



DRAYTON SOUTH

Regulatory
Correspondence

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Planning & Infrastructure

Major Development Assessment Mining Projects

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SYDNEY NSW 2001

Our ref.: MP 11_0062

Mr Rick Fairhurst
Project Studies Manager
Anglo American Metallurgical Coal Pty Ltd
201 Charlotte Street
BRISBANE QLD 4000

Dear Mr Fairhurst

Drayton South Coal Project (11_0062) Director General's Requirements

The Department has received your company's application for this project.

I have attached a copy of the Director-General's requirements for the project. These requirements have been prepared in consultation with the relevant agencies, based on the information you have provided to date. Please note the Director-General may alter these requirements at any time.

As you are aware, the Commonwealth Minister for Sustainability, Environment, Water, Population and Communities has declared the project to be a controlled action which requires an approval under the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act). The Commonwealth Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC) has provided assessment requirements, which form part of the Director-General's requirements for the project. These requirements are attached in Appendix A.

I have also attached a copy of the comments from other public authorities for your information (see Appendix B).

I would appreciate it if you would contact the Department at least two weeks before you intend to submit your Environmental Assessment (EA) for the project. This will enable the Department to:

- confirm the application fee (see Division 1A, Part 15 of the *Environmental Planning and Assessment Regulation 2000*); and
- determine the number of copies (hard-copy and CD-ROM) of the EA that will be required for exhibition purposes.


The Department will review the EA in consultation with the relevant agencies (including DSEWPaC) to determine if it adequately addresses the Director-General's requirements, and may require you to revise it prior to public exhibition.

The Department is required to make all the relevant information associated with the project publicly available on its website. Consequently, I would appreciate it if you would ensure that all the documents you subsequently submit to the Department are in suitable format for the web, and arrange for an electronic version of the Environmental Assessment to be hosted on a suitable website.

Department of Planning & Infrastructure 23-33 Bridge Street, Sydney NSW 2000 GPO Box 39, Sydney NSW 2001 Phone 02 9228 6111 Fax 02 9228 6455 Website planning.nsw.gov.au

If you have any enquiries about these requirements, please contact Naomi Nelson on 9228 6339 or at naomi.nelson@planning.nsw.gov.au.

Yours sincerely



3/8/11

David Kitto
Director Mining and Industry Projects
as delegate for the Director-General

cc – Katie Miller, DSEWPaC

Director-General's Requirements

Section 75F of the *Environmental Planning and Assessment Act 1979*

Application Number	11_0062
Project	<p>The Drayton South Coal Project, which includes:</p> <ul style="list-style-type: none"> • open cut and highwall mining; • extracting up to 7 million tonnes per year of run-of-mine (ROM) coal over a period of 26 years; • using the existing Drayton Mine's infrastructure including the Coal Handling and Preparation Plant (CHPP), rail loop, workshops, bath houses and administration offices; and • realigning a section of Edderton Road.
Location	Approximately 10km northwest of Jerrys Plains and 13km south of Muswellbrook in the Upper Hunter Valley
Proponent	Anglo American Metallurgical Coal Pty Ltd
Date of Issue	3 August 2011
General Requirements	<p>The Environmental Assessment of the project must include:</p> <ul style="list-style-type: none"> • an executive summary; • a detailed description of: <ul style="list-style-type: none"> - existing and approved mining operations in the vicinity of the site; - historical mining operations on the site; - existing and approved mining operations and infrastructure on the site, including a copy of all relevant statutory approvals; - any existing and/or approved biodiversity and heritage offset areas relating to these operations; and - the existing environmental management regimes for these operations; • a detailed description of the project, including the: <ul style="list-style-type: none"> - need for the project; - alternatives considered, including justification for the proposed mine plan; - likely staging of the project; - likely interactions between the project and existing and approved mining operations and mining titles; - likely interactions between the project and the nearby Bayswater and Liddell Power Stations and associated infrastructure; and - status of existing infrastructure and any proposed upgrades or building works; • a risk assessment of the potential environmental impacts of the project, identifying the key issues for further assessment; • a detailed assessment of the key issues specified below, and any other significant issues identified in the risk assessment (see above), which includes: <ul style="list-style-type: none"> - a description of the existing environment, using sufficient baseline data; - an assessment of the potential impacts of all stages of the project on this environment, including any cumulative impacts associated with the concurrent operation of the project and existing Drayton Coal Mine and any other approved or proposed mining operations in the region, taking into consideration any relevant laws, policies, guidelines and plans; and - a description of the measures that would be implemented to avoid,

	<p>minimise, and if necessary offset the potential impacts of the project, including evidence that all relevant prevention and mitigation measures would be applied where reasonable and feasible;</p> <ul style="list-style-type: none"> - detailed contingency plans for managing any significant risks to the environment; • a statement of commitments, outlining the proposed environmental management and monitoring measures; • a conclusion justifying the project, taking into consideration: <ul style="list-style-type: none"> - the suitability of the site; - the economic, social and environmental impacts of the project as a whole; and - whether the project is consistent with the objects of the <i>Environmental Planning & Assessment Act 1979</i>; and • a signed statement from the author of the EA, certifying that the information contained within the document is neither false nor misleading. <p>The Environmental Assessment (EA) of the project must also be prepared in accordance with the requirements set out in Appendix A.</p>
Key Issues	<ul style="list-style-type: none"> • Air Quality – including a quantitative assessment of the potential air quality and odour impacts of the project on both on people and livestock; • Noise & Blasting – including a quantitative assessment of the potential: <ul style="list-style-type: none"> - construction, operational and transport noise impacts; - offsite noise impacts; - blasting impacts on people, livestock and property; • Water – including: <ul style="list-style-type: none"> - a detailed site water balance for the Drayton complex as proposed, including a description of site water demands (including access to any flows within the Hunter Regulated River source), water disposal methods, water supply infrastructure and water storage structures; - detailed modelling and assessment of the potential impacts of the project on: <ul style="list-style-type: none"> ○ the quantity and quality of existing surface and ground water resources; ○ affected licensed water users and basic landholder rights; ○ the riparian, ecological, geomorphological and hydrological values of watercourses both on site and downstream of the project; ○ environmental flows; ○ flooding; and ○ agriculture; - a detailed description of the proposed water management system for the Drayton complex as proposed (including all infrastructure and storages); - a detailed description of measures to minimise all water discharges; and - a detailed description of measures to mitigate surface water and groundwater impacts (including a comprehensive rehabilitation plan for Saddlers Creek). • Biodiversity – including: <ul style="list-style-type: none"> - accurate estimates of any vegetation clearing associated with the project; - a detailed assessment of the potential impacts of the project on any terrestrial and aquatic threatened species or populations and their habitats, endangered ecological communities or groundwater dependent ecosystems; - a detailed description of the measures that would be implemented to avoid or mitigate impacts to biodiversity

	<ul style="list-style-type: none"> - an offset strategy to ensure that the project maintains or improves the biodiversity values of the region in the medium to long term (in accordance with NSW and Commonwealth policies), paying particular attention to the existing Saddlers Creek Conservation Area and Mt Arthur Coal's biodiversity offset areas; and - a detailed assessment of the impacts to matters of National Environmental Significance; in accordance with the assessment requirements detailed in Appendix A; • Traffic and Transport – including: <ul style="list-style-type: none"> - accurate predictions of the road and rail traffic generated by the project and - a detailed assessment of the potential impacts of the project (paying particular attention to the proposed relocation of Edderton Road) on the capacity, efficiency, and safety of the road and rail networks; and • Heritage – both Aboriginal and non-Aboriginal, including: <ul style="list-style-type: none"> - assessment of potential impacts on non-Aboriginal heritage values of the locality related to its settlement by Europeans and its pastoral history; - description of the Aboriginal objects and declared Aboriginal places located within the proposed development, their cultural value and the significance of these values for Aboriginal people; and - description of how the requirements for consultation with Aboriginal people have been met and details of the views of the Aboriginal people regarding the likely impact of the project; • Visual – including: <ul style="list-style-type: none"> - analysis of the costs and benefits of potential alternative locations for the proposed Houston Visual Bund, and detailed specifications and construction timeframes for the preferred alternative; and - assessment of visual impacts on the thoroughbred breeding industry, residents, tourists and other road users; • Agricultural Productivity – including: <ul style="list-style-type: none"> - a description of the agricultural resources (especially soils and water resources used or capable of being used for agriculture) and agricultural enterprises in the locality; - identification of any regionally or state significant agricultural resources in the locality, with particular reference to the thoroughbred breeding industry; - a detailed assessment of the potential impacts of the project on agricultural resources and agricultural enterprises on the site and in the locality, with particular reference to the thoroughbred breeding industry; - management measures to avoid, reduce or mitigate impacts on agricultural resources and enterprises, with particular reference to the thoroughbred breeding industry; and - justification for significant long term changes to agricultural resources and post mining agricultural land use options, particularly if highly productive agricultural resources (eg thoroughbred horse studs and alluvial lands) are proposed to be affected by the project; • Greenhouse Gas – including: <ul style="list-style-type: none"> - a quantitative assessment of the potential scope 1, 2 and 3 greenhouse gas emissions of the project; - a qualitative assessment of the potential impacts of these emissions on the environment; and - an assessment of all reasonable and feasible measures that could be implemented on site to minimise the greenhouse gas emissions of the project and ensure it is energy efficient; • Waste – including: <ul style="list-style-type: none"> - accurate estimates of the quantity and nature of the potential waste streams of the project, including tailings and coarse reject; and
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	<ul style="list-style-type: none"> - a detailed description of the measures that would be implemented to minimise the production of waste on site, and ensure that any waste produced is appropriately handled and disposed of; • Rehabilitation & Final Landform – for the Drayton complex, including: <ul style="list-style-type: none"> - a justification of the final landform and any changes to the land use for the site; - a detailed description of how the site would be progressively rehabilitated and integrated with the final landform of the Drayton Coal Project; - a detailed description of the proposed rehabilitation and mine closure strategies for the project, having regard to the key principles in <i>Strategic Framework for Mine Closure</i>, and the: <ul style="list-style-type: none"> o rehabilitation objectives, methodology, monitoring programs, performance standards and proposed completion criteria; o decommissioning and management of surface infrastructure; o nominated final land uses, having regard to any relevant strategic land use planning or resource management plans or policies; and o potential for integrating the rehabilitation strategy with any other offset strategies in the region; and - the measures which would be put in place for the long term protection and management of <ul style="list-style-type: none"> o the site following the cessation of mining; and o any biodiversity offset areas; • Social & Economic – including: <ul style="list-style-type: none"> - a detailed assessment of the potential impacts of the project on the local and regional community, paying particular attention to the thoroughbred breeding industry and the demand it may generate for the provision of additional infrastructure and services; and - a detailed assessment of the costs and benefits of the project as a whole, and whether it would result in a net benefit for the NSW community.
References	<p>The environmental assessment of the key issues listed above must take into account relevant guidelines, policies, and plans. While not exhaustive, the following attachment contains a list of some of the guidelines, policies, and plans that may be relevant to the environmental assessment of this project.</p>
Consultation	<p>During the preparation of the Environmental Assessment, you should consult with the relevant local, State or Commonwealth Government authorities, service providers, community groups or affected landowners.</p> <p>In particular you must consult with the:</p> <ul style="list-style-type: none"> • Office of Environment and Heritage; • NSW Office of Water • Division of Resources and Energy, within the Department of Trade & Investment, Regional Infrastructure & Services; • Department of Primary Industries; • Hunter-Central Rivers Catchment Management Authority; • Dams Safety Committee; • Roads and Traffic Authority; • Muswellbrook Council; and • relevant Aboriginal groups <p>The consultation process, and the issues raised during this process, must be described in the Environmental Assessment.</p>
Deemed refusal period	120 days

Policies, Guidelines & Plans

Aspect	Policy /Methodology
Soil and Water	
<i>Surface Water</i>	Australian Drinking Water Guidelines 2004 (NWQMS)
	Australian and New Guidelines for Fresh and Marine Water Quality (ANZECC/ARMCANZ) 2000
	Australian and New Zealand Guidelines for Water Quality Monitoring and Reporting (ANZECC/ARMCANZ) 2000
	Using the ANZECC Guideline and Water Quality Objectives in NSW (DEC)
	Water Sharing Plan for the Hunter River Water Source 2003
	Hunter Central Rivers Catchment Action Plan (DPI)
	State Water Management Outcomes Plan
	NSW Government Water Quality and River Flow Environmental Objectives (DECC)
	Approved Methods for the Sampling and Analysis of Water Pollutants in NSW (DEC)
	Managing Urban Stormwater: Soils & Construction (Landcom)
<i>Groundwater</i>	Managing Urban Stormwater: Treatment Techniques (DECC)
	Managing Urban Stormwater: Source Control (DECC)
	National Water Quality Management Strategy Guidelines for Groundwater Protection in Australia (ARMCANZ/ANZECC)
	NSW State Groundwater Policy Framework Document (DLWC) 1997
	NSW State Groundwater Quality Protection Policy (DLWC) 1998
	NSW State Groundwater Quantity Management Policy (DLWC) 1998
	NSW State Groundwater Dependent Ecosystems Policy (2002)
	Water Sharing Plan for the Hunter Unregulated and Alluvial Water Sources (NOW) 2009
	Murray-Darling Basin Groundwater Quality. Sampling Guidelines. Technical Report No 3 (MDBC)
	Murray-Darling Basin Commission. Groundwater Flow Modelling Guideline (Aquaterra Consulting Pty Ltd)
<i>Soil</i>	Guidelines for the Assessment & Management of Groundwater Contamination (DECC) 2007
	Guidelines for Groundwater Protection in Australia (1995)
	Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites (ANZECC & NHMRC)
	National Environment Protection (Assessment of Site Contamination) Measure 1999 (NEPC)
	State Environmental Planning Policy No. 55 – Remediation of Land
Noise	Managing Land Contamination – Planning Guidelines SEPP 55 – Remediation of Land (DOP)
	NSW Industrial Noise Policy (DECC)
	Environmental Noise Management – Assessing Vibration: a technical guide (DEC, 2006)
	NSW Road Noise Policy (OEH, 2011)
	Technical basis for guidelines to minimise annoyance due to blasting overpressure and ground vibration (ANZEC, 1990)
	Interim Construction Noise Guideline (DECC, 2009)
	Interim Guideline for the Assessment of Noise from Rail Infrastructure Projects (DECC, 2007)
	DIN 4150 Part 3 - Structural Vibration: effects of vibration on structures (ISO, 1999)

Biodiversity	
	Draft Guidelines for Threatened Species Assessment under Part 3A of the <i>Environmental Planning and Assessment Act 1979</i> (DEC)
	NSW Groundwater Dependent Ecosystem Policy (DLWC)
	Biobanking Assessment Methodology and Credit Calculator Operational Manual (DECCW, 2008)
	Guidelines for developments adjoining land and water management by the Department of Environment, Climate Change and Water (DECCW, 2010)
	Threatened Species Survey and Assessment Guidelines: Field Survey Methods for Fauna – Amphibians (DECCW, 2008)
	Threatened Species Survey and Assessment: Guidelines for Developments and Activities – Working Draft (DEC, 2004)
	Threatened Species Assessment Guideline – The Assessment of Significance (DECCW, 2007)
	Policy & Guidelines - Aquatic Habitat Management and Fish Conservation
Rehabilitation	
	Strategic Framework for Mine Closure (ANZMEC and Minerals Council of Australia)
	Mine Rehabilitation – Leading Practice Sustainable Development Program for the Mining Industry (Commonwealth of Australia)
	Mine Closure and Completion – Leading Practice Sustainable Development Program for the Mining Industry (Commonwealth of Australia)
Blasting and Vibration	
	ANZECC Guidelines to Minimise Annoyance Due to Blasting Overpressure & Ground Vibration
	Assessing Vibration – A Technical Guide 2006 (DEC)
Air Quality	
	Protection of the Environment Operations (Clean Air) Regulation 2002
	Approved Methods for the Modelling and Assessment of Air Pollutants in NSW (DEC)
	Approved Methods for the Sampling and Analysis of Air Pollutants in NSW (DEC)
Traffic and Transport	
	Guide to Traffic Generating Development - Section 2 Traffic Impact Studies (RTA)
	Road Design Guide (RTA)
	Road and Related Facilities (Department of Planning EIS Guidelines)
	Relevant Austroad standards
Heritage	
Aboriginal	Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation (DoP) 2005
	Aboriginal Cultural Heritage Consultation requirements for proponents 2010
	Code of Practice for Archaeological Investigations of Aboriginal objects in NSW
Non-Aboriginal	NSW Heritage Manual (NSW Heritage Office & DUAP)
	The Burra Charter (The Australia ICOMOS charter for places of cultural significance)
Greenhouse Gas	
	The Greenhouse Gas Protocol: Corporate Standard (World Council for Sustainable Business Development & World Resources Institute)
	National Greenhouse Accounts (NGA) Factors (Australian Department of Climate Change)
	National Greenhouse and Energy Reporting System, Technical Guidelines (Australian Department of Climate Change)
	National carbon Accounting Toolbox (Australian Department of Climate Change)
	Australian Greenhouse Emissions Information System (AGEIS)
Social and Economic	
	Draft Economic Evaluation in Environmental Impact Assessment (DOP)

	Techniques for Effective Social Impact Assessment: A Practical Guide (Office of Social Policy, NSW Government Social Policy Directorate)
Waste	
	Environmental Guidelines: Solid Waste Landfills (EPA, 1996)
	Draft Environmental Guidelines: Industrial Waste Landfilling (1998)
	Waste Classification Guidelines (DECC, 2008)
Risk Assessment	
	AS/NZS 4360:2004 Risk Management (Standards Australia)
	HB 203: 203:2006 Environmental Risk Management – Principles & Process (Standards Australia)

Appendix A

Director-General's Requirements for the Assessment of a Controlled Action under section 75 of the *Environmental Protection and Biodiversity Conservation Act 1999*

The Minister for Sustainability, Environment, Water, Population and Communities has declared the Drayton South Coal Project to be a controlled action under section 75 of the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The controlled action is likely to have a direct and indirect impact on matters of national environment significance, in particular, threatened species and/or threatened ecological communities listed under sections 18 and 18A, and migratory species listed under sections 20 and 20A of the EPBC Act.

In accordance with the one-off accredited assessment process for this project, the environmental assessment of the impacts of the controlled action is to be assessed under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The assessment should include enough information about the controlled action and its relevant impacts to allow the Minister for Sustainability, Environment, Water, Population and Communities to make an informed decision whether or not to approve the controlled action under the EPBC Act.

The following assessment requirements are to be integrated into the assessment required for Part 3A of the EP&A Act. The following matters in the EPBC Act and schedule 4 of the *Environmental Protection and Biodiversity Conservation Regulations 2000* should be considered.

General information

1. The background of the action, including:

- a. the title of the action;
- b. the full name and postal address of the designated proponent;
- c. a clear outline of the objective of the action;
- d. the location of the action;
- e. the background to the development of the action;
- f. how the action relates to any other actions (of which the proponent should reasonably be aware) that have been, or are being, taken or that have been approved in the region affected by the action;
- g. the current status of the action; and
- h. the consequences of not proceeding with the action.

