

**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,

**SIGNED 20 DECEMBER 1999**

Sydney,

1999

File No. S97/00374

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**Schedule 1**

**Application made by:** Ulan Coal Mines Ltd (ACN 000 189 248)  
 (“the Applicant”).

**To:** The Minister for Urban Affairs and Planning  
 (DA 113-12-98)

**In respect of:** Land described in Schedule “A”.

**For the following:** Extension of underground coal mining operations, and  
 construction of associated surface facilities (“the  
 Development”) at Ulan Coal Mine.

**BCA Classification:** Class 5 - office building  
 Class 10(a) - ventilation shafts, bathhouse, manriding and  
 dewatering facilities  
 **Class 10(b) – communication tower**

- 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.

**Modification of 3 June 2002 in red type.**

**Modification of 18 November 2003 in blue type.**

**Modification of 19 December 2008 in green type.**

## SCHEDULE 2

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### DEFINITIONS:

**AEMR** - *Annual Environmental Management Report*

**CCC** – *Community Consultative Committee*

**Construction Works** – *Construction of surface facilities*

**DA** - *Development Application*

**DA area** - *Development Application area which 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*

**ML 1468** – *Mining Lease No. 1468*

**MLA 80** – *Mining Lease Application No. 80*

**Mining Operations** – *Operation of first and secondary workings*

**SEE** – *Statement of Environmental Effects*

**SIS** – *Species Impact Statement*

**Surface facilities** – *bathhouse, manriding and winding shafts, dewatering facilities, ventilation shafts and fans, monitoring boreholes, ballast and stonedust dropholes, water supplies and basalt quarry*

**Section 138** – *section 138 of the Coal Mine Regulation Act, 1982*

**Safe, serviceable and repairable criteria** – *Category 3 to 5 for strain and/or category C or D for tilt, in accordance with Australian Standard AS2870-1996*

### Government Authorities

**DEC** – *Department of Environment and Conservation*

**DIPNR** – *Department of Infrastructure, Planning and Natural Resources*

**DLWC** - *Department of Land and Water Conservation*

**DMR** - *Department of Mineral Resources*

**EPA** - *Environment Protection Authority*

**MeSC** – *Merriwa Shire Council*  
**MSB** - *Mine Subsidence Board*  
**MuSC** – *Mudgee Shire Council*  
**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*

- Note:**
1. Any reference to EPA is taken to be a reference to DEC.
  2. Any reference to DLWC is taken to be a reference to DIPNR.
  3. Any reference to DUAP is taken to be a reference to DIPNR.
  4. Any reference to NPWS is taken to be a reference to DEC.

## 1. General

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 are to be taken to prevent and minimise harm that may result from the construction, operation and, where relevant, decommissioning of the development.

### 1.1 Adherence to terms of DA, EIS, SIS, etc.

- (a) The applicant shall carry out the development generally in accordance with:
  - (i) DA No. 113-12-98 as modified by MOD 24-4-2002-i on 3 June 2002;
  - (ii) EIS and SIS dated December 1998, and prepared by Kinhill Pty Ltd;
  - (iii) All other relevant information provided by the Applicant, including additional archaeological information requested by NPWS, and supplied by Ulan Coal mines Limited in a letter dated 26 May 1999;
  - (iv) SEE titled “Ulan Coal Mine Expansion: Bobadeen Communications Facilities – Section 96(1A) Modification Application dated 20 April 2002 and prepared by McKenzie Land Planning Services Pty Limited;
  - (v) SEE dated 5 October 2002, and prepared by Pelican Environment & Business Solutions;
  - (vi) Modification Application DA 113-12-98 MOD 3 titled “*Modifications to Ulan Coal Mine Development Consents DA 113-12-98 and DA 103-5-2005 under Section 96(1A) of the Environmental Planning and Assessment Act 1979*”, dated 17 November 2008, supplied by Ulan Coal Mines Limited; and
  - (vii) The conditions of this consent.

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

- (b) 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.

### 1.2 Period of Approval/Project Commencement

- (i) The approval for mining is for a period of 21 years from the date of granting of a mining lease for MLA 80.
- (ii) At least one month prior to the commencement of: construction of the surface facilities; and first and Secondary workings in MLA 80; 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 the relevant conditions that apply prior to the commencement of those works. Neither construction works nor mining operations shall commence until the approval of each report by the Director-General.
- (iii) Date of commencement of construction of each of the surface facilities, and date of commencement of first and secondary workings in MLA 80 is to be notified in writing to the Director-General, MeSC and MuSC, at least two weeks prior to commencement of construction works and mining operations respectively.

- (iv) Prior to the commencement of any development associated with the basalt quarry, as described in the SEE dated 5 October 2002, the Applicant shall provide, to the satisfaction of the Director – General, a report listing the commitments made in the SEE and progress made in meeting those commitments.

### ***1.3 Dispute Resolution***

In the event that the Applicant, MeSC, MuSC 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.

### ***1.4 Security Deposits and Bonds***

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

## 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 the DMR, as an extension of the existing MOP prepared for Ulan Coal Mines. The Plan covers 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 including rehabilitation
    - 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's, the Applicant shall:
- (i) identify properties and update ownership and landuse within the area which is subject to s138 application(s) (including both actual and permissible land uses). The landuse description shall include any areas of important habitat and areas of potential heritage or archaeological significance; and
  - (ii) review, and if necessary, update the inventory of surface infrastructure within or adjacent to the area which is subject to s138 application(s), including but not limited to:
    - reverse osmosis plant
    - basalt quarry
    - buildings (dwellings, offices, business premises, sheds, other buildings)
    - sealed roads, gravel roads, access tracks and trotting/training tracks
    - dams, bores, tanks, springs (including water levels) and water reticulation systems
    - on-site wastewater treatment systems, swimming pools and tennis courts, and
    - service infrastructure and utilities (such as transmission lines, telecommunications and pipelines).
- (d) If any revisions to the mine plan are proposed which would involve mining outside the mining area described in the EIS, the Applicant shall submit a report to the Director-General which contains details of the revisions to the mine plan as

contained in the EIS. The report shall also identify properties likely to be subject to significant structural damage to dwellings or structures (refer to Condition 11.1(A)). The report is to be submitted to the satisfaction of the Director-General, prior to any mining under the revised plan. If the Director-General considers that the proposed revisions to the mine plan constitute significant changes to the approved development, the Applicant shall submit an application for modification to this consent in accordance with the requirements of the *Environmental Planning and Assessment Act, 1979* prior to undertaking the revised works. Any such modification shall include provisions for consultation and public comment on the application. To facilitate this, the Applicant shall ensure that copies of any such application are supplied to the Community Consultative Committee when the application is lodged.

- (e) A copy of the MOP, excluding commercial in confidence information, shall be forwarded to MeSC, MuSC and the Director-General within 14 days of acceptance by DMR.

## **2.2 *Limits on Production***

- (a) Product coal produced from the Ulan Coal Mine shall not exceed 10 Million tonnes per annum.
- (b) Basalt quarry production from ML1468 shall not exceed 12,000 tonnes of material per annum, with the exception of basalt supplied in accordance with condition 7.1 (h). The Applicant shall provide annual basalt quarry production data as requested by the DMR, in the manner required, on the standard form for that purpose.

### **3. Land and Site Environmental Management**

#### ***3.1 Appointment of Environmental Officer***

- (i) 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:
  - (a) be responsible for the preparation of the environmental management plans (refer Condition 3.2);
  - (b) be responsible for considering and advising on matters specified in the conditions of this consent and compliance with such matters;
  - (c) be responsible for receiving and responding to complaints in accordance with Condition 10.3(a);
  - (d) facilitate an environmental induction and training program for all persons involved with construction activities, mining and remedial activities; and
  - (e) 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.
- (ii) The Applicant shall notify the Director-General, DMR, EPA, NPWS, DLWC, MeSC, MuSC and CCC (refer Condition 10.2) of the name and contact details of the Environmental Officer(s) upon appointment and any changes to that appointment.

