

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

INTEGRATED STATE SIGNIFICANT DEVELOPMENT

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

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

The reasons for the imposition of the conditions are to:

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

Andrew Refshauge MP
Minister for Urban Affairs and Planning

Sydney,

23 December

1999

File No. N91/00461

Schedule 1

Application made by: Bulga Coal Management Pty Ltd (“the Applicant”)
A.C.N. 000 416 760.

To: Minister for Urban Affairs and Planning (DA 41-03-99)

In respect of: Land described in Schedule “A”

For the following: Continued mining of the Bulga Open Cut Pit operations in Coal Lease Areas 372 and 224, and out-of-pit emplacement of overburden on the new South Whybrow site (“the Development”).

BCA Classification: Not applicable

NOTE:

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

SCHEDULE 2

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DEFINITIONS:

AEMR - *Annual Environmental Management Report*

CCC - *Community Consultative Committee*

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

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

DA - *Development Application*

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

Day - *The period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays*

Department – *Department of Planning and Infrastructure*

Director-General - *Director-General of Planning and Infrastructure, or delegate*

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

Evening - *The period from 6pm to 10pm*

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

Minister – *Minister for Planning and Infrastructure*

MOP – *Mining Operations Plan*

Night - *The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays*

ROM - *Run-of-Mine coal production*

Government Authorities

DPI – *Department of Primary Industries*

DRE – *Division of Resources and Energy, within the Department of Trade and Investment, Regional Infrastructure and Services*

DSC – *Dams Safety Committee*

SSC – *Singleton Shire Council*

MSB - *Mine Subsidence Board*

NOW – *NSW Office of Water*
NPWS – *National Parks and Wildlife Service*
OEH – *Office of Environment and Heritage*
RAC – *Rail Access Corporation*
RTA – *Roads and Traffic Authority*

Red type represents February 2001 modification
Blue type represents January 2008 modification
Green type represents October 2008 modification
Purple type represents November 2009 modification
Brown type represents May 2010 modification
Pink type represents July 2011 modification

1. General

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

1.2 Adherence to Terms of DA, EIS, etc.

- (a) The development is to be carried out generally in accordance with DA 41-03-99 and:
- (i) the EIS titled “*Bulga Open Cut Continued Mining*” dated February 1999 (two volumes), prepared by ERM Mitchell McCotter Pty Limited in accordance with clause 54A and 55 of the Environmental Planning and Assessment Regulations 1998, and certified in accordance with Section 78(A)8 of the Environmental Planning and Assessment Act 1979, and other relevant information included in Noise Information provided to DUAP on 24 June 1999, Air Quality Information provided to DUAP on 30 June 1999, and Aboriginal Heritage Information provided to DUAP on 20 July 1999
 - (ii) Bulga Coal Project Environmental Impact Statement, February 1990;
 - (iii) Bulga Coal Project Variation to Development Consent, 28 October 1994;
 - (iv) Modification to Development Consent Bulga Coal Project, Proposal to Extend Overburden Dump, April 1995;
 - (v) the modification application 41-03-99 MOD 2 and supporting information prepared by Umwelt Environmental Consultants and dated 21 November; and
 - (vi) the modification application 41-03-99 MOD 3 and supporting information prepared by Umwelt Environmental Consultants and dated 25 August 2008;
 - (vii) the modification application 41-03-99 MOD 4 and Environmental Assessment prepared by Umwelt Environmental Consultants, dated August 2009, and the response to submissions dated October 2009;
 - (viii) the modification application 41-03-99 MOD 5 and Environmental Assessment prepared by Hansen Bailey Pty Limited, dated 15 February 2010;
 - (ix) the document titled *Bulga Coal Complex (Bulga Open Cut Mine) XRail Refuelling Facility*, dated February 2011; and
 - (x) conditions of this consent.

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

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

1.3 Period of Approval/Project Commencement

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

1.4 Dispute Resolution

In the event that the Applicant and the SSC or a Government agency, other than the Department, 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, whose determination of the disagreement shall be final and binding on the parties.

1.5 Security Deposits

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

1.6 *Year 2000 Conformity*

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

2. Mine Management

2.1 Mine Management Plan, Operations and Methods

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

2.2 Limits on Production

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

3. Land and Site Environmental Management

3.1 Appointment of Environmental Officer(s)

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

3.2 Environmental Management Strategies and Plans

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

- (iv) overall ecological and community objectives for the project and a strategy for the restoration and management of the area affected by mining operations;
 - (v) identification of cumulative environmental impacts and procedures for dealing with these at each stage of the development;
 - (vi) overall objectives and strategies to protect existing economic productivity within the area affected by mining, including agricultural productivity and other businesses;
 - (vii) steps to be taken to ensure that all approvals, plans, and procedures are being complied with;
 - (viii) processes for conflict resolution in relation to the environmental management of the project; and
 - (ix) documentation of the results of consultations undertaken in the development of the Environmental Management Strategy.
- (c) The Applicant shall make copies of the Environmental Management Strategy available to SSC, **OEH**, **NOW**, **DRE**, and the CCC within fourteen days of approval by the Director-General.
- (d) The Applicant shall prepare the following Environmental Management Plans:
- Archaeology and Cultural Management Plan (refer condition 3.3)
 - Flora and Fauna Management Plan (refer condition 3.4)
 - Landscape Management Plan (refer condition 3.6)
 - Site Water Management Plan (refer condition 4.1(a))
 - Dust Management Plan (refer condition 6.1.1(a))
 - Blast and Vibration Management Plan (refer condition 6.2(a))
 - **Noise Management Plan (refer condition 6.3.8)**

Note: With the approval of the Director-General, the Applicant may integrate any management plan or monitoring program required by this consent with any similar plan or program for the Bulga Complex.

- (e) The management plans are to be revised/updated at least every 5 years or as otherwise directed by the Director-General in consultation with the relevant government agencies. **The management plans are also to be revised/updated after each modification to this consent, wherever appropriate.** Changes shall be made and approved in the same manner as the initial environmental management plan. The plans shall also be made publicly available at SSC within two weeks of approval of the relevant government authority.

