Under section 96(2) of the Environmental Planning and Assessment Act 1979, I, the Minister for Planning, modify the development consent referred to in Schedule 1, as set out in Schedule 2.

Frank Sartor
Minister for Planning

Sydney     2006

SCHEDULE 1

The development consent (DA No. 168/99) for the Duralie coal mine, which was granted by the Minister for Urban Affairs and Planning on 5 February 1999.

SCHEDULE 2

1. Delete the preamble on the first page of the development consent, and replace with:

   I, the Minister for Urban Affairs and Planning, pursuant to Sections 76(A)9 & 80 of the Environmental Planning and Assessment Act 1979 determine the development application referred to in schedule 1 by granting consent to the application subject to the conditions set out in schedules 2 to 5.

   These conditions are required to:
   • prevent, minimise, and/or offset adverse environmental impacts;
   • set standards and performance measures for acceptable environmental performance;
   • require regular monitoring and reporting; and
   • provide for the ongoing environmental management of the development.

2. Delete Schedule 1 and Schedule 2, and replace with:

SCHEDULE 1

Applicant: Duralie Coal Pty Ltd.
Consent Authority: Minister for Urban Affairs and Planning
Land: See Appendix 1.
Development: Construction and operation of an open cut coal mine, rail siding, loading facilities and associated facilities (known as the “Duralie Coal Mine”).
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## DEFINITIONS

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>AEMR</td>
<td>Annual Environmental Management Report</td>
</tr>
<tr>
<td>Applicant</td>
<td>Duralie Coal Pty Limited, or its successors in title</td>
</tr>
<tr>
<td>ARTC</td>
<td>Australian Rail Track Corporation</td>
</tr>
<tr>
<td>BCA</td>
<td>Building Code of Australia</td>
</tr>
<tr>
<td>CCC</td>
<td>Community Consultative Committee</td>
</tr>
<tr>
<td>Council</td>
<td>Great Lakes Shire Council</td>
</tr>
<tr>
<td>Day</td>
<td>Day is defined as the period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and public holidays</td>
</tr>
<tr>
<td>DEC</td>
<td>Department of Environment and Conservation</td>
</tr>
<tr>
<td>DNR</td>
<td>Department of Natural Resources</td>
</tr>
<tr>
<td>Department</td>
<td>Department of Planning, or delegate</td>
</tr>
<tr>
<td>DPI</td>
<td>Department of Primary Industries</td>
</tr>
<tr>
<td>EIS</td>
<td>Environmental Impact Statement</td>
</tr>
<tr>
<td>EP&amp;A Act</td>
<td>Environmental Planning and Assessment Act 1979</td>
</tr>
<tr>
<td>EPL</td>
<td>Environmental Protection Licence</td>
</tr>
<tr>
<td>Evening</td>
<td>Evening is defined as the period from 6pm to 10pm</td>
</tr>
<tr>
<td>Land</td>
<td>Land means the whole of a lot, or contiguous lots owned by the same landowner, in a current plan registered at the Land Titles Office at the date of this consent</td>
</tr>
<tr>
<td>Mine Water</td>
<td>Water that accumulates within active mining areas and mine infrastructure areas, but excluding rainfall runoff from irrigation areas</td>
</tr>
<tr>
<td>Minister</td>
<td>Minister for Planning, or delegate</td>
</tr>
<tr>
<td>Night</td>
<td>Night is defined as the period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and public holidays</td>
</tr>
<tr>
<td>Privately owned land</td>
<td>Land that is not owned by a public agency, or a mining company or its subsidiary; and where relevant, land that is not covered by a private agreement between the Applicant and the land owner that specifically allows of variances to criteria for environmental performance in this consent</td>
</tr>
<tr>
<td>ROM</td>
<td>Run of Mine</td>
</tr>
<tr>
<td>RTA</td>
<td>Roads and Traffic Authority</td>
</tr>
<tr>
<td>SEE</td>
<td>Statement of Environmental Effects</td>
</tr>
<tr>
<td>Site</td>
<td>Land to which the DA applies</td>
</tr>
</tbody>
</table>
SCHEDULE 2
ADMINISTRATIVE CONDITIONS

Obligation to Minimise Harm to the Environment

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

Terms of Approval

2. The Applicant shall carry out the development generally in accordance with the:
   (a) DA 168/99;
   (c) all other relevant documentation, including the Applicant’s primary submission, supplementary submission, and submission in reply to the Commission of Inquiry, and advice brought forward which clarifies the proposal including the amendment to the development application notified in the letter from Blake Dawson Waldron to the Great Lakes Shire Council dated 12 June 1997;
   (d) modification application MOD-13-3-2003-i and accompanying documentation dated 29 November 2002 as prepared by Duralie Coal Pty Limited;
   (e) modification application MOD-92-9-2003-i and accompanying documentation dated 21 August 2003 and Figures 1 to 6 as provided on 3rd September 2003 by Duralie Coal Pty Limited;
   (f) SEE titled "Duralie Extended Modification," dated March 2006, and prepared by Resource Strategies; and
   (g) conditions of this consent.

3. If there is any inconsistency between the above documents, the latter document shall prevail over the former to the extent of the inconsistency. However, the conditions of this consent shall prevail over all other documents to the extent of any inconsistency.