#### ***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 3.2(d)]. The Environmental Management Strategy shall be prepared in consultation with the relevant authorities and the CCC (refer Condition 10.2) 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, but not be limited to:
  - (i) statutory and other obligations which the Applicant is required to fulfil during construction and 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;
  - (iii) overall environmental management objectives and performance outcomes, during construction, mining and decommissioning of the mine, for each of the key environmental elements for which 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 areas 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 MeSC, MuSC, EPA, DLWC, NPWS, DMR, MSB 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(a))
  - Flora and fauna management plan (refer Condition 3.4(a))
  - Erosion and sediment control plan (refer Condition 3.5(a))
  - Landscape management plan (refer Condition 3.7(a))
  - Bushfire management plan (refer Condition 3.8(b))
  - Land management plan (refer Condition 3.9(a))
  - Property Subsidence Management Plan [refer to Condition 3.10(1)(a)]
  - Longwall Subsidence Management Plan [refer to Condition 3.10(2)(a)]
  - Site water management plan (refer Condition 4.1(a))
  - Dust management plan (refer Condition 6.1(a))
  - Noise management plan (refer Condition 6.4(d))
- (e) The management plans are to be revised/updated at least every 7 years or as otherwise directed by the Director-General in consultation with the relevant government agencies. They will reflect changing environmental requirements or changes in technology/operational practices. 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 MeSC and MuSC within two weeks of approval of the relevant government authority.

### ***3.3 Heritage Assessment, Management and Monitoring***

#### **Assessment and Management**

The Applicant shall prior to commencement of construction of any surface facilities or Mining Operations;

- (a) prepare an Archaeology and Cultural Management Plan to address Aboriginal and European cultural heritage issues. The plan shall be prepared in consultation with NPWS, the Murong Gialinga Aboriginal and Torres Strait Islander Corporation, Wiradjuri Council of Elders, Warrabingina Native Title Claimants Aboriginal Corporation, the relevant Local Aboriginal Land Council, a consultant archaeologist, any other stakeholders identified by NPWS, to the satisfaction of the Director-General. The plan shall include but not be limited to:

- (i) the identification of any future salvage, excavation and monitoring of any archaeological sites within the MLA 80 area prior to and during development;
  - (ii) details of preservation measures and monitoring of the Fossil Fish Reserve for any adverse impacts caused by mining activity, including the fencing of the reserve and the erection of appropriate site notices to exclude any unauthorised access;
  - (iii) details of a monitoring program to document the effects of subsidence and mining works on Aboriginal sites and areas of archaeological sensitivity;
  - (iv) measures to protect Aboriginal sites from subsidence and mine working impacts;
  - (v) identification and discussion of Aboriginal archaeological sites that will require a section 90 consent to destroy under the National Parks and Wildlife Act 1974, and discussion of sites that will be preserved by the establishment of Conservation Areas identified in subclause (e); and,
  - (vi) a program for the proposed monitoring for adverse impacts caused by mining activity on the Bobadeen Homestead, particularly from potential subsidence impacts, and an outline of mitigation measures to ameliorate these impacts. This shall include the implementation of structural modifications prior to subsidence impacts, in accordance with advice from a heritage architect or structural engineer, an assessment of the potential impacts of the mine on the Homestead's heritage value, or through the avoidance of the Homestead area by the mining project, as outlined in the conclusion of the Heritage Assessment report prepared by Aitken (1997) for the Homestead.
- (b) If, during the course of construction of any surface facilities or mining, 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 Local Aboriginal Groups. Any necessary permits or consents shall be obtained and complied with prior to recommencement of work.
- (c) <sup>1</sup>The Applicant shall:
- (i) establish Conservation Area 1 to include the Aboriginal sites MC23 to MC30 as marked on Schedule 3, or its latest version (see subclause (vi) below). To ensure that all sites are protected, the edge of the buffer zone shall be a minimum of 150m from the sites and no secondary workings are to occur beneath the conservation area;
  - (ii) establish Conservation Area 2 to include Aboriginal sites BB4 to BB11 as marked on Schedule 3, or its latest version (see subclause (vi) below).. To ensure that all sites are protected, the edge of the buffer zone shall be a minimum of 150m from the sites and no secondary workings are to occur beneath the conservation area;
  - (iii) establish Conservation Area 3 to include Aboriginal sites CC18 to CC20 as marked on Schedule 3, or its latest version (see subclause (vi) below). To ensure that all sites are protected, the edge of the buffer zone shall be a

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<sup>1</sup> NPWS General Terms of Approval

minimum of 150m from the sites and no secondary workings are to occur beneath the conservation area;

- (iv) not subside any land in the vicinity of shelter sites MC2 to MC4 as marked on Schedule 3, or its latest version, if the risk of subsidence damage is predicted to exceed 10% at any time. If the estimate of subsidence damage is predicted to exceed 10% then the following will be undertaken:
- test excavations in a number of the shelters around the known sites MC2 to MC4 to establish whether the shelters contain evidence of Aboriginal occupation; and
  - an assessment of the sites, which shall include a statement of the significance of the sites from the relevant Aboriginal groups.

Should the investigations determine that the sites (a) had a significant occupation focus for the area; (b) have an evaluation of high risk of subsidence damage; and (c) the sites are of significance to the Aboriginal community, then the area with the highest concentration of sites shall be conserved and not subsided.

If damage from the risk of subsidence damage is estimated to be less than 10%, the shelters shall be monitored on a regular basis at the time of mining and for 2 years after.

- (v) not subside any land beneath site BO5 and its immediate area as marked on Schedule 3, or its latest version, unless:
- the risk of additional damage to subsidence is estimated to be 10% or less;
  - a survey undertaken in comparable landscape contexts to that for BO5 immediately beyond the subsidence area, establishes comparable grinding grooves are located in unaffected or protected area/s adjacent to the mine; or
  - statements from the Aboriginal community are obtained which agree to subsidence of the site.
- (vi) update Schedule 3 in consultation with NPWS prior to the commencement of mining operations to show:
- the identification and verification of the coordinates of the archaeological sites nominated for each conservation area, including the labelling of each conservation area, key identifying the sites that make up the conservation areas, and an illustration of the sites in context with the proposed longwall panels;
  - illustration of the minimum 150m radii buffer zone from the coordinates of each conservation site;
  - drawn tangents to join the buffer zones and form continuous areas for each proposed conservation area; and
  - a squared off boundary and subsequent coordinates for each corner to clearly identify the boundary of the conservation areas.

- (d) <sup>2</sup>Known sites not listed above, and with a greater than 10% chance of damage through subsidence, will require s90 consents.
- (e) <sup>3</sup>All known sites that will require a s90 consent to destroy are to be recorded in full detail (such as through diagrams, drawings of art, video records etc) prior to the relevant site being disturbed.
- (f) The Applicant shall prepare a plan of management in consultation with NPWS and the relevant local Aboriginal community for the three conservation areas identified within its holdings within MLA 80 (as identified on Schedule 3 or its latest version). Any conservation areas that may subsequently be identified shall also require a plan of management to be prepared at the appropriate time.

In preparing the plan of management, the Applicant shall:

- (i) establish a management committee comprising representatives of the NPWS, the local Aboriginal community including the Murong Gialinga Aboriginal and Torres Strait Islander Corporation, Warrabinga Native Title Claimants Aboriginal Corporation, Wiradjuri Council of Elders and the Applicant; and
- (ii) be commenced within 3 months and completed within 12 months of the date of granting of a Mining Lease pursuant to this consent.

#### Monitoring

- (g) Known sites outside of the specified conservation areas outlined in Schedule 3 are to be monitored for subsidence impacts.
- (h) The Applicant shall monitor the effectiveness of the measures outlined in the Archaeology and Cultural Management Plan (Condition 3.3(a)). A summary of monitoring results, including any consultation undertaken with the Aboriginal community, shall be included in the AEMR.