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

3.3 Heritage Assessment and Management

Aboriginal Cultural Heritage

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

¹ General Terms of Approval from OEH

- (e) ²The Applicant shall invite the Wonnarua Tribal Council and the Wanaruah Aboriginal Land Council to collect the artefacts in Area 1 prior to mining commencing in the development area.
- (f) The Applicant shall continue to preserve the site of the axe grinding grooves in accordance with relevant recommendations set out in the EIS (1990) and the requirements of the Director of OEH and provide a buffer zone and protective fence around the site in accordance with the requirements of the Director of OEH.
- (g) The Applicant shall take all practicable steps to ensure that the building known as 'Mount Leonard' is not damaged by blasting arising from the development.
- (h) The Applicant is to consult with the Aboriginal community regarding any approvals that are sought under Part 6 of the *National Parks and Wildlife Act 1974* using consultation principles and strategies consistent with those outlined in the *OEH Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010)*. The results of these consultations shall be documented in the AEMR.

Notes

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

3.4 Flora and Fauna Assessment and Management

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

² General Terms of Approval from OEH

- (iv) details of monitoring the mine's impacts on native vegetation are to be reported in the Annual Environmental Management Report.

3.5 Vegetation Offsets

By the end of December 2010, the Applicant shall:

- (a) incorporate an offset of at least 20 hectares of existing Hunter Box – Ironbark Woodland into other conservation areas managed by Xstrata Coal Pty Limited;
- (b) rehabilitate at least 1 hectare of remnant Forest Red Gum Woodland on the drainage lines within the catchment of Nine Mile Creek; and
- (c) make suitable arrangements to protect and manage these offset areas in the long-term,

to the satisfaction of the Director-General and OEH.

3.6 Landscape Management Plan

- (a) The Applicant shall prepare and implement a detailed Landscape Management Plan for the development to the satisfaction of the DRE and Director-General. This plan must:
 - (i) be prepared in consultation with OEH, NOW and SSC by suitably qualified expert/s whose appointment/s have been approved by the Director-General;
 - (ii) be submitted to the Director-General for approval by the end of December 2010; and
 - (iii) include a:
 - Rehabilitation and Offset Management Plan;
 - Final Void Management Plan; and
 - Mine Closure Plan.

Rehabilitation and Offset Management Plan

- (b) The Rehabilitation Management Plan must include:
 - (i) the objectives for rehabilitation of the site and vegetation offsets;
 - (ii) a description of the short, medium, and long term measures that would be implemented to rehabilitate the site, manage the remnant vegetation and habitat on the site and implement the vegetation offsets;
 - (iii) detailed performance and completion criteria for the rehabilitation of the site and implementation of the vegetation offsets;
 - (iv) a detailed description of how the performance of the rehabilitation of the mine would be monitored over time in order to demonstrate achievement of the stated objectives;
 - (v) a detailed description of what measures would be implemented over the next 3 years, including for:
 - minimising and rehabilitating disturbed areas;
 - implementing vegetation offsets;
 - protecting vegetation and soil outside the disturbance areas;
 - undertaking pre-clearance surveys;
 - managing impacts on fauna;
 - landscaping the site to minimise visual impacts;
 - conserving and reusing topsoil;
 - collecting and propagating seed for rehabilitation works;

- salvaging and reusing material from the site for habitat enhancement;
 - controlling weeds and feral pests;
 - controlling access; and
 - bushfire management;
- (vi) a program to monitor the effectiveness of these measures, and progress against the performance and completion criteria;
- (vii) a description of the potential risks to successful rehabilitation and/or revegetation, and a description of the contingency measures that would be implemented to mitigate these risks; and
- (viii) details of who is responsible for monitoring, reviewing, and implementing the plan.

Final Void Management

- (c) The Final Void Management Plan must:
- (i) incorporate design criteria and specifications for the final void based on verified groundwater modelling predictions and a re-assessment of post-mining groundwater equilibration;
 - (ii) assess the potential interactions between creeks on the site and the final void; and
 - (iii) describe what actions and measures would be implemented to:
 - minimise any potential adverse impacts associated with the final void; and
 - manage and monitor the potential impacts of the final void.

Mine Closure Plan

- (d) The Mine Closure Plan must:
- (i) define the objectives and criteria for mine closure;
 - (ii) investigate options for the future use of the site, including the final void/s;
 - (iii) investigate ways to minimise the adverse socio-economic effects associated with mine closure, including reduction in local employment levels;
 - (iv) describe the measures that would be implemented to minimise or manage the ongoing environmental effects of the development; and
 - (v) describe how the performance of these measures would be monitored over time.

3.7 Visual Amenity

The Applicant shall:

- (a) ensure no external lights shine above the horizontal;
 - (b) ensure that all external lighting associated with the development complies with *Australian Standard AS4282 (INT) 1995 – Control of Obtrusive Effects of Outdoor Lighting*, or its latest version, and
 - (c) take all practicable measures to mitigate off-site lighting impacts from the development,
- to the satisfaction of the Director-General.

4. Water Management

4.1 Site Water Management Plan

The Applicant shall prepare and implement a Site Water Management Plan for the development to the satisfaction of the Director-General. This plan must:

- (a) be prepared in consultation with NOW, OEH and DRE;
- (b) be submitted to the Director-General for approval by the end of June 2010; and
- (c) include:
 - a Site Water Balance;
 - an Erosion and Sediment Control Plan;
 - a Surface Water Monitoring Plan;
 - a Groundwater Monitoring Program; and
 - a Surface and Groundwater Response Plan.

Site Water Balance

The Site Water Balance must:

- (a) include details of:
 - sources and security of water supply;
 - water use and management on site;
 - any off-site water transfers or discharges; and
 - reporting procedures; and
- (b) describe measures to minimise water use by the site.

Erosion and Sediment Control Plan

The Erosion and Sediment Control Plan must:

- (a) be consistent with the requirements of Landcom's *Managing Urban Stormwater: Soils and Construction* manual;
- (b) identify activities that could cause soil erosion and generate sediment;
- (c) describe measures to minimise soil erosion and the potential for transport of sediment downstream;
- (d) describe the location, function and capacity of erosion and sediment control structures; and
- (e) describe what measures would be implemented to maintain the structures over time.

Surface Water Monitoring Program

The Surface Water Monitoring Program must include:

- (a) detailed baseline data on surface water flows and quality in creeks and other waterbodies that could potentially be affected by the development;
- (b) surface water and stream health impact assessment criteria;
- (c) a program to monitor;
 - surface water flows and quality;
 - stream health; and
 - channel stability;

- (d) a program to monitor any impacts on private water users and water levels in privately-owned farm dams; and
- (e) reporting procedures for the results of the monitoring program.