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

Limits on Approval

5. Apart from the conditions relating to the Rehabilitation and Landscape Management Plan, this consent expires 21 years after the grant of a mining lease for the mine.

   *Note: Under this consent, the Applicant is required to implement the Rehabilitation and Landscape Management Plan for the life of the impact (as determined by the Director-General in consultation with the DPI). This consent will continue to operate during this period.*

6. The Applicant shall not transport more than 1.8 million tonnes of ROM coal a year from the site.

7. Approval in respect of coal extraction (mine operations) is limited to a period of 9 years from the date of commencement of coal extraction.

8. The Applicant shall only transport coal from the site by rail.

9. Rail transportation of ROM coal to the Stratford coal mine shall be confined to the hours between 7.00am and 10.00pm.

Management Plans/Monitoring Programs

10. With the approval of the Director-General, the Applicant may prepare and submit any management plan or monitoring program required by this consent on a progressive basis.
Structural Adequacy

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

Notes:
- Under Part 4A of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for any building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.

Demolition

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

Operation of Plant and Equipment

13. The Applicant shall ensure that all plant and equipment used at the site is:
   (a) maintained in a proper and efficient condition; and
   (b) operated in a proper and efficient manner.

Contributions to Council

14. The Applicant shall pay Council a community infrastructure contribution of $78,290.26 each year commencing on 30 April 2007 until the cessation of coal mining on the site. The contribution is to be indexed according to the CPI at the time of each payment.

15. The Applicant shall pay Council a contribution of $32,620.94 each year for the maintenance of the Bucketts Way commencing on 30 April 2007 until the cessation of coal mining on the site. The contribution is to be indexed according to the CPI at the time of each payment.

16. The Applicant shall pay Council a contribution of $10,000 each year towards a structural inspection of road bridges located along the Bucketts Way (between its intersection with Clarence Town Road and the mine access road) commencing on 30 April 2007 until the cessation of coal mining on the site. The contribution is to be indexed according to the CPI at the time of each payment.
SCHEDULE 3
SPECIFIC ENVIRONMENTAL CONDITIONS

ACQUISITION UPON REQUEST

1. Upon receiving a written request for acquisition from the landowner of the land listed in Table 1, the Applicant shall acquire the land in accordance with the procedures in conditions 8-10 of schedule 4.

Table 1: Land subject to acquisition upon request

<table>
<thead>
<tr>
<th>Land Number</th>
<th>Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>22</td>
<td>Holmes</td>
</tr>
<tr>
<td>36</td>
<td>Doherty</td>
</tr>
<tr>
<td>53</td>
<td>Lyall</td>
</tr>
<tr>
<td>59</td>
<td>Hattam</td>
</tr>
<tr>
<td>59</td>
<td>Hattam</td>
</tr>
<tr>
<td>60</td>
<td>Gibson</td>
</tr>
<tr>
<td>106</td>
<td>Mudford</td>
</tr>
</tbody>
</table>

Note: For more information on the numbering and identification of properties used in this consent, see Appendix 2.

NOISE

Noise Impact Assessment Criteria

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

Table 2: Noise impact assessment criteria dB(A)

<table>
<thead>
<tr>
<th>Land Number</th>
<th>Day $L_{Aeq(15 \text{ minute})}$</th>
<th>Evening $L_{Aeq(15 \text{ minute})}$</th>
<th>Night $L_{Aeq(15 \text{ minute})}$</th>
</tr>
</thead>
<tbody>
<tr>
<td>35</td>
<td>35</td>
<td>37</td>
<td>37</td>
</tr>
<tr>
<td>51 - Woodley</td>
<td></td>
<td></td>
<td>52 - Trigg</td>
</tr>
<tr>
<td>35</td>
<td>39</td>
<td>39</td>
<td>39</td>
</tr>
<tr>
<td>52 - Trigg</td>
<td></td>
<td></td>
<td>35</td>
</tr>
<tr>
<td>35</td>
<td>35</td>
<td>36</td>
<td>38</td>
</tr>
<tr>
<td>129N - Relton (old)</td>
<td></td>
<td></td>
<td>129S - Relton (new)</td>
</tr>
<tr>
<td>35</td>
<td>40</td>
<td></td>
<td>35</td>
</tr>
<tr>
<td>133 - Guidice</td>
<td></td>
<td></td>
<td>134 - Zulomovski</td>
</tr>
<tr>
<td>35</td>
<td></td>
<td></td>
<td>135 - Hare-Scott</td>
</tr>
<tr>
<td>All other privately owned land excluding the land listed in Table 1</td>
<td>35</td>
<td>35</td>
<td>35</td>
</tr>
</tbody>
</table>

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

Notes:

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

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

c) The noise emission limits identified in the above table apply under meteorological conditions of:
   - wind speeds of up to 3 m/s at 10 metres above ground level; or
   - temperature inversion conditions of up to 3°C/100m, and wind speeds of up to 2 m/s at 10 metres above ground level.
Land Acquisition Criteria

3. If the noise generated by the development exceeds the criteria in Table 3, the Applicant shall, upon receiving a written request for acquisition from the landowner, acquire the land in accordance with the procedures in conditions 8-10 of schedule 4.