Description of the controlled action

2. A description of the action, including:

- a. all the components of the action;
- b. the precise location of any works to be undertaken, structures to be built or elements of the action that may have relevant impacts;
- c. how the works are to be undertaken and design parameters for those aspects of the structures or elements of the action that may have relevant impacts;
- d. to the extent reasonably practicable, a description of any feasible alternatives to the controlled action that have been identified through the assessment, and their likely impact, including:
 - i. if relevant, the alternative of taking no action;
 - ii. a comparative description of the impacts of each alternative on the matters protected by the controlling provisions for the action;
 - iii. sufficient detail to clarify why any alternative is preferred to another.

A description of the relevant impacts of the controlled action

3. An assessment of all relevant impacts¹ with reference to the *EPBC Act Policy Statement 1.1 Significant Impact Guidelines Matters of National Environmental Significance (2009)* that the controlled action has, will have or is likely to have on:
 - a. relevant threatened species and/or threatened ecological communities listed under sections 18 and 18A of the EPBC Act, including but not limited to:
 - White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland;
 - Weeping Myall Woodlands;
 - Regent Honeyeater (*Anthochaera phrygia*);
 - Swift Parrot (*Lathamus discolor*);
 - Spotted-tail Quoll (*Dasyurus maculatus maculatus*);
 - Greater Long-eared Bat (*Nyctophilus timorensis*);
 - Green and Golden Bell Frog (*Litoria aurea*);
 - Lobed Blue Grass (*Bothriochloa biloba*);
 - Finger Panic Grass (*Digitaria porrecta*);
 - Leek-orchid (*Prasophyllum* sp. *Wybong*) (C.Phelps ORG 5269);
 - Illawarra Greenhood (*Pterostylis gibbosa*);
 - Austral Toadflax (*Thesium australe*);
 - b. relevant migratory species listed under sections 20 and 20A of the EPBC Act, including but not limited to:
 - Regent Honeyeater (*Xanthomyza Phrygia*) (Also a listed threatened species)
4. Information must include:
 - a. a description of the relevant impacts of the action on matters of national environmental significance;
 - b. a detailed assessment of the nature and extent of the likely short term and long term relevant impacts;
 - c. a statement whether any relevant impacts are likely to be unknown, unpredictable or irreversible;
 - d. analysis of the significance of the relevant impacts;
 - e. any technical data and other information used or needed to make a detailed assessment of the relevant impacts.
5. The description of the impacts should include an analysis of the vegetation condition on the site, as well as the methods by which this was determined. It should also include direct, indirect, cumulative and facilitative impacts on the following EPBC-listed communities: White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland and Weeping Myall Woodlands. For each community, it should include a description of:
 - a. extent, including connectivity with other areas of the ecological community;
 - b. quality or integrity (including, but not limited to, assisting invasive species, that are harmful to the ecological communities, to become established; or causing regular mobilisation of fertilisers, herbicides or other chemicals or pollutants into the communities which kill or inhibit the growth of species in the ecological community);
 - c. EPBC Act listed species in, or in any way dependent upon, the ecological community;
 - d. composition;
 - e. habitat present on site critical to the survival of the ecological community²; and

¹ The term "relevant impact" is defined in section 82 of the EPBC Act.

² "habitat critical to the survival of a species or ecological community" refers to areas that are necessary:

- for activities such as foraging, breeding, roosting, or dispersal;

- f. abiotic (non-living) factors (such as water, nutrients or soil) necessary for the ecological community's survival, for example increasing groundwater levels or making the site wetter, soil disturbance or substantial alteration of surface water drainage patterns.

These impacts should be described for the construction and operational phases of the controlled action.

6. Where there is a potential habitat for EPBC Act listed species, surveys must be undertaken. These surveys must be timed appropriately and undertaken for a suitable period of time by a qualified person³. A subsequent description of the relevant impacts on such EPBC Act listed species should include, inter alia, direct, indirect, cumulative and facilitative impacts on the:
 - a. population of the species at the site;
 - b. area of occupancy of the species;
 - c. habitat critical to the survival of the species;
 - d. breeding cycle of the population; and
 - e. availability or quality of habitat for the species.

Proposed safeguards and mitigation measures

7. A description of feasible mitigation measures, changes to the controlled action or procedures, which have been proposed by the proponent or suggested in public submissions, and which are intended to prevent or minimise relevant impacts. Information must include:
 - a. a description, and an assessment of the expected or predicted effectiveness of, the mitigation measures;
 - b. any statutory or policy basis for the mitigation measures;
 - c. the cost of the mitigation measures;
 - d. an outline of an environmental management plan that sets out the framework for continuing management, mitigation and monitoring programs for the relevant impacts of the action, including any provisions for independent environmental auditing;
 - e. the name of the agency responsible for endorsing or approving each mitigation measure or monitoring program;
 - f. a consolidated list of mitigation measures proposed to be undertaken to prevent, minimise or compensate for the relevant impacts of the action.

Offsets

8. Should any residual impact exist that cannot be mitigated it may be necessary for offset measures to be considered in order to ensure the protection of matters of national environmental significance in perpetuity.

Other approvals and conditions

9. Any other requirements for approval or conditions that apply, or that the proponent reasonably believes are likely to apply, to the proposed action. Information must include:
 - a. details of any local or State government planning scheme, or plan or policy under any local or State government planning system that deals with the proposed action, including:

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- for the long-term maintenance of the species or ecological community (including the maintenance of species essential to the survival of the species or ecological community, such as pollinators);
 - to maintain genetic diversity and long term evolutionary development; or
 - for the reintroduction of population or recovery of the species or ecological community.

Such habitat may be, but is not limited to: habitat identified in a recovery plan for the species or ecological community as habitat critical for that species or ecological community; and/or habitat listed on the register of Critical Habitat maintained by the Minister under the EPBC Act.

³Where available, species-specific survey guidelines can be obtained on the department's *Species Profile and Threats Database*: <http://www.environment.gov.au/cgi-bin/sprat/public/sprat.pl>

- i. what environmental assessment of the proposed action has been, or is being, carried out under the scheme, plan or policy; and
 - ii. how the scheme provides for the prevention, minimisation and management of any relevant impacts;
- b. a description of any approval that has been obtained from a State, Territory or Commonwealth agency or authority (other than an approval under the Act), including any conditions that apply to the action;
- c. a statement identifying any additional approval that is required;
- d. a description of the monitoring, enforcement and review procedures that apply, or are proposed to apply, to the action.

Economic and social matters

10. A description of the short-term and long-term social and economic implications and/or impacts of the project.

Environmental record of person proposing to take the action

11. Details of any proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources against:
- a. the proponent; and
 - b. for an action for which a person has applied for a permit, the person making the application.
12. Details of the proponent's environmental policy and planning framework.

Information sources

13. For information given in an environment assessment, the draft must state:
- a. the source of the information;
 - b. how recent the information is;
 - c. how the reliability of the information was tested; and
 - d. what uncertainties (if any) are in the information.

Consultation

14. Any consultation about the action, including:
- a. any consultation that has already taken place;
 - b. proposed consultation about relevant impacts of the action;
 - c. if there has been consultation about the proposed action — any documented response to, or result of, the consultation.
15. Identification of affected parties, including a statement mentioning any communities that may be affected and describing their views.



Mr Rick Fairhurst
Project Studies Manager
Anglo American Metallurgical Coal Pty Ltd
201 Charlotte Street
Brisbane QLD 4000

12/07297

Dear Mr Fairhurst

Subject: Supplementary Director-General's Requirements for Drayton South Coal Project (MP11_0062)

I refer to the Director-General's Requirements that were issued for the above project on 3 August 2011.

As you are aware, the draft Upper Hunter Strategic Regional Land Use Plan (SRLUP) has been released for public exhibition. The draft plan details the NSW Government's proposal to apply a pre-development application gateway process to State significant mining and coal seam gas proposals that are located on or within two kilometres of areas mapped as strategic agricultural land.

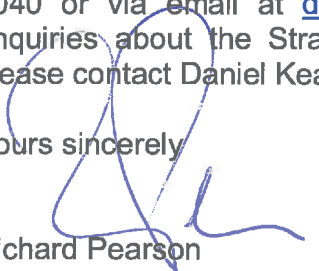
The Department has developed a policy that sets out the interim arrangements for mining and coal seam gas proposals on strategic agricultural land until the draft SRLUPs are finalised (see Attachment 1).

Accordingly, under section 75F(3) of the *Environmental Planning and Assessment Act 1979*, I am issuing a supplementary requirement which must be addressed in the preparation of your Environmental Assessment. The requirement is:

1. an Agricultural Impact Statement that includes a specific focused assessment of the impacts of the proposal on strategic agricultural land, having regard to the draft gateway criteria in the draft Upper Hunter Strategic Regional Land Use Plan.

Your contact officer for this proposal, David Mooney, can be contacted on (02) 9228 2040 or via email at david.mooney@planning.nsw.gov.au. Should you have any enquiries about the Strategic Regional Land Use Plans and the gateway process, please contact Daniel Keary, Director - Strategic Regional Policy, on (02) 9228 6373.

Yours sincerely

 30/4/12
Richard Pearson
Deputy Director General
Development Assessment & Systems Performance
as delegate of the Director General

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POLICY STATEMENT
INTERIM STRATEGIC AGRICULTURAL LAND POLICY FOR STATE SIGNIFICANT AND
TRANSITIONAL PART 3A MINING AND COAL SEAM GAS PROPOSALS IN THE UPPER
HUNTER AND NEW ENGLAND NORTH WEST REGIONS

Background

Draft Strategic Regional Land Use Plans (SRLUPs) for the Upper Hunter and New England North West regions are on public exhibition until 3 May 2012. The draft SRLUPs identify strategic agricultural land in these regions and propose to apply a gateway process to State significant mining and coal seam gas proposals on or within 2km of this land.

The SRLUPs will be finalised following the consideration of all submissions received during the exhibition period, including final maps of strategic agricultural land and final details of the gateway process. In the meantime, there are a number of current and pending State significant mining and coal seam gas applications that are proposed on or within 2 km of land mapped as strategic agricultural land in the draft SRLUPs.

In March 2012 (concurrent with the release of the draft SRLUPs), the NSW Government introduced a requirement for an Agricultural Impact Statement (AIS) for all State significant development (SSD) applications for mining and petroleum (including coal seam gas) projects (as well as applications for associated State significant infrastructure such as pipelines) which have the potential to affect agricultural resources or industries. The purpose of an AIS is to ensure a focused assessment of the potential impacts of these projects on agricultural resources or industries. The information will form a key component of the assessment process in terms of evaluating and avoiding impacts on and loss of agricultural lands. A guideline that sets out the purpose and content of an AIS is available at <http://haveyoursay.nsw.gov.au/document/show/195>.

Purpose of this policy statement

Until the final policy position on protecting strategic agricultural land is finalised as part of the Upper Hunter and New England North West SRLUPs, it is important to ensure that the potential impacts of mining and coal seam gas projects on strategic agricultural land are comprehensively considered as part of the assessment process.

This policy statement outlines the interim arrangements for State significant and transitional Part 3A mining and coal seam gas applications on or within 2 km of land mapped as strategic agricultural land in the draft SRLUPs.

Interim policy arrangements

The following interim arrangements apply to all SSD and Part 3A mining and petroleum (including coal seam gas) applications and significant modifications that:

- are located on or within 2 kilometres of land mapped as strategic agricultural land in the draft SRLUPs, and
- have been or will be lodged with the Department before the finalisation of the SRLUPs.

- (1) Projects which have not commenced public exhibition or that have not been deemed adequate for exhibition as at 6 March 2012 (date of commencement of exhibition of the draft SRLUPs) will be required to submit an AIS that includes a specific focused assessment of the impacts of the proposal on strategic agricultural land, having regard to the draft gateway criteria in the draft SRLUPs.

The implementation of this requirement will vary according to the stage of the project, ie:

- A Projects for which Director General's Requirements are yet to be issued:

This requirement will be included in the DGRs.

- B Projects for which Director General's Requirements have been issued but which have not yet commenced public exhibition (SSD) or which have not yet been deemed adequate for public exhibition (Part 3A):

The Department will issue supplementary DGRs to include this requirement.

- (2) For SSD and Part 3A applications that have progressed to or beyond public exhibition, the Department will conduct an assessment of the impacts of the proposal on strategic agricultural land as part of its assessment of the project and may, in limited circumstances, require additional information from the applicant to assist this assessment.

It is acknowledged that the gateway criteria are draft only. Applicants should use their best endeavours to address the draft gateway criteria when assessing the impacts of the proposal on strategic agricultural land. In addition, the assessment can include site verification information if the applicant believes that the land mapped as strategic agricultural land does not meet the published draft criteria for strategic agricultural land. Finally, as the Government is yet to publish a cost benefit methodology, the applicant may submit any additional information relating to the social, environmental and economic aspects of the proposal that may be relevant to the consideration of whether the proposal would be in the public interest.

**Australian Government****Department of Sustainability, Environment, Water, Population and Communities**

Rick Fairhurst
Project Studies Manager
Anglo American Metallurgical Coal Pty Ltd
201 Charlotte St
Brisbane
QLD 4000

Date: 12-05-2011
EPBC Ref: 2011/5911
EPBC contact: David Calvert
02 6274 2470
David.calvert@environment.gov.au

Dear Mr Fairhurst

**Decision on referral
Drayton South Project**

This proposed action, to extend the current Drayton Mine through open cut and highwall mining, has now been considered under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

We have decided that the proposed action is a controlled action and, as such, requires assessment and approval by the Minister for Sustainability, Environment, Water, Population and Communities before it can proceed.

It appears that the proposed action is likely to have a significant impact on the following matters protected by the EPBC Act:

- Threatened species and ecological communities (section 18 and 18A); and migratory species (section 20 and 20A).

For example, based on the information available in the referral, the proposed action is likely to have a significant impact because:

- It will remove vegetation that provides important habitat for the following listed species: Regent Honeyeater, Swift Parrot, Spotted-tail Quoll, Greater Long-eared Bat, Green and Golden Bell Frog and Lobed Blue Grass. In the case of the Green and Golden Bell Frog, this species may be impacted by clearing of vegetation that links potential dam habitat, and through changes to water quality and hydrological flow regimes resulting from mine operations.
- At least 9 ha, and possibly as much as 32 ha of the listed White Box White Box-Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grassland ecological community will be cleared, constituting a significant impact on this critically endangered community.

Please note that this decision only relates to the potential for significant impact on the specific matters protected by the Australian Government under Chapter 2 of the EPBC Act.

We have also decided that the project will need to be assessed through accredited assessment.

Each assessment approach requires different levels of information and involves different steps. All levels of assessment will include a public consultation phase, *in which any third parties can comment on the proposed action.*

Details on the assessment process for the project and the responsibilities of the proponent are set out in the enclosed fact sheet. Further information is available from the Department's website at <http://www.environment.gov.au/epbc>.

A copy of the document recording these decisions is enclosed.

The assessment officer will contact you shortly to discuss the assessment process.

I have also written to the following parties to advise them of this decision:

Referring party	Cumberland Ecology, Hansen Bailey
Commonwealth, and State and territory Ministers	The Minister for Resources and Energy, the Hon. Martin Ferguson AM MP The Minister for Climate Change and Energy Efficiency, the Hon. Greg Combet AM MP The Minister for Families, Housing, Community Services and Indigenous Affairs, the Hon. Jenny Macklin MP The NSW Minister for Planning and Infrastructure, the Hon. Bradley Hazzard MP

If you have any questions about the referral process or this decision, please contact the EPBC project manager and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely



James Barker
A/g Assistant Secretary
Environment Assessment Branch



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

Notification of**REFERRAL DECISION AND DESIGNATED PROPONENT – controlled action****DECISION ON ASSESSMENT APPROACH – accredited assessment****Drayton South Coal Project 2011/5911**

This decision is made under section 75 and section 87 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

proposed action	To expand the Drayton Coal Mine, to extract additional coal through open cut and highwall mining, in the Upper Hunter Valley of New South Wales, as described in the referral received by the department on 11 April 2011 [See EPBC Act referral 2011/5911].
------------------------	--

decision on proposed action	<p>The proposed action is a controlled action.</p> <p>The project will require assessment and approval under the EPBC Act before it can proceed.</p>
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relevant controlling provisions	<ul style="list-style-type: none">• Listed threatened species and communities (sections 18 & 18A)• Listed migratory species (sections 20 & 20A)
--	--

designated proponent	Anglo American Metallurgical Coal Pty Ltd ACN 076 059 679
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assessment approach	The project will be assessed by accredited assessment under the <i>Environmental Planning and Assessment Act 1979</i> (NSW).
----------------------------	--

Decision-maker

Name and position	James Barker A/g Assistant Secretary Environment Assessment Branch
--------------------------	--

Signature**date of decision**

12/5/11



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

Mr Daniel Sullivan
Senior Environmental Scientist
Hansen Bailey
PO Box 473
Singleton NSW 2330

Date: 30 January 2012
EPBC Ref: 2011/5911
EPBC contact: Justin Keast
02 6275 9953
justin.keast@environment.gov.au

Dear Mr Sullivan

Drayton South Coal Project – Query regarding modification of project boundary

Thank you for your email of 23 December regarding your proposal to modify the western boundary of the Drayton South Coal Project.

I note that the realignment involves a land swap of approximately 35ha and that you have advised that the area to be included is dominated by exotic pasture species. I understand that, with the exception of this minor boundary realignment, the project remains the same as the project you previously referred under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) on 11 April 2012. Based on this advice, it would appear that a variation of the project under the EPBC Act is unnecessary as the scope of the project has not changed. Please ensure that details about the realignment are provided in your Environmental Assessment.

It should be noted that this letter does not constitute a formal decision from the department. Legal certainty regarding this matter can only be achieved through a variation under section 156A of the EPBC Act. Should you require legal certainty please submit a formal variation.

If you have any questions regarding this matter please contact Justin Keast at 02 6275 9953 or by email at justin.keast@environment.gov.au.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'D. Calvert'.

David Calvert
Director
Mining Section

Drayton Mine Existing Planning Approvals

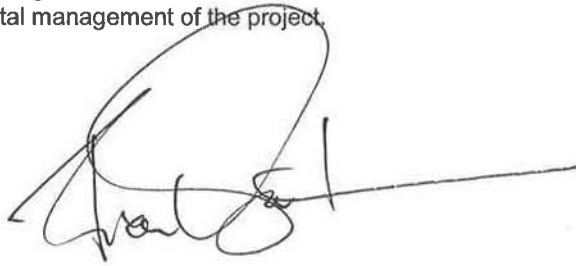
Project Approval

Section 75J of the *Environmental Planning and Assessment Act 1979*

I approve the project application referred to in schedule 1, subject to the conditions in schedules 2 to 5.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the project.