Groundwater Monitoring Program

The Groundwater Monitoring Program must include:

- (a) groundwater impact assessment criteria, including trigger levels for investigating any potentially adverse groundwater impacts of the development;
- (b) a program to monitor the volume and quality of groundwater seeping into the underground mine workings;
- (c) a program to monitor:
 - groundwater inflows to the underground mining operations;
 - impacts on regional aquifers and surrounding aquifers;
 - impacts on the groundwater supply of potentially affected private landowners; and
 - impacts on groundwater dependent ecosystems and riparian vegetation;
- (d) reporting procedures for the results of the monitoring program.

Surface and Groundwater Response Plan

The Surface and Groundwater Response Plan must describe the measures and/or procedures that would be implemented to:

- (a) respond to any exceedances of the surface water, stream health and groundwater impact assessment criteria;
- (b) offset the loss of any baseflow to watercourses caused by the development where the impact assessment criteria are exceeded;
- (c) compensate landowners of privately-owned land whose water supply is adversely affected by the development; and
- (d) mitigate and/or offset any adverse impacts on groundwater dependent ecosystems or riparian vegetation.

4.2 CHPP Dam

The Applicant shall design and construct the CHPP Dam (as described in the documents listed in condition 1.2(a)(vii) of schedule 2) to the satisfaction of the DSC and DRE. The final dam design, as submitted to DSC and DRE, must be accompanied by a detailed assessment of the potential operational and environmental risks associated with the dam.

5. Hazardous Materials and Tailings Management

5.1 Overburden Emplacement and Management

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

5.2 Fine Rejects/Tailings Emplacement and Management

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

5.3 Waste

- (a) ³The Applicant must not cause, permit or allow any waste generated outside of the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.
- (b) ⁴This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the Protection of the Environment Operations Act 1997.
- (c) Hazardous or industrial waste must be stored and disposed of in a manner to minimise its impact on the environment including appropriate segregation for storage and separate disposal by a waste transporter licensed by the **OEH**.

5.4 Chemical and Hazard Management

- (a) The Applicant shall ensure that:
 - (i) The location for storage of LPG, with respect to separation from other dangerous goods and safety measures, shall be in accordance with AS 1596:1997- Storage and Handling of LPG Gas;
 - (ii) The procedures for storage, handling and use of Class 1 explosive materials shall be in accordance with the requirements of Workcover New South Wales.
- (b) The Applicant shall ensure that all above-ground tanks containing material likely to cause environmental harm:
 - (i) are bunded or have an alternative spill containment system. Bunds must be impervious and sized to contain 110% of the volume of the largest container stored within;

³ General Terms of Approval from the **OEH**

⁴ General Terms of Approval from the **OEH**

- (ii) are designed and constructed in a manner that prevents the ingress of rain or water; and
- (iii) are clearly labeled as to their contents.

6. Air Quality, Blast, Noise and Light Management

6.1 Air Quality Management

6.1.1 Dust Management Plan

(a) The Applicant shall, prior to commencement of mining operations, prepare a Dust Management Plan detailing air quality safeguards and procedures for dealing with dust emissions to the satisfaction of the Director-General. The management plan shall be updated as required by the Director-General. The plan shall include, but not be limited to, details to:

- identify dust affected properties and the relevant dust limits consistent with the EIS and any subsequent submissions to the Department;
- specify the procedures for the dust monitoring program for the purpose of undertaking independent dust investigations;
- outline the procedure to notify property owners and occupiers likely to be affected by dust from the mine;
- establish a protocol for handling dust complaints that include recording, reporting and acting on complaints;
- record appropriate mechanisms for community consultation;
- outline mitigation measures to be employed to minimise dust emissions;
- ensure that equipment is available and used to control dust generation;
- identify longer term strategies directed towards mitigating dust levels that exceed the **OEH** target dust criteria;
- detail locations for dust monitoring and deposition gauges at the residential areas and frequency of monitoring, as agreed with the **OEH**;
- continue the baseline monitoring program undertaken prior to development consent.

6.1.2 Air Quality and Dust Monitoring

- (a) The Applicant shall:
- (i) undertake monitoring at locations described in the Dust Management Plan;
 - (ii) establish dust deposition and total suspended particulate (TSP) monitoring locations for the mine operations, including sites for monitoring impacts of dust at the nearest non-mined owned residences, and locations as may be determined to be necessary by the Director-General in consultation with the **OEH** and in accordance with the Dust Management Plan referred to in Condition 6.1(a);
 - (iii) provide all results and analysis of air quality monitoring in the AEMR including a determination of the dust deposition rate in $\text{gm/m}^2/\text{month}$, which shall be plotted to provide trend analysis in the AEMR.;
 - (iv) ⁵Monitoring of dust deposition and for the concentration of PM_{10} , total suspended particulate (TSP) in ambient air must be carried out at locations agreed to in consultation with the **OEH**.

⁵ General Terms of Approval from **OEH**

- (v) Monitoring for the concentration of PM₁₀, TSP and deposited dust are to be carried out as required to be conducted by the general terms of approval, or in accordance with a licence under the Protection of the Environment Operations Act 1997, in relation to the development or in order to comply with a relevant local calculation protocol, must be done in accordance with:
- any methodology which is required by or under the POEO Act 1997 to be used for the testing of the concentration of the pollutant; or
 - if no such requirement is imposed by or under the POEO Act 1997, any methodology which the general terms of approval or a condition of the licence or the protocol (as the case may be) requires to be used for that testing; or
 - if no such requirement is imposed by or under the POEO Act 1997 or by the general terms of approval or a condition of the licence or the protocol (as the case may be), any methodology approved in writing by the **OEH** for the purposes of that testing prior to the testing taking place.
- (b) Monitoring of the concentration of PM₁₀ particulate matter in ambient air must be carried out at locations agreed to in consultation with the **OEH**. The sampling method, units of measure, interval and frequency of monitoring will be as set out in the “*Approved Methods for the Sampling and Analysis of Air Pollutants in NSW*” or its latest version.
- (c) The Applicant shall ensure that the dust and particulate emissions generated from the development do not cause exceedances of the air quality impact assessment criteria listed in Tables 1, 2 and 3 at any residence on, or more than 25 percent of, any privately owned land.