Table 3: Land acquisition criteria dB(A)

<table>
<thead>
<tr>
<th>Day/Evening/Night</th>
<th>Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>$L_{Aeq}(15\text{ minute})$</td>
<td>All privately owned land, excluding the land listed in Table 1</td>
</tr>
<tr>
<td>40</td>
<td></td>
</tr>
</tbody>
</table>

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

Additional Noise Mitigation Measures

4. Upon receiving a written request from:
   • a landowner of the land listed in Table 1 (unless the landowner has requested acquisition); or
   • the owner of any residence where subsequent noise monitoring shows the noise generated by the development is greater than, or equal to, $L_{Aeq}(15\text{ minute})$ 38 dB(A) (except where a negotiated noise agreement is in place),
the Applicant shall implement additional noise mitigation measures such as double glazing, insulation, and/or air conditioning at any residence on the land in consultation with the landowner. These additional mitigation measures must be reasonable and feasible. If within 3 months of receiving this request from the landowner, the Applicant and the landowner cannot agree on the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the Director-General for resolution.

Continuous Improvement

5. The Applicant shall:
   (a) implement all reasonable and feasible noise mitigation measures;
   (b) investigate ways to reduce the noise generated by the development, including off-site rail noise and maximum noise levels which may result in sleep disturbance; and
   (c) report on these investigations and the implementation and effectiveness of these measures in the AEMR,
to the satisfaction of the Director-General.

Monitoring

6. Prior to the end of December 2006, the Applicant shall prepare (and subsequently implement) a Noise Monitoring Program for the development, to the satisfaction of the Director-General. The Noise Monitoring Program must include quarterly attended noise monitoring, and a noise monitoring protocol for evaluating compliance with the noise impact assessment and land acquisition criteria in this consent.

BLASTING AND VIBRATION

Airblast Overpressure Criteria

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

Table 4: Airblast overpressure impact assessment criteria

<table>
<thead>
<tr>
<th>Airblast overpressure level (dB(Lin Peak))</th>
<th>Allowable exceedance</th>
</tr>
</thead>
<tbody>
<tr>
<td>115</td>
<td>5% of the total number of blasts over a period of 12 months</td>
</tr>
<tr>
<td>120</td>
<td>0%</td>
</tr>
</tbody>
</table>
Ground Vibration Impact Assessment Criteria

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

Table 5: Ground vibration impact assessment criteria

<table>
<thead>
<tr>
<th>Peak particle velocity (mm/s)</th>
<th>Allowable exceedance</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>5% of the total number of blasts over a period of 12 months</td>
</tr>
<tr>
<td>10</td>
<td>0%</td>
</tr>
</tbody>
</table>

Blasting Hours

9. The Applicant shall only carry out blasting at the site between 9am and 5pm Monday to Saturday inclusive. No blasting is allowed on Sundays, public holidays, or at any other time without the written approval of the DEC.

Blasting Frequency

10. The Applicant shall not carry out blasting associated with open cut mining more than 2 blasts per week on average over any 12 month period at the site without the written approval of the Director-General.

Operating Conditions

11. During the life of the development, the Applicant shall implement best blasting practice to:
   (a) protect the safety of people, property, public infrastructure, and livestock; and
   (b) minimise the dust and fume emissions from blasting at the development, particularly during adverse meteorological conditions, to the satisfaction of the Director-General.

12. Prior to carrying out any blasting within 500 metres of a public road or railway, the Applicant must obtain approval from Council (in respect of public roads) and ARTC (in respect of the North Coast railway).

Public Notice

13. During the life of the development, the Applicant shall:
   (a) notify the landowner/occupier of any residence within 2 km of any active, or planned, mining areas who registers an interest in being notified about the blasting schedule at the mine;
   (b) operate a Blasting Hotline, or alternate system agreed to by the Director-General, to enable the public to get up-to-date information on the blasting schedule at the development; and
   (c) advertise the blasting hotline number in a local newspaper at least 2 times each year, to the satisfaction of the Director-General.

Property Inspections

14. Prior to the end of December 2006, the Applicant shall advise all landowners within 2 km of any planned active mining areas that they are entitled to a structural property inspection (unless such an inspection has already been undertaken).

15. If the Applicant receives a written request for a structural property inspection from any landowner within 2 km of any active, or planned, mining areas, the Applicant shall within 3 months of receiving this request:
   (a) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Director-General, to inspect the condition of any building or structure on the land, and recommend measures to mitigate any potential blasting impacts; and
   (b) give the landowner a copy of the property inspection report.

Property Investigations

16. If any landowner within 2 km of any active, or planned, mining areas claims that buildings and/or structures on his/her land have been damaged as a result of blasting at the development, the Applicant shall within 3 months of receiving this request:
(a) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Director-General, to investigate the claim; and
(b) give the landowner a copy of the property investigation report.

If this independent property investigation confirms the landowner’s claim, and both parties agree with these findings, then the Applicant shall repair the damages to the satisfaction of the Director-General.

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

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process (see Appendix 3).

**Blast Monitoring Program**

17. Prior to the end of December 2006, the Applicant shall prepare (and following approval implement) a detailed Blast Monitoring Program, to the satisfaction of the Director-General. The Blast Monitoring Program must include a protocol for evaluating blasting impacts on privately owned residences and public infrastructure (including the North Coast railway), and demonstrating compliance with the blasting criteria in this consent.