Frank Sartor MP
Minister for Planning

Sydney



1 February 2008

SCHEDULE 1

Application Number:	06_0202
Proponent:	Anglo Coal (Drayton Management) Pty Limited
Approval Authority:	Minister for Planning
Land:	See Appendix 1
Project:	Drayton Mine Extension

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DEFINITIONS

AEMR	Annual Environmental Management Report
BCA	Building Code of Australia
CCC	Community Consultative Committee
CHPP	Coal Handling & Preparation Plant
Council	Muswellbrook Shire Council
Day	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
DECC	Department of Environment and Climate Change
Department	Department of Planning
Director-General	Director-General of Department of Planning, or delegate
DPI	Department of Primary Industries
DST	Daylight Savings Time
DWE	Department of Water and Energy
EA	Environmental assessment titled <i>Drayton Mine Extension Environmental Assessment, Volumes 1 and 2</i> , dated August 2007, including the response to submissions, dated November 2007
EEC	Endangered Ecological Community as defined under the NSW <i>Threatened Species Conservation Act 1995</i>
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence
EST	Eastern Standard Time
Evening	The period from 6 pm to 10 pm
Land	Land means the whole of a lot, or contiguous lots owned by the same landowner, in a current plan registered at the Land Titles Office at the date of this approval
Mining Operations	Includes all coal extraction, processing, and transportation activities carried out on site
Minister	Minister for Planning, or delegate
Night	The period from 10 pm to 7 am on Monday to Saturday, and 10 pm to 8 am on Sundays and Public Holidays
Privately-owned land	Land that is not owned by a public agency, or a mining company or its subsidiary, and which is not subject to a negotiated agreement between the Proponent and the applicable landowner
Project	The project as described in the EA
Proponent	Anglo Coal (Drayton Management) Pty Limited, or its successor
Reasonable and Feasible	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements. Feasible relates to engineering considerations and what is practical to build
ROM	Run of Mine
RTA	Roads and Traffic Authority
Saline water	Water from the project's saline water management system as described in the EA
Site	The land referred to in Appendix 1
Statement of Commitments	The Proponent's commitments in Appendix 3

SCHEDULE 2 ADMINISTRATIVE CONDITIONS

Obligation to Minimise Harm to the Environment

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

Terms of Approval

2. The Proponent shall carry out the project generally in accordance with the:
 - (a) EA;
 - (b) statement of commitments; and
 - (c) conditions of this approval.

Note: The general layout of the project is shown in Appendix 2.

3. If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any inconsistency.
4. The Proponent shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
 - (a) any reports, plans, programs, strategies or correspondence that are submitted in accordance with this approval; and
 - (b) the implementation of any actions or measures contained in these reports, plans, programs, strategies or correspondence.

Limits on Approval

5. Mining operations may take place on the site until 31 December 2017.

Note: Under this approval, the Proponent is required to rehabilitate the site and provide offsets to the satisfaction of the Director-General. Consequently, this approval will continue to apply in all other respects other than the right to conduct mining operations until the site has been rehabilitated and the offset provided to a satisfactory standard.

6. The Proponent shall not extract or process more than 8 million tonnes of ROM coal a year on site.
7. The Proponent shall only transport coal from the site by rail or overland conveyor.

Surrender of Consents

8. Within 12 months of this approval, the Proponent shall surrender all previous development consents for the Drayton coal mine to the satisfaction of the Director-General.

Staged Submission of Management Plans/Monitoring Programs

9. With the approval of the Director-General, the Proponent may submit any management plan or monitoring program required by this approval on a progressive basis.

Structural Adequacy

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

Notes:

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

Demolition

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

Operation of Plant and Equipment

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

Planning Agreement

13. Within 12 months of this approval, the Proponent shall enter into a planning agreement with Council and the Minister, in accordance with:
- (a) Division 6 of Part 4 of the EP&A Act; and
 - (b) the terms of the Proponent's offer to the Council on 19 January 2007, which includes the matters set out in Appendix 4.
-

SCHEDULE 3 SPECIFIC ENVIRONMENTAL CONDITIONS

NOISE

Noise Impact Assessment Criteria

- The Proponent shall ensure that the noise generated by the project does not exceed the noise impact assessment criteria in Table 1 at any residence on privately-owned land, or on more than 25 percent of any privately-owned land.

Table 1: Noise impact assessment criteria dB(A)

Land Number	Day	Evening	Night	
	$L_{Aeq}(15 \text{ min})$	$L_{Aeq}(15 \text{ min})$	$L_{Aeq}(15 \text{ min})$	$L_{A1}(1 \text{ min})$
34	35	35	36	45
29	35	35	36	47
31	35	35	37	47
33, 86	35	35	38	45
32	35	35	40	47
71, 75	35	35	41	47
70	35	36	41	47
76	35	36	42	47
28	35	37	40	47
69	35	37	41	47
13	36	36	35	45
12	36	36	36	47
25	36	37	37	47
26	36	37	38	47
27	36	37	39	47
72	36	37	42	47
17	37	38	36	47
21, 22	38	38	38	45
18	38	39	38	47
20, 61	39	40	39	45
14	40	39	38	47
19	40	40	39	47
16	41	41	39	47
23	35	35	35	47
All other privately-owned land	35	35	35	45

However, if the Proponent has a written negotiated noise agreement with any landowner of the land listed in Table 1, and a copy of this agreement has been forwarded to the Department and DECC, then the Proponent may exceed the noise limits in Table 1 in accordance with the negotiated noise agreement.

Notes:

- For information on the numbering and identification of properties used in this approval, see Appendix 5.
- To determine compliance with the $L_{Aeq}(15 \text{ minute})$ noise limits, noise from the project is to be measured at the most affected point within the residential boundary, or at the most affected point within 30 metres of a dwelling (rural situations) where the dwelling is more than 30 metres from the boundary. Where it can be demonstrated that direct measurement of noise from the project is impractical, the DECC may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy). The modification factors in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise levels where applicable.
- To determine compliance with the $L_{A1}(1 \text{ minute})$ noise limits, noise from the project is to be measured at 1 metre from the dwelling façade. Where it can be demonstrated that direct measurement of noise from the project is impractical, the DECC may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy).

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

Land Acquisition Criteria

2. If the noise generated by the project exceeds the criteria in Table 2 at any residence on privately-owned land or on more than 25 percent of any privately-owned land, the Proponent shall, upon receiving a written request for acquisition from the landowner, acquire the land in accordance with the procedures in conditions 8-10 of Schedule 4.

Table 2: Land acquisition criteria dB(A)

Land Number	Day/Evening/Night <i>L_{Aeq(15min)}</i>
12, 14, 16, 17, 18, 19, 23, 25, 26, 27, 28, 29, 31, 32, 69, 70, 71, 72, 75, 76	42
All other private land owners not listed in Table 1, or on more than 25 percent of, any privately owned land.	40

Note: Noise generated by the project is to be measured in accordance with the notes to Table 1.

Cumulative Noise Criteria

3. The Proponent shall take all reasonable and feasible measures to ensure that the noise generated by the project combined with the noise generated by other mines does not exceed the following amenity criteria at any residence on privately-owned land or on more than 25 percent of any privately owned land:
 - *L_{Aeq(11 hour)}* 50 dB(A) – Day;
 - *L_{Aeq(4 hour)}* 45 dB(A) – Evening;
 - *L_{Aeq(9 hour)}* 40 dB(A) – Night.
4. If the noise generated by the project combined with the noise generated by other mines exceeds the following amenity criteria at any residence on privately owned-land or on more than 25 percent of any privately owned land, then upon receiving a written request from the landowner, the Proponent shall acquire the land on as equitable basis as possible with the relevant mines in accordance with the procedures in conditions 8-10 of Schedule 4:
 - *L_{Aeq(11 hour)}* 53 dB(A) – Day;
 - *L_{Aeq(4 hour)}* 48 dB(A) – Evening;
 - *L_{Aeq(9 hour)}* 43 dB(A) – Night.

Notes: The cumulative noise generated by the project combined with the noise generated by other mines is to be measured in accordance with the relevant procedures in the NSW Industrial Noise Policy.

Noise Mitigation

5. Within 12 months of this approval, unless otherwise agreed by the Director-General, the Proponent shall implement the noise mitigation measures outlined in Section 4.5 of the noise impact assessment, of the EA (see Appendix 6).

Note: Any request to vary the noise mitigation measures must be accompanied by a noise assessment that demonstrates that the proposed variation would not result in any increase of the noise levels as predicted in the EA.

6. Upon receiving a written request from the owner of:
 - the following land: 14, 16, 19, 20, 21, 22, 28, 32, 33, 61, 69, 70, 71, 72, 75, 76, 86; or
 - any residence on privately-owned land where subsequent noise monitoring shows the noise generated by the project is greater than or equal to the relevant criteria in Table 3,
 the Proponent 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.

Table 3: Land acquisition criteria dB(A)

<i>L_{Aeq(15min)}</i>	Land Number
40	12, 17, 18, 23, 25, 26, 27, 29, 31
38	All other private land owners

These additional mitigation measures must be reasonable and feasible.

If within 3 months of receiving this request from the landowner, the Proponent 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.

Within 3 months of this approval, the Proponent shall notify all applicable landowners that they are entitled to receive additional noise mitigation measures.

Continuous Improvement

7. The Proponent shall:
 - (a) implement all reasonable and feasible noise mitigation measures;
 - (b) investigate ways to reduce the noise generated by the project, including maximum noise levels which may result in sleep disturbance; and
 - (c) report on these investigations and the implementation and effectiveness of these measures in the AEMR.

Monitoring

8. The Proponent shall prepare and implement a Noise Monitoring Program for the project to the satisfaction of the Director-General. This program must:
 - (a) be prepared in consultation with DECC;
 - (b) be submitted to the Director-General for approval within 6 months of this approval; and
 - (c) include:
 - a combination of real-time and supplementary attended monitoring measures; and
 - a noise monitoring protocol for evaluating compliance with the noise impact assessment and land acquisition criteria in this approval.

Note: This program must expressly monitor the modifying factors referred to in the NSW Industrial Noise Policy (such as intermittency, tonality and low frequency).

BLASTING AND VIBRATION

Airblast Overpressure Criteria

9. The Proponent shall ensure that the airblast overpressure level from blasting at the project does not exceed the criteria in Table 4 at any residence on privately-owned land.

Table 4: Airblast overpressure impact assessment criteria

Airblast overpressure level (dB(Lin Peak))	Allowable exceedance
115	5% of the total number of blasts over a period of 12 months
120	0%

Ground Vibration Impact Assessment Criteria

10. The Proponent shall ensure that the ground vibration level from blasting at the project does not exceed the criteria in Table 5 at any residence on privately-owned land.

Table 5: Ground vibration impact assessment criteria

Peak particle velocity (mm/s)	Allowable exceedance
5	5% of the total number of blasts over a period of 12 months
10	0%

Blasting Hours

11. The Proponent shall only carry out blasting on the site between 9am and 5pm Monday to Saturday (EST), and 9am to 6pm Monday to Saturday (DST) inclusive. No blasting is allowed on Sundays, public holidays, or at any other time without the written approval of DECC.

Blasting Frequency

12. The Proponent may carry out a maximum of:
- (a) 2 blasts a day; and
 - (b) 8 blasts a week, averaged over a 12 month period.

Operating Conditions

13. During mining operations, the Proponent shall:
- (a) implement best blasting practice to:
 - protect the safety of people and livestock in the area surrounding blasting operations;
 - protect public or private infrastructure/property in the area surrounding blasting operations from blasting damage; and
 - minimise the dust and fume emissions from blasting at the project; and
 - (b) co-ordinate blasting on site with the blasting at the adjoining Mt Arthur coal mine to minimise the potential cumulative blasting impacts of the two mines, to the satisfaction of the Director-General.
14. The Proponent shall not undertake blasting within 500 metres of:
- (a) Thomas Mitchell Drive without the approval of Council; and
 - (b) any privately-owned land or land not owned by the Proponent, unless suitable arrangements have been made with the landowner and any tenants to minimise the risk of flyrock-related impact to the property to the satisfaction of the Director-General.

Road Closure

15. Prior to blasting within 500 metres of Thomas Mitchell Drive, the Proponent shall prepare a Road Closure Management Plan for the project to the satisfaction of Council; and following approval, implement this plan to the satisfaction of Council.

Public Notice

16. During mining operations, the Proponent shall:
- (a) notify the landowner/occupier of any residence within 2 kilometres of the site who registers an interest in being notified about the blasting schedule at the mine;
 - (b) operate a Blasting Hotline, or alternate system agreed to by the Director-General, to enable the public to get up-to-date information on the blasting schedule at the mine;
 - (c) advertise the blasting hotline number in a local newspaper at least 4 times each year; and
 - (d) publicise an updated blasting schedule on its website, to the satisfaction of the Director-General.

Property Inspections

17. Within 6 months of this approval, the Proponent shall advise all landowners of privately-owned land within 2 kilometres of the project that they are entitled to a structural property inspection.
18. If the Proponent receives a written request for a structural property inspection from any of these land owners, the Proponent shall within 3 months of receiving this request:
- (a) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Director-General, to inspect the condition of any building or structure on the land, and recommend measures to mitigate any potential blasting impacts; and
 - (b) give the landowner a copy of the property inspection report.

Property Investigations

19. If any landowner of privately owned land within 2 kilometres of the site claims that buildings and/or structures on his/her land have been damaged as a result of blasting at the project, the Proponent shall within 3 months of receiving this claim:
- (a) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Director-General, to investigate the claim; and
 - (b) give the landowner a copy of the property investigation report.

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

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

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process (see Appendix 10).

Blast Monitoring Program

20. The Proponent shall prepare and implement a Blast Monitoring Program for the project to the satisfaction of the Director-General. This program must:
- be prepared in consultation with the DECC;
 - be submitted to the Director General for approval within 3 months of this approval; and
 - include a protocol for demonstrating compliance with the blasting criteria in this approval.

AIR QUALITY

Impact Assessment Criteria

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

Table 6: Long term impact assessment criteria for particulate matter

Pollutant	Averaging period	Criterion
Total suspended particulate (TSP) matter	Annual	90 $\mu\text{g}/\text{m}^3$
Particulate matter < 10 μm (PM ₁₀)	Annual	30 $\mu\text{g}/\text{m}^3$

Table 7: Short term impact assessment criterion for particulate matter

Pollutant	Averaging period	Criterion
Particulate matter < 10 μm (PM ₁₀)	24 hour	50 $\mu\text{g}/\text{m}^3$

Table 8: 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 $\text{g}/\text{m}^2/\text{month}$	4 $\text{g}/\text{m}^2/\text{month}$

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

Land Acquisition Criteria

22. If the dust emissions generated by the project exceed the criteria in Tables 8, 9 and 10 at any residence on privately-owned land, or on more than 25 percent of any privately-owned land, the Proponent shall, upon receiving a written request for acquisition from the landowner, acquire the land in accordance with the procedures in conditions 8-10 of Schedule 4.

Table 8: Long term land acquisition criteria for particulate matter

Pollutant	Averaging period	Criterion
Total suspended particulate (TSP) matter	Annual	90 $\mu\text{g}/\text{m}^3$
Particulate matter < 10 μm (PM ₁₀)	Annual	30 $\mu\text{g}/\text{m}^3$

Table 9: Short term land acquisition criteria for particulate matter

Pollutant	Averaging period	Criterion	Percentile ¹	Basis
Particulate matter < 10 µm (PM ₁₀)	24 hour	150 µg/m ³	99 ²	Total ³
Particulate matter < 10 µm (PM ₁₀)	24 hour	50 µg/m ³	98.6	Increment ⁴

Notes:

¹Based on the number of block 24 hour averages in an annual period.

²Excludes extraordinary events such as bushfires, prescribed burning, dust storms, sea fog, fire incidents, illegal activities or any other activity agreed by the Director-General in consultation with the DECC.

³Background PM₁₀ concentrations due to all other sources plus the incremental increase in PM₁₀ concentrations due to the mine alone.

⁴Incremental increase in PM₁₀ concentrations due to the mine alone.

Table 10: Long term land acquisition 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, AS/NZS 3580.10.1:2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulate Matter - Deposited Matter - Gravimetric Method.

Operating Conditions

23. The Proponent shall:
- ensure any visible air pollution generated by the project is assessed regularly, and that mining operations are relocated, modified, and/or stopped as required to minimise air quality impacts on privately-owned land;
 - ensure that the real-time air quality monitoring and meteorological monitoring data are assessed regularly, and that mining operations are relocated, modified and/or stopped as required to ensure compliance with the relevant air quality criteria; and
 - implement all practicable measures to minimise the off-site odour and fume emissions generated by any spontaneous combustion on site, to the satisfaction of the Director-General.

Spontaneous Combustion

24. The Proponent shall prepare and implement a Spontaneous Combustion Management Plan for the project to the satisfaction of the Director-General. This plan must:
- prepared in consultation with DECC and DPI by suitably qualified expert/s whose appointment/s have been approved by the Director-General; and
 - submitted to the Director-General for approval within 6 months of this approval.

Monitoring

25. The Proponent shall prepare and implement an Air Quality Monitoring Program for the project to the satisfaction of the Director-General. This program must be:
- prepared in consultation with DECC;
 - submitted to the Director-General for approval within 6 months of this approval; and
 - include:
 - a combination of real-time monitors, high volume samplers and dust deposition gauges to monitor the dust emissions of the project; and
 - an air quality monitoring protocol for evaluating compliance with the air quality impact assessment and land acquisition criteria in this approval.

METEOROLOGICAL MONITORING

26. During the life of the project, the Proponent shall ensure that there is a suitable meteorological station in the vicinity of the site that complies with the requirements in the *Approved Methods for Sampling of Air Pollutants in New South Wales* guideline.

SURFACE AND GROUND WATER

Surface Water Discharges

27. The Proponent shall only discharge water from the site in accordance with the provisions of an EPL or the *Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Regulation 2002*.

Water Management Plan

28. The Proponent shall prepare and implement a Site Water Management Plan for the project to the satisfaction of the Director-General. This plan must:
- be prepared in consultation with DECC and DWE by suitably qualified expert/s whose appointment/s have been approved by the Director-General;
 - be submitted to the Director-General for approval within 6 months of this approval; and
 - include:
 - a Site Water Balance;
 - an Erosion and Sediment Control Plan;
 - a Surface Water Monitoring Program;
 - a Ground Water Monitoring Program; and
 - a Surface and Ground Water Response Plan.

Site Water Balance

29. The Site Water Balance must:
- include details of;
 - sources and security of water supply;
 - water use on site;
 - water management on site;
 - off-site water transfers; and
 - investigate and describe measures to minimise water use by the project.

Erosion and Sediment Control

30. The Erosion and Sediment Control Plan must:
- be consistent with the requirements of the *Managing Urban Stormwater: Soils and Construction Manual* (Landcom 2004, or its latest version);
 - identify activities that could cause soil erosion and generate sediment;
 - describe measures to minimise soil erosion and the potential for the transport of sediment to downstream waters;
 - describe the location, function, and capacity of erosion and sediment control structures; and
 - describe what measures would be implemented to maintain the structures over time.

Surface Water Monitoring

31. The Surface Water Management and Monitoring Plan must include:
- detailed baseline data on surface water flows and quality in creeks and other waterbodies that could be affected by the project;
 - surface water impact assessment criteria;
 - a program to monitor the impact of the project on surface water flows and quality and downstream water users; and
 - reporting procedures for the results of this monitoring.