Table 1: Long term impact assessment criteria for particulate matter

Pollutant	Averaging period	Criterion
Total suspended particulate (TSP) matter	Annual	90 µg/m ³
Particulate matter < 10 µm (PM ₁₀)	Annual	30 µg/m ³

Table 2: Short term impact assessment criterion for particulate matter

Pollutant	Averaging period	Criterion
Particulate matter < 10 µm (PM ₁₀)	24 hour	50 µg/m ³

Table 3: Long term impact assessment criteria for deposited dust

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

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

- (c) In the event that a landowner or occupier considers that dust from the project is in excess of the **OEH** criteria for dust levels, at their dwelling, and the Director-General, is satisfied that an investigation is required, the Applicant shall upon the receipt of a written request:
- (i) consult with the landowner or occupants affected to determine their concerns;
 - (ii) make arrangements for appropriate independent dust investigations in accordance with the Dust Management Plan, and to the satisfaction of the Director-General, to quantify the impact and determine the source of the effect;
 - (iii) modify the mining activity in accordance with a Dust Management Plan if exceedences are demonstrated to result from the mine related activity. This shall include:
 - introduction of additional controls, either of dust generation from individual sources on the site or on site operations or modify operations, to ensure that the dust criteria are achieved;
 - enter into an agreement with the landowner or provide such forms of benefit or amelioration as may be agreed between the parties as providing acceptable compensation for the dust levels experienced;
 - (iv) conduct follow up investigations to the satisfaction of the Director-General where necessary.
- (d) If the independent dust investigations in sub-clause (d) above confirm that dust limits are in excess of the relevant **OEH** criteria, the Applicant shall at the written request of the owner acquire the relevant property. Acquisition shall be in accordance with the procedures set out in **schedule 3**.
- (e) Further independent investigations shall cease if the Director-General is satisfied that the relevant consent limits or relevant **OEH** amenity criteria are not being exceeded and are unlikely to be exceeded in the future

6.1.3 Dust Suppression and Control

- (a) The Applicant shall:
- (i) maintain and use sufficient equipment with the capacity to apply water to all unsealed trafficked areas at a rate which minimises dust emissions;

- (ii) ensure the prompt and effective rehabilitation of all disturbed areas to minimise generation of wind erosion dust, in accordance with the requirements of **DRE**;
- (iii) keep the surface of the coal product and stackout stockpiles sufficiently damp to minimise windblown dust; and
- (iv) ⁶ensure activities occurring at the mine are carried out in a manner that will minimise emissions of dust from the premises.

6.2 Blast Management

- (a) The Applicant shall, prior to the commencement of mining, update or prepare a Blast and Vibration Management Protocol for the mining operations described in the EIS, to the satisfaction of the Director-General . The plan shall identify the blast provisions detailed in the ANZECC document titled “*Technical Basis for Guidelines to Minimise Annoyance due to Blasting Overpressure, and Ground Vibration*” or its latest version.
- (b) ⁷The Blast and Vibration Management Plan in subclause (a) must be prepared and implemented by the Applicant, and shall include, but need not be limited to:
 - Compliance standards
 - Mitigation measures
 - Remedial action
 - Monitoring methods and program
 - Monitoring program for fly-rock distribution
 - Measures to protect underground utilities (rising mains, subsurface telecommunication and electric cables)
 - Notification of procedures for neighbours prior to detonation of each blast
 - Measures to ensure no damage by fly-rock to people, property, livestock and powerlines.
- (a) The applicant shall advise residents within two (2) kilometres of the active mining area of future blasting events on a monthly basis, and of any changes to monthly programs.
- (b) Upon written request of the owner of any dwellings located within two (2) kilometres of the active mining area, the Applicant shall arrange at its own costs, for the inspection by a technically qualified person agreed to by both parties, to record the material condition of any structure on such property within 14 days of receipt of the request. The Applicant shall supply a copy of any inspection report, certified by the person who undertook the inspection, to the relevant property owner within fourteen (14) days of receipt of the report;

⁶ General Terms of Approval from **OEH**

⁷ General Terms of Approval from **OEH**

- (e) ⁸The overpressure level from blasting operations on the premises must not:
- (i) exceed 115dB (Lin Peak) for more than 5% of the total number of blasts over a period of 12 months; and
 - (ii) exceed 120dB (Lin Peak) at any time,
- when measured or computed at a free field location within 3.5 metres of any potentially affected residential building or other noise sensitive location such as a school or hospital unless otherwise approved in writing by the [OEH](#).
- (f) ⁹Ground Vibration peak particle velocity (ppv) from the blasting operations on the premises must not:
- (i) exceed 5mm/s for more than 5% of the total number of blasts over a period of 12 months; and
 - (ii) exceed 10mm/s at any time,
- when measured or computed at a free field location within 30 metres of any potentially affected residential boundary or other noise sensitive location such as a school or hospital.
- (g) ¹⁰In relation to blasting:
- (i) ¹¹Blasting associated with mining operations may only take place between the hours of 9am and 5pm Monday to Saturday inclusive.
 - (ii) ¹²The hours of operation for blasting operations specified in this condition may be varied if the [OEH](#), having regard to the effect that the proposed variation would have on the amenity of the residents in the locality, gives written consent to the variation. Approved hours and number of blasts per day must be approved and may be varied with the written consent of the [OEH](#).
 - (iii) For the purpose of blast monitoring, the ground vibration or the overpressure must be measured at noise sensitive sites (eg. residences, hospitals, schools etc), selected in consultation with the [OEH](#).
 - (iv) The Applicant shall ensure that air blast overpressure and vibration monitoring is generally carried out in accordance with the recommendations of Australian Standard AS-2187-1993 or its latest version, and in terms of ANZECC guidelines, including compliance with the guideline titled “*Technical Basis for Guidelines to Minimise Annoyance due to Blasting Overpressure and Vibration*” or its latest version, to the satisfaction of the [OEH](#).
 - (v) ¹³The Applicant must monitor ground vibration and overpressure of all blasts at locations agreed to in consultation with the [OEH](#).