**AIR QUALITY**

**Impact Assessment Criteria**

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

*Table 6: Long term impact assessment criteria for particulate matter*

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Averaging period</th>
<th>Criterion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total suspended particulate (TSP) matter</td>
<td>Annual</td>
<td>90 µg/m³</td>
</tr>
<tr>
<td>Particulate matter &lt; 10 µm (PM₁₀)</td>
<td>Annual</td>
<td>30 µg/m³</td>
</tr>
</tbody>
</table>

*Table 7: Short term impact assessment criterion for particulate matter*

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Averaging period</th>
<th>Criterion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Particulate matter &lt; 10 µm (PM₁₀)</td>
<td>24 hour</td>
<td>50 µg/m³</td>
</tr>
</tbody>
</table>

*Table 8: Long term impact assessment criteria for deposited dust*

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Averaging period</th>
<th>Maximum increase in deposited dust level</th>
<th>Maximum total deposited dust level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deposited dust</td>
<td>Annual</td>
<td>2 g/m²/month</td>
<td>4 g/m²/month</td>
</tr>
</tbody>
</table>

*Note: Deposited dust is assessed as insoluble solids as defined by Standards Australia, 2003, AS 3580.10.1-2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulates - Deposited Matter - Gravimetric Method.*

**Land Acquisition Criteria**

19. If the dust emissions generated by the development exceed the criteria in Tables 9, 10, and 11 at any residence on, or on more than 25 percent of, any privately owned land, the Applicant shall, upon receiving a written request for acquisition from the landowner, acquire the land in accordance with the procedures in conditions 8-10 of schedule 4.
Table 9: Long term land acquisition criteria for particulate matter

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Averaging period</th>
<th>Criterion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total suspended particulate (TSP) matter</td>
<td>Annual</td>
<td>90 µg/m³</td>
</tr>
<tr>
<td>Particulate matter &lt; 10 µm (PM₁₀)</td>
<td>Annual</td>
<td>30 µg/m³</td>
</tr>
</tbody>
</table>

Table 10: Short term land acquisition criteria for particulate matter

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Averaging period</th>
<th>Criterion</th>
<th>Percentile¹</th>
<th>Basis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Particulate matter &lt; 10 µm (PM₁₀)</td>
<td>24 hour</td>
<td>150 µg/m³</td>
<td>99³</td>
<td>Total³</td>
</tr>
<tr>
<td>Particulate matter &lt; 10 µm (PM₁₀)</td>
<td>24 hour</td>
<td>50 µg/m³</td>
<td>98.6</td>
<td>Increment⁴</td>
</tr>
</tbody>
</table>

¹Based on the number of block 24 hour averages in an annual period.  
²Excludes extraordinary events such as bushfires, prescribed burning, dust storms, sea fog, fire incidents, illegal activities or any other activity agreed by the Director-General in consultation with the DEC.  
³Background PM₁₀ concentrations due to all other sources plus the incremental increase in PM₁₀ concentrations due to the mine alone.  
⁴Incremental increase in PM₁₀ concentrations due to the mine alone.

Table 11: Long term land acquisition criteria for deposited dust

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Averaging period</th>
<th>Maximum increase in deposited dust level</th>
<th>Maximum total deposited dust level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deposited dust</td>
<td>Annual</td>
<td>2 g/m²/month</td>
<td>4 g/m²/month</td>
</tr>
</tbody>
</table>

Note: Deposited dust is assessed as insoluble solids as defined by Standards Australia, 2003, AS 3580.10.1-2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulates - Deposited Matter - Gravimetric Method.

Operating Conditions

20. The Applicant shall:
(a) ensure any visible air pollution generated by the development is assessed regularly, and that mining operations are relocated, modified, and/or stopped as required to minimise air quality impacts on privately owned land; and
(b) implement all practicable measures to minimise the off-site odour and fume emissions generated by any spontaneous combustion at the development, to the satisfaction of the Director-General.

Monitoring

21. Prior to the end of December 2006, the Applicant shall prepare (and following approval implement) a detailed Air Quality Monitoring Program to the satisfaction of the Director-General. The Air Quality Monitoring Program shall include a combination of high volume samplers and dust deposition gauges to monitor the dust emissions of the development; and an air quality monitoring protocol for evaluating compliance with the air quality impact assessment and land acquisition criteria in this consent.

METEOROLOGICAL MONITORING

22. The Applicant shall ensure that there is a suitable meteorological station operating in the vicinity of the development in accordance with the requirements in Approved Methods for Sampling of Air Pollutants in New South Wales, and to the satisfaction of the DEC and the Director-General.
SURFACE AND GROUND WATER

Discharge Limits

23. Except as may be expressly provided by a DEC EPL, or in accordance with section 120 of the Protection of the Environment Operations Act 1997, the Applicant shall not discharge any Mine Water from the site.

Coal Shaft Creek Relocation

24. The Applicant shall design, construct, maintain, and rehabilitate the relocation of Coal Shaft Creek to the satisfaction of the DNR.