<p><b>Notes</b></p> <ol style="list-style-type: none"> <li>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 <i>National Parks and Wildlife Act 1974</i>, prior to any disturbance of the identified sites by Mining Operations.</li> <li>2. Wherever possible, the Applicant is to contract representatives of the local Aboriginal community to assist in the proposed archaeological investigations and to undertake salvage of artefacts.</li> </ol>
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### ***3.4 Flora and Fauna Assessment, Management and Monitoring***

#### Assessment and Management

- (a) The Applicant shall, prior to the commencement of any construction works, prepare and implement a Flora and Fauna Management Plan for the management of flora and fauna issues for Company owned land within the DA area. The Plan shall be prepared by a suitably qualified ecologist in consultation with NPWS, MeSC and MuSC, and to the satisfaction of the Director-General, and shall include but not be limited to:

<sup>2</sup> NPWS General Terms of Approval

<sup>3</sup> NPWS General Terms of Approval

- (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 DA area as a result of the development, including the provision of compensatory areas of equivalent ecological and habitat value where necessary
  - (iii) measures to minimise the removal of trees and other vegetation from the proposed surface facilities;
  - (iv) strategies to provide increased security for existing habitats and communities, and habitats of native and threatened species such as the Masked Owl, Brush-tailed Rock-wallaby, Large Pied Bat, Little Pied Bat and the Common Bentwing Bat identified in the Species Impact Statement. This shall include details of any identified species or habitats to be removed or translocated;
  - (v) strategies to manage the impact of surface water management, erosion and sediment control measures, and flooding mitigation measures on flora and fauna, including the impact of heavy machinery;
  - (vi) measures to locate access tracks, powerlines and pipelines away from all cliff lines where possible;
  - (vii) measures to modify longwall panelling to avoid or reduce potential subsidence impacts on cliff lines, as outlined on page 88 of the SIS;
  - (viii) details of any relocation or modification of surface facilities associated with the mine extension to minimise the potential loss of threatened species, important wildlife habitat or disruption of wildlife corridors, as outlined on page 94 of the SIS;
  - (ix) details of monitoring the mine's impacts on fauna and flora, including success or otherwise of any proposed ameliorative measures and an outline of contingency measures should impacts be identified as occurring;
  - (x) measures to monitor the impacts on threatened species or populations; and
  - (xi) development of a protocol for identifying and managing significant impacts on any threatened flora and fauna species not identified in the EIS, during development through construction or operation of the mine.
- (b) Native vegetation that is cleared to accommodate surface facilities shall not be burnt or disposed of. Such material, notably hollow bearing limbs etc shall be relocated or reused in accordance with the instructions of the ecologist.
- (c) All surface facilities and infrastructure shall be located outside of the those areas mapped as Yellow Box Woodland or Western Scribbly Gum Woodland in Figure 2.11 within the EIS, as far as practical.

### Monitoring

- (d) The Applicant shall prepare a detailed monitoring program of habitat areas, including any wetlands and aquatic habitats, during the development and for a period after the completion of the development to be determined by the Director-General in consultation with NPWS and NSW Fisheries. The program shall monitor impacts attributable to the development and include monitoring of the success of any restoration or reconstruction works. The Applicant shall include the monitoring program in the Flora and Fauna Management Plan (Condition 3.4(a)). The Applicant shall carry out any further works required by the Director-General as a result of the monitoring. A summary of monitoring results shall be included in the AEMR.

### ***3.5 Prevention of Soil Erosion***

- (a) The Applicant shall prepare Erosion and Sediment Control Plan for the surface facilities and its holdings within MLA 80 in consultation with DLWC and EPA and to the satisfaction of the DLWC and Director-General. The Plan shall be prepared and implemented prior to the commencement of construction of surface facilities, and secondary workings in accordance with the Longwall Subsidence Management Plan [Condition 3.10(2)(a)].
- (b) The Erosion and Sediment Control Plan shall include but not be limited to:
  - (i) details of temporary and permanent sediment and erosion control systems to be used during both mine construction and operation, including for earthworks associated with landscaping;
  - (ii) <sup>4</sup>the measures proposed to be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during construction and operational activities. The Plan should be consistent with the requirements for such plans outlined in the current Managing Urban Stormwater: Soils and Construction (available from the Department of Housing);
  - (iii) details of salinity management;
  - (iv) consideration and management of erosion and sedimentation of surface watercourses/waterbodies, including the Goulburn River and flowlines within the DA area;
  - (v) a monitoring and remediation strategy for all earthworks which may be affected by the development, including any existing and future earthworks like contour banks and dams; and
  - (vi) 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 plans and the EIS.
- (c) All proposed surface facilities shall be located at least 100 metres away from creeks. All access tracks required to cross any watercourses shall generally occur perpendicular to the creek.
- (d) The Applicant shall prepare and implement an Erosion and Sediment Control Plan for the basalt quarry, described in the SEE dated 5 October 2002. The Plan shall be prepared in accordance with conditions 3.5 (b) (i), (ii), (iv), (v) and (vi). The Applicant shall not carry out any of this development before the Director – General has approved the Plan.

### ***3.6 Site Rehabilitation Management***

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.

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<sup>4</sup> EPA General Terms of Approval

### ***3.7 Visual Amenity and Landscaping***

- (a) The Applicant shall, prior to the commencement of construction works in the relevant area, submit for the approval of MeSC and MuSC a detailed Landscape and Revegetation Management Plan for the surface facility sites prepared by a suitably qualified person. The plan shall include, 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) consideration of revegetation works along creeklines;
  - (iii) use of indigenous species;
  - (iv) 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; and
  - (v) 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***

The Applicant shall:

- (a) provide adequate fire protection works on the sites of surface works in accordance with the Coal Mine Regulation Act, 1982; and
- (b) prior to commencement of construction of surface facilities/works update the existing Bushfire Management Plan for all its holdings contained in the DA, to the satisfaction of MeSC and MuSC.

### ***3.9 Land Management***

- (a) The Applicant shall, prior to commencement of construction works and mining operations, prepare a Land Management Plan for the areas of the proposed surface facilities and its holdings in the MLA 80, to provide for proper land management in consultation with DLWC, MeSC and MuSC, and to the satisfaction of the Director-General. The plan shall include, but not be limited to:
  - (i) pastures and remnant vegetation management;
  - (ii) prevention and rehabilitation of land degradation;
  - (iii) eradication of vermin and noxious weeds as required by the Rural Lands Protection Authority and other relevant authorities; and,
  - (iv) feral animal control.
- (b) The Applicant shall minimise the removal of trees and other vegetation from the proposed surface facilities 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 MeSC and MuSC requirements.

### **3.10 Subsidence Management and Monitoring**

#### **(1) Property Subsidence Management**

- (a) The Applicant shall prepare a Property Subsidence Management Plan to the satisfaction of the Director-General of DMR (or delegate) for each property title likely to be affected by the impacts of subsidence from the project in that area, including Bobadeen Homestead. Each Property Subsidence Management Plan shall be substantially prepared as far as practicable, and consultation undertaken, prior to commencement of first workings beneath the property title in question. Any subsequent adjustments to the Plan shall be undertaken as necessary and the Plan fully completed and approved by the Director-General of DMR, prior to seeking an approval under s138 of the *Coal Mine Regulation Act, 1982* for secondary workings. Each Property Subsidence Management Plan shall demonstrate consistency with the relevant MOP, the Environmental Management Strategy and relevant environmental management plans. Property Subsidence Management Plans need not be completed for those properties owned by the Applicant, except the Bobadeen Homestead.
- (b) In preparing Property Subsidence Management Plans, the Applicant shall:
- (i) consult with each affected landowner throughout the preparation process and take their views into account. This consultation shall include discussions on integrating any proposed mitigation works with the management of the property as a whole;
  - (ii) update geological data (i.e. geological structures, seam thickness, coal quality) based on current knowledge;
  - (iii) review, and if necessary update, the mine plan based on current geological knowledge;
  - (iv) review and revise as necessary, subsidence predictions taking into account the results of any relevant subsidence monitoring that has been undertaken;
  - (v) ensure that, with the consent of the owner and in consultation with MSB, a structural inspection is conducted of each structure and a report prepared on the structural integrity of all buildings in their entirety (including roofs, ceilings, openings, foundations and household sewage treatment and disposal systems);
  - (vi) survey any drainage channels within and adjacent to the relevant property. Each channel section is to be surveyed at least two years in advance of secondary workings and then prior to mining activities pursuant to an approval under s138 of the *Coal Mine Regulation Act, 1982*;
  - (vii) assess current agricultural utilisation, agricultural improvements and the underlying agricultural suitability of the relevant property;
  - (viii) review current utilisation of the land for business purposes (other than agriculture), including the value of improvements and the business;
  - (ix) ensure that inspections, surveys and assessments referred to in sub clauses (v), (vi), (vii) and (viii) above are carried out, at the expense of the Applicant, by an independent and technically qualified person agreed to by the relevant property owner, and a copy of any report, certified by the person who undertook the work, supplied to the relevant property owner within fourteen days of receipt of same;
  - (x) review, and if necessary update, surface water modelling to take into consideration any changes to mine planning and/or subsidence predictions;
  - (xi) review surface water modelling output and identify areas that may require further mitigation works to minimise impacts. Checks shall be made on:

- the extent of any remnant ponding that may result from the proposed mine plan and the location of fences, wetlands, woodland, drainage courses, dams and areas of agricultural production (including grazing) relative to remnant ponding areas;
  - the magnitude and direction of predicted overland flows and the potential for channel realignment to occur as a result of mining, and
  - the potential for transient aspects of mining resulting in temporary flooding impacts beyond those of the fully mined landform;
- (xii) adhere to the Flood Policy Objectives as stated in, and in accordance with guidelines contained within the NSW 'Floodplain Management Manual', or its latest version; and
- (xiii) ensure the continuation of agricultural activities and where practicable, improve the opportunity for sustained agriculture where any surface remedial works can be used to improve such productivity.
- (c) In preparing the individual Property Subsidence Management Plans the Applicant shall also:
- (i) advise affected landowners of any potential impacts of the proposed mining and review and discuss implementation procedures;
  - (ii) provide a draft Property Subsidence Management Plan to the relevant landowner, which has been prepared from known and revised data;
  - (iii) identify dwellings that are likely to be subject to damage beyond safe, serviceable and repairable criteria as a result of the development;
  - (iv) identify structures and surface improvements that are likely to be subject to significant damage as a result of the development;
  - (v) identify agricultural or other business values that are likely to be affected by the development;
  - (vi) convene an on-site meeting with the landowner to review the draft Property Subsidence Management Plan including, where applicable, MSB technical officers with respect to dwellings that are predicted to be damaged beyond safe, serviceable and repairable criteria;
  - (vii) investigate feasible mitigation measures that can be implemented to reduce subsidence impacts to the satisfaction of the landowner and in consultation with MSB;
  - (viii) investigate other options if subsidence impacts cannot be reduced satisfactorily, such as compensation, acquisition, temporary relocation, or any other form of agreement with the landowner;
  - (ix) identify areas of likely compensable loss and either reach agreement with the landowner in regard to likely compensable loss, or determine suitable mitigation measures to minimise compensable loss; and
  - (x) provide a copy of each Property Subsidence Management Plan to the relevant landowner.
- (d) In implementing the terms of any Property Subsidence Management Plan the Applicant shall:
- (i) review, based on information available at the time, the potential impacts of the proposed mining on ecologically sensitive areas, archaeological resources and heritage resources and take these into consideration in refining the mine plan and designing appropriate mitigation measures. Works should be designed where possible to avoid areas of ecological and archaeological sensitivity unless works are being specifically undertaken to conserve these areas.

## **(2) Longwall Subsidence Management**

- (a) The Applicant shall prepare a Longwall Subsidence Management Plan on at least a five yearly basis for its proposed longwall operations for approximately the next five years in the MLA 80, to the satisfaction of the Director-General of DMR (or delegate). Each Longwall Subsidence Management Plan shall be substantially prepared as far as practicable and consultation undertaken prior to commencement of first workings within the relevant area of the MLA 80. Any subsequent adjustments to the Plan shall be undertaken as necessary and the Plan fully completed and approved prior to seeking an approval under s138 of the *Coal Mine Regulation Act, 1982* for secondary workings. Each Longwall Subsidence Management Plan shall be consistent with the conditions of this consent, the Environmental Management Strategy and any relevant management plans.
  
- (b) The Applicant shall ensure that the terms and details of each relevant Property Subsidence Management Plan are incorporated into any Longwall Subsidence Management Plan for that part of the development which may affect that property.

## **(3) Subsidence Monitoring**

- (a) The Applicant shall undertake a detailed and ongoing monitoring program of subsidence resulting from mining to the satisfaction of the Director-General and in consultation with DLWC, DMR and MSB throughout the life of the mine and for a period of at least five years after the completion of mining, or other such period as determined by the Director-General in consultation with DLWC and DMR. Monitoring shall include the following:
  - (i) pre-mining and post-mining surveys of watercourses within areas mined within MLA 80;
  - (ii) monitoring of groundwater levels and quality;
  - (iii) monitoring of impacts on any habitats, conservation areas, buildings, structures and roads within areas mined within the MLA 80. This shall include the monitoring of the Bobadeen Homestead and Fish Fossil Reserve;
  - (iv) monitoring of any remedial measures; and
  - (v) a comparison of predicted impacts with actual impacts, including mapping of subsidence profiles within areas mined within MLA 80.

The Applicant shall implement remediation strategies where monitoring indicates degradation and include all information and relevant interpretation on the monitoring program in the Annual Environmental Management Report (Condition 9.2(a)).

## 4. Water Management and Monitoring

### 4.1 Surface & Ground Water Management Plans

The Applicant shall:

- (a) prior to the commencement of construction of surface facilities and prior to first workings, prepare a Site Water Management Plan, in consultation with EPA, MeSC, MuSC and NSW Fisheries, and to the satisfaction of the Director-General and DLWC, which shall include, but not be limited to, the following matters:
  - (i) investigation into opportunities to reduce minewater discharge into the Goulburn River;
  - (ii) identification of any possible adverse effects on water supply sources of surrounding landholders as a result of the underground mining operations in the MLA 80 and surface mine works and implementation of mitigation measures as necessary;
  - (iii) identification of changes in flow of surface waters in all creeks within MLA 80 due to subsidence;
  - (iv) contingency plans for managing adverse impacts of the development on surface and groundwater quality, including salinity;
  - (v) <sup>5</sup>an assessment and details of locations where stream bed controls are required to prevent bed incision or degradation occurring due to post-mining subsidence. This assessment shall provide the basis for remediation for any potentially affected sections of streams.

*Note:* A permit under Part 3A of the Rivers and Foreshores Improvement Act will be required to implement the plan of remediation for any affected or potentially affected stream system.

- (vi) <sup>6</sup>measures to develop and implement a Stormwater Management Scheme to mitigate the impacts of stormwater runoff from the 'established' development, following the completion of construction activities. The Scheme should be consistent with any Storm Water Management Plan prepared for the catchment, Site Water Management Plan and with the requirements of Managing Urban Stormwater: Soils and Construction, or its latest version (available from the Department of Housing);
- (vii) <sup>7</sup>a groundwater assessment and remediation plan. This Plan shall include:
  - a remediation plan to be developed for any groundwater system which is degraded beyond its current beneficial use classification;
  - groundwater monitoring programs which comply with DLWC guidelines for groundwater monitoring. The guidelines cover bore installation, monitoring network densities, bore casing to prevent ingress of shallow groundwaters to the bores and monitoring parameters;

<sup>5</sup> DLWC General Terms of Approval

<sup>6</sup> EPA General Terms of Approval

<sup>7</sup> DLWC General Terms of Approval

- details of the time period of the monitoring program; and,
  - provision for an annual report of groundwater monitoring to be submitted to DLWC, including interpretation of groundwater monitoring data, groundwater depressurisation levels, and the extent of the groundwater depressurisation cone for the site. This report shall form part of the AEMR (refer to Condition 9.2(a)).
- (viii) identification of the fresh quality groundwater resources within the project area, including the development of appropriate protection strategies;
- (ix) projection of potential groundwater changes during mining (short term) and post-mining (long term) with particular attention given to the affect of changes to groundwater quality and mobilisation of salts;
- (x) demonstration of Applicant’s compliance with DLWC dam policy and the Section 22BA embargo on new water licences in the Goulburn River Catchment;
- (xi) management of the quality and quantity of surface and groundwater within the areas covered by the site water management plan (which include each of the surface facilities), which shall include preparation of monitoring programs as provided by Condition 4.2;
- (xii) management of stormwater and general surface runoff diversion to ensure separate effective management of clean and dirty water, from the mining operations and each of the surface facilities (refer also Condition 3.5(b)(ii)) and subclause (vi) above;
- (xiii) measures to prevent the quality of any surface waters being degraded below the relevant water classification prior to construction works and Mining Operations, particularly in the Goulburn River, due to the operation of the mine;
- (xiv) a monitoring and remediation strategy for all streams which may be adversely affected by subsidence including bed fracturing and/or degradation of the stream channel. Where the monitoring indicates any adverse impacts due to mining, the company shall implement the remediation strategy to the satisfaction of DLWC.
- (xv) details of any irrigation, including the proposed management and a plan of remediation in case of any adverse impacts of the irrigation on the natural resources of the area; and
- (xvi) a program for reporting on the effectiveness of the water management systems and performance against objectives contained in the approved site water management plans, SEEs, and EIS.
- (b) the results of the investigations for the Site Water Management Plan shall be reported in the Annual Environmental Management Report.
- (c) obtain a licence with DLWC under part 5 of the Water Act (1912) prior to construction of all new excavations, test bores and production bores (including dewatering bores) that intersect the groundwater.

*Note:* A licence under part 5 of the Water Act is not required for any temporary exploration bores.