⁸ General Terms of Approval from [OEH](#)

⁹ General Terms of Approval from [OEH](#)

¹⁰ General Terms of Approval from [OEH](#)

¹¹ General Terms of Approval from the [OEH](#)

¹² General Terms of Approval from the [OEH](#)

¹³ General Terms of Approval from the [OEH](#)

6.3 Noise

Acquisition Upon Request

6.3.1 Upon receiving a written request for acquisition from the owner of any land listed in Table 4, the Applicant shall acquire that land in accordance with the procedures in conditions 6 - 8 of schedule 3.

Table 4: Land subject to acquisition upon request

6 – I.B. Headley	149 – E. McInerney
7 – I.B. Headley	150 – E. McInerney
9 – I.B. & J.D. Headley	151 – R.D. & L.M. Lewis
10– I.B. & J.D. Headley	216 – R.D. & G.W. Turnbull

Land Acquisition Criteria

6.3.2 If the noise generated by the development exceeds the criteria in Table 5 at any residence on privately-owned land or on more than 25 per cent of any privately-owned land, the Applicant shall, upon receiving a written request for acquisition from the landowner, acquire the land in accordance with the procedures in conditions 6-8 of schedule 3.

Table 5: Land Acquisition Criteria dB(A)

<i>Day/Evening/Night</i>	<i>Land</i>
<i>L_{Aeq(15 minute)}</i>	
40	All privately owned land, excluding the land listed in Table 4.

Notes:

- Noise generated by the development is to be measured and evaluated in accordance with the relevant procedures and exemptions (including certain meteorological conditions) of the NSW Industrial Noise Policy.
- These noise limits do not apply on land if the Applicant has a negotiated agreement with the relevant owner/s of that land to generate higher noise levels, and the Applicant has advised the Department in writing of the terms of this agreement.

Noise Impact Assessment Criteria

6.3.3 The Applicant shall ensure that the noise generated by the development does not exceed the noise impact assessment criteria in Table 6 at any residence on privately-owned land, or on more than 25 percent of any privately-owned land.

Table 6: Noise Impact Assessment Criteria dB(A)

Residence/Land	<i>Day</i>	<i>Evening</i>	<i>Night</i>	
	<i>L_{Aeq(15 min)}</i>	<i>L_{Aeq(15 min)}</i>	<i>L_{Aeq(15 min)}</i>	<i>L_{AI(1 min)}</i>
249	40	40	40	45
8, 195	39	39	39	45
157, 179, 307	38	38	38	45
1, 2s, 154, 237, 239, 250, 252, 261, 262, 308	37	37	37	45
232	37	37	36	45

Residence/Land	Day	Evening	Night	
	$L_{Aeq(15\ min)}$	$L_{Aeq(15\ min)}$	$L_{Aeq(15\ min)}$	$L_{AI(1\ min)}$
97, 153, 163, 169e, 171, 183, 184, 197, 217s, 217m, 217n, 234, 235, 240, 263, 264, 266, 267, 272, 273, 274, 276, 279, 280, 282	36	36	36	45
33, 156w, 230, 281	36	36	35	45
All other privately owned land, excluding the land listed in Table 4.	35	35	35	45

Notes:

- *To interpret the locations referred to in Tables 4 and 6, see the applicable figure in Appendix 1.*
- *Noise generated by the development is to be measured and evaluated in accordance with the relevant procedures and exemptions (including certain meteorological conditions) of the NSW Industrial Noise Policy.*
- *These noise limits do not apply at residences or land if the Applicant has a negotiated agreement with the relevant owner/s of that residence or land to generate higher noise levels, and the Applicant has advised the Department in writing of the terms of this agreement.*

Additional Noise Mitigation Measures

6.3.4 Upon receiving a written request from:

- a landowner of the land listed in Table 4 (unless the landowner has requested acquisition); or
- a landowner of residence/land 8, 157, 179, 195, 249 or 307 (unless a negotiated agreement is in place); or
- the owner of any other residence where subsequent operational noise monitoring shows the noise generated by the development is greater than, or equal to, 38 dB(A) $L_{Aeq(15\ minute)}$ (unless a negotiated agreement is in place),

the Applicant shall implement additional noise mitigation measures such as double glazing, insulation, and/or air conditioning at any residence on the land in consultation with the landowner.

These additional mitigation measures must be reasonable and feasible. The Applicant shall notify all landowners by 31 July 2010 that they are entitled to receive additional noise mitigation measures in accordance with this condition, to the satisfaction of the Director-General.

If within 3 months of receiving such a request from the landowner, the Applicant and the landowner cannot agree on the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the Director-General for resolution.

Cumulative Noise Impact Assessment Criteria

6.3.5 The Applicant shall implement all reasonable and feasible measures to ensure that the noise generated by the development combined with the noise generated by other mines does not exceed the amenity criteria in Table 7 at any residence on privately-owned land or on more than 25 per cent of any privately-owned land, to the satisfaction of the Director-General.

Table 7: Cumulative Noise Impact Assessment Criteria dB(A) L_{Aeq} (period)

Location	Day	Evening	Night
	$L_{Aeq}(11 \text{ hour})$	$L_{Aeq}(4 \text{ hour})$	$L_{Aeq}(9 \text{ hour})$
All privately owned land, excluding the land listed in Table 4.	50	45	40

Note: Cumulative noise is to be measured and evaluated in accordance with the relevant procedures and exemptions (including certain meteorological conditions) of the NSW Industrial Noise Policy.

Cumulative Land Acquisition Criteria

6.3.6 If the cumulative noise generated by the development combined with the noise generated by other mines exceeds the amenity criteria in Table 8 at any residence on privately owned land, or on more than 25% of privately owned land, then upon receiving a written request from the landowner, the Applicant shall take all reasonable and feasible measures to acquire the land on as equitable basis as possible with the relevant mines, in accordance with the procedures in conditions 6-8 of schedule 3, to the satisfaction of the Director-General.

Table 8: Cumulative Land Acquisition Criteria dB(A)

Location	Day	Evening	Night
	$L_{Aeq}(11 \text{ hour})$	$L_{Aeq}(4 \text{ hour})$	$L_{Aeq}(9 \text{ hour})$
All privately owned land, excluding the land listed in Table 4.	53	48	43

Notes:

- For the purpose of this condition, the expression "Applicant" in conditions 6-8 of schedule 3 should be interpreted as the Applicant and any other relevant mines.
- Cumulative noise is to be measured and evaluated in accordance with the relevant procedures and exemptions (including certain meteorological conditions) of the NSW Industrial Noise Policy.