Groundwater Monitoring

32. The Groundwater Monitoring Plan must include:
- detailed baseline data of groundwater levels, yield and quality in the region (including privately owned groundwater bores within the predicted drawdown impact zone identified in the EA);
 - a program to augment the baseline data over the life of the project
 - groundwater assessment criteria, including trigger levels for investigating any potentially adverse groundwater impacts;
 - a program to monitor:
 - regional groundwater levels and quality in the surrounding aquifers;
 - impacts on the groundwater supply of potentially affected landowners;
 - the volume of ground water seeping into the open cut mine workings;
 - the groundwater pressure response in the surrounding coal measures;
 - the seepage/leachate from any tailings dams, water storages or backfilled voids on site;

- (e) procedures for the verification of the groundwater model; and
- (f) reporting procedures for the results of the monitoring program and model verification.

Surface and Ground Water Response Plan

33. The Surface and Ground Water Response Plan must include:
- (a) a protocol for the investigation, notification and mitigation of any exceedances of the surface water and groundwater impact assessment criteria;
 - (b) measures to mitigate and/or compensate potentially affected landowners with privately owned groundwater bores within the predicted drawdown impact zone identified in the EA, including provision of alternative supply of water to the affected landowner that is equivalent to the loss attributed to the project;
 - (c) the procedures that would be followed if any unforeseen impacts are detected during the project.

REHABILITATION AND LANDSCAPE MANAGEMENT

Rehabilitation

34. The Proponent shall progressively rehabilitate the site in a manner that is generally consistent with the final landform and proposed rehabilitation strategy in the EA (shown conceptually in Appendix 7) to the satisfaction of the DPI.

Offset Strategy

35. The Proponent shall:
- (a) offset the following vegetation clearing of the project at a ratio of at least 2:1 to ensure there is a net improvement in the biodiversity value of the local area in the medium to long term:
 - 36 ha of Narrow-leaved Ironbark woodland;
 - 1 ha of Spotted Gum-Grey Box open forest woodland; and
 - 1.3 ha of Forest Red Gum open forest and woodland (Hunter Lowland Redgum Forest EEC); and
 - 6 ha of revegetated Yellow Box and Grey Gum woodland;
 - (b) ensure that this offset is located in close proximity to the Natural Zone of the Drayton Wildlife Refuge (see Appendix 8); and
 - (c) make suitable arrangements to protect this offset from development in the long term, to the satisfaction of the Director-General.

Note: This offset may include land that is currently part of the existing Grazing Zone of the Drayton Wildlife Refuge (see Appendix 8).

36. Within 6 months of this approval, the Proponent shall prepare an Offset Strategy for the project to the satisfaction of the Director-General. This strategy must:
- (a) be prepared in consultation with the DECC;
 - (b) describe the measures that would be :
 - offset the specified vegetation clearing of the project;
 - ensure that adequate resources are dedicated towards the implementation of this offset;
 - demonstrate that the proposed offset is generally consistent with the principles in Appendix 9, and would result in a net improvement in the biodiversity value of the local area in the medium to long term; and
 - provide appropriate long term security for this offset.

Thomas Mitchell Drive Tree Screens

37. Within 2 years of this approval, the Proponent shall plant additional trees along the Thomas Mitchell Drive corridor to provide a mature tree screen for the project. These trees must be planted in consultation with Council, and subsequently monitored to the satisfaction of the Director-General.

Landscape Management Plan

38. The Proponent shall prepare and implement a detailed Landscape Management Plan for the project to the satisfaction of the DPI and the Director-General and. This plan must:
- (a) be prepared in consultation with DECC, DWE and Council by suitably qualified expert/s whose appointment/s have been approved by the Director-General
 - (b) be submitted to the Director-General for approval within 12 months of this approval; and
 - (c) include a:
 - Rehabilitation and Offset Management Plan;
 - Final Void Management Plan; and

- Mine Closure Plan.

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

Rehabilitation and Offset Management Plan

39. The Rehabilitation and Offset Management Plan must include:
- the objectives for the rehabilitation of the site and provisions of the offset;
 - a detailed description of how the rehabilitation of the site and implementation of the Offset Strategy would be integrated with the rehabilitation and Offset Strategy for the Mt Arthur North mine and remnant vegetation on Macquarie Generation's land, to ensure there is a comprehensive integrated strategy for the restoration and enhancement of the local landscape over time;
 - a description of the short, medium, and long term measures that would be implemented to:
 - rehabilitate the site;
 - implement the Offset Strategy;
 - implement the Thomas Mitchell Drive Tree Screens; and
 - manage the remnant vegetation and habitat on the site; and
 - a detailed description of what measures would be implemented over the next 3 years to rehabilitate the site and implement the Offset Strategy and Thomas Mitchell Drive tree screens, including the procedures to be implemented for:
 - progressively rehabilitating areas disturbed by mining;
 - implementing revegetation and regeneration within the disturbance areas and offset areas, including establishment of canopy, sub-canopy (if relevant), understorey and ground strata;
 - managing the remnant vegetation and habitat on site;
 - managing impacts on fauna;
 - reducing the visual impacts of the project;
 - landscaping the site to minimise visual impacts;
 - protecting areas outside the disturbance areas conserving and reusing topsoil;
 - collecting and propagating seeds for rehabilitation works;
 - salvaging and reusing material from the site for habitat enhancement;
 - controlling weeds and feral pests;
 - controlling access;
 - bushfire management; and
 - managing any potential conflicts between the rehabilitation of the mine and Aboriginal cultural heritage;
 - detailed performance and completion criteria for the rehabilitation of the site and implementation of the Offset Strategy and Thomas Mitchell Drive tree screens;
 - a detailed description of how the performance of the rehabilitation of the site and implementation of the Offset Strategy and Thomas Mitchell Drive tree screens would be monitored over time to achieve the relevant objectives and completion criteria;
 - 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
 - details of who is responsible for monitoring, reviewing and implementing the plan.

Note: Reference to 'rehabilitation' in this approval includes all works associated with the rehabilitation and restoration of the site as described in the EA, and applies to all areas within the Mining Lease and Offsets Strategy.

Final Void Management

40. The Final Void Management Plan must:
- justify the planned final location and future use of the final voids;
 - incorporate design criteria and specifications for the final voids based on verified groundwater modelling predictions and a re-assessment of post-mining groundwater equilibration;
 - assess the potential interactions between creeks on the site and the final voids; and
 - describe what actions and measures would be implemented to:
 - minimise any potential adverse impacts associated with the final voids; and
 - manage and monitor the potential impacts of the final voids over time.

Mine Closure Plan

41. The Mine Closure Plan must:
- define the objectives and criteria for mine closure;
 - investigate options for the future use of the site, including the final voids;

- (c) investigate ways to minimise the adverse socio-economic effects associated with mine closure, including reduction in local employment levels;
- (d) describe the measures that would be implemented to minimise or manage the ongoing environmental effects of the project; and
- (e) describe how the performance of these measures would be monitored over time.

Conservation and Biodiversity Bond

42. Within 3 months of the approval of the Landscape Management Plan, the Applicant shall lodge a conservation and biodiversity bond with either DPI or the Department to ensure that the Offset Strategy is implemented in accordance with the performance and completion criteria of the Landscape Management Plan. The sum of the bond shall be determined by:
- (a) calculating the full cost of implementing the Offset Strategy; and
 - (b) employing a suitably qualified quantity surveyor to verify the calculated costs.

Notes:

- *If the Offset Strategy is completed to the satisfaction of the Director-General, the DPI or the Department will release the conservation bond.*
- *If the Offset Strategy is not completed to the satisfaction of the Director-General, all or part of the conservation bond will be used to ensure the satisfactory completion of the relevant works.*
- *The conservation bond may be incorporated into rehabilitation bonding arrangements under the Mining Act 1993.*

ABORIGINAL CULTURAL HERITAGE

Aboriginal Heritage Plan

43. The Proponent shall prepare and implement an Aboriginal Heritage Plan to the satisfaction of the Director-General. This plan must:
- (a) be prepared in consultation with DECC and relevant Aboriginal communities;
 - (b) be submitted to the Director-General for approval within 6 months of this approval or prior to the disturbance of any Aboriginal object or site, whichever is the soonest; and
 - (c) include a:
 - detailed salvage program and management plan for all Aboriginal sites within the project disturbance area;
 - detailed description of the measures that would be implemented to protect Aboriginal sites outside the project disturbance area;
 - description of the measures that would be implemented if any new Aboriginal objects or skeletal remains are discovered during the project; and
 - protocol for the ongoing consultation and involvement of the Aboriginal communities in the conservation and management of Aboriginal cultural heritage on the site.

TRANSPORT

Monitoring of Coal Transport

44. The Proponent shall:
- (a) keep records of the:
 - amount of coal transported from the site each year; and
 - number of coal haulage train movements generated by the project (on a daily basis);
 - date and time of each train movement generated by the project; and
 - (b) include these records in the AEMR.

VISUAL IMPACT

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

GREENHOUSE & ENERGY EFFICIENCY

46. The Proponent shall prepare and implement a Greenhouse and Energy Efficiency Plan for the project to the satisfaction of the Director-General. This plan must:
- (a) be prepared generally in accordance with the *Guidelines for Energy Savings Action Plans* (DEUS 2005, or its latest version);
 - (b) be submitted to the Director-General for approval within 6 months of the date of this approval;
 - (c) include a program to monitor greenhouse gas emissions and energy use generated by the project;
 - (d) include a framework for investigating and implementing measures to reduce greenhouse gas emissions and energy use associated with the project; and
 - (e) describe how the performance of these measures would be monitored over time.

WASTE MINIMISATION

47. The Proponent shall:
- (a) monitor the amount of waste generated by the project;
 - (b) investigate ways to minimise waste generated by the project;
 - (c) implement reasonable and feasible measures to minimise waste generated by the project;
 - (d) ensure irrigation of treated wastewater is undertaken in accordance with DECC's *Environmental Guideline for the Utilisation of Treated Effluent*; and
 - (e) report on waste management and minimisation in the AEMR, to the satisfaction of the Director-General.
-

SCHEDULE 4 ADDITIONAL PROCEDURES

NOTIFICATION OF LANDOWNERS

1. Within 3 months of this approval, the Proponent shall notify the landowners of the land listed in Table 1 that they have the right to request an independent review of the impacts of the project in accordance with condition 3 of Schedule 4 if they believe the project is exceeding the relevant impact assessment criteria in this approval.
2. If the results of the monitoring required in Schedule 3 identify that the impacts of the project are greater than the relevant impact assessment criteria in Schedule 3, except where a negotiated agreement has been entered into in relation to that impact, then the Proponent shall notify the Director-General and the affected landowners and/or existing or future tenants (including tenants of mine owned properties) accordingly, and provide quarterly monitoring results to each of these parties until the results show that the project is complying with the criteria in Schedule 3.

INDEPENDENT REVIEW

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

If the Director-General is satisfied that an independent review is warranted, the Proponent shall within 3 months of the Director-General's decision:

- (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 project is complying with the relevant impact assessment criteria in Schedule 3; and
 - identify the source(s) and scale of any impact on the land, and the project'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 project is complying with the relevant impact assessment criteria in Schedule 3, then the Proponent may discontinue the independent review with the approval of the Director-General.
5. If the independent review determines that the project is not complying with the relevant impact assessment criteria in Schedule 3, and that the project is primarily responsible for this non-compliance, then the Proponent shall:
 - (a) take all reasonable and feasible measures, in consultation with the landowner, to ensure that the project complies with the relevant criteria; and
 - (b) conduct further monitoring to determine whether these measures ensure compliance.

If the additional monitoring referred to above subsequently determines that the project is complying with the relevant criteria in Schedule 3, or the Proponent and landowner enter into a negotiated agreement to allow these exceedances, then the Proponent may discontinue the independent review with the approval of the Director-General.

6. If the independent review determines that the relevant criteria in Schedule 3 are being exceeded, but that more than one mine is responsible for this non-compliance, then the Proponent shall, together with the relevant mine/s:
 - (a) take all reasonable and feasible measures, in consultation with the landowner, to ensure that the relevant criteria are complied with; and
 - (b) conduct further monitoring to determine whether these measures ensure compliance; or
 - (c) secure a written agreement with the landowner and other relevant mines to allow exceedances of the criteria in Schedule 3.

If the additional monitoring referred to above subsequently determines that the noise generated by the project combined with the noise generated by other mines is complying with the relevant criteria in Schedule 3, then the Proponent may discontinue the independent review with the approval of the Director-General.

7. If the landowner disputes the results of the independent review, either the Proponent or the landowner may refer the matter to the Director-General for resolution.

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process (see Appendix 10).

LAND ACQUISITION

8. Within 3 months of receiving a written request from a landowner with acquisition rights, the Proponent 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 project the subject of the project application, having regard to the:
 - existing and permissible use of the land, in accordance with the applicable planning instruments at the date of the written request; and
 - presence of improvements on the property and/or any approved building or structure which has been physically commenced at the date of the landowner's written request, and is due to be completed subsequent to that date, but excluding any improvements that have resulted from the implementation of the additional noise mitigation measures in conditions 5 and 6 of Schedule 3;
 - (b) the reasonable costs associated with:
 - relocating within the Muswellbrook local government area, or to any other local government area determined by the Director-General;
 - obtaining legal advice and expert advice for determining the acquisition price of the land, and the terms upon which it is required; and
 - (c) reasonable compensation for any disturbance caused by the land acquisition process.

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

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

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

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

9. The Proponent shall bear the costs of any valuation or survey assessment requested by the independent valuer, or the Director-General, and the costs of determination referred above.
10. If the Proponent and landowner agree that only part of the land shall be acquired, then the Proponent 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.

SCHEDULE 5 ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING & REPORTING

ENVIRONMENTAL MANAGEMENT STRATEGY

1. The Proponent shall prepare and implement an Environmental Management Strategy for the project to the satisfaction of the Director-General. This strategy must be submitted to the Director-General within 6 months of this approval, and:
 - (a) provide the strategic framework for environmental management of the project;
 - (b) identify the statutory requirements that apply to the project;
 - (c) describe in general how the environmental performance of the project would be monitored and managed;
 - (d) describe the procedures that would be implemented to:
 - keep the local community and relevant agencies informed about the operation and environmental performance of the project;
 - receive, handle, respond to, and record complaints;
 - resolve any disputes that may arise during the course of the project;
 - respond to any non-compliance;
 - manage cumulative impacts; and
 - respond to emergencies; and
 - (e) describe the role, responsibility, authority, and accountability of all the key personnel involved in environmental management of the project.

ENVIRONMENTAL MONITORING PROGRAM

2. The Proponent shall prepare and implement an Environmental Monitoring Program for the project to the satisfaction of the Director-General. This program must be submitted to the Director-General within 6 months of this approval, and consolidate the various monitoring requirements in Schedule 3 of this approval into a single document, and be submitted to the Director-General concurrently with the submission of the relevant monitoring programs/plans.

REPORTING

Incident Reporting

3. Within 24 hours of detecting an exceedance of the limits/performance criteria in this approval or the occurrence of an incident that causes (or may cause) harm to the environment, the Proponent shall notify the Department and other relevant agencies of the exceedance/incident.
4. Within 6 days of notifying the Department and other relevant agencies of an exceedance/incident, the Proponent shall provide the Department and these agencies with a written report that:
 - (a) describes the date, time, and nature of the exceedance/incident;
 - (b) identifies the cause (or likely cause) of the exceedance/incident;
 - (c) describes what action has been taken to date; and
 - (d) describes the proposed measures to address the exceedance/incident.

Annual Reporting

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

INDEPENDENT ENVIRONMENTAL AUDIT

6. Within 2 years of this approval, and every 3 years thereafter, unless the Director-General directs otherwise, the Proponent shall commission and pay the full cost of an Independent Environmental Audit of the project. This audit must:
- (a) be conducted by a suitably qualified, experienced, and independent team of experts whose appointment has been endorsed by the Director-General;
 - (b) assess the environmental performance of the project, and its effects on the surrounding environment;
 - (c) assess whether the project is complying with the relevant standards, performance measures, and statutory requirements;
 - (d) review the adequacy of any strategy/plan/program required under this approval; and, if necessary,
 - (e) recommend measures or actions to improve the environmental performance of the project, and/or any strategy/plan/program required under this approval.

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

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

COMMUNITY CONSULTATIVE COMMITTEE

9. The Proponent shall operate a Community Consultative Committee (CCC) for the project to the satisfaction of the Director-General, in general accordance with the *Guideline for Establishing and Operating Community Consultative Committees for Mining Projects*.

ACCESS TO INFORMATION

10. Within 3 months of the approval of any plan/strategy/program required under this approval (or any subsequent revision of these plans/strategies/programs), or the completion of the audits or AEMRs required under this approval, the Proponent shall:
- (a) provide a copy of the relevant document/s to the relevant agencies and CCC; and
 - (b) put a copy of the relevant document/s on its website.
11. During the development, the Proponent shall:
- (a) include a copy of this approval, as may be modified from time to time, on its website;
 - (b) provide a full summary of monitoring results required under this approval on its website; and
 - (c) update these results on a regular basis (at least every 3 months).