Mammy Johnsons River

25. The Applicant shall ensure that all development is located at least 40 metres from the banks of Mammy Johnsons River.

Site Water Management Plan

26. Prior to the end of December 2006, the Applicant shall prepare (and following approval implement) a Site Water Management Plan for the mine, in consultation with the DNR and the DEC, and to the satisfaction of the Director-General. This plan must include:
   (a) a Site Water Balance;
   (b) an Erosion and Sediment Control Plan;
   (c) a Surface Water Management and Monitoring Plan;
   (d) a Ground Water Monitoring Program; and
   (e) a Surface and Ground Water Response Plan.

Site Water Balance

27. The Site Water Balance must:
   (a) include details of:
       • sources of water;
       • reliability of water supply;
       • water use on site;
       • water management on site;
       • off-site water transfers;
       • reporting procedures; and
   (b) describe measures to minimise water use by the development.

Erosion and Sediment Control

28. The Erosion and Sediment Control Plan must:
   (a) be consistent with the requirements of the Department of Housing’s Managing Urban Stormwater: Soils and Construction manual;
   (b) identify activities that could cause soil erosion and generate sediment;
   (c) describe measures to minimise soil erosion and the potential for the transport of sediment to downstream waters;
   (d) describe the location, function, and capacity of erosion and sediment control structures; and
   (e) describe what measures would be implemented to maintain the structures over time.

Surface Water Management and Monitoring

29. The Surface Water Management and Monitoring Plan must include:
   (a) surface water assessment criteria;
   (b) a program to monitor surface water flows and quality (particularly in Mammy Johnsons River);
   (c) a program to assess chemical and biological conditions in streams, including sediment core monitoring in Mammy Johnsons River;
   (d) reporting procedures; and
   (e) a protocol for the investigation, notification, and mitigation of identified exceedances of the surface water criteria that are related to the development.
Groundwater Monitoring

30. The Groundwater Monitoring Program must include:
   (a) a program to monitor:
       • impacts on the groundwater supply of potentially affected landowners;
       • impacts on groundwater aquifers; and
       • the volume of groundwater seeping into the open cut mine workings; and
   (b) reporting procedures for the results of the monitoring program.

Surface and Ground Water Response Plan

31. The Surface and Ground Water Response Plan must include:
   (a) a protocol for the investigation, notification and mitigation of any exceedances of the surface water and groundwater impact assessment criteria that result from the development; and
   (b) the procedures that would be followed if any unforeseen impacts are detected during the development.

Irrigation Management Plan

32. The Applicant shall not undertake any off-site irrigation.

33. For the life of the development, the Applicant shall implement an Irrigation Management Plan to the satisfaction of the Director-General. This plan must include:
   (a) a detailed description of the irrigation management system;
   (b) objectives for the operation of the irrigation management system;
   (c) a program for monitoring the following parameters in the irrigation management area:
       • water quality (including runoff);
       • seepage;
       • soils;
       • crop factors; and
       • meteorological conditions; and
   (d) a program for reporting the effectiveness of the irrigation management system and performance against objectives contained in this plan and the documents listed in condition 2 of schedule 2.

REHABILITATION AND LANDSCAPE MANAGEMENT

Rehabilitation and Landscape Management Plan

34. By end of May 2007, the Proponent must prepare (and following approval implement) a detailed Rehabilitation and Landscape Management Plan for the development, in consultation with affected agencies, and to the satisfaction of the DPI and the Director-General. This plan must be prepared by suitably qualified expert/s whose appointment/s have been approved by the Director-General, and must include:
   (a) Rehabilitation Management Plan;
   (b) Final Void Management Plan; and
   (c) Mine Closure Plan.

Note: The Department accepts that the initial Rehabilitation and Landscape Management Plan may not include the detailed Final Void Management Plan and Mine Closure Plan. However, if this occurs, the Proponent will be required to seek approval from the Director-General for an alternative timetable for completion and approval of the Final Void Management Plan and Mine Closure Plan.

Rehabilitation Management Plan

35. The Rehabilitation Management Plan must include:
   (a) the rehabilitation objectives for the site;
   (b) a description of the short, medium, and long term measures that would be implemented to:
       • rehabilitate the site; and
       • manage the remnant vegetation and habitat on the site;
   (c) detailed assessment and completion criteria for the rehabilitation of the site;
   (d) a detailed description of how the performance of the rehabilitation of the mine would be monitored over time to achieve the stated objectives;
   (e) a detailed description of what measures would be implemented over the next 3 years to rehabilitate and manage the landscape of the site including the procedures to be implemented for:
       • progressively rehabilitating areas disturbed by mining;
       • implementing revegetation and regeneration;
• protecting areas outside the disturbance areas;
• managing and treating Potentially Acid Forming (PAF) waste;
• undertaking pre-clearance surveys;
• managing impacts on fauna;
• landscaping the site to minimise visual impacts;
• conserving and reusing topsoil;
• collecting and propagating seed for rehabilitation works;
• salvaging and reusing material from the site for habitat enhancement;
• controlling weeds and feral pests;
• controlling access;
• bushfire management;
• managing any identified conflicts between the rehabilitation of the mine and Aboriginal cultural heritage; and
(f) details of who is responsible for monitoring, reviewing, and implementing the plan.