Continuous Improvement

6.3.7 The Applicant shall:

- implement all reasonable and feasible best practice noise mitigation measures;
- progressively upgrade and replace its mobile equipment fleet;
- report the implementation and effectiveness of these measures in the AEMR,

to the satisfaction of the Director-General.

Noise Management Plan

6.3.8 The Applicant shall prepare and implement a Noise Management Plan for the development to the satisfaction of the Director-General. This program must:

- be prepared by a suitably qualified expert whose appointment has been approved by the Director-General, and submitted to the Director-General for approval by 30 August 2010; and

- (b) include a:
- combination of unattended and attended monitoring measures;
 - noise monitoring protocol for evaluating the contribution of low frequency noise;
 - noise monitoring protocol for evaluating compliance with the relevant criteria for noise impact assessment, land acquisition, cumulative impact assessment and cumulative acquisition in this consent; and
 - response protocol that will immediately be followed if noise emissions are nearing or exceeding these criteria and a description of what contingency plans will be implemented on site if this occurs.

Notes:

- *The management responses to be followed in the event that noise emissions are nearing or exceeding the noise criteria in this consent should be staged in a manner that is commensurate with the level of noise emissions that may occur.*
- *Management responses should include relocating, modifying and/or ceasing operations until the exceedance is addressed and rectified. In the event of a breach of the noise criteria in this approval, noise traces for the offending period should be forwarded to the Department and OEH as soon as practicable following the event.*

7. Transport and Utilities

7.1 Road Transport

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

8. Monitoring/Auditing

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

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

8.3 Meteorological

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

8.4 ***Third Party Monitoring/Independent Environmental Audit***

- (a) Every 3 years from the date of this consent until the completion of mining operations, unless the Director-General directs otherwise, the Applicant shall commission and pay the full cost of an Independent Environmental Audit of the development. This audit must:
- (i) be conducted by suitably qualified, experienced, and independent expert/s whose appointment has been endorsed by the Director-General;
 - (ii) include consultation with the relevant agencies;
 - (iii) assess, in respect of the requirements of this consent and any relevant mining lease or environment protection licence, the environmental performance of the development and its effects on the surrounding environment;
 - (iv) assess whether the development is complying with relevant standards and performance measures specified in these approvals (including under any strategy, plan or program required under these approvals) and with other statutory requirements;
 - (v) review the adequacy of strategies, plans or programs required under these approvals; and, if necessary,
 - (vi) recommend measures or actions to improve the environmental performance of the development, and/or any strategy, plan or program required under these approvals.

Note: This audit team must be led by a suitably qualified auditor and include experts in the fields of noise, air quality and mine rehabilitation.

- (b) Within 6 weeks of completing this audit, or as otherwise agreed by the Director-General, the Applicant shall submit a copy of the audit report to the Director-General with a response to any recommendations contained in the audit report.
- (c) Within 3 months of submitting the audit report to the Director-General, the Applicant shall review and if necessary revise the strategies/plans/programs required under this consent, to the satisfaction of the Director-General.

9. Reporting

9.1 *Annual Environmental Management Report (AEMR)*

- (a) Within 12 months of this approval, and annually thereafter, the Applicant shall submit an Annual Environmental Management Report (AEMR) to the Director-General and the relevant agencies. This report must:
- (i) identify the standards and performance measures that apply to the development;
 - (ii) describe the works carried out in the last 12 months;
 - (iii) describe the works that will be carried out in the next 12 months;
 - (iv) include a summary of the complaints received during the past year, and compare this to the complaints received in previous years;
 - (v) include a summary of the monitoring results for the development during the past year;
 - (vi) include an analysis of these monitoring results against the relevant:
 - impact assessment criteria/limits;
 - monitoring results from previous years; and
 - predictions in any relevant documents referred to under condition 1.2(a) of Schedule 2;
 - (vii) identify any trends in the monitoring results over the life of the development;
 - (viii) identify any non-compliance during the previous year; and
 - (ix) describe what actions were, or are being, taken to ensure compliance.

9.2 ¹⁴General Reporting

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

9.3 Access to Information

- (a) By 30 April 2008, and thereafter within 3 months of the approval of any strategy/plan/program required under this consent (or any subsequent revision of these strategies/plans/programs), or the completion of the audits or AEMRs required under this consent, the Applicant shall:
- (i) provide a copy of the relevant document/s to the relevant agencies and CCC; and
 - (ii) put a copy of the document/s on its website.
- (b) By 30 April 2008, and thereafter throughout the life of the development, the Applicant shall:
- (i) include a copy of this consent, as may be modified from time to time, on its website;
 - (ii) provide a full summary of monitoring results required under this consent on its website; and
 - (iii) update this summary on a regular basis (at least every 3 months).

¹⁴ General Terms from the OEH

10. Community Consultation/Obligations

10.1 Community Consultation

(a) Complaints

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

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

Community Consultative Committee

(b) The Applicant shall:

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

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

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

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

11. Deleted

12. Further Approvals and Agreements

12.1 Statutory Requirements

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

(b) Structural Adequacy

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

(c) Verification of Construction

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

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

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

**SCHEDULE 3
ADDITIONAL PROCEDURES**

NOTIFICATION OF LANDOWNERS

1. Within 1 month of the date of this modification, the Applicant shall notify the landowners of the land listed in Table 4 of schedule 2 in writing that they have the right to require the Applicant to acquire their land at any stage during the development.
2. If the results of monitoring required in schedule 2 identify that impacts generated by the development are greater than the impact assessment criteria in schedule 2, except where this is predicted in the EA, and except where a negotiated agreement has been entered into in relation to that impact, then the Applicant shall notify the Director-General and the affected landowners and tenants (including tenants of mine owned properties) accordingly, and provide quarterly monitoring results to each of these parties until the results show that the development is complying with the criteria in schedule 2.

INDEPENDENT REVIEW

3. If a landowner considers the development to be exceeding the impact assessment criteria in schedule 2, then he/she may ask the Director-General in writing for an independent review of the impacts of the development on his/her land.