- (d) implement the recommendations of the water management study and the irrigation study prepared as part of the EIS, so as to achieve the requirements of the existing Pollution Reduction Program attached to Pollution Control Licence No 394, which ultimately aims at achieving a nil discharge from the site under normal operating conditions.
- (e) <sup>8</sup>The Applicant shall impose a stable buffer area of at least 40 metres width between the zero point of subsidence and streams of third order or greater, including Ulan Creek, to the satisfaction of DLWC.
- (f) <sup>9</sup>Prior to first workings and to the satisfaction of DLWC, the Applicant shall undertake pre-mining surveys of the locations identified in the assessment undertaken in Condition 4.1(a)(v) including all second order or higher stream systems which overlie the subsidence troughs of the longwall extraction area. These surveys are required to include all second order or higher stream lengths to the zero point of subsidence, and extend for a minimum of 500 metres upstream from the zero point of subsidence.

The pre-mining survey is required to identify all hydraulic control points in stream systems, establish bed gradients along stream lengths, vegetation cover along streams, location of pool and riffle sequences, and bed control material competence. The pre-mining survey is also required to identify all dams and dam outflow or bywash points, and assess the likelihood of erosion initiating under post-mining subsidence conditions.

The pre-mining survey is also required to assess any potential changes in stream velocity and stream power during conditions of base flow, and one in two year, one hour storm events and one in ten year storm events, and an assessment of potential bed incision or destabilisation occurring as a result of mining-induced subsidence.

- (g) <sup>10</sup>Post mining surveys of all stream systems impacted by subsidence, shall be conducted within three (3) months of completion of mining above the relevant stream, identifying all potential destabilisation points along streams to the satisfaction of DLWC.
- (h) <sup>11</sup>The Applicant shall undertake annual inspections for all installed works, and all stream systems affected by subsidence, or as otherwise directed by DLWC. The findings of the annual inspections shall be included in the AEMR (refer to Condition 9.2(a)).

#### Pollution of Waters

- (i) <sup>12</sup>Except as may be expressly provided in the licence, the operator must comply with section 120 of the Protection of the Environment Operations Act, 1997 prohibiting the pollution of waters.

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<sup>8</sup> DLWC General Terms of Approval

<sup>9</sup> DLWC General Terms of Approval

<sup>10</sup> DLWC General Terms of Approval

<sup>11</sup> DLWC General Terms of Approval

<sup>12</sup> EPA General Terms of Approval

## Waste Water Applied to Land

### *Waste Water Utilisation Areas*

- (j) <sup>13</sup>Wastewater must only be applied to waste water utilisation areas for which discharge/monitoring points have been identified in agreement with the EPA.
- (k) <sup>14</sup>Spray from wastewater application must not drift beyond the boundary of the wastewater utilisation area to which it is applied.

### *Maintaining Waste Water Utilisation Areas*

- (l) <sup>15</sup>Wastewater utilisation areas must effectively utilise the wastewater applied to that area. This includes the use for pasture or crop production, as well as ensuring the soil is able to absorb the nutrients, salts, hydraulic load and organic materials in the solids or liquids. The EPA may require monitoring of land and receiving waters to determine the impact of wastewater application (refer also to Condition 4.2).
- (m) <sup>16</sup>Water management for the site must be implemented in accordance with the information supplied in the Ulan Coal Mining Lease Application No 80, Development Application and Environmental Impact Statement, December 1998 and the Water Management Study and Irrigation Study attached with that document. The implementation must be in line with the Pollution Reduction Program attached to existing Licence No 394 or as varied by any changes approved by the EPA.

## **4.2 Surface and Ground Water Monitoring**

- (a) The Applicant shall:
  - (i) construct and locate surface and groundwater monitoring positions, as identified in the site water management plan (Condition 4.1 (a)), in consultation with DLWC, EPA, and to the satisfaction of the Director-General, at least three months prior to the commencement of construction of surface facilities, or Mining Operations;
  - (ii) prepare a detailed monitoring program in respect of ground and surface water quality and quantity, and also consistent with Condition 4.1(a)(xi), for construction, mine operations and post mine operations in consultation with DLWC, EPA, and to the satisfaction of the Director-General. The monitoring program shall also include surveys of drainage channels within MLA 80 to update information obtained in the preparation of Property Subsidence Management Plans. The monitoring program shall be prepared prior to commencement of construction of surface facilities or Mining Operations within MLA 80. The monitoring program shall be continued throughout and beyond the life of the panels for a minimum period as determined by the Director-General;
  - (iii) prepare and implement, to the satisfaction of DLWC, a monitoring program prior to the use of any mine water for irrigation in MLA 80 (refer to Condition 4.1(a)(xv));

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<sup>13</sup> EPA General Terms of Approval

<sup>14</sup> EPA General Terms of Approval

<sup>15</sup> EPA General Terms of Approval

<sup>16</sup> EPA General Terms of Approval

- (iv) provide to the satisfaction of DLWC, a recalculation of the water balance on MLA 80, and a program of segregation of site waters to minimise the concentration of sulphates in mine waters discharged from the site. This shall also include monitoring of daily river flows and discharge events along with upstream and downstream monitoring of river water chemistry to assess the short and long term impacts on river water quality which occur as a result of mining operations and discharges. This shall be provided annually in the AEMR, or as otherwise required by the DLWC;
  - (v) monitor the impact of mining on the surface water systems to the satisfaction of DLWC including an interpretation of the results. The monitoring should be commenced prior to mining to allow comparison with the post-mining data; and
  - (vi) the results and interpretation of surface and groundwater monitoring are to be provided in the AEMR (Condition 9.2(a)) from the date of this consent, unless otherwise directed by the Director-General.
- (b) <sup>17</sup>The Applicant shall undertake ongoing monitoring of stream condition to allow for the implementation of remedial measures prior to the occurrence of any degradation problems. Monitoring must be conducted on an annual basis, preferably after the summer rainfall season when there is a higher probability of runoff events, to the satisfaction of DLWC.
  - (c) <sup>18</sup>The headwaters of Ulan Creek, which lie above the longwall extraction area, shall be monitored on an annual basis to assess any bed incision which occurs after mining has proceeded through the area. The risk of bed fracturing must be assessed against the results of ongoing monitoring and remedial measures to address any bed degradation, bank scour or collapse, or bed fracturing which occurs.
  - (d) <sup>19</sup>Monitoring of all streams shall be undertaken on an annual basis to assess the requirement for any soil erosion controls or stream bed controls in line with the Longwall Subsidence Management Plan [Condition 3.10(2)(a)].
  - (e) <sup>20</sup>All monitoring required in subclause (b-d) above shall form part of the monitoring program required under Condition 4.2(a)(ii).

Discharge and Monitoring Points

- (f) <sup>21</sup>The Applicant shall monitor discharges to water as set out in Pollution Control Licence No 394 and in the Ulan Coal Mining Lease Application No 80, Development Application and Environmental Impact Statement, December 1998, which is described in the table below.

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<sup>17</sup> DLWC General Terms of Approval

<sup>18</sup> DLWC General Terms of Approval

<sup>19</sup> DLWC General Terms of Approval

<sup>20</sup> DLWC General Terms of Approval

<sup>21</sup> EPA General Terms of Approval

<b>Point</b>	<b>Pollutant</b>	<b>Type of Monitoring</b>
DP2	Iron Zinc EC pH Oil/grease NFR Sulphate	quality of discharge to waters  volume of discharge to waters
DP3	Iron Zinc EC pH Oil/grease NFR Sulphate	quality of discharge to waters  volume of discharge to waters
DP4	Iron Zinc EC pH Oil/grease NFR Sulphate	quality of discharge to waters  volume of discharge to waters

#### Emissions – Concentration Limits

- (g) <sup>22</sup>The concentration of any pollutant discharged from a point specified in the table below must not exceed the concentration limit as specified in Pollution Control Licence No 394, and in the EIS, which is described in the table below.

Discharge Points : 002, 003, 004					
<b>Pollutant</b>	<b>Units of Measure</b>	<b>50% concentration limit</b>	<b>90% concentration limit</b>	<b>3DGM concentration limit</b>	<b>100% concentration limit</b>
Iron	mg/L	NA	NA	-	5
Zinc	mg/L	NA	NA	-	5
Conductivity	µs/cm	800	NA	-	900
pH		NA	NA	-	6.5-8.5
Oil/grease	mg/L	NA	NA		10

#### Concentration Monitoring

- (h) <sup>23</sup> Monitoring of the concentration of pollutants discharged to waters, that is, Iron, Zinc, EC, pH, Oil/grease will be required. The sampling method, units of measure and frequency of monitoring will be as set out in the licence.
- (i) <sup>24</sup> Monitoring of water levels in the sampling bore holes must be undertaken to determine the effects of drawdown on watertables and water quality as mining proceeds [refer also to Condition 4.2 (a)(i)].