Final Void Management
36. The Final Void Management Plan must:
   (a) justify the planned final location and future use of the final void/s;
   (b) incorporate design criteria and specifications for the final void/s based on verified groundwater modelling predictions and a re-assessment of post-mining groundwater equilibration;
   (c) assess the potential interactions between creeks on the site (particularly Coal Shaft Creek) and the final void/s; and
   (d) describe what actions and measures would be implemented to:
     • minimise any potential adverse impacts associated with the final void; and
     • manage and monitor the potential impacts of the final void until the Mining Lease for the development is relinquished,
   to the satisfaction of the Director-General.

Mine Closure Plan
37. The Mine Closure Plan must:
   (a) define the objectives and criteria for mine closure;
   (b) investigate options for the future use of the site, including any final void/s;
   (c) describe the measures that would be implemented to minimise or manage the ongoing environmental effects of the development; and
   (d) describe how the performance of these measures would be monitored over time.

ABORIGINAL CULTURAL HERITAGE
Aboriginal Cultural Heritage Management Plan
38. For the life of the development, the Applicant shall implement an Aboriginal Cultural Heritage Management Plan, in consultation with DEC and the Karuah Local Aboriginal Land Council, and to the satisfaction of the Director-General. The plan must include:
   (a) a detailed description of the measures that would be implemented to protect Aboriginal sites outside the proposed disturbance area, particularly the Honey Scarred Tree;
   (b) a description of the measures that would be implemented if any new Aboriginal objects are discovered during the development; and
   (c) a protocol for the ongoing consultation and involvement of the Aboriginal communities in the conservation and management of Aboriginal cultural heritage on the site.

TRAFFIC AND TRANSPORT
Monitoring of Coal Transport
39. The Applicant shall:
   (a) keep records of the:
     • amount of coal transported from the site each year; and
     • number of coal haulage train movements generated by the development (including maximum number of daily movements); and
   (b) include these records in the AEMR.

Traffic Management
40. The Applicant is not permitted to use Duralie Road for any traffic associated with mining activities.
VISUAL IMPACT

Visual Amenity

41. The Applicant shall minimise the visual impacts of the development to the satisfaction of the Director-General.

42. The Applicant shall implement the landscape and revegetation plan approved by the Council for the development.

Lighting Emissions

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

BUSHFIRE MANAGEMENT

44. The Applicant shall:
   • provide adequate fire protection works on site, including one fully equipped fire fighting unit on stand-by (or alternative facilities specified by the Council);
   • undertake annual hazard reduction works (at a time determined by the Council); and
   • submit an annual report on fire management activities to the Great Lakes Bush Fire Management Committee, (or as required by this Committee),
to the satisfaction of the Council.

GREENHOUSE GAS

45. The Applicant shall:
   (a) estimate the greenhouse gas emissions generated by the development;
   (b) investigate ways to reduce greenhouse gas emissions generated by the development; and
   (c) report on greenhouse gas emissions and abatement measures in the AEMR,
to the satisfaction of the Director-General.

WASTE MINIMISATION

46. The Applicant shall:
   (a) monitor the amount of waste generated by the development;
   (b) investigate ways to minimise waste generated by the development;
   (c) implement reasonable and feasible measures to minimise waste generated by the development;
   (d) ensure irrigation of treated wastewater is undertaken in accordance with DEC’s Environmental Guideline for the Utilisation of Treated Effluent; and
   (e) report on waste management and minimisation in the AEMR,
to the satisfaction of the Director-General.
SCHEDULE 4
ADDITIONAL PROCEDURES FOR AIR QUALITY AND NOISE MANAGEMENT

Notification of Landowners

1. By end of September 2006, the Applicant shall notify the landowners of the land listed in Table 1 in writing that they have the right to require the Applicant to acquire their land at any stage during the development.

2. If the results of the air quality and/or noise monitoring required in schedule 3 identify that the air pollution and/or noise generated by the development is greater than any of the air quality and/or noise criteria in schedule 3, except where this is predicted in the documents listed in condition 2 of schedule 2 and except where a negotiated air quality or noise agreement has been entered into, then the Applicant shall notify the Director-General and the affected landowners and/or existing or future tenants (including tenants of mine owned properties) accordingly, and provide quarterly monitoring results to each of these parties until the results show that the development is complying with the air quality and/or noise criteria in schedule 3.

3. Prior to the end December 2006, the Applicant shall provide a brochure, endorsed by NSW Health, to advise landowners and/or existing or future tenants (including tenants of mine owned properties) of the possible health and amenity impacts associated with exposure to particulate matter.

The Applicant shall provide this brochure to all landowners and/or existing or future tenants (including tenants of mine owned properties) of properties where the monitoring results identify that the mine is exceeding the air quality impact assessment criteria in schedule 3.

Independent Review

4. If a landowner considers the development to be exceeding the air quality and/or noise criteria in schedule 3, except where this is predicted in the documents listed in condition 2 of schedule 2, he/she may ask the Director-General in writing for an independent review of the air pollution and/or noise impacts of the development on his/her land.

