

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

**DETERMINATION OF DEVELOPMENT APPLICATION
PURSUANT TO SECTION 92**

I, the Minister for Urban Affairs and Planning, pursuant to Section 91 of the Environmental Planning and Assessment Act, 1979 ("the Act") and clause 8 of State Environmental Planning Policy No. 34 - Major Employment Generating Industrial Development, 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 set out in Schedule 2. The reason for the imposition of conditions generally is to minimise any adverse effects from the development, consistent with the objectives of the Act.


Craig Knowles
Minister for Urban Affairs and Planning

Sydney, 16.10.1995

File No. N90/00356

Schedule 1

- Application made by:** Bloomfield Collieries Pty Limited ("the Applicant").
- To:** The Minister for Urban Affairs and Planning ("the Minister").
- In respect of:** Coal Lease 352 and land subject to Coal Lease Application No. 17 Singleton.
- For the following:** Construction and operation of surface coal mine extensions ("the development").
- Development Application:** DA49/94 lodged with Department of Urban Affairs and Planning on 30 November, 1994 accompanied by an Environmental Impact Statement prepared by HLA-Envirosciences Pty Ltd dated 29 November, 1994, and a supplement dated April 1995.
- 1) To ascertain the date upon which the consent becomes effective, refer to section 93 of the Act.
 - 2) To ascertain the date upon which the consent is liable to lapse, refer to section 99 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 this notice.

SCHEDULE 2
CONDITIONS OF CONSENT

General

1. The Development is to be carried out generally in accordance with the Environmental Impact Statement dated November 1994 and Supplementary Document dated April 1995 prepared by Envirosiences Pty Ltd and certified in accordance with Section 77(3) of the Act, as may be modified by the conditions set out herein.

Duration

2. Approval in respect of coal extraction is limited to a period of 21 years from the date of this consent or from the date of issue of a mining lease in satisfaction of Mining Lease Application No. 17 Singleton wherever is the later..

Statutory Requirements

3. The Applicant shall ensure that all statutory requirements including but not restricted to those set down by the Local Government Act, 1993, Pollution Control Act, 1970, Clean Air Act, 1961, Clean Water Act, 1970, Noise Control Act, 1975, Protection of the Environment Administration Act, 1991 and all other relevant legislation, Regulations, Australian Standards, Codes, Guidelines and Notices, Conditions, Directions, Notices and Requirements of the Environment Protection Authority ("EPA"), Department of Mineral Resources ("DMR"), National Parks and Wildlife Service ("NPWS"), Department of Land and Water Conservation ("LAWC") and Roads and Traffic Authority ("RTA"), are fully met.

Production Level

- 4 Mining plans for submission to DMR shall be based on a total movement of materials in mining not exceeding fifteen (15) million bank cubic metres in any year.

Transmission Line Relocation

5. The Applicant shall relocate any TransGrid transmission lines within the mining lease to the satisfaction of TransGrid and at a mutually agreed time.

Reasons: To ensure that the development is constructed and operated in the manner set out in the application and in accordance with the relevant statutory requirements.

Landscaping

6. The Applicant shall:

- i) within six (6) months of the date of this consent or within such further period as the Singleton Council ("the Council") may permit, submit for Council's approval:
 - a) An updated detailed landscaping plan covering all portions within the proposed mining area and associated lands owned by the Applicant. The Applicant shall engage a suitably qualified person to assist in preparing the landscaping plan. The plan shall provide for the establishment of trees and shrubs and the construction of mounding.

The plan shall incorporate appropriate erosion control and sediment control practices for earthworks associated with the development.
 - b) Details of the visual appearance of all buildings, structures, facilities or works (including paint colours and specifications). Buildings and structures shall be designed and constructed/renovated so as to present a neat and orderly appearance and to blend as far as possible with the surrounding landscape.
 - c) A comprehensive plan of landscape management which shall include detailed plans, specifications for the maintenance of all landscape works and plantings, and maintenance of building materials and claddings, proposed screen plantings and mounding along the New England Highway and mine overburden dumps.
- ii) apply a surface sealant such as bitumen emulsion, straw or seed within 30 days of its construction to any mounding or bunding as directed by LAWC.
- iii) comply with the requirements of Council in respect to any supplementary tree planting and visual amenity enhancement works within or immediately outside the mining lease area which may be identified by the Council in consultation with relevant land holders as necessary for the maintenance of satisfactory visual amenity in the local area.

Reasons: To enhance the landscape quality in the vicinity of the mine.

Flood lighting

7. The Applicant shall screen or direct all on-site flood lighting and vehicular lights away from residences and roads, to the satisfaction of the Council.

Fire Protection

8. The Applicant shall provide adequate fire protection works on site. This shall include one (1) fully equipped fire fighting unit on standby and annual hazard reduction works with particular attention to boundaries of adjoining land holdings.

Land Management Plan

9. The Applicant shall prepare and regularly update at its own expense, to the satisfaction of LAWC, a Land Management Plan for all its landholdings within or contiguous with CL352 to provide for proper land management including eradication of vermin and noxious weeds as required by the Rural Lands Protection Authority, the Upper Hunter Weeds Authority, the Prickly Pear Authority and other relevant authorities.