APPENDIX 1 SCHEDULE OF LAND

Ownership	Lot DP
Drayton Coal & Anglo Coal	Part 65 850818
Drayton Coal & Anglo Coal	Part 64 850818
Drayton Coal & Anglo Coal	13 701496
Drayton Coal & Anglo Coal	12 701496
Drayton Coal & Anglo Coal	1 247510
Drayton Coal & Anglo Coal	21 545087
Drayton Coal & Anglo Coal	10 701496
Drayton Coal & Anglo Coal	9 701496
Drayton Coal & Anglo Coal	14 701496
Drayton Coal & Anglo Coal	4 701496
Drayton Coal & Anglo Coal	Part 6 701496
Macquarie Generation	Part 1 790994
Macquarie Generation	Part 15 701496
Macquarie Generation	Part 11 701496
Macquarie Generation	16 701496
Macquarie Generation	Part 16 247944
Macquarie Generation	Part 162 1022834

Notes:

1. *Schedule of Land applies to those areas within the EA Boundary.*
2. *The cadastral information for the lands to which the EA applies was sourced from the NSW LPI records database in February 2006.*

APPENDIX 2 GENERAL PROJECT LAYOUT



APPENDIX 3 STATEMENT OF COMMITMENTS

Ref	Commitment	EA Section
Mining Operations		
1	The existing Development Consents as identified in Table 8 will be relinquished with a single Project Approval being sought for Drayton (with the exception of the Antiene Rail Spur Development Consent (DA 106-04-00) required to transport product coal to the Port of Newcastle).	5.6
2	Drayton will ensure that an appropriate development consent will remain in place over the West Pit area until MAC obtains an appropriate planning approval over the area.	8.7.2
Environmental Management & Monitoring		
3	The SHECMS will continue to be relied upon for environmental management, mitigation and monitoring at Drayton. The SHECMS will be revised to reflect the Project as required.	3.3
4	An Environmental Monitoring Program (EMP) will be developed for the Project, in consultation with relevant regulators for approval by DoP, and will consolidate monitoring aspects associated with: <ul style="list-style-type: none"> Air Quality; Noise; and Blasting. 	8.2.4 8.3.4 8.4
5	The following Management Plans will be prepared and/or revised and relied upon for the operation of Drayton (in consultation with relevant regulators to the approval of DoP): <ul style="list-style-type: none"> Spontaneous Combustion Management Plan; Water Management Plan; Flora & Fauna Management Plan; Rehabilitation & Landscape Management Plan (including Void Management); and Aboriginal Archaeology & Cultural Heritage Management Plan. 	9.3.4 8.5.3 & 9.2.4 8.6.5 8.7.3 9.6.3
Air Quality		
6	Drayton will actively manage the dragline in the North Pit in accordance with the SHECMS, such that there is no visible dust encroaching on private residences when prevailing weather conditions are towards Antiene Estate.	8.2.4
7	Drayton will continue to monitor Scope 1 and Scope 2 greenhouse gas emissions and investigate ways to further reduce these emissions.	8.2.4
Noise		
8	Drayton will implement the necessary noise control and management measures to ensure that the modelled noise outcome listed in Table 21 is not exceeded.	8.3.4
9	Drayton will continue to manage the current noise monitoring program shown in Figure 7 and install a real-time noise monitor with audio link within Antiene Estate.	8.3.4
Water Resources		
10	Drayton will undertake a census of privately owned groundwater bores identified in Table 26 to ascertain their current usage and provide a baseline against which to compare any future impacts. In the event of interruption to water supply resulting from the Project, an alternative water supply will be provided.	8.5.3
11	Drayton will obtain all necessary Water Access Licences for the Project from DWE.	
Flora & Fauna		
12	The Drayton Wildlife Refuge will remain in place to preserve flora and fauna and to provide an ecological offset for the Project, exceeding DECC's recommended minimum 2:1 offset ratio.	8.6.5
13	Drayton will proactively manage key areas of the Drayton Wildlife Refuge to enhance its ecological values.	8.6.5
Spontaneous Combustion		
14	Drayton will continue to monitor spontaneous combustion and implement the mitigation and management	9.3.4

Ref	Commitment	EA Section
	techniques discussed in Section 9.3.4 and in the revised SCMP.	
Visual		
15	Dense tree planting will be undertaken along the northern edge of the EA Boundary on Thomas Mitchell Drive to create a visual screen within the initial Project years.	9.5.4
16	All visual and night light impacts will continue to be managed in accordance with the SHECMS.	9.5.4
Aboriginal Archaeology & Cultural Heritage		
17	Aboriginal heritage will continue to be managed in accordance with the revised Aboriginal Archaeology & Cultural Heritage Management Plan in consultation with the local Aboriginal community and DECC.	9.7.3
Non-Aboriginal Heritage		
18	Non-Aboriginal heritage Sites 1, 3 and 4 identified in Section 9.8 will continue to be preserved and managed in accordance with the SHECMS. Site 5 identified in Table 32 will be physically barricaded to prevent accidental damage. Site 2 will be cleared prior to disturbance.	9.8
Community		
19	Drayton will enter into a VPA with MSC in the terms of the offer made by Drayton and agreed in principle by MSC.	9.12
20	Drayton will continue to facilitate the operation of the Drayton CCC.	8.0 & 9.0
Reporting		
21	Drayton will prepare and submit to relevant regulatory departments an AEMR which will discuss monitoring results and include a discussion on predictions and commitments made within this EA.	8.0 & 9.0
Macquarie Generation		
22	<p>Drayton Mine recognises Macquarie Generation's ultimate requirement for void space to deposit fly ash from its Power Stations. To this end Drayton will use its reasonable endeavours and will consult with Macquarie Generation with a view to cooperating with Macquarie Generation to:</p> <ul style="list-style-type: none"> (a) secure planning approval for and the use by Macquarie Generation of the East Pit mine void which will be left at the end of mining by Drayton in the general location indicated in Figure 11 in the EA for the purpose of the disposal of fly ash; and (b) reach agreement on reasonable terms to implement arrangements for the extension of the Liddell Ash Dam or such other works as may be agreed between Drayton and Macquarie Generation to accommodate fly ash from the Liddell Power Station that cannot be disposed of by Macquarie Generation in its existing facilities during the period from 2010 until the completion of mining by Drayton. 	<p>Project Alternatives Paper prepared by Hansen Bailey dated November 2007</p>

APPENDIX 4
GENERAL TERMS FOR THE PLANNING AGREEMENT

Funding Area	Proponent Contribution	Funding Time Frame
Monetary Contribution – Community Enhancement Program	\$500,000	<ul style="list-style-type: none">– One instalment of \$200,000 to be paid to Council when Project Approval is granted.– Second instalment of \$300,000 to be paid to Council when the investment decision is made to spend the additional capital required to increase mine production to 8 Mtpa.

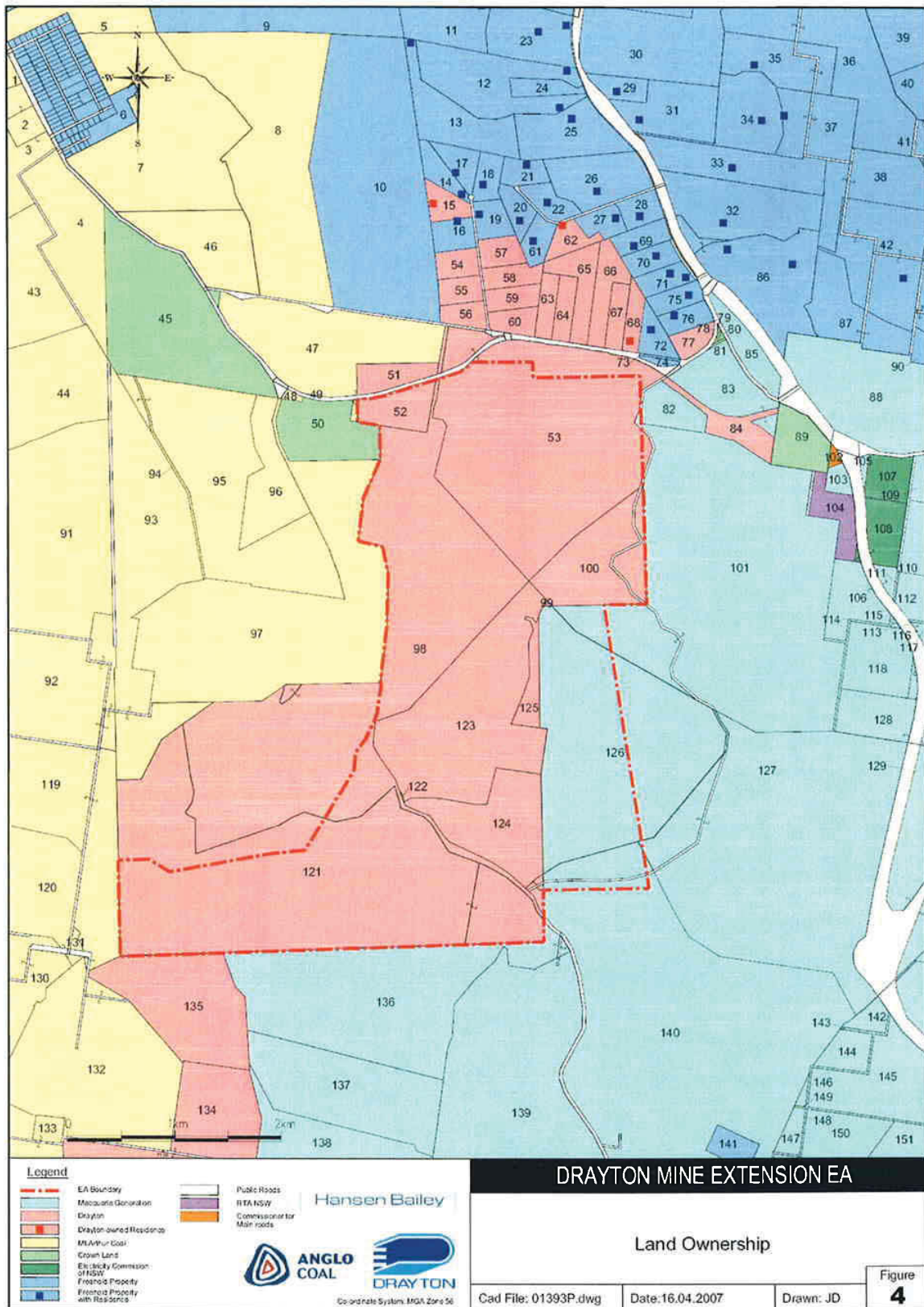
APPENDIX 5 PROPERTY NUMBERS AND LAND OWNERSHIP

ID	Name	Receiver	ID	Name	Receiver	ID	Name	Receiver
1	Coal Operations Australia		54	Drayton Coal		106	Macquarie Generation	
2	Coal Operations Australia		55	Drayton Coal		107	Electricity Commission of NSW	
3	Coal Operations Australia		56	Drayton Coal		108	Electricity Commission of NSW	
4	Coal Operations Australia		57	Drayton Coal		109	Macquarie Generation	
5	Coal Operations Australia		58	Drayton Coal		110	Macquarie Generation	
6	Muswellbrook Shire Council		59	Drayton Coal		111	Macquarie Generation	
7	Coal Operations Australia		60	Drayton Coal		112	Macquarie Generation	
8	Coal Operations Australia		61	RC & LT Skinner		113	Macquarie Generation	
9	F & I Webber		62	Anglo Coal (Drayton Management) Pty Limited		114	Macquarie Generation	
10	EM Casben		63	Drayton Coal		115	Macquarie Generation	
11	Yarramalong Stud Pty Ltd		64	Drayton Coal		116	Macquarie Generation	
12	K Newton		65	Drayton Coal		117	Macquarie Generation	
13	CS Jacobsen		66	Drayton Coal		118	Macquarie Generation	
14	CH Budd		67	Drayton Coal & Anglo Coal		119	Hunter Valley Energy Coal Ltd	
15	Drayton Coal		68	Drayton Coal		120	Hunter Valley Energy Coal Ltd	
16	MF & AV Doherty		69	P & K Clifton		121	Drayton Coal & Anglo Coal	
17	BC & SR Page		70	BD & B Jones		122	Drayton Coal	
18	SR Page		71	DW & LM Hunter		123	Drayton Coal & Anglo Coal	
19	CJ & LE Duck		72	BJ & NH Robertson		124	Drayton Coal	
20	RD & DA Osborn		73	Muswellbrook Shire Council		125	Drayton Coal	
21	WJ Reynolds		74	Muswellbrook Shire Council		126	Macquarie Generation	
22	RB & LJ Halloran		75	EJ & MC Sharman		127	Macquarie Generation	
23	SJ & J Jackson		76	PG Horder		128	Macquarie Generation	
24	J Newton		77	Drayton Coal		129	Macquarie Generation	
25	PJ & KJ Collins		78	The State of NSW		130	Hunter Valley Energy Coal Ltd	
26	RE & ID Baxter		79	The State of NSW		131	Hunter Valley Energy Coal Ltd	
27	GJ & PH De Boer		80	The State of NSW		132	Hunter Valley Energy Coal Ltd	
28	MJ Bird		81	The State of NSW		133	Hunter Valley Energy Coal Ltd	
29	MJ & EJ Wallman		82	Macquarie Generation		134	Anglo Coal Australia Pty Ltd	
30	JM & BB & PS Mitchellhill & HB Rivett & IB Vineburg		83	Macquarie Generation		135	Anglo Coal Australia Pty Ltd	
31	RJ & IA Summerville		84	Drayton Coal		136	Macquarie Generation	
32	K & KI Cross		85	Macquarie Generation		137	Macquarie Generation	
33	CL & JA Fisher & CI Dennis		86	Wild Group Pty Ltd		138	Macquarie Generation	
34	BT & JE Davis		87	P Wild		139	Macquarie Generation	
35	GM Wilson		88	Macquarie Generation		140	Macquarie Generation	
36	JM Mitchellhill & HB Rivett & IB Vineburg		89	The State of NSW		141	TransGrid	
37	BJ & TL King		90	NA & HM Burling		136	Macquarie Generation	
38	NP & CJ O'Brien		91	Coal Operations Australia		137	Macquarie Generation	
39	CR & CP Stewart		92	Coal Operations Australia		138	Macquarie Generation	
40	PS & TG Adams		93	Hunter Valley Energy Coal Ltd		139	Macquarie Generation	
41	M & P Clifton		94	Bayswater Colliery Company		140	Macquarie Generation	
42	CJ & TL Smith		95	Bayswater Colliery Company		141	TransGrid	
43	Coal Operations Australia		96	Bayswater Colliery Company		142	Macquarie Generation	
44	Coal Operations Australia		97	Bayswater Colliery Company		143	Macquarie Generation	
45	The State of NSW		98	Drayton Coal & Anglo Coal		144	Macquarie Generation	
46	Coal Operations Australia		99	Drayton Coal		145	Macquarie Generation	
47	Hunter Valley Energy Coal Ltd		100	Drayton Coal		146	Macquarie Generation	
48	Hunter Valley Energy Coal Ltd		101	Macquarie Generation		147	Macquarie Generation	
49	Hunter Valley Energy Coal Ltd		102	The Commissioner for Main Roads		148	Macquarie Generation	
50	The State of NSW		103	Macquarie Generation		149	Macquarie Generation	
51	Drayton Coal		104	RTA NSW		150	Macquarie Generation	
52	Drayton Coal		105	Macquarie Generation		151	Macquarie Generation	
53	Drayton Coal & Anglo Coal							

Notes:

* A coloured square denotes a receiver on the property.

Each colour correlates to the shading in the following figure (Figure 4).

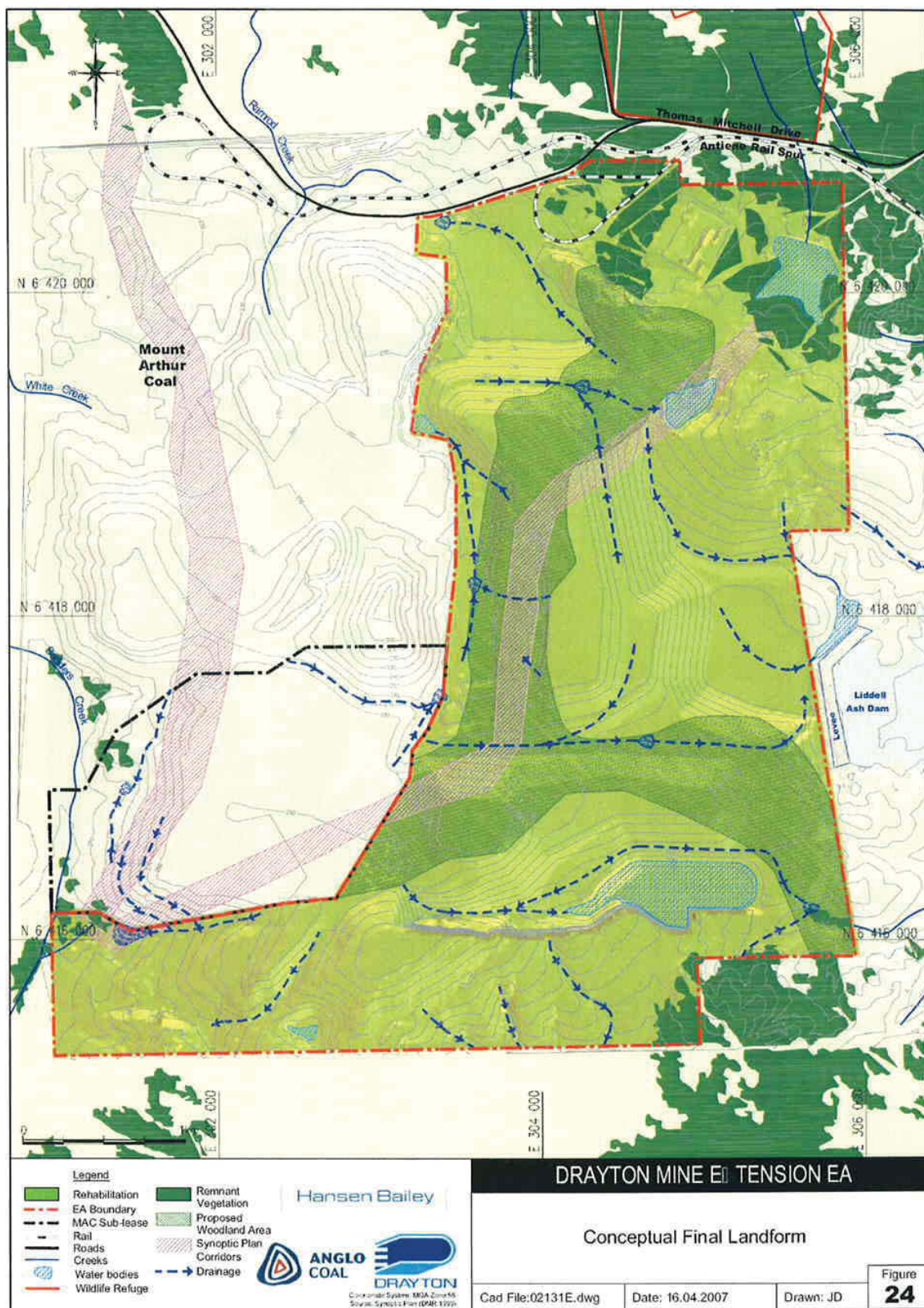


APPENDIX 6: NOISE MITIGATION MEASURES

The following noise control or management measures have been adopted by Anglo Coal as part of the Project and have been incorporated into the noise model and mine plan:

- Only one loading unit (excavator or front end loader) would work in the North Pit during the evening or night, primarily to minimise exposed truck movements associated with overburden or coal haulage from the North Pit;
- North and East Pit overburden trucks would dump in shielded locations during the evening and night;
- North Pit prestrip haul roads would be shielded by the pit walls or a berm in the direction of residences, at least during the evening and night;
- Loading units within the North Pit prestrip area would be located in a shielded area below the natural surface during the evening and night;
- The coal haul road from the South Pit would be realigned to the lowest possible elevation, with minimal long straight sections of road directly in line with a residence and effective shielding with earth berms along the sides of the road where possible;
- The proposed ROM stockpile south of the workshop would have a 5 m wall or equivalent berm on the northern side and returned along part of the eastern and western sides to minimise noise from the loader and trucks working on the stockpile;
- A 4 m berm and/or wall would be constructed along the eastern side of the coal haul road from the ROM stockpile to meet the existing ROM hopper wall, including returns along side roads to minimise the effect of gaps in the barrier;
- A sound power limit of 103 dBA each for the three new reclaimers and one ROM coal stacker;
- Steel sheeting would be installed on the northern face of the secondary crusher building after removal of the rotary breaker and installation of the new screen and crusher; and
- Upgraded exhaust mufflers on some trucks with the exception of the South Pit overburden fleet.