If the Director-General is satisfied that an independent review is warranted, the Applicant shall within 3 months of the Director-General advising that an independent review is warranted:
(a) consult with the landowner to determine his/her concerns;
(b) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Director-General, to conduct air quality and/or noise monitoring on the land, to determine whether the development is complying with the relevant air quality and/or noise criteria in schedule 3, and identify the source(s) and scale of any air quality and/or noise impact on the land, and the development’s contribution to this impact;
(c) give the Director-General and landowner a copy of the independent review.

5. If the independent review determines that the development is complying with the relevant air quality and/or noise criteria in schedule 3, then the Applicant may discontinue the independent review with the approval of the Director-General.

6. If the independent review determines that the development is not complying with the relevant air quality and/or noise criteria in schedule 3, and that the development is primarily responsible for this non-compliance, then the Applicant shall:
(a) take all reasonable and feasible measures, in consultation with the landowner, to ensure that the development complies with the relevant air quality and/or noise criteria; and
(b) conduct further air quality and/or noise monitoring to determine whether these measures ensure compliance; or
(c) secure a written agreement with the landowner to allow exceedances of the air quality and/or noise criteria in schedule 3, to the satisfaction of the Director-General.

If the additional monitoring referred to above subsequently determines that the development is complying with the relevant air quality and/or noise criteria in schedule 3, then the Applicant may discontinue the independent review with the approval of the Director-General.

If the measures referred to in (a) do not achieve compliance with the air quality and/or noise land acquisition criteria in schedule 3, and the Applicant cannot secure a written agreement with the landowner to allow these exceedances within 3 months, then the Applicant shall, upon receiving a written request from the landowner, acquire the landowner’s land in accordance with the procedures in conditions 8-10 below.
7. If the landowner disputes the results of the independent review, either the Applicant or the landowner may refer the matter to the Director-General for resolution.

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

**Land Acquisition**

8. Within 3 months of receiving a written request from a landowner with acquisition rights, the Applicant shall make a binding written offer to the landowner based on:

(a) the current market value of the landowner’s interest in the property at the date of this written request, as if the property was unaffected by the development the subject of the development application, having regard to the:
   - existing and permissible use of the land, in accordance with the applicable planning instruments at the date of the written request; and
   - presence of improvements on the property and/or any approved building or structure which has been physically commenced at the date of the landowner’s written request, and is due to be completed subsequent to that date, but excluding any improvements that have resulted from the implementation of condition 4 of schedule 3;

(b) the reasonable costs associated with:
   - relocating within the Great Lakes, Gloucester and Dungog local government areas, or to any other local government area determined by the Director-General;
   - obtaining legal advice and expert advice for determining the acquisition price of the land, and the terms upon which it is required; and

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

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

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

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

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

9. The Applicant shall bear the costs of any valuation or survey assessment requested by the independent valuer, or the Director-General and the costs of determination referred above.

10. If the Applicant and landowner agree that only part of the land shall be acquired, then the Applicant shall pay all reasonable costs associated with obtaining Council approval for any plan of subdivision, and registration of the plan at the Office of the Registrar-General.
SCHEDULE 5
ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING AND REPORTING

ENVIRONMENTAL MANAGEMENT STRATEGY

1. Prior to the end of December 2006, the Applicant shall prepare and implement an Environmental Management Strategy for the development to the satisfaction of the Director-General. This strategy must:
   (a) provide the strategic context for environmental management of the development;
   (b) identify the statutory requirements that apply to the development;
   (c) describe in general how the environmental performance of the development would be monitored and managed during the development;
   (d) describe the procedures that would be implemented to:
       • keep the local community and relevant agencies informed about the operation and environmental performance of the development;
       • receive, handle, respond to, and record complaints;
       • resolve any disputes that may arise during the course of the development;
       • respond to any non-compliance;
       • manage cumulative impacts; and
       • respond to emergencies; and
   (e) describe the role, responsibility, authority, and accountability of all the key personnel involved in environmental management of the development.

ENVIRONMENTAL MONITORING PROGRAM

2. Prior to the end of December 2006, the Applicant shall prepare an Environmental Monitoring Program for the development, to the satisfaction of the Director-General. This program must consolidate the various monitoring requirements in schedule 3 of this consent into a single document.

INCIDENT REPORTING

3. Within 7 days of detecting an exceedance of the limits/performance criteria in this consent, the Applicant shall report the exceedance/incident to the Department (and any relevant agency). The report must:
   (a) describe the date, time, and nature of the exceedance/incident;
   (b) identify the cause (or likely cause) of the exceedance/incident;
   (c) describe what action has been taken to date; and
   (d) describe the proposed measures to address the exceedance/incident.

ANNUAL REPORTING

4. Each year, the Applicant shall submit an Annual Environmental Management Report (AEMR) to the Director-General and the relevant agencies. This report must:
   (a) identify the standards and performance measures that apply to the development;
   (b) describe the works carried out in the last 12 months;
   (c) describe the works that will be carried out in the next 12 months;
   (d) include a summary of the complaints received during the past year, and compare this to the complaints received in previous years;
   (e) include a summary of the monitoring results for the development during the past year;
   (f) include an analysis of these monitoring results against the relevant:
       • impact assessment criteria/limits;
       • monitoring results from previous years; and
       • predictions in the EIS;
   (g) identify any trends in the monitoring results over the life of the development;
   (h) identify any non-compliance during the previous year; and
   (i) describe what actions were, or are being, taken to ensure compliance.