If the Director-General is satisfied that an independent review is warranted, the Applicant shall within 3 months of the Director-General advising that an independent review is warranted:

- (a) consult with the landowner to determine his/her concerns;
 - (b) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Director-General, to conduct monitoring on the land, to:
 - determine whether the development is complying with the relevant impact assessment criteria in schedule 2; and
 - identify the source(s) and scale of any impact on the land, and the development's contribution to this impact; and
 - (c) give the Director-General and landowner a copy of the independent review.
4. If the independent review determines that the development is complying with the relevant impact assessment criteria in schedule 2, then the Applicant may discontinue the independent review with the approval of the Director-General.
 5. If the independent review determines that the development is not complying with the relevant impact assessment criteria in schedule 2, and that the development is primarily responsible for this non-compliance, then the Applicant shall:
 - (a) implement all reasonable and feasible measures, in consultation with the landowner, to ensure that the development complies with the relevant

- criteria and conduct further monitoring to determine whether these measures ensure compliance; or
- (b) secure a written agreement with the landowner to allow exceedances of the criteria in schedule 2, to the satisfaction of the Director-General.

If the Applicant is unable to finalise an agreement with the landowner, then the landowner may refer the matter to the Director-General for resolution.

If the additional monitoring referred to under paragraph (a) above determines that the development is complying with the relevant criteria in schedule 2, then the Applicant may discontinue the independent review with the approval of the Director-General.

LAND ACQUISITION

6. Within 3 months of receiving a written request from a landowner with acquisition rights, the Applicant shall make a binding written offer to the landowner based on:
- (a) the current market value of the landowner's interest in the property at the date of this written request, as if the property was unaffected by the development, having regard to the:
- existing and permissible use of the land, in accordance with the applicable planning instruments at the date of the written request; and
 - presence of improvements on the property and/or any approved building or structure which has been physically commenced at the date of the landowner's written request, and is due to be completed subsequent to that date, but excluding any improvements that have resulted from the implementation of the 'additional noise mitigation measures' in condition 6.3.4 of schedule 2;
- (b) the reasonable costs associated with:
- relocating within the Singleton local government area, or to any other local government area determined by the Director-General; and
 - obtaining legal advice and expert advice for determining the acquisition price of the land, and the terms upon which it is to be acquired; and
- (c) reasonable compensation for any disturbance caused by the land acquisition process.

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

Upon receiving such a request, the Director-General shall request the President of the NSW Division of the Australian Property Institute (API) to appoint a qualified independent valuer to:

- (a) consider submissions from both parties;

- (b) determine a fair and reasonable acquisition price for the land and/or the terms upon which the land is to be acquired, having regard to the matters referred to in paragraphs (a)-(c) above;
- (c) prepare a detailed report setting out the reasons for any determination; and
- (d) provide a copy of the report to both parties and the Director-General.

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

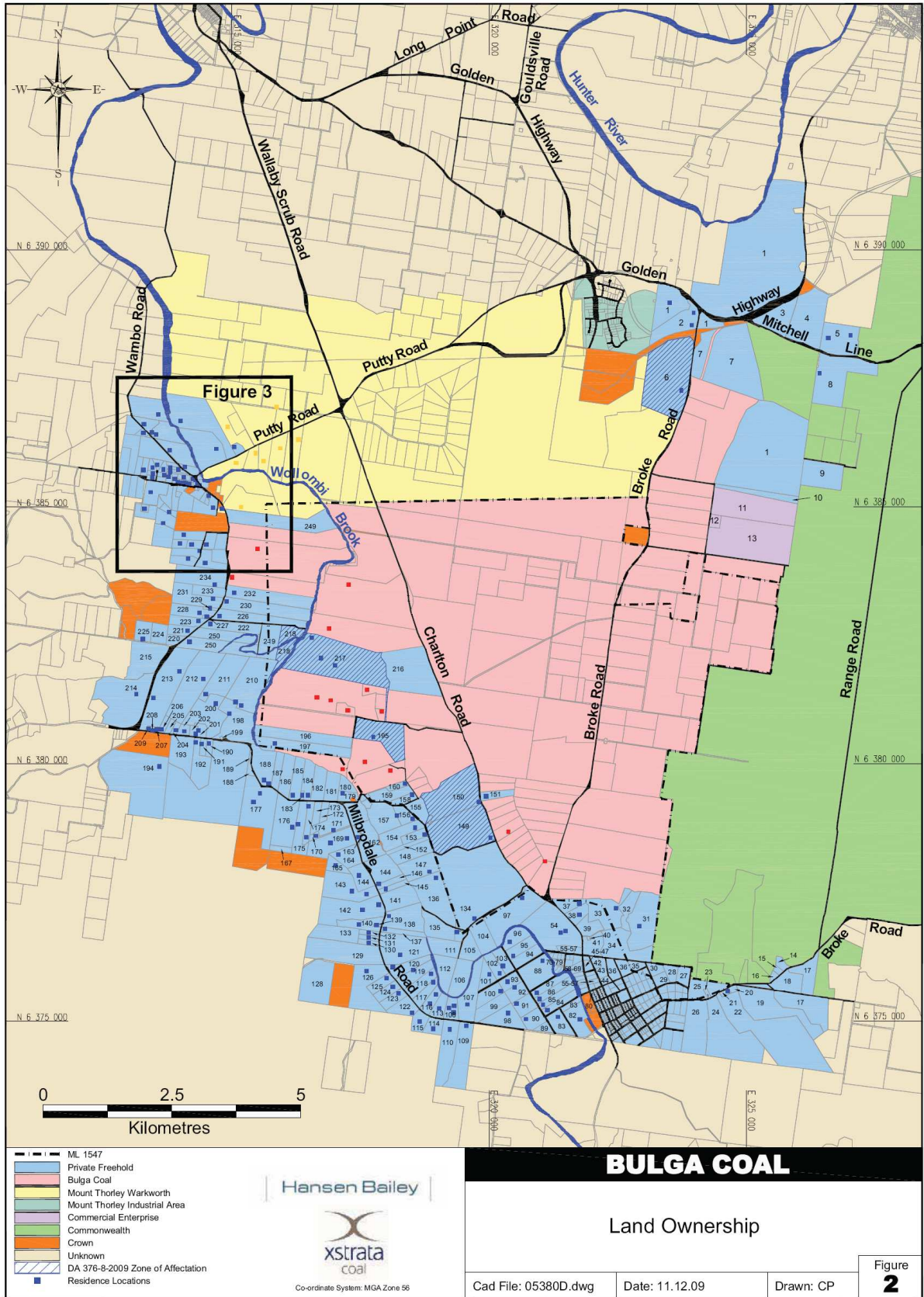
However, if either party disputes the independent valuer's determination, then within 14 days of receiving the independent valuer's report, they may refer the matter to the Director-General for review. Any request for a review must be accompanied by a detailed report setting out the reasons why the party disputes the independent valuer's determination. Following consultation with the independent valuer and both parties, the Director-General shall determine a fair and reasonable acquisition price for the land, having regard to the matters referred to in paragraphs (a)-(c) above, the independent valuer's report and the detailed report of the party that disputes the independent valuer's determination and any other relevant matters.