APPENDIX 7: CONCEPTUAL FINAL LANDFORM DESIGN



APPENDIX 8 DRAYTON WILDLIFE REFUGE



APPENDIX 9 OFFSETTING PRINCIPLES

1. Impacts must be avoided first by using prevention and mitigation measures.

Offsets are then used to address remaining impacts.

This may include modifying the proposal to avoid areas of biodiversity value or putting in place measures to prevent offsite impacts.

- Clearing or development can only proceed where offsets (and conservation actions) improve or maintain biodiversity.

2. All regulatory requirements must be met. Offsets cannot be used to satisfy approvals or assessments under other legislation, for example, assessment requirements for Aboriginal heritage sites, polluting activities or other environmental impacts unless specifically provided for by legislation, or additional approvals.

3. Offsets must never reward ongoing poor performance. Offset schemes will not reward landholders who deliberately degrade or mismanage land in order to provide an offset. Offsets must not reward poorly designed developments.

4. Offsets will complement other government programs. A range of tools are required to achieve the NSW Government's conservation objectives, including the establishment and management of new conservation areas, regional parks and incentives for private landholders to manage for conservation purposes.

5. Offsets must be underpinned by sound ecological principles.

- They must include the consideration of structure, function and compositional elements of biodiversity, including threatened species.
- They must enhance biodiversity at a range of scales, that is, at the genetic, species and ecosystem levels.
- They must consider conservation status of ecological communities.
- They must ensure the long-term viability and functionality of biodiversity.

Biodiversity management actions, such as enhancement of existing habitat and securing and managing land of conservation value for biodiversity, can be suitable offsets. Reconstruction of ecological communities involves high risks and uncertainties and time delays for biodiversity outcomes. It is generally less preferable than other management strategies such as enhancing existing habitat.

6. Offsets should aim to result in a net improvement in biodiversity over time.

- Enhancement of biodiversity in offset areas should be equal to or greater than the loss in biodiversity from the impact site.
- Setting aside areas for biodiversity conservation without additional management or increased security is generally not sufficient to offset against the loss of biodiversity.
- Factors to consider include protection of existing biodiversity, time-lag effects, and the uncertainties and risks associated with actions such as revegetation.
- Offsets may include enhancing habitat, reconstructing habitat in strategic areas to link areas of conservation value, or increasing buffer zones around areas of conservation value.

7. Offsets must be enduring – they must offset the impact of the development for at least the period that the impact occurs.

All offsets must be secured by an appropriate legal mechanism. As impacts on biodiversity are likely to be permanent, the offset must also be permanent (secured by a conservation agreement or reservation and management for biodiversity). Wherever possible, offsets should be secured by a conservation agreement attached in perpetuity to the title of the land (eg. under s69 *National Parks & Wildlife Act 1974*). Where land is donated to a public authority or a private conservation organisation and managed as a biodiversity offset, it should be accompanied by resources for its management. If an appropriate legal mechanism to secure the offset is not possible, then the value of the offset will be reduced. Alternative mechanisms, such as land use planning zones, may be appropriate where they 44 Draft Lower Hunter Regional Conservation Plan complement conservation agreements. However, such mechanisms alone do not necessarily provide long-term security. The security of the management agreement will be factored into the value of the offset.

8. Offsets should be agreed prior to the impact occurring.

Offsets should minimise ecological risks from time-lags. Offset negotiations and actions should occur prior to the approval of the impact. For example, prior to the grant of a development consent. Where the offset involves rehabilitation or revegetation works it may be necessary to conduct this work well in advance of the development.

9. Offsets must be quantifiable – the impacts and benefits must be reliably estimated.

Offsets should be based on quantitative assessment of the loss in biodiversity from the clearing or other development and the gain in biodiversity from the offset. The methodology for calculating the biodiversity loss and gain must be based on the best available science, be reliable and used for calculating both the loss from the development and the gain from the offset (Note that a state-wide computer based tool will be developed for Biobanking based on the tools developed for the *Native Vegetation Act 2003*). The best available information/data should be used when assessing impacts of biodiversity loss and gains from offsets. Offsets will be of greater value where they protect land with high conservation values, where management actions have greater benefits for biodiversity, where the offset areas are not isolated or fragmented, and the management for biodiversity is in perpetuity (eg. secured through a conservation agreement). Management actions must be deliverable and enforceable.

10. Offsets must be targeted – they must offset impacts on a like-for-like or better basis.

Offsets should be targeted according to biodiversity priorities in the area, based on conservation status of ecological communities, presence of threatened species or their habitat, connectivity, and potential to enhance condition from management actions. Only ecological communities that are equal or greater in conservation significance to the type of ecological community lost should be used for offsets. One type of environmental benefit cannot be traded for another. For example, biodiversity offsets may also result in improvements in water quality or salinity but these benefits do not reduce the biodiversity offset requirements. However at a regional level it maybe ecologically of greater benefit to consolidate offsets by linking high conservation values across the landscape. This may involve offsets, which are spatially removed from the offset, or compromise different vegetation communities.

11. Offsets must be located appropriately – they must offset the impact in the same region.

Wherever possible, offsets should be located in areas that have the same or similar ecological characteristics as the area affected by the development, in reasonable proximity to the region impacted.

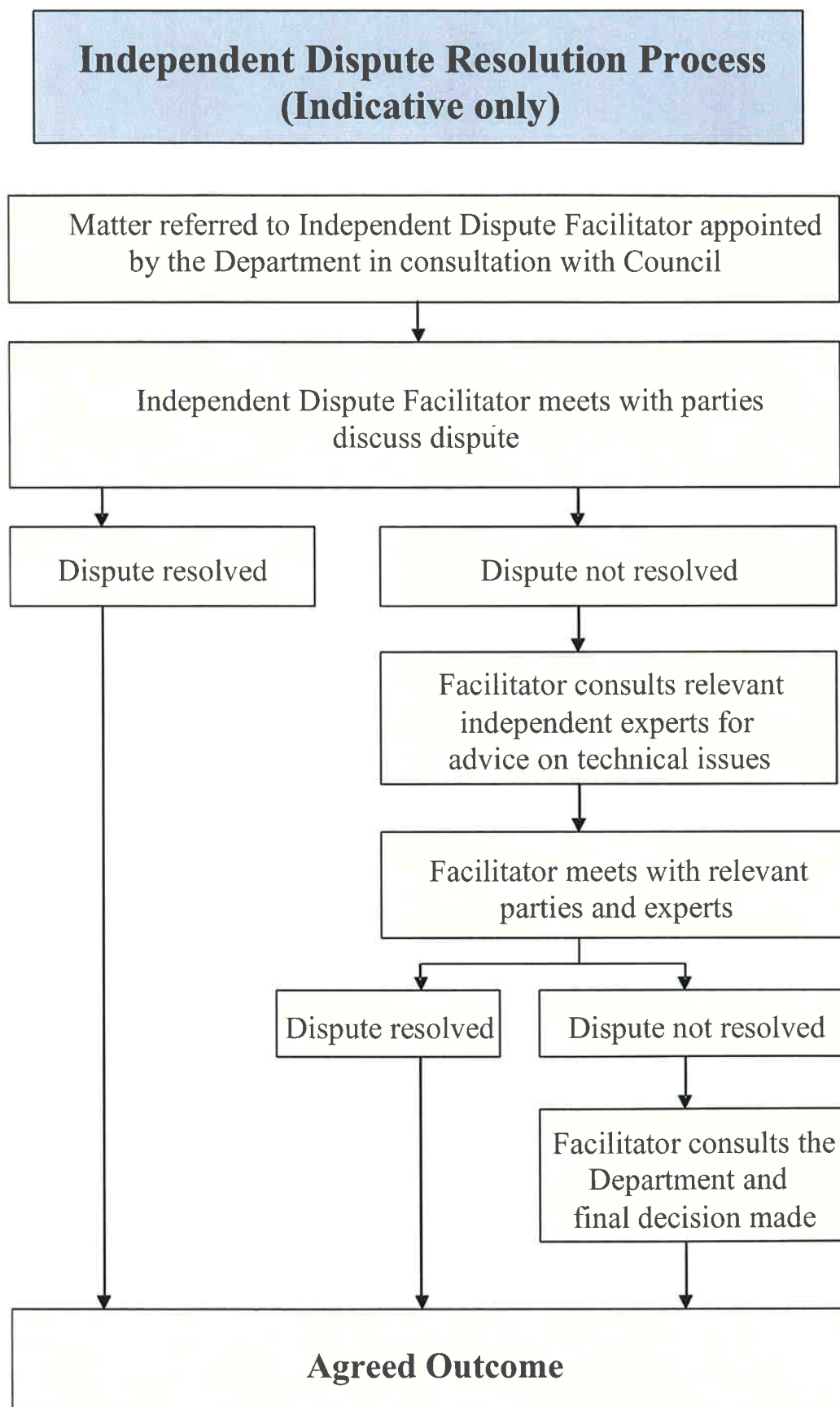
12. Offsets must be supplementary – they must be beyond existing requirements and not already be funded under another scheme.

An offset used in the past for another project cannot be used again to offset a new project. Areas that have received incentive funds from another process cannot be used for offsets. Existing protected areas on private land cannot be used for offsets unless additional security or management actions are implemented. Areas already managed by the government, for example national parks, flora reserves, nature reserves, karst conservation areas and crown reserves, cannot be used as offsets. In some cases, new management works on public lands could be used as an offset.

13. Offsets and their actions must be enforceable – through development consent conditions, licence conditions, conservation agreements or a contract.

Offsets must be audited to ensure that the actions have been carried out, and monitored to determine that the actions are leading to positive biodiversity outcomes.

APPENDIX 10
INDEPENDENT DISPUTE RESOLUTION PROCESS



Notice of Modification

Section 75W of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning, I modify the development consent referred to in Schedule 1, as set out in Schedule 2.

Scott Jeffries
 A/Executive Director, Major DA Assessments

Sydney

16 October

2009

SCHEDULE 1

The project approval (06_0202) granted by the Minister for Planning for the Drayton Coal Mine on 1 February 2008.

SCHEDULE 2

1. Delete the definitions for "DECC", "DPI" and "DWE", in the list of definitions in schedule 1, and insert in alphabetical order the following:

DECCW	Department of Environment, Climate Change and Water
DII	Department of Industry and Investment
NOW	NSW Office of Water
EA (Mod 1)	Environmental Assessment titled <i>Project Approval Modification Environmental Assessment</i> (including its Statement of Commitments), dated July 2009, and the response to submissions dated September 2009.

2. In condition 2 of schedule 2, delete all words after "commitments;" and insert:

- (c) EA (Mod 1); and
- (d) conditions of this approval.

3. Delete all references to "DECC" and replace with "DECCW".

4. Delete all references to "DPI" and replace with "DII".

5. Delete all references to "DWE" and replace with "NOW".

6. Insert the following condition after condition 4 of schedule 2:

- 4A. Within 3 months of any modification to this approval, the Proponent shall review and if necessary revise any strategies/plans/programs required under this approval which are relevant to the modification to the satisfaction of the Director-General.

7. Insert the following condition after condition 35 of schedule 3:

- 35A. By the end of December 2009, the Proponent shall:
 - (a) incorporate an offset of at least 12 hectares, generally consistent with the offset described in the 2009 EA, into the Drayton Wildlife Refuge; and
 - (b) establish mechanisms within the Offset Strategy for long-term conservation and management of this offset in accordance with condition 36.

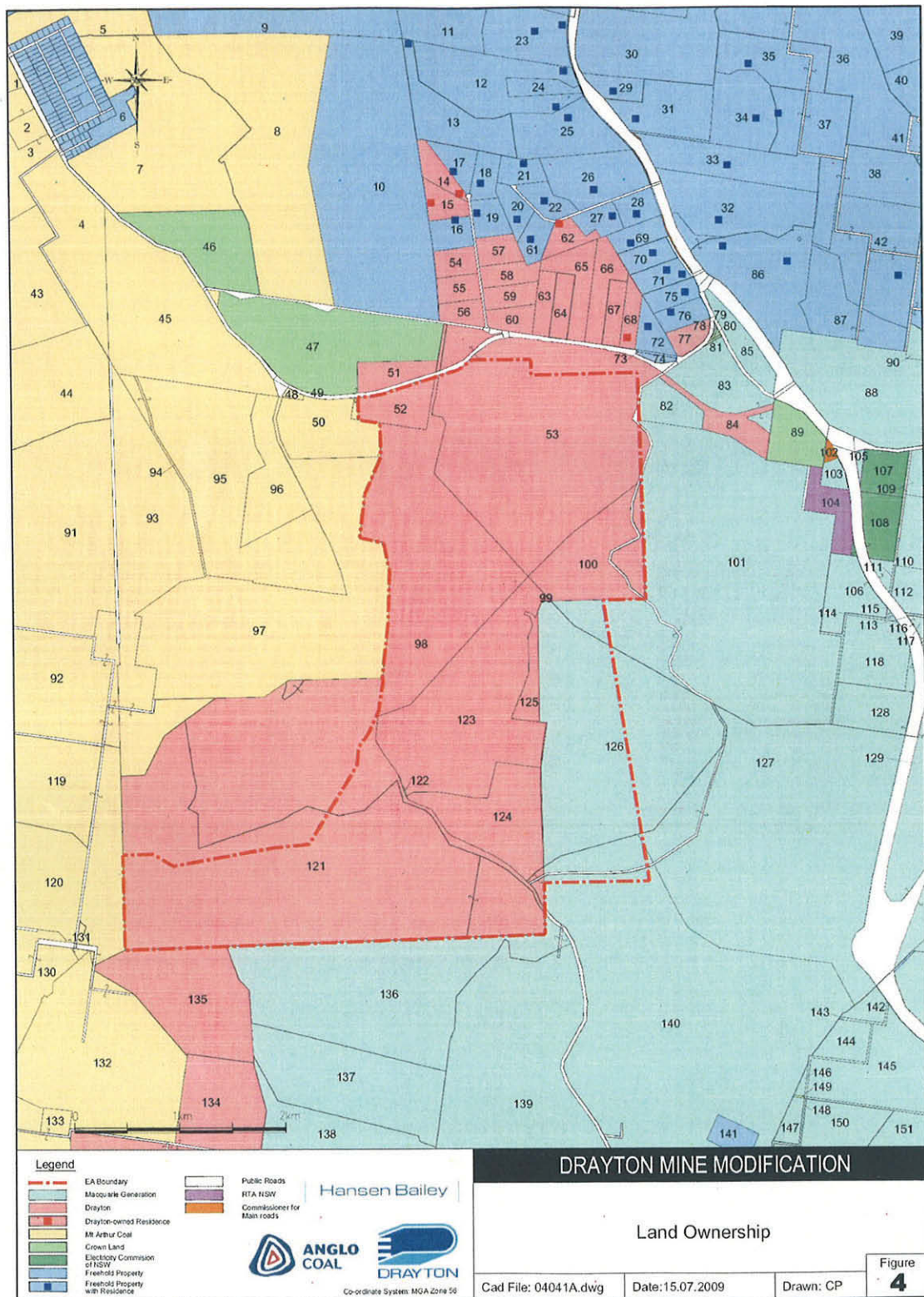
8. Delete Appendix 5 and replace with:

APPENDIX 5 PROPERTY NUMBERS AND LAND OWNERSHIP

ID	Name	Receiver	ID	Name	Receiver	ID	Name	Receiver
7	Coal Operations Australia		60	Drayton Coal		112	Macquarie Generation	
8	Coal Operations Australia		61	RC & LT Skinner		113	Macquarie Generation	
9	F & I Webber		62	Anglo Coal (Drayton Management) Pty Limited		114	Macquarie Generation	
10	EM Casben		63	Drayton Coal		115	Macquarie Generation	
11	Yarralong Stud Pty Ltd		64	Drayton Coal		116	Macquarie Generation	
12	K Newton		65	Drayton Coal		117	Macquarie Generation	
13	CS Jacobsen		66	Drayton Coal		118	Macquarie Generation	
14	Anglo Coal (Drayton Management) Pty Limited		67	Drayton Coal & Anglo Coal		119	Hunter Valley Energy Coal Ltd	
15	Drayton Coal		68	Drayton Coal		120	Hunter Valley Energy Coal Ltd	
16	MF & AV Doherty		69	P & K Clifton		121	Drayton Coal & Anglo Coal	
17	BC & SR Page		70	BD & B Jones		122	Drayton Coal	
18	SR Page		71	DW & LM Hunter		123	Drayton Coal & Anglo Coal	
19	CJ & LE Duck		72	BJ & NH Robertson		124	Drayton Coal	
20	RD & DA Osborn		73	Muswellbrook Shire Council		125	Drayton Coal	
21	WJ Reynolds		74	Muswellbrook Shire Council		126	Macquarie Generation	
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24	J Newton		77	Drayton Coal		129	Macquarie Generation	
25	PJ & KJ Collins		78	The State of NSW		130	Hunter Valley Energy Coal Ltd	
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27	GJ & PH De Boer		80	The State of NSW		132	Hunter Valley Energy Coal Ltd	
28	MJ Bird		81	The State of NSW		133	Hunter Valley Energy Coal Ltd	
29	MJ & EJ Wallman		82	Macquarie Generation		134	Anglo Coal Australia Pty Ltd	
30	JM & BB & PS Mitchell & HB Rivett & IB Vineburg		83	Macquarie Generation		135	Anglo Coal Australia Pty Ltd	
31	RJ & IA Summerville		84	Drayton Coal		136	Macquarie Generation	
32	K & KI Cross		85	Macquarie Generation		137	Macquarie Generation	
33	CL & JA Fisher & CI Dennis		86	Wild Group Pty Ltd		138	Macquarie Generation	
34	BT & JE Davis		87	P Wild		139	Macquarie Generation	
35	GM Wilson		88	Macquarie Generation		140	Macquarie Generation	
36	JM Mitchell & HB Rivett & IB Vineburg		89	The State of NSW		141	TransGrid	
37	BJ & TL King		90	Macquarie Generation		136	Macquarie Generation	
38	NP & CJ O'Brien		91	Coal Operations Australia		137	Macquarie Generation	
39	CR & CP Stewart		92	Coal Operations Australia		138	Macquarie Generation	
40	PS & TG Adams		93	Hunter Valley Energy Coal Ltd		139	Macquarie Generation	
41	M & P Clifton		94	Bayswater Colliery Company		140	Macquarie Generation	
42	H Ray		95	Bayswater Colliery Company		141	TransGrid	
43	Coal Operations Australia		96	Bayswater Colliery Company		142	Macquarie Generation	
44	Coal Operations Australia		97	Bayswater Colliery Company		143	Macquarie Generation	
45	Coal Operations Australia		98	Drayton Coal & Anglo Coal		144	Macquarie Generation	
46	The State of NSW		99	Drayton Coal		145	Macquarie Generation	
47	The State of NSW		100	Drayton Coal		146	Macquarie Generation	
48	Hunter Valley Energy Coal Ltd		101	Macquarie Generation		147	Macquarie Generation	
49	Hunter Valley Energy Coal Ltd		102	The Commissioner for Main Roads		148	Macquarie Generation	
50	Coal Operations Australia		103	Macquarie Generation		149	Macquarie Generation	
51	Drayton Coal		104	RTA NSW		150	Macquarie Generation	
52	Drayton Coal		105	Macquarie Generation		151	Macquarie Generation	
53	Drayton Coal & Anglo Coal							

Notes:

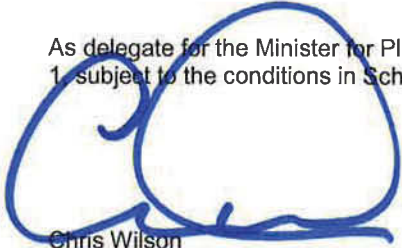
- A coloured square denotes a receiver on the property.
- Each colour correlates to the shading in the following figure (Figure 4)



Notice of Modification

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate for the Minister for Planning and Infrastructure, I modify the project approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Chris Wilson
Executive Director
Major Development Assessments

Sydney 17 February 2012

File No: 10/04845

SCHEDULE 1

The project approval (06_0202) for the Drayton Mine Extension, granted by the Minister for Planning on 1 February 2008.