Reasons: To protect the existing amenity of the immediate or wider area adjacent to the mine.

Noise Levels

10. The Applicant shall

- i) comply with L_A 10 daytime noise level design goals set out below:

The Retreat	42dB(A)
Singleton Heights	42dB(A)
Maison Dieu Road	38dB(A)

- ii) comply with L_A 10 nighttime noise level design goals set out below:

The Retreat	40dB(A)
Singleton Heights	40dB(A)
Maison Dieu Road	38dB(A)

These goals relate to average conditions (neutral atmosphere) and not to inversion conditions.

Noise and Vibration Monitoring and Management

11. The Applicant shall:

- i) measure, record and report the L_A 10,15 min noise level over a representative 72 hour period at four (4) locations determined by the EPA from five (5) nominated locations closest to the mining operations. The report shall include a record of the meteorological conditions at the time of monitoring and shall be conducted on a quarterly basis. Monitoring shall commence immediately after the date of this Consent.
- ii) submit a management plan for information of the Council and approval by EPA, detailing noise safeguards and procedures for dealing with noise episodes which exceed the above established L_A 10 noise levels;
- iii) establish noise monitoring stations in the vicinity of Maison Dieu Road, as required by EPA;

- iv) upon receipt of a written request from an owner or occupier of a dwelling on property in the vicinity of Maison Dieu Road, make arrangements for and bear the cost of independent noise monitoring at that residence. The monitoring is to be carried out by a qualified independent person or team approved by the Director in consultation with the Council, EPA and the Applicant. The approved person or team will report directly to the Director and Applicant on a quarterly basis. Monitoring shall commence within one (1) month from receipt of the written request to determine the contribution of noise emanating from the mine to the surrounding acoustical environment over at least two (2) consecutive 15 minute periods, twice by day and twice by night over a 72 hour period. For the first six (6) months following this Consent the interval between two (2) consecutive monitoring periods shall not exceed four (4) weeks. Thereafter, the interval between two (2) consecutive monitoring periods shall not exceed three (3) months.
- v) survey and investigate noise reduction measures from plant and equipment every three (3) years or as otherwise directed by EPA and carry out remedial measures as directed by EPA.

Blasting

12. The Applicant shall:

- i) ensure that noise and vibration monitoring and control is generally carried out in accordance with the recommendations of Australian Standard AS-2187-1993 and in terms of ANZEC Guidelines and to satisfaction of the EPA.
- ii) not blast within 500m of the New England Highway or any approved deviation of the highway while either are open for traffic.
- iii) design all blasts based on the results of monitored blasts designed to minimise air blast overpressure and ground vibration using the Nonel or equivalent system such that any one (1) blast has less than a five per cent (5%) probability of exceeding an air blast overpressure of 115dBA and vibration with a peak particle velocity of 5mm/sec at the closest residence not owned by the applicant outside the mining lease.
- iv) determine appropriate weather data by taking measurements immediately prior to blasting and from the data shall predict whether noise levels outside the project area are likely to be increased above the levels expected under neutral meteorological conditions. The data shall be recorded by the Applicant as part of its monitoring data.
- v) not blast if the predictions in sub-clause (iv) herein indicate that noise level design goals given in Condition 10 are likely to be exceeded or as otherwise advised by EPA.

- vi) monitor all blasts and record the overpressure and peak particle velocity at locations to be agreed by EPA and the DMR and as provided in Condition 11(iv).
- vii) upon written request of the owner of any property located within two (2) kilometres of the boundaries of the proposed pits, and made within 6 months of issue of this Consent or after a large vibration event (likely to have exceeded 120 dB(L) overpressure and/or 10mm/sec ground vibration) at the residence, arrange at its own cost, for the inspection by a technically qualified person agreed to by both parties, to record the material condition of any structure on such property. The Applicant shall supply a copy of any inspection report, certified by the person who undertook the inspection, to the relevant property owner within 14 days of receipt of same and if warranted, shall undertake further action;
- viii) immediately upon receipt of a written request from a resident within one (1) km of any blast site, record that resident's request for notification of blasts and henceforth notify that resident of any blasts from which they are potentially affected.

Reasons: To protect the acoustic amenity of residents adjacent to the mine and to provide for monitoring of noise and vibration.

Air Quality

13. The Applicant shall:

- i) install and utilise wind direction, velocity monitoring and recording station(s) at a non protected location immediately adjacent to the area to be mined in the vicinity of Maison Dieu Road and Middle Fallbrook Road over each ensuing 12 month period as directed by EPA.
- ii) use the data collected by the wind monitoring and recording station referred to in subclause (i) above to determine when and how the mine operation is to be modified to minimise the potential for dust emissions.
- iii) install 30 dust deposition gauges and in each calendar month shall determine the dust deposition rate in gm/m²/month such that the 4gm/m²/month isopleth for dust deposition is able to be plotted on an annual basis.
- iv) continue meteorological monitoring as well as the monitoring of dust deposition rates and concentrations of total suspended particulates for the life of the mine subject to sub-clause (i). The extent and location of dust monitoring network to be specified by the EPA.
- v) have three (3) high volume samplers equipped to sample particles of less than 10 microns located in positions approved by the EPA. Sampling is to be undertaken on a 24hr 6 days per week cycle with averaging periods (annual means) as well as monitoring equipment/procedures to follow AS2724.3 and AS3508.9.6.