INDEPENDENT ENVIRONMENTAL AUDIT

5. Prior to the end of April 2009, and every 3 years thereafter, unless the Director-General directs otherwise, the Applicant shall commission and pay the full cost of an Independent Environmental Audit of the development. This audit must:
   (a) be conducted by suitably qualified, experienced, and independent expert/s whose appointment has been endorsed by the Director-General;
   (b) assess the various aspects of the environmental performance of the development, and its effects on the surrounding environment;
   (c) assess whether the development is complying with the relevant standards, performance measures, and statutory requirements;
(d) review the adequacy of any strategy/plan/program required under this consent; and, if necessary,
(e) recommend measures or actions to improve the environmental performance of the
development, and/or any strategy/plan/program required under this consent.

6. Within 3 months of commissioning this audit, or as otherwise agreed by the Director-General, the
Applicant shall submit a copy of the audit report to the Director-General, with a response to any
recommendations contained in the audit report.

UPDATING ENVIRONMENTAL MANAGEMENT REQUIREMENTS

7. Within 6 months of the completion of the Independent Environmental Audit (see condition 6), the
Applicant shall review, and if necessary revise, the Environmental Management Strategy, the
Environmental Monitoring Program and all other environmental management plans and monitoring
programs required under this consent are reviewed, and if necessary updated, to the satisfaction of
the Director-General.

ENVIRONMENTAL MANAGER

8. The Applicant shall employ a suitably qualified and experienced Environmental Manager, whose
appointment has been endorsed by the Director-General, for the duration of the development to
oversee the environmental performance of the development and compliance with the conditions of
this consent.

COMMUNITY CONSULTATIVE COMMITTEE

9. Within 3 months of this consent, the Applicant shall establish a Community Consultative Committee
(CCC) to oversee the environmental performance of the development. The CCC shall:
(a) be comprised of:
   • 2 representatives from the Applicant, including the person responsible for environmental
management at the mine;
   • at least 1 representative from Council; and
   • at least 4 representatives from the local community,
   whose appointment has been approved by the Director-General in consultation with the
   Council. The local community representative positions will be re-appointed every two years
   unless otherwise agreed by the Director-General;
(b) be chaired by an independent chairperson, or council representative, whose appointment has
been approved by the Director-General;
(c) meet at least 4 times a year, or as otherwise approved by the Director-General;
(d) review the Applicant’s performance with respect to environmental management and
community relations;
(e) undertake regular inspections of the mine operations;
(f) review community concerns or complaints about the mine operations, and the Applicant’s
complaints handling procedures; and
(g) provide advice to:
   • the Applicant on improved environmental management and community relations, including
   the provision of information to the community and the identification of community initiatives
to which the Applicant could contribute;
   • the Department regarding the conditions of this consent; and
   • the general community on the performance of the mine with respect to environmental
management and community relations; and
(h) be operated generally in accordance with any guidelines the Department may publish in
regard to the operation of Community Consultative Committees for mining developments.

Note: The CCC is an advisory committee. The Department and other relevant agencies are responsible for ensuring that the Applicant
complies with this consent.

10. The Applicant shall, at its own expense:
(a) ensure that 2 of its representatives attend CCC meetings;
(b) provide the CCC with regular information on the environmental performance and management
of the development;
(c) provide meeting facilities for the CCC;
(d) arrange site inspections for the CCC, if necessary;
(e) take minutes of the CCC meetings;
(f) make these minutes available to the public;
(g) respond to any advice or recommendations the CCC may have in relation to the environmental
management or community relations; and
(h) forward a copy of the minutes of each CCC meeting, including a response to any recommendations from the CCC, to the Director-General within a month of the CCC meeting.

11. The Applicant shall establish a trust fund to be managed by the chairperson of the CCC to facilitate the functioning of the CCC, and pay $2,000 each year to the fund until the cessation of coal mining on the site. The contribution is to be indexed according to the CPI at the time of each payment. The first payment shall be made by the date of the first CCC meeting.

ACCESS TO INFORMATION

12. From end of December 2006, and during the life of the development thereafter, the Applicant shall place a copy of the following documents and information (and any subsequent revisions) required under this consent on its website:
   (a) all current environmental management plans, strategies and programs;
   (b) the current Independent Environmental Audit;
   (c) the current AEMR; and
   (d) a summary of all environmental monitoring results (to be updated at least every 6 months), to the satisfaction of the Director-General.
## APPENDIX 1
### SCHEDULE OF LAND

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All formed and unformed Crown roads and any unformed public roads located within and adjacent to the above properties.

That part of Dungog to Gloucester railway (also known as the North Coast Railway) located within and adjacent to the above properties.
APPENDIX 2
PROPERTY LOCATIONS
Independent Dispute Resolution Process
(Indicative only)

Matter referred to Independent Dispute Facilitator appointed by the Department in consultation with Council

Independent Dispute Facilitator meets with parties concerned to discuss dispute

Dispute resolved
Dispute not resolved

Facilitator consults relevant independent experts for advice on technical issues

Facilitator meets with relevant parties and experts

Dispute resolved
Dispute not resolved

Facilitator consults the Department and final decision made

Agreed Outcome