<sup>22</sup> EPA General Terms of Approval

<sup>23</sup> EPA General Terms of Approval

<sup>24</sup> EPA General Terms of Approval

Discharge and Monitoring Points

- (j) <sup>25</sup>The EPA will require the monitoring of discharges of wastewater to land as described in the table below.

<b>Point</b>	<b>Pollutant</b>	<b>Type of Monitoring</b>
DPI	nitrogen phosphorous EC BOD pH CEC Exchangeable -calcium -magnesium -potassium -sodium -aluminium	quality of discharge to waste water utilisation area  volume of discharge to waste water utilisation area  Soils sampling and analysis
Proposed Irrigation site	EC pH CEC Exchangeable -calcium -magnesium -potassium -sodium -aluminium hydraulic loading	quality of discharge to waste water utilisation area  volume of discharge to waste water utilisation area  Soils sampling and analysis

Concentration and Volume Monitoring

- (k) <sup>26</sup>Monitoring of the concentration and volume of wastewater applied to land will be required. The sampling method, units of measure and frequency of monitoring will be as set out in the licence.

Reverse Osmosis Plant

- (l) Prior to any construction fencing is to be installed to encompass artefacts sites RO/A and RO/B. The planning for and installation of the fencing is to be conducted in consultation with the local Aboriginal Community groups who conducted the site inspection. A representative from the local Aboriginal Community groups, who conducted the site inspection, is to be in attendance during the installation of fencing.
- (m) The discharge volume from Rowans Dam is not to exceed 10 ML/day.
- (n) The Applicant shall ensure that a suitably qualified person conducts monitoring of Ulan Creek below the discharge point every 6 months to ascertain whether the discharge is affecting the stability of Ulan Creek.
- (o) The Applicant shall undertake a program of weed eradication in Ulan Creek below the discharge point at regular intervals to the satisfaction of the Director-General.

<sup>25</sup> EPA General Terms of Approval

<sup>26</sup> EPA General Terms of Approval

## **5. Hazardous Materials and Tailings Management**

### ***5.1 Waste Rock Emplacement and Management***

The Applicant shall manage the waste rock emplacements as set out in the EIS and to the satisfaction of the DMR.

### ***5.2 Fine Rejects/Tailings Emplacement and Management***

The Applicant shall manage placement of fine rejects on as set out in the EIS and to the satisfaction of the DMR.

### ***5.3 Waste***

#### Receiving or Disposing of Waste

- (a) <sup>27</sup>Except as expressly permitted in a licence, waste must not be received at the premises for storage, treatment, processing, reprocessing or disposal.

#### Hazardous and industrial waste

- (b) <sup>28</sup>The applicant must ensure that hazardous or industrial waste is stored and disposed of in a manner to minimise its impact on the environment including appropriate segregation for storage and separate disposal via a licensed transporter.

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<sup>27</sup> EPA General Terms of Approval

<sup>28</sup> EPA General Terms of Approval

## 6. Air Quality, Blast and Noise Management and Monitoring

### 6.1 Air Quality Management and Monitoring

#### Dust Management Plan

- (a) The Applicant shall, prior to the 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 Plan shall be updated as required by the Director-General. The Plan shall include, but not be limited to, details of:
- the identification of dust affected properties and the relevant dust limits consistent with the EIS and any subsequent submissions to the Department;
  - specifications of 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;
  - the establishment of a protocol for handling dust complaints that include recording, reporting and acting on complaints;
  - recording appropriate mechanisms for community consultation;
  - outlining mitigation measures to be employed to minimise dust emissions, particularly details of dust suppression measures for all surface facilities, including the use of water trucks, water spraying of activity areas and roads;
  - methods to determine when and how the mine operation is to be modified to minimise the potential for dust emissions, particularly from surface activities if the relevant criteria is exceeded;
  - identification of longer term strategies directed towards mitigating dust levels that exceed the EPA target dust criteria;
  - details of locations for dust monitoring and deposition gauges at the residential areas and frequency of monitoring, as agreed with the EPA; and
  - a program to continue baseline monitoring undertaken prior to development consent.

#### Air Quality and Dust Monitoring

- (b) The Applicant shall:
- (i) undertake monitoring at locations described in the Dust Management Plan (Condition 6.1(a));
  - (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 in the AEMR.

Emissions - Concentration Limits

- (c) <sup>29</sup>The concentration of any air pollutant discharged from the dust deposition gauges G1 to G10 and the High Volume Air Samplers HV1 and HV2 discussed in the EIS and specified in the table below must not exceed the concentration limit as specified in the table:

Dust Deposition Gauges – G1 to G10		
Pollutant	Units of measure	100% limit
TSP	g/m <sup>2</sup>	4

(TSP – Total Suspended Particulates)

Annual Average TSP Concentrations for High Volume Air Samplers – HV1 and HV2		
Pollutant	Units of measure	100% limit
TSP	µg/m <sup>3</sup>	90

- (d) In the event that a landowner or occupier considers that dust from the project at their dwelling is in excess of the EPA criteria for dust levels in subclause (c), 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;
  - (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; and,
    - 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 EPA criteria in subclause (c), 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 11.2.

<sup>29</sup> EPA General Terms of Approval

- (f) Further independent investigations shall cease if the Director-General is satisfied that the relevant consent limits or EPA amenity criteria are not being exceeded and are unlikely to be exceeded in the future.

## ***6.2 Dust Suppression and Control***

- (a) <sup>30</sup>Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises which shall include the prompt and effective rehabilitation of all disturbed areas.
- (b) <sup>31</sup>Trucks entering and leaving the premises that are carrying loads of potentially dust generating material must be covered at all times.
- (c) <sup>32</sup>Watersprays must be operated to suppress dust emissions from crushers, screens and material transfer points at all times when material is being crushed and or screened.
- (d) <sup>33</sup>Water tankers must be utilised on site to effectively control dust.

## ***6.3 Blast Management and Monitoring***

### **Blast Management**

#### **Overpressure**

- (a) <sup>34</sup>The 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 at any point within 1 metre of any affected residential boundary or other noise sensitive location such as a school or hospital.

#### **Ground Vibration (ppv)**

- (b) <sup>35</sup>Ground vibration peak particle velocity from the blasting operations on the premises must not, when measured at any point within 1 metre of any affected residential boundary or other noise sensitive location such as a school or hospital:
- (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.

#### **Time of Blasting**

- (c) <sup>36</sup>Surface blasting operations on the premises may only take place between 9am and 3pm Monday to Saturday inclusive.

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<sup>30</sup> EPA General Terms of Approval

<sup>31</sup> EPA General Terms of Approval

<sup>32</sup> EPA General Terms of Approval

<sup>33</sup> EPA General Terms of Approval

<sup>34</sup> EPA General Terms of Approval

<sup>35</sup> EPA General Terms of Approval

- (d) <sup>37</sup>Blasting operations may be varied with the written consent of the EPA only where it is satisfied that the amenity of the residents in the locality will not be adversely affected.

#### Blast Management Protocol

- (e) <sup>38</sup>A Blasting/Vibration Management Protocol must be prepared to the satisfaction of the EPA, which will include details about:
- Compliance standards;
  - Mitigation measures;
  - Remedial action;
  - Monitoring methods and program;
  - Monitoring program for flyrock distribution;
  - Measures to protect underground utilities (eg: rising mains, subsurface telecommunication and electric cables), and livestock nearby;
  - Notification of procedures for neighbours prior to detonation of each blast;
  - Measures to ensure no damage by flyrock to people, property, livestock and powerlines.

#### Blast Monitoring

- (f) The Applicant shall:
- (i) monitor any blasts and record the overpressure and peak particle velocity as agreed by the EPA, including details of monitoring locations; and
  - (ii) include the results of the monitoring information as required by the EPA and in the Annual Environmental Management Report (Condition 9.2(a)).

### **6.4 Noise Control**

#### Terms:

**L<sub>A10(15 minute)</sub>** - the sound pressure level that is exceeded for 10% of the time when measured over a 15 minute period.