SCHEDULE 2

- 1) In the list of Definitions, delete the definitions for "DECCW", "DII" and "RTA" and insert the following in alphabetical order:

EA (Mod 2)	Environmental Assessment titled East Pit Tailings Emplacement & Explosives Storage Facility Environmental Assessment dated July 2011, Response to Submissions dated 3 November 2011, and Preliminary Hazard Analysis dated November 2011.
OEH	Office of Environment and Heritage
DRE	Division of Resources and Energy, within the Department of Trade and Investment, Regional Infrastructure and Services
RMS	Roads and Maritime Services
- 2) Delete all references to "DECCW", and replace with "OEH".
- 3) Delete all references to "DII", and replace with "DRE".
- 4) Delete all references to "RTA", and replace with "RMS".
- 5) In condition 2 of Schedule 2, delete all words after "EA (Mod 1);" (except the note) and insert the following:
 - (d) EA (Mod 2); and
 - (e) conditions of this approval.

- 6) Delete condition 8 in Schedule 3 and insert the following:

Noise Management Plan

8. The Proponent shall prepare and implement a Noise Management Plan for the project to the satisfaction of the Director-General. This plan must:
 - (a) be submitted to the Director-General by 31 October 2012 for approval;
 - (b) describe the measures that would be implemented (including a real-time noise management system that employs both reactive and proactive mitigation measures) to ensure:
 - best management practice is being employed;
 - compliance with the relevant conditions of this approval;
 - (c) describe the proposed noise management system in detail;
 - (d) include a noise monitoring program that:

- uses a combination of real-time and supplementary attended monitoring measures to evaluate the performance of the project;
 - adequately supports the proactive and reactive noise management system on site;
 - includes a protocol for determining exceedances of the relevant conditions in this approval;
 - evaluates and reports on the effectiveness of the noise management system on site;
 - provides for the annual validation of the noise model for the project; and
- (e) include a protocol that has been prepared in consultation with the owners of nearby mines (including the Mt Arthur mine) to minimise the cumulative noise impacts of the mines.

- 7) Delete conditions 15 and 20 in Schedule 3 and insert, in place of condition 20, the following:

Blast Management Plan

20. The Proponent shall prepare and implement a Blast Management Plan for the project to the satisfaction of the Director-General. This plan must:
- (a) be submitted to the Director-General for approval by 31 October 2012;
 - (b) describe the measures that would be implemented to ensure:
 - best management practice is being employed;
 - compliance with the relevant conditions of this approval;
 - (c) include a road closure management plan for blasting within 500 metres of a public road, that has been prepared in consultation with the RTA and Council;
 - (d) include a monitoring program for evaluating the performance of the project, including:
 - compliance with the applicable criteria
 - minimising the fume emissions from the site; and
 - (e) include a protocol that has been prepared in consultation with the owners of nearby mines (including the Mt Arthur mine) to minimise the cumulative blasting impacts of these mines and the project.

- 8) Delete condition 25 in Schedule 3 and insert the following:

Air Quality Management Plan

25. The Proponent shall prepare and implement an Air Quality and Greenhouse Gas Management Plan for the project to the satisfaction of the Director-General. This plan must:
- (a) be submitted to the Director-General by 31 October 2012 for approval;
 - (b) describe the measures that would be implemented (including a real-time air quality management system that employs both reactive and proactive mitigation measures) to ensure:
 - best management practice is being employed;
 - compliance with the relevant conditions of this approval;
 - (b) describe the proposed air quality management system;
 - (c) include an air quality monitoring program that:
 - uses a combination of real-time monitors and supplementary monitors to evaluate the performance of the development;
 - adequately supports the proactive and reactive air quality management system;
 - includes PM_{2.5} monitoring (although this obligation may be satisfied by the regional air quality monitoring network if sufficient justification is provided);
 - evaluates and reports on the effectiveness of the air quality management system;
 - includes a protocol for determining any exceedances of the relevant conditions of this consent; and
 - (d) include a protocol that has been prepared in consultation with the owners of nearby mines (including the Mt Arthur mine) to minimise the cumulative air quality impacts of the mines.

- 9) After condition 41 of Schedule 3, insert the following:

- 41A. By 31 December 2012, the Proponent shall review the Rehabilitation and Offset Management Plan, Final Void Management Plan and Mine Closure Plan in consultation with Council and DRE and to the satisfaction of the Director General. This review must take Council's Mining Rehabilitation Policy into account.

- 10) After condition 44 of Schedule 3, insert the following:

- 44A. By 31 June 2012, the Proponent shall contribute \$50,000 to Council towards the Council's costs for a Route and Upgrade Assessment of Thomas Mitchell Drive.

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 on the environment; and
- (ii) provide for environmental monitoring and reporting.

Andrew Refshauge MP
Minister for Urban Affairs and Planning,

Sydney, 2 November 2000

File No. S99/01070

Schedule 1

Application made by: Drayton Coal Pty Ltd
("the Applicant").

To: The Minister for Urban Affairs and Planning
(DA 106-04-00)

In respect of: Land described in Schedule "1A".

For the following: Increased coal transport tonnage using the existing Drayton Rail Loop and Antiene Rail Spur ("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 1A

Land to which DA applies

DP	Lot
238862	1
241179	44, 45 (Part 1), 45 (Part 2)
701496	6
752486	1
812852	180
Public Road, 8 km south of Muswellbrook	
Public Road, 11.4 km southeast of Muswellbrook	
Railway land, 12 km southeast of Muswellbrook	
Conveyance No. 56 Book 2762 (Part 1 and Part 2)	
New England Highway, 8.6 km southeast of Muswellbrook	

S99/00170

SCHEDULE 2***Development Consent Conditions For Increased Coal Transport Using the Existing Drayton Rail Loop and Antiene Rail Spur*****INDEX**

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DEFINITIONS:**AEMR** - *Annual Environmental Management Report***CCC** – *Community Consultative Committee***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***Commencement of Operations** – *operation of the Drayton Rail Loop over the rate of 3.3 MT/ annum***Coal Transport Operations** – *operation of the Drayton Rail Loop and Antiene Rail Spur***Government Authorities****MSC** - *Muswellbrook Shire Council***EPA** - *Environment Protection Authority***DLWC** - *Department of Land and Water Conservation***DMR** - *Department of Mineral Resources***MSB** - *Mine Subsidence Board*

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, etc.

- (a) The development is to be carried out generally in accordance with development application No. 106-04-00, and the EIS dated March 2000, prepared by Umwelt (Australia) Pty Limited and certified in accordance with Section 78A(8) of the Act, and all other relevant documentation provided to DUAP, including:
 - (i) additional information requested by the EPA and supplied by Umwelt (Australia Pty Limited) in a letter dated 15 June 2000; with the results of extended noise monitoring, in a letter dated 20 July 2000 and accompanying report titled "Response to EPA Submission of 5 July 2000"..
 - (ii) Drayton Coal Pty Ltd Response to Summary of Submissions received from DUAP on 2 June 2000, prepared by Umwelt (Australia) Pty Ltd, August 2000.

as may be modified by the conditions set out herein.

- (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 environmental management measures in place 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.
- (c) If any licence conditions are breached the applicant shall comply with any modification to the work as specified by the relevant agency.

Note: This consent should be read in conjunction with the existing Muswellbrook Shire Council Drayton Mine Project consent issued on 25 September 1980.

1.2 Period of Approval/Project Commencement

- (i) The approval for coal transport operations is for a period of 25 years from the date of this consent.
- (ii) At least two weeks prior to the commencement of operation 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 operation.
- (iii) Date of commencement of operation is to be notified in writing to the Director-General, and MSC, at least two weeks prior to commencement of operation.

1.3 Dispute Resolution

In the event that the Applicant, MSC 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, whose determination of the disagreement shall be final and binding on the parties.

2. Land and Site Environmental Management

2.1 Environmental Coordinator

- (a) The Environmental Coordinator(s) employed by Drayton mine:
 - (i) shall be responsible for the preparation of the environmental management plans required by this consent (refer Condition 2.2);
 - (ii) shall be responsible for considering and advising on matters specified in the conditions of this consent and compliance with such matters;
 - (iii) shall be responsible for receiving and responding to complaints in accordance with Condition 9.2(a); and
 - (iv) shall have the authority and independence to require reasonable steps to be taken to avoid or minimise unintended or adverse environmental impacts and failing the effectiveness of such steps, to stop work immediately if an adverse impact on the environment is likely to occur.
- (b) The Applicant shall notify the Director-General, DMR, EPA, DLWC, MSC, and the CCC (refer condition 9.1) of any changes to the name and/or contact details of the Environmental Co-ordinator(s). Any new appointment of an Environmental Co-ordinator(s) is to receive prior approval of the Director-General.

2.2 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 2.2(d)]. The Environmental Management Strategy shall be prepared in consultation with the relevant authorities and the Community Consultative Committee (refer condition 9.1) and to the satisfaction of the Director-General, prior to commencement of operations. The Strategy shall be provided to the Director-General no later than the time the first Environmental Management Plan under sub clause (d) below is submitted.
- (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 operation, 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, operation and decommissioning of the rail loop and Antiene rail spur, 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 operations, including elements such as wetlands and other habitat areas, creek lines and drainage channels, within the context of those objectives;
 - (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 economic productivity within the area affected by the operations;

- (vii) steps to be taken to ensure that all approvals, plans, and procedures are being complied with;
 - (viii) processes for complaint handling, investigation and resolution in relation to the environmental management of the project;
 - (ix) documentation of the results of consultations undertaken in the development of the Environmental Management Strategy.
 - (x) The Applicant shall make copies of the environmental management strategy available to MSC, EPA, DMR and the CCC within fourteen days of approval by the Director-General.
- (d) The Applicant shall prepare the following environmental management plans for the Drayton rail loading facility:
- Dust management plan (refer condition 5.1)
 - Noise management plan (refer condition 5.4.3(a))
 - Water management plan (refer to condition 3.1)
 - Joint Acquisition Management Plan (refer to condition 10.3)
- (e) The management plans are to be revised, and updated as necessary, at least every 5 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 MSC within two weeks of approval of the relevant government authority.
- (f) The Applicant shall make copies of the updated environmental management plans available to MSC, EPA, DMR and the CCC within fourteen days of approval by the Director-General.

2.3 Bushfire and other Fire Controls

The Applicant shall maintain the existing fire protection works on site at Drayton rail loading facility, including the availability of trained personnel, water tankers and fire fighting equipment and annual hazard reduction measures with particular attention to boundaries of adjoining landholdings.

3. Water Management and Monitoring

3.1 Surface & Ground Water Management and Monitoring

The Applicant shall:

- (a) Prepare a site water management plan and monitoring system for the Drayton rail loading facility to include the revised coal transport operations in consultation with DLWC prior to commencement of operations, and to the satisfaction of the Director-General . The plan shall include but not be limited to the following matters:
 - (i) details of the integration of the revised coal transport operations with the existing Drayton mine water management plan and monitoring system.;
 - (ii) management of the quality and quantity of surface and groundwater within the areas covered by the Site Water Management Plan, which shall include preparation of monitoring programs;
 - (iii) management of stormwater and general surface runoff diversion to ensure separate effective management of clean and dirty water;
 - (iv) measures to prevent the quality of any surface waters being degraded due to the revised coal transport operations, below that identified in Table 2.5 of the EIS
 - (v) contingency plans for managing adverse impacts of the development on surface or ground water quality and quantity below that identified in Table 2.5 of the EIS;
 - (vi) identification of any possible adverse effects on water supply sources of surrounding land holders as a result of the revised coal transport operations, and implementation of mitigation measures as necessary; and
 - (vii) a program for reporting on the effectiveness of the water management systems and performance against objectives contained in the this water management plan.

Pollution of waters

Note: Except as may be expressly provided by a licence under the Protection of the Environment Operations Act 1997 in relation of the development, section 120 of the Protection of the Environment Operations Act 1997 must be complied with in connection with the carrying out of the development.

4. Waste Management

The applicant shall ensure that the waste management system, including the management of waste water, is maintained and applied to the proposed increase coal transport operations along the Drayton rail loop and Antiene rail spur as detailed in Section 5.2.5 of the EIS.

5. Noise and Air Quality Management and Monitoring

5.1 Air Quality Management and Monitoring

Dust Management Plan

- (a) The Applicant shall, within 3 months of this consent, prepare a Dust Management Plan for the Drayton rail loading facility, detailing air quality safeguards and procedures for dealing with dust emissions to the satisfaction of the Director-General. The Plan shall be prepared in consultation with the owners of the Bayswater rail loading facilities with the aim of achieving a consistent approach in the preparation of the Dust Management Plans for the Drayton and Bayswater rail facilities respectively. 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;
 - specifications of the procedures for the dust monitoring program for the purpose of undertaking independent dust investigations, including joint investigations with the owners of the Bayswater rail loading facility and rail loop where necessary;
 - outline the procedure to notify property owners and occupiers likely to be affected by dust from the operations;
 - the establishment of a protocol for handling dust complaints that include recording, reporting and acting on complaints;
 - appropriate mechanisms for community consultation;
 - outlining mitigation measures to be employed to minimise dust emissions;
 - equipment to be available and used to control dust generation;
 - methods to determine when and how operations are to be modified to minimise the potential for dust emissions if the relevant criteria are exceeded;
 - identification of longer term strategies directed towards mitigating dust levels that exceed the relevant EPA dust amenity criteria;
 - details of locations for dust monitoring and deposition gauges (including existing Drayton monitoring locations if proposed to be used.) at residential areas and frequency of monitoring, as agreed with the EPA;
 - a program to continue baseline monitoring undertaken prior to development consent; and
 - details of the integration of this plan with the Drayton mine dust management plan, and this plan's inter-relationship with the Bayswater rail facilities dust management plan.

Air Quality and Dust Monitoring

- (b) The Applicant shall:
- (a) undertake monitoring at locations described in the Dust Management Plan (Condition 5.1(a));
 - (ii) use existing relevant Drayton dust deposition and total suspended particulate (TSP) monitoring gauges for the Drayton Rail Loop and Antiene Rail Spur operations, including sites for monitoring impacts of dust at the nearest non-mined owned residences, and any additional locations as may be determined by the Dust Management Plan referred to in Condition 5.1(a); and

- (iii) provide all results and analysis of air quality monitoring in the AEMR including a determination of the annual dust deposition rate in $\text{gm/m}^2/\text{month}$, which shall be plotted in the AEMR.
- (c) Monitoring of dust deposition and the concentration of PM_{10} particulate matter in ambient air must be carried out at locations agreed to in consultation with the EPA. The sampling method, units of measure, interval and frequency of monitoring will be as set out in the "Approved Methods for Sampling and Analysis of Air Pollutants in NSW", or its latest version.
- (d) In the event that a landowner or occupier considers that dust from the project at their dwelling or over more than 25% of their vacant land is in excess of the relevant EPA dust amenity criteria, 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 and bear the cost of, in consultation with the owner of the Bayswater rail loading facility and rail loop, 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 operation in accordance with the Dust Management Plan if exceedences are demonstrated to result from the operation. 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 / or,
 - 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 amelioration/benefit for the dust levels experienced. The agreement may also be made in consultation with the owner of the Bayswater rail loading facility and rail loop and
 - conduct follow up investigations to the satisfaction of the Director-General, where necessary.

Note: Vacant land in this condition means the whole of the lot in a current plan registered at the Land Titles Office as at the date of this consent that does not have a dwelling situated on the lot and is permitted to have a dwelling on that lot.

- (e) If the independent dust investigations in sub-clause (e) above confirm that dust limits are in excess of the relevant EPA dust amenity criteria, the Applicant shall at the written request of the owner acquire the relevant property. Acquisition shall be in accordance with the procedures set out in Condition 10.1, 10.2 and 10.3.
- (f) Further independent investigations shall cease if the Director-General is satisfied that the relevant consent limits or relevant EPA dust amenity criteria are not being exceeded and are unlikely to be exceeded in the future.

5.2 Dust Suppression and Control

Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

5.3 Noise Control

5.3.1 Noise Levels

- (a) For three years from the date of this consent, the applicant shall cooperate with the relevant mining operators to limit the cumulative noise contributions from the operation of Drayton rail loop and Antiene rail spur such that these noise levels in conjunction with the total cumulative noise emissions from the operations of the Drayton coal mine, Bayswater rail loading facility and rail loop, Bayswater mine, Antiene rail spur, and proposed Mount Arthur North project if approved, do not exceed the dB(A) $L_{eq}(9 \text{ hour}/4 \text{ hour}/11 \text{ hour})$ noise limits in Table 1 at any non-mine owned dwellings (refer also condition 10.1). The applicant shall also ensure that the noise levels from the Drayton rail loop and Antiene rail spur alone shall not exceed the dB(A) $L_{eq}(15 \text{ minute})$ noise limits also shown in Table 1 for the first three years from the date of this consent.

Table 1: Noise limits

Night time (10pm-7am)	Evening time (6pm-10pm)	Day time (7am-6pm)
42 dB(A) $L_{eq}(9 \text{ hour})$	42 dB(A) $L_{eq}(4 \text{ hour})$	42 dB(A) $L_{eq}(11 \text{ hour})$
40 dB(A) $L_{eq}(15 \text{ minute})$	40 dB(A) $L_{eq}(15 \text{ minute})$	40 dB(A) $L_{eq}(15 \text{ minute})$

- (b) After three years from the date of this consent, the applicant shall cooperate with the relevant mining operators to limit the cumulative noise contributions from the Drayton rail loop and Antiene rail spur such that these noise levels in conjunction with the total cumulative noise contributions from the operations of the Drayton coal mine, Bayswater rail loading facility and rail loop, Bayswater mine and the Antiene rail spur, and proposed Mount Arthur North project if approved, do not exceed the dB(A) $L_{eq}(9 \text{ hour}/4 \text{ hour}/11 \text{ hour})$ noise limits in Table 2 at any non-mine owned dwellings (refer also condition 10.1). The applicant shall also ensure that the noise levels from the Drayton rail loop and Antiene rail spur alone do not exceed the dB(A) $L_{eq}(15 \text{ minute})$ noise limits also shown in Table 2 after three years from the date of this consent.