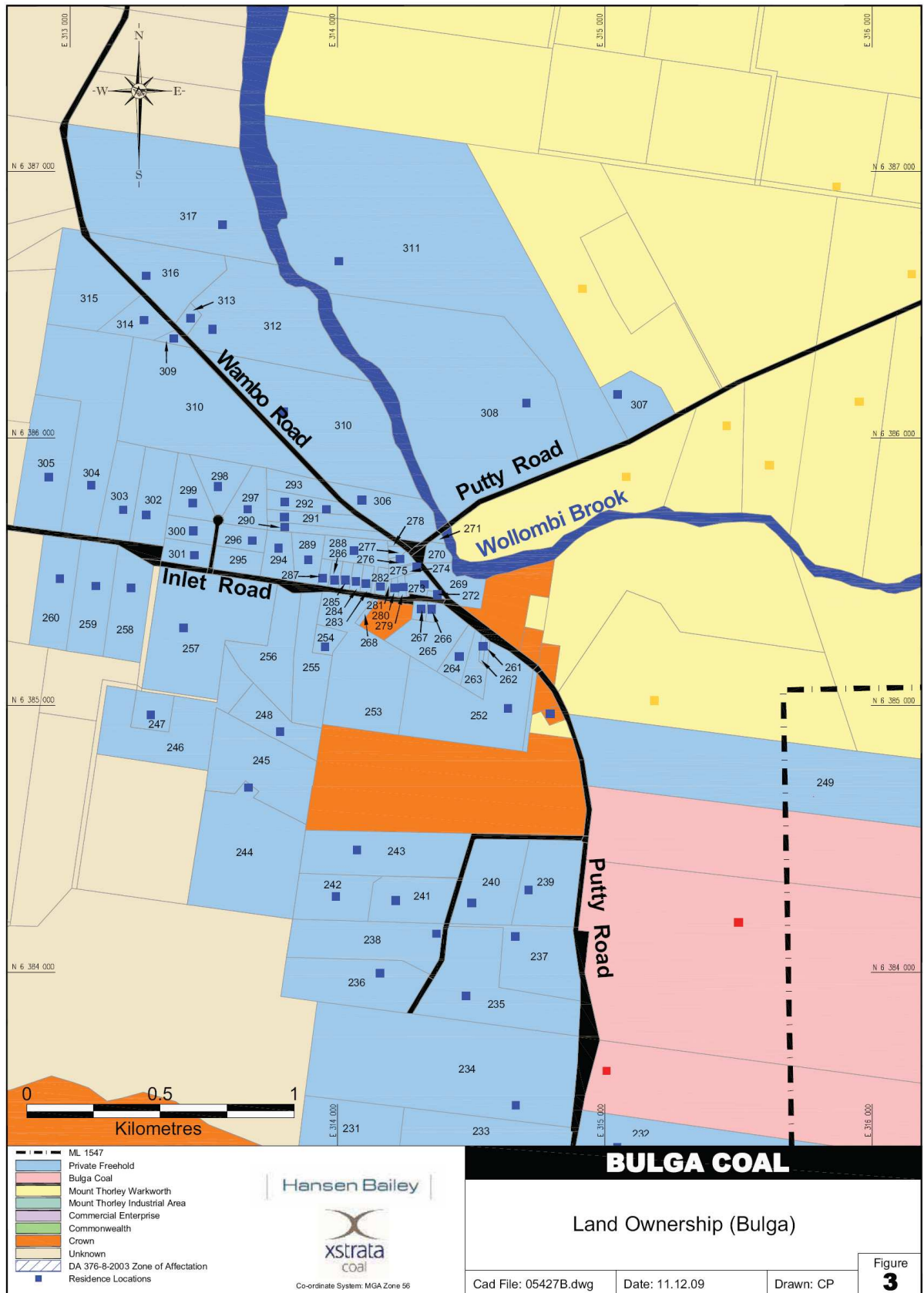
Within 14 days of the Director-General's determination, the Applicant shall make a binding written offer to the landowner to purchase the land at a price not less than the Director-General's determination.

If the landowner refuses to accept the Applicant's binding written offer under this condition within 6 months of the offer being made, then the Applicant's obligations to acquire the land shall cease, unless the Director-General determines otherwise.

7. The Applicant shall pay all reasonable costs associated with the land acquisition process described in condition 6 above.
8. If the Applicant and landowner agree that only part of the land shall be acquired, then the Applicant shall pay all reasonable costs associated with obtaining Council approval for any plan of subdivision (where permissible), and registration of the plan at the Office of the Registrar-General.

APPENDIX 1 RECEIVER LOCATION PLANS*





* As identified in the Environmental Assessment dated 15 February 2010.

APPENDIX 2
STATEMENT OF COMMITMENTS**

Ref	Description
1	Install a representative real time noise monitoring network to proactively manage noise emissions from the Bulga Coal Complex.
2	Progressively either upgrade or replace the mobile equipment fleet with noise attenuation generally in accordance with the schedule provided in Table 1.
3	Implement noise management and mitigation measures as required to ensure noise levels described in this EA at privately owned receivers remain within the predictions presented in Table 5.
4	Revision of the existing Bulga Coal Complex Noise Management Plan to incorporate the revised <i>NSW Industrial Noise Policy</i> based and project specific noise criterion, the revised noise predictions, real time noise monitoring network and any additional noise mitigation and management controls.

** As identified in the Environmental Assessment dated 15 February 2010.

Note: The tables referenced in Appendix 2 are depicted in the Environmental Assessment dated 15 February 2010.