#### Noise Limits

- (a) <sup>39</sup>The Applicant shall ensure that the area of affectation in the vicinity of MLA 80 (other than a dwelling owned by a mining company) that experiences noise emissions from the normal operation of the coal mine and associated activities when measured or computed within 30 metres from a dwelling or the property boundary, whichever is the lesser, under prevailing weather conditions shall not exceed:
- (i) an L<sub>A10 (15 minute)</sub> noise emission limit of 50 dB(A) during the day (7am to 10pm); and
  - (ii) an L<sub>A10 (15 minute)</sub> noise emission limit of 40 dB(A) during the night (10pm to 7am).

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<sup>36</sup> EPA General Terms of Approval

<sup>37</sup> EPA General Terms of Approval

<sup>38</sup> EPA General Terms of Approval

<sup>39</sup> EPA General Terms of Approval

**Note:** “Prevailing” meteorological conditions mean calm winds (winds up to 3m/s) and in the absence of temperature inversions.

Noise impacts that may be enhanced by temperature inversions must be addressed by:

- Documenting noise complaints received to identify any higher level of impacts or patterns of temperature inversions.
  - Where levels of noise complaints indicate a higher level of impact then actions to quantify and ameliorate any enhanced impacts under temperature inversions conditions should be developed and implemented.
- (b) In the event that a landowner or occupier considers that noise from the project at their dwelling is in excess of the noise levels referred to in subclause (a), 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, and to the satisfaction of the Director-General, to quantify the impact and determine the source of the effect;
  - (iii) modify the mining **or quarrying activity, as appropriate**, 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 subclause (a) above are achieved;
    - with the agreement of the landowner, undertaking of noise control at the dwelling to achieve acceptable internal noise levels;
    - entrance 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.
- (c) If the independent noise investigations in sub-clause (b) above demonstrate that noise limits are exceeding 45 dB(A) during the night-time (10pm to 7am), 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 11.2.
- (d) If continued complaints and noise investigations confirm that noise limits in subclause (a) are being exceeded, but are less than the night-time noise level in subclause (c), the Applicant shall continue to negotiate with the landowner until an acceptable resolution is reached.
- (e) Further independent investigations shall cease if the Director-General, is satisfied that the criteria in subclause (a) are not being exceeded and are unlikely to be exceeded in the future.

- (f) The Applicant must prepare and implement a Noise Management Plan prior to the commencement of construction of surface facilities or Mining Operations, 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 this consent;
  - specify the procedures for a 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 on the site to limit noise emissions;
  - identify longer term strategies directed towards mitigating noise levels that exceed the EPA target noise criteria (day and night) under prevailing meteorological conditions;
  - 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;
  - identify potential noise sources and specify appropriate intervals for noise monitoring to evaluate, assess and report the  $L_{A10(15\text{ minute})}$  noise emission levels due to construction and normal operations of the mine under prevailing meteorological conditions, or as otherwise determined by the EPA; and,
  - outline the methodologies to be used, including justification for monitoring intervals, weather conditions, seasonal variations, selecting locations, periods and times of measurements, the design of any noise modelling or other studies, including the means for determining the noise levels emitted by the development;
- (g) The Applicant shall closely liaise with Rail Access Corporation to ensure the use of rail related operations meet the Pollution Control Licence (003142) requirements of Rail Access Corporation.

#### Noise Investigations and Monitoring

- (h) The Applicant shall:
- (i) prior to commencement of construction of surface facilities or Mining Operations in MLA 80, develop a plan to conduct noise investigations at three monthly intervals to evaluate, assess and report the  $LA_{10}$  (15 minute) noise emission levels due to normal operations of the mine and quarry under prevailing weather conditions, or as otherwise determined by the EPA. The methodologies, including establishing the mine's operating configuration, determining survey intervals, weather conditions, seasonal variations, selecting variations, selecting locations, periods and times of measurements, the design of any noise modelling or other studies, including the means for determining the noise levels emitted by the mining and quarrying operations, shall be in accordance with the requirements of the EPA;

- (ii) survey and investigate noise reduction measures from plant and equipment throughout the life of the mine extension and report in the Annual Environmental Management Report;
- (iii) arrange independent noise emission investigations as provided in Condition 11.2.

A summary of noise monitoring results shall be included in the AEMR.

## **7. Transport and Utilities**

### ***7.1 Road Transport***

- (a) Coal produced from MLA 80 shall not be hauled on public roads except in cases where small amounts are transported by road to support local institutions such as hospitals. The amount of coal transported by road shall not exceed 5,000 tonnes per annum.
- (b) The Applicant, in consultation with MSB, shall:
  - (i) ensure that access within the DA area, to properties and within properties, is maintained at no less than the existing standard during the period in which mining occurs under the land and for a period of at least five years thereafter;
  - (ii) undertake pre-surveys of existing public road formations, roadways structures prior to the commencement of mining activity and every subsequent year until the possibility of potential subsidence has ceased;
  - (iii) provide results of the surveys to the MeSC, MuSC, and the RTA; and
  - (iv) carry out any road works considered necessary by the MeSC, MuSC and the RTA to ensure compliance with this condition insofar as any works to maintain the existing standard at the time of mining are directly attributable to the operation of the mine.
- (c) The proponent shall ensure that any impact due to surface subsidence within the Crown road system is restored and safeguarded to the extent that public access is not compromised.
- (d) All production from the basalt quarry shall be used on the Ulan Coal Mine site or Bobadeen Road, and not transported to any other site for use.
- (e) The Applicant shall make available to Merriwa Shire Council, at the basalt quarry site and at cost, sufficient crushed basalt to enable Bobadeen Road and its intersection with Ulan Road to be upgraded.

### ***7.2 Rail Transportation***

The transportation of coal by rail shall not exceed an average of 28 movements per week from the Ulan Coal Mine, unless otherwise agreed by the Director-General.

### ***7.3 Provision of Utility Services***

- (a) In preparing Mining Operations Plans (refer to Condition 2.1), the Applicant shall consult with affected service authorities and make arrangements satisfactory to those authorities for the protection or relocation of services (such as transmission lines, pipelines, optic cables etc).
- (b) The Applicant shall also:
  - (i) liaise with Advance Energy or the local energy supplier, concerning the size of any expected new electrical loads and the proposed dates and times that the loads will be connected to the mine site load;

- (ii) provide Advance Energy with written notification of any requirements to relocate or remove any assets (including but not limited to distribution lines and transformers). Any costs associated with this work will be borne by the Applicant; and
- (iii) ensure that Advance Energy has 24 hour unlimited access to any of its existing assets for routine maintenance and possible emergency operations and has suitable access available at all times to the areas controlled by the Applicant.

## **8. Monitoring/Auditing**

- (a) In addition to the requirements contained elsewhere in this consent, the Director-General may, at any time in consultation with the relevant government authorities and the Applicant, require the monitoring programs in Conditions 3, 4 and 6 to be revised/updated to reflect changing environmental requirements or changes in technology/operational practices. 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 MeSC and MuSC within two weeks of approval of the relevant government authority.
- (b) 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. Only accredited laboratories shall be used for laboratory analysis.

### **8.1 Third Party Monitoring/Auditing**

#### Independent Environmental Audit

- (a) Every three years until completion of mining in MLA 80, 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, MeSC, MuSC, 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 MeSC and MuSC.
- (c) The Director-General may, after considering any submission made by the relevant government agencies, MeSC, MuSC 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 Reports on Operations***

The Applicant shall report on mine operations in accordance with the mine operations plan (Condition 2.1).

### ***9.2 Environmental Reporting***

#### **Annual Environmental Management Report (AEMR)**

- (a) The Applicant shall, throughout the life of the development and for a period of at least three years after the completion of mining in MLA 80, 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 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 MeSC and MuSC requirements;
  - (iii) results of all environmental monitoring required under this consent or other approvals, including interpretations and discussion by a suitably qualified person;
  - (iv) an assessment of any changes to agricultural land suitability resulting from the mining operations, including cumulative changes;
  - (v) a listing of any variations obtained to approvals applicable to the subject area during the previous year;
  - (vi) 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;
  - (vii) rehabilitation report; and
  - (viii) environmental management targets and strategies for the next year.
- (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, DMR, DLWC, NPWS, MeSC, MuSC and CCC, and made available for public information at Council within fourteen days of submission to these authorities.

### ***9.3 Recording and Reporting Requirements***

#### Recording of Monitoring

- (a) <sup>40</sup>The results of any monitoring required must be recorded and retained as set out in the licence.