Table 2: Noise limits

Night time	Evening Time	Day time
40 $L_{eq}(9 \text{ hour})$ dB(A)	40 $L_{eq}(4 \text{ hour})$ dB(A)	40 $L_{eq}(11 \text{ hour})$ dB(A)
38 $L_{eq}(15 \text{ minute})$ dB(A)	38 $L_{eq}(15 \text{ minute})$ dB(A)	38 $L_{eq}(15 \text{ minute})$ dB(A)

- (c) Notwithstanding condition 5.3.1 (b) above, the Director-General may otherwise agree to a request from the applicant to maintain the noise criteria of Table 1, provided that the Director-General is satisfied that the applicant can justify that it cannot achieve the noise criteria in Table 2 by:

- (i) providing full detail of whatever means are required to achieve the noise levels in Table 2, and a quantitative analysis of the cost effectiveness of such means to the satisfaction of the EPA; and
 - (ii) following the analysis at (i) above, the applicant is required to determine, to the satisfaction of the EPA, the best alternative mitigation measures that might not achieve the levels in Table 2, but are considered reasonable and feasible and will be put in place by the applicant.
- (d) Notwithstanding sub clauses (a), (b) and (c) above, the area of noise affectation for the cumulative operation of the Drayton rail loop, Antiene rail spur, Drayton coal mine, Bayswater rail loading facility and rail loop, Bayswater mine, Antiene rail spur, and proposed Mount Arthur North project if approved, is defined by demonstrated exceedence of noise levels at any non-mine owned dwellings of the dB(A) $L_{eq}(9 \text{ hour}/4 \text{ hour}/11 \text{ hour})$ noise limits shown in Table 3 below. The area of noise affectation for the Drayton rail loop and Antiene spur is defined by demonstrated exceedence of noise levels at any non-mine owned dwellings of the dB(A) $L_{eq}(15 \text{ minute})$ noise limits also shown in Table 3 below.

Table 3: Noise Affectation Criteria

Night Time	Evening Time	Day time
45 dB(A) $L_{eq}(9\text{hour})$	45 dB(A) $L_{eq}(4\text{hour})$	45 dB(A) $L_{eq}(11\text{hour})$
43 dB(A) $L_{eq}(15 \text{ minute})$	43 dB(A) $L_{eq}(15 \text{ minute})$	43 dB(A) $L_{eq}(15 \text{ minute})$

- (e) In the event that a landowner or occupier considers that noise from the project at their dwelling is in excess of:
- the noise levels depicted in Table 1 within the first three years from the date of this consent; or
 - the noise levels depicted in Table 2 after the first three years from the date of this consent (or as agreed by the Director-General); or
 - the noise levels depicted in Table 3; or
 - that a landowner considers that the noise levels depicted in Table 3 is being exceeded over more than 25% of their vacant land,

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 and bear the costs of, in consultation with the owner's of Bayswater rail loading facility and rail loop, 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 and contribution of the Drayton rail loop and Antiene rail spur;
- (iii) modify the coal transportation activity in accordance with a noise reduction plan prepared as part of the noise management plan, if exceedences are demonstrated to result from the coal transportation activity. This shall include:
 - introduction of additional controls, either on noise emission from individual sources on the site or on site operations or modify operations, to ensure that the criteria in the Table 2 above are achieved;

- with the agreement of the landowner, undertaking of noise control at the dwelling to achieve acceptable internal noise levels;
 - entering into an agreement with the owner of Bayswater rail loading facility and rail loop and the landowner, or provide such other forms of benefit or amelioration as may be agreed between the parties as providing acceptable amelioration/benefit for the noise levels experienced;
- (iv) conduct follow up investigations to the satisfaction of the Director-General, where necessary.
- (f) If the independent noise investigations in sub-clause (e) above confirm that noise limits in Table 3 are being exceeded, the Applicant shall at the written request of the owner acquire the relevant property. Acquisition shall be in accordance with the procedures set out in Condition 10.2 and 10.3.
- (g) If continued complaints and noise investigations confirm that noise limits in Table 1 and/or 2 are being exceeded, but are less than the noise levels in Table 3, the Applicant shall continue to negotiate with the owner of the Bayswater rail loading facility and rail loop and the landowner until an acceptable resolution is reached.
- (h) Further independent investigations shall cease if the Director-General is satisfied that the relevant consent limits are not being exceeded and are unlikely to be exceeded in the future.

Note:

1. The noise emission limits in this condition apply for adverse weather conditions. “Adverse” weather conditions means the presence of winds up to 3 metres per second, and/or temperature inversions for up to 4 degrees C per 100 metres.
2. Vacant land in this condition means the whole of the lot in a current plan registered at the Land Titles Office as at the date of this consent that does not have a dwelling situated on the lot and is permitted to have a dwelling on that lot.

5.3.2 Noise Management Plan

- (a) The Applicant shall within three months of the date of this consent, prepare a Noise Management Plan for the Drayton rail loading facility and Antiene rail spur, to the satisfaction of the Director-General. The Plan shall be prepared in consultation with the owner of Bayswater rail loading facility with the aim of achieving a consistent approach in the preparation of the Drayton rail loading facility noise management plan. The Plan shall:
- include details of the conduct of noise investigations at three monthly intervals (unless otherwise agreed by the Director-General) to evaluate, assess and report the both the $L_{eq(15 \text{ minute})}$ (project alone) and $L_{eq(9 \text{ hour}/4 \text{ hour}/11 \text{ hour})}$ (cumulative) noise emission levels due to normal coal transport operations under adverse weather conditions;

- details of the proposed methodologies including establishing the Drayton rail loop and Antiene rail spur operating configuration; determining survey intervals; weather conditions and seasonal variations; selecting variations, locations, periods and times of measurements;
 - outline the design of any noise monitoring and noise modelling or other studies including the means for determining the noise levels emitted by the operations;
 - particularly focus on the management of night time noise (10.00pm – 7.00am) for each year of operation;
 - identify noise affected properties and the relevant noise limits consistent with the EIS, the additional noise information requested by the EPA and supplied by Umwelt (Australia Pty Limited) in a letter dated 15 June 2000; with results of extended noise monitoring and in a letter dated 20 July 2000 and accompanying report titled “Response to EPA Submission of 5 July 2000; and the Drayton Coal Pty Ltd Response to Summary of Submissions received from DUAP on 2 June 2000, prepared by Umwelt (Australia) Pty Ltd, August 2000;
 - specify the procedures for a noise monitoring program for the purpose of undertaking independent noise investigations, in consultation with the owners of Bayswater mine, as necessary;
 - outline the procedure to notify property owners and occupiers likely to be affected by noise from the operations;
 - 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 noise criteria in Table 2 under adverse meteorological conditions;
 - outline measures to be used to reduce the impact of intermittent, low frequency and tonal noise (including any 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 lead to exceedence of the relevant noise criteria;
 - survey and investigate noise reduction measures, if required, from plant and equipment annually, subject to noise monitoring results and/or complaints received, and report in the AEMR at the conclusion of the first 12 months of operations and set targets for noise reduction taking into consideration valid noise complaints in the previous year. The Report shall also include remedial measures to achieve compliance with the specified noise goals; and
 - include details of the integration of this plan with the existing Drayton mine Noise Management Plan, and its inter-relationship with the Bayswater rail facility noise management plan.
- (b) Prior to the commencement of operations the applicant shall ensure cladding is added to the northern side of the Drayton Coal Handling Facility, extending from ground level to the top of the conical section of both loading bins, with an internal facing of absorbing material and vibration isolated from the existing structure as described in the EIS.
- (c) The Applicant shall also:
- (i) make copies of the Plans available to the EPA, MSC and CCC within fourteen days of approval, or as otherwise agreed to be the Director-General; and

- (ii) include a summary of noise monitoring results in the AEMR .

5.3.3 Noise Monitoring

- (a) The levels of noise emitted from the premises must be monitored for 72 hrs every 3 months unless otherwise agreed by the Director-General at locations agreed to in consultation with the EPA. The monitoring must determine the $L_{Aeq,9hour}$, $L_{Aeq,15min}$, $L_{A10,15min}$, $L_{A90,15min}$, and $L_{A1,1min}$ and include an assessment of the impact of operational noise on adjoining residents.
- (b) Noise monitoring at the specified locations must be undertaken during daytime (7.00am-6.00pm), evening (6.00pm-10.00pm) and night time (10.00pm-7.00am).

5.4 Light Emissions

The Applicant shall screen or direct all on-site lighting away from residences and roadways, or manage such lighting to the satisfaction of MSC

6. Transport

6.1 Limits on Transportation of Coal

- (a) Coal transported along the Drayton Rail Loop is limited to seven (7) million tonnes per annum.
- (b) Coal transported along the Antiene Rail Spur is limited to twenty (20) million tonnes per annum.
- (c) The peak number of train movements along the Drayton Rail Loop are limited to 12 per day.
- (d) The peak number of train movements along the Antiene Rail Spur are limited to 30 per day.
- (e) The maximum annual rate of coal haulage shall be calculated from the date of commencement of this consent. The Applicant shall submit a statement every six (6) months regarding the number of daily train movements, quantities and destination of product hauled on the Drayton rail loop and Antiene rail spur in that period to the Director-General unless otherwise agreed by the Director-General, commencing from the date of commencement of this consent.
- (f) To ensure residents access on the northern side of Antiene Road is not restricted, the Applicant shall consult with RAC to ensure amendment of the RAC signal procedures manual is undertaken so that the signal located to the west of the level crossing near the junction of the Antiene rail spur and the Main Northern Railway (signal 60) is the priority signal for access to the Main Northern Railway as discussed in section 4.3.2.2 of the EIS.

Note: Condition 6.1 shall be read in conjunction with condition 6.1 Limits on Transportation of Coal of the consent issued by the Minister for Urban Affairs and Planning to Coal Operations Australia Limited (COAL) for the construction and operation of the Bayswater Rail Loading Facility and Rail Loop. Condition 6.1 of the COAL consent is as follows:

- (a) Coal transported along the Bayswater Rail Loop is limited to 13 million tonnes per annum during the simultaneous operation of the Drayton Rail Loop at 7 million tonnes per annum.
- (b) Coal transported along the Bayswater Rail Loop can only exceed 13 million tonnes per annum where the combined annual tonnage of operations along the Bayswater Rail Loop and Drayton Rail Loop do not exceed 20 million tonnes per annum.
- (c) The peak number of train movements along the Bayswater Rail Loop are limited to 18 per day, except in the event that Drayton mine does not utilise all of its 7 million tonnes per annum, the applicant may take up the spare capacity, with a total limit of 30 train movements per day along the Bayswater rail loop and Antiene rail spur.
- (d) The maximum annual rate of coal haulage shall be calculated from the date of commencement of rail haulage. The Applicant shall submit a statement every six (6) months regarding the quantities, number of daily train movements and destination of product hauled on Bayswater rail loop in that period to the Director-General unless otherwise agreed by the Director-General, commencing from the date of commencement of rail haulage.

6.2 Road Transport

No coal shall be hauled on public roads except under emergency or special situations and only with the prior written permission of the Director-General, RTA and MSC.

6.3 Rail scheduling

Note: A commercial agreement is in place between the owners of the Bayswater and Drayton rail facility proposals respectively which requires the applicant to advise the owners of the Bayswater rail facility, no less than sixty (60) business days before the commencement of each year, of its proposed Estimated Annual Tonnage and its planned shipping schedule for coal haulage on the Antiene Spur. On the first business day of each month, the applicant will advise the owners of Bayswater mine of its planned shipping schedule for coal haulage for each of the then ensuing three months.

7. 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 Applicant, require the monitoring programs in Conditions 3 and 5 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 MSC 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 laboratories with a nationally recognised relevant accreditation shall be used for laboratory analysis.

7.1 Third Party Monitoring/Auditing

Independent Environmental Audit

- (a) Every three years from the date of this consent until completion of coal transportation in the DA area, or as otherwise directed by the Director-General, the Applicant shall conduct an environmental audit of the Drayton Rail loop operation and Antiene rail spur operation 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. The audit shall be co-ordinated as far as possible with the audit for the Bayswater rail loading facility and rail loop as directed by the Director-General. Copies of the report shall be submitted by the Applicant to the Director-General, MSC, EPA, DMR, 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) assess the development against the predictions made in the EIS;
 - (iii) review the effectiveness of the environmental management of the coal transportation operations, including any mitigation works;
 - (iv) be carried out at the Applicant's expense; and
 - (v) be conducted by a duly qualified independent person or team approved by the Director-General in consultation with MSC.
- (c) The Director-General may, after considering any submission made by the relevant government agencies, MSC 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.

7.2 Meteorological

The applicant shall utilise the existing meteorological station at Drayton mine or establish an alternative meteorological station at a relevant location, in accordance with the requirements of AS 2922 1987 "Ambient Air Guide for Siting of Sampling Units" or updated version. The meteorological station must be capable of recording wind direction and speed, temperature and sigma theta and be operated in accordance with the requirements of AS 2923-1987 "Ambient Air Guide Horizontal Wind for Air Quality Application", or subsequent relevant standards.

8. Reporting

8.1 Environmental Reporting

Annual Environmental Management Report (AEMR)

- (a) The Applicant shall, throughout the life of the rail loading facility and rail loop and for a period of at least three years after the completion of operations in the DA area, prepare and submit an Annual Environmental Management Report (AEMR), which may be incorporated into the existing Drayton AEMR to the satisfaction of the Director-General. The AEMR shall include a review of the performance of coal transportation against the Environmental Management Strategy, the conditions of this consent, and other licences and approvals relating to the coal transport operations. To enable ready comparison with the predictions of the EIS, diagrams and tables, the report shall include, but not be limited to, the following matters:
 - (i) an annual compliance review 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 coal transport operations in terms of EPA, DMR, and MSC requirements;
 - (iii) results of all environmental monitoring required under this consent or other approvals, including interpretations and discussion by a suitably qualified person;
 - (iv) identify trends in monitoring results over the life of coal transport operations;
 - (v) a listing of any variations obtained to approvals applicable to the subject area during the previous year; and
 - (vi) environmental management targets and strategies for the next year, taking into account identified trends in monitoring results.
- (b) In preparing the AEMR, the Applicant shall:
 - (i) respond to any request made by the Director-General for any additional requirements; and
 - (ii) comply with any requirements of the Director-General or other relevant government agencies.
 - (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; or in the next Drayton mine AEMR after the date of this consent.

9. Community Consultation/Obligations

9.1 Community Consultative Committee

- (i) The Applicant shall, at its own expense:
 - (a) provide to the existing Drayton Community Consultative Committee (CCC), or its equivalent, regular information on the progress of coal transport operations and monitoring results;
 - (b) promptly provide to the Committee such other information as the Chair of the Committee may reasonably request concerning the environmental performance of the coal transport operations; and
 - (c) provide access for site inspections by the Committee.
- (ii) The Applicant shall co-ordinate with Bayswater mine joint meetings of the Drayton and Bayswater CCCs, or their equivalents, on a basis to be agreed by the two CCCs, to discuss the management of the joint user rail facility.

9.2 Community Consultation

Complaints

- (a) The environmental coordinator employed by Drayton mine (refer condition 2.1) shall be responsible:
 - (i) for recording complaints with respect to coal transport operations along the Drayton rail loop and Antiene rail spur in accordance with the existing Drayton mine complaints handling procedures, or its equivalent, including use of the dedicated and publicly advertised telephone line, 24 hours per day 7 days per week, entering complaints or comments in an up to date log book, or other suitable data base, and ensuring that a response is provided to the complainant within 24 hours;
 - (ii) for providing a report of complaints received with respect to the Drayton coal transportation operations every six months throughout the life of the project to the Director-General, MSC, EPA, DMR, and CCC, or as otherwise agreed by the Director-General. A summary of this report shall be included in the AEMR (condition 8.1(a)).
 - (iii) consult with the environmental officer employed by the Bayswater mine to coordinate a response to any complaints received regarding the operation of the joint user rail facility .

10. Proponents Obligations

10.1 Cumulative Impact Assessment

- (a) In the event that the cumulative impact of noise or dust contributed by the operation of the Drayton rail loading facility, rail loop and Antiene rail spur and other nearby mining/industrial activities, including the Bayswater rail loop, Bayswater mine, Drayton mine, and Mount Arthur North Project if approved, at dwellings, or vacant land (as described in Condition 6.3.1(e)), in the vicinity of the operation, is in excess of the noise or dust criteria contained in these conditions of consent, the Applicant shall negotiate with the other mining companies appropriate arrangements to reasonably contribute to the management of the identified cumulative impacts to the satisfaction of the Director-General.
- (b) If it is identified from subclause (a) above that an industrial operator, other than a mining company, is the cause of an exceedence, the applicant shall provide a report to the Director-General the reasons for the cumulative criteria exceedences with demonstration that the applicant's activities are not the sole cause of the exceedences.
- (c) If agreement on appropriate contributions towards mitigation measures/ acquisition cannot be reached from negotiations undertaken in accordance with subclause (a), then the Director-General may appoint an independent panel to resolve the matter. The membership of the independent panel shall be as determined by the Director-General. The independent panel shall determine the responsibilities of each of the mining companies. The decision of the independent panel shall be final and binding on all parties. The responsibilities of the mining companies and the landowner as described in Condition 10.2 and 10.3 will apply.
- (d) Prior to the appointment of the independent panel, the applicant shall provide the Director-General a report detailing the applicant's reasons for being unable to get agreement with the other parties, and the reasons for the cumulative criteria exceedences with demonstration that the applicant's activities are not the sole cause of the exceedences.

10.2 Area of Affection – Land Acquisition

Note: In Condition 10.2 (a)-(h) "land" means the whole of a lot in a current plan registered at the Land Titles Office as at the date of this consent.

- (a) The Applicant shall negotiate and purchase a property, as identified in conditions 5.1, 5.3 and/or 10.1, within six (6) months of a written request from the affected land owner.
- (b) 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, as if the land was unaffected by coal transport operations along the Drayton rail loop and Antiene rail spur the subject of this DA, 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 Muswellbrook or Singleton 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.

10.3 Joint Acquisition Management Plan

The Applicant shall prior to commencement of the increased operations of the Drayton rail loop and Antiene rail spur, prepare a Joint Acquisition Management Plan with the owner of Bayswater rail loading facility and rail loop, to the satisfaction of the Director-General. The plan shall:

- Provide details of a joint approach to be adopted by the Applicant and the owner of the Bayswater rail loading facility and rail loop in regard to meeting the acquisition procedure requirements outlined in condition 10.2 of this consent relating to the cumulative impacts of the Drayton rail loop and Antiene rail spur, Drayton coal mine Bayswater rail loading facility and rail loop, Bayswater mine and the Mount Arthur North project if approved, should acquisition be required.

11. Further Approvals and Agreements

11.1 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, and all other relevant legislation, Regulations, Australian Standards, Codes, Guidelines and Notices, Conditions, Directions, Notices and Requirements issued pursuant to statutory powers by the MSC, EPA, DLWC, DMR, and RAC, are fully met.
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