#### Reporting Requirements

- (b) <sup>41</sup>The EPA will require reporting on the environmental performance of the proposal as set out in the licence. The timing and reporting shall be consistent with the environmental reporting required by this consent, as far as practical.

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<sup>40</sup> EPA General Terms of Approval

<sup>41</sup> EPA General Terms of Approval

## **10. Community Consultation/Obligations**

### ***10.1 Notice to Owners and Occupiers***

- (a) The Applicant shall notify each relevant landowner in writing, or by way of an advertisement in the local newspaper circulating in the locality:
  - (i) of its intention to commence header roads under a property. Such notification to be made at least 14 days prior to commencement of such works; and
  - (ii) of its intention to proceed with an application in accordance with s138 of the *Coal Mine Regulation Act, 1982*. Such notification to be made at least one month prior to an application under s138 being made for land within MLA 80 not owned or under licence to the Applicant.
  
- (b) The notification referred to in sub-clause (a)(ii) above shall provide a timetable and information on at least the following:
  - (i) landowner consultation arrangements;
  - (ii) the proposed mine plan;
  - (iii) arrangements for consultation in preparing a Property Subsidence Management Plan;
  - (iv) landowner rights under law and the conditions of this consent; and
  - (v) offers of assistance from the Applicant to meet reasonable landowner legal and associated costs.
  
- (c) The Applicant shall notify each relevant landowner in writing of its intention to commence basalt quarry operations at least 14 days prior to the commencement of any development associated with the quarry.

### ***10.2 Community Consultative Committee***

The Applicant shall:

- (i) establish a Community Consultative Committee prior to the preparation of the Environmental Management Strategy (Condition 3.2) and ensure that the first meeting is held before finalisation of the Environmental Management Strategy. Selection of representatives shall be to the satisfaction of the Director-General in consultation with MeSC, and MuSC. The Committee shall comprise two (2) representatives of the Applicant (including the Environmental Officer), one (1) representative of MeSC and MuSC and a minimum of four community representatives. The Committee shall be chaired by MeSC and/or MuSC.

Representatives from relevant government agencies (including DUAP) 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, monitor compliance with conditions of this consent and other matters relevant to the operation of the mine during the term of the consent. 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.

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

- (a) nominate two (2) 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; and
  - (e) provide meeting facilities for the Committee, and take minutes of Committee meetings. These minutes shall be available for public inspection at MeSC and MuSC within 14 days of the meeting.
- (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 \$2000 per annum to the fund for the duration of mining in the MLA 80, or as otherwise directed by the Director-General. The monies are to be used only if 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 the finances of the trust fund during each year shall be provided to the Director-General and Applicant by the Chair on each anniversary of the first payment. Any unspent monies shall be returned to the Applicant each year.

### ***10.3 Community Consultation***

#### **(a) Complaints**

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

- (i) for ensuring that a system is put in operation prior to the commencement of construction and Mining Operations 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 seven 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) for providing a report of complaints received every six months throughout the life of the project to the Director-General, MeSC, MuSC, EPA, DMR, and CCC, or as otherwise agreed by the Director-General. A summary of this report shall be included in the AEMR (Condition 9.2(a)).

## **11. Proponents Obligations**

### ***11.1 Land Acquisition as a Result of Subsidence***

#### **(A) Acquisition and Compensation – Significant Structural Damage to Dwellings**

- (a) Where a dwelling within the DA area is, or is likely to be, subject to damage beyond the safe, serviceable and repairable criteria as a result of the development, the landowner, after receiving notification from the Applicant in accordance with Condition 10.1(a)(ii), may request the Applicant in writing to:
  - (i) carry out such works as agreed by the landowner to remedy or mitigate any damage; or
  - (ii) compensate the landowner for such effects; or
  - (iii) acquire the whole of the property, or such part of the property requested by the landowner where subdivision is approved.
- (b) The Applicant shall comply with any such request for acquisition or compensation in accordance with Conditions 11.1(C) and (D). If necessary to confirm the impact, the Applicant shall, at the request of the landowner in writing, conduct a follow-up structural inspection to one carried out under Condition 3.11(1)(b)(v). Any inspection or assessment under this Condition shall be conducted as if it were conducted under the relevant part of Condition 3.11(1)(b).

#### **(B) Acquisition and Compensation – Land Use Impacts**

- (a) Where a landowner suffers a loss of agricultural productivity or other adverse impact on the use of land as a result of the development, the landowner, after receiving notification from the Applicant in accordance with Condition 10.1(a)(ii), may request the Applicant in writing to:
  - (i) carry out such works as agreed by the landowner to rectify the problem; or
  - (ii) compensate the landowner for such effects; or
  - (iii) acquire the whole of the property, or such part of the property requested by the landowner where subdivision is approved.
- (b) The Applicant shall comply with any such request for acquisition or compensation in accordance with Conditions 11.1(C)-(D). If necessary to confirm the impact, the Applicant shall, at the request of the landowner in writing, conduct a follow-up structural inspection to one carried out under 3.11(1)(b)(v). Any inspection or assessment under this condition shall be conducted as if it were conducted under the relevant part of 3.11(1)(b).
- (c) Where the landowner requests acquisition, significant adverse impact to agricultural productivity or the use of the land or an enterprise must be demonstrated.

#### **(C) Acquisition and Compensation – Procedure**

- (a) Any disputes relating to land acquisition or compensation (except those relating to valuation matters) may be referred by either party to the Director-General for consideration and advice if no agreement is reached within three months of receipt by the Applicant of the written request, or to the Mining Warden at any time in accordance with the provisions of the Mining Act.

- (b) Upon receipt of a written request to purchase property in accordance with any conditions of this consent, the Applicant shall negotiate and purchase the whole of the property (unless the request specifically requests acquisition of only part of the property and subdivision has already been approved) within six months of receipt of the request. The Applicant shall pay the landowners an acquisition price resulting from proper consideration of:
- (i) a sum not less than the current market value of the owner's interest in the land as if the land was unaffected by the development proposal, whosoever is the occupier, 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 the request is completed subsequent to that date.
  - (ii) the owner's reasonable compensation for disturbance allowance and relocation within the Merriwa or Mudgee local government areas, 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 for the land and the terms upon which it is to be acquired; and (iv) the purchase price determined by reference to points (i), (ii) and (iii) shall be reduced by the amount of any compensation awarded to a landowner pursuant to the *Mining Act, 1992* or other legislation providing for compensation in relation to coal mining but limited to compensation for dwellings, structures and other fixed improvements on the land, unless otherwise determined by the Director-General in consultation with the DMR or MSB.
- (c) An offer by the Applicant to purchase a property under the conditions of this consent shall remain open to the landowner for the following periods from the date of the offer:
- (i) for damage to a dwelling beyond the safe, serviceable and repairable criteria (Condition 11.1(A)), three years after completion of mining of longwall panels that affect the property;
  - (ii) for land use impacts (Condition 11.1(B)), five years after completion of mining of longwall panels that affect the property; and
  - (iii) for noise or dust impacts (Condition 11.2). Provided exceedences are occurring.
- (d) Notwithstanding any other Condition of this consent, the landowner and the Applicant may enter into any other agreed arrangement regarding compensation; or 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) Independent Valuation**

- (a) In the event that the Applicant and the landowner cannot agree within three months upon the acquisition price of the land and/or the terms upon which it is to be

acquired under the terms of this consent, then either party may refer the matter to the Director-General who shall request an independent valuation to determine the acquisition price. The independent valuer shall consider any submissions from the landowner and the Applicant in determining the acquisition price.

- (b) If 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:
- (i) the appointed independent valuer;
  - (ii) the Director-General; and/or
  - (iii) the President of the Law Society of NSW or nominee.

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

- (c) The Applicant shall bear the costs of any independent valuation or survey assessment requested by the Director-General.
- (d) The Applicant shall, within fourteen days of receipt of a valuation by the independent valuer, offer in writing to acquire the relevant land at a price not less than the said valuation.

### ***11.2 Land Acquisition as a Result of Excessive Noise and/or Dust***

*Note:* In Condition 11.2 (a)-(d) "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 in accordance with 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 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 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 Mudgee or Merriwa 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 reasonable 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, Rivers and Foreshores Improvement Act 1948, Water Act 1912, 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 MeSC, MuSC, EPA, DMR, NPWS, DLWC, RTA, NSW Agriculture, NSW Fisheries, and RAC, are fully met.

(b) Structural Adequacy

Detailed plans and specifications relating to the design and construction of all 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.