- vi) provide to the Director of Urban Affairs and Planning ("the Director"), EPA, DMR, and the Council results and analysis of air quality monitoring on an agreed basis.
- vii) cease those mining operations located within 1000m of the limit of mining at such times when the average hourly wind velocity exceeds 10 metres per second and the operations are resulting in visible dust emissions blowing in a direction of the mining lease boundary so as to cross onto lands in non-company ownership.
- viii) cease mining operations at any time when the driver visibility or traffic safety on the New England Highway is adversely affected, in accordance with the requirements of the RTA.

Dust Suppression

14. The Applicant shall:

- i) maintain sufficient equipment with the capacity to apply water to all unsealed trafficked areas at the rate of at least one (1) litre per square metre per hour or apply an equally effective dust suppressant;
- ii) ensure the prompt rehabilitation of all disturbed areas to minimise the generation of wind erosion dust, in accordance with the requirements of DMR;
- iii) install automatic water sprays on the coal stockpiles such that the stockpiles are sprayed when the wind speed from any direction exceeds 5.6m/s;

Reasons: To protect the air quality adjacent to the mine and to provide for monitoring of dust deposition and concentration.

Water Management

15. The Applicant shall prepare a detailed updated water management plan for the site. The plan shall be submitted to LAWC for information and approval of EPA prior to work commencing on the new pits. The plan shall address the following matters:

- i) the quality and quantity of discharge from the site;
- ii) storm diversion within the site;
- iii) the adequacy of drainage structures on Maison Dieu Road to cater for increased flows in times of peak release from the mine site or altered drainage patterns due to the activities carried out on the site. Works shall be identified to increase the capacity to such structures to ensure the service of the road is not reduced;

- iv) the quality of water in Rixs Creek and other drainage paths such as Deadman's Creek from the mine such that waters shall not be reduced in water quality by any discharge from the mine site other than under EPA License Conditions;
- v) identify the date and duration of discharges under the Hunter River Salinity Trading Scheme (as per Scheme Rulebook);
- vi) further planning for the long term treatment of groundwater accessions to the final voids.

Rixs Creek Diversion

16. The Applicant shall

- i) liaise with LAWC and meet their requirements for the design, construction and maintenance of any diversion of Rixs Creek;
- ii) not divert Rixs Creek in the southern mining area;
- iii) not mine within 20m of the bank of Rixs Creek in Pit 2 and Pit 3.

Reasons: To protect water quality in Rixs Creek and to provide for water management measures at the site.

Acquisition of Affected Lands

17A. Affected Lands defined in the Development Consent of 19 October, 1989.

The Applicant shall forthwith upon receipt of a request to purchase land identified as being within the area of affectation defined in the development consent for Rixs Creek Coal Mine of 19 October 1989 and owned by any of:

R J Eveleigh
Wendy Bowman & G R Elder
Estate I H. Bowman
Elizabeth S. Bowman
Durian Holdings

purchase such land.

In the event of failure to complete the purchase within six (6) months, clause 17C(iv) below, applies.

17B. Affected Lands other than those defined in the Development Consent of 19 October, 1989

- i) The Applicant shall within six (6) months of receipt of a written request from any of the owners of the properties listed in Attachment 1 of this Consent, purchase the whole of the properties. In the event of failure to complete the purchase within six (6) months, clause 17C(iv) below, applies.
- ii) Where acquisition has not been sought of a property subject to sub-clause 17B(i) an owner or occupier of a dwelling on the property may request the Applicant to carry out measures at the dwelling to mitigate the impact upon the residence of dust fallout/concentration, noise, and vibration, emanating from the mine in excess of the criteria set out in this Consent. The Applicant shall forthwith carry out such measures at its own expense.
- iii) In the event that within one (1) month of a request instigated under sub-clause 17B(ii), the Applicant and the owner or occupier cannot agree upon the measures to be carried out, either party may refer the matter to the Community Consultative Committee. The Applicant shall forthwith carry out the measures which may be required by the said Committee.

17C. Potentially Affected Lands

- i) In the event that the EPA determines that noise from the mining operations at any residence (built or with building approval at the date of this Consent) or more than 25% of any property in the vicinity of Maison Dieu Road is in excess of the relevant noise level design goals set out in clause 10 of this Consent for two (2) consecutive monitoring periods, the Applicant shall purchase such property within six (6) months of receipt of a written request from the owner of the affected property.
- ii) In the event that the EPA determines that dust from the mining operations increases the dust deposition rate by more than 2 gm/m²/month averaged over any six (6) month period, at any residence (built or with building approval at the date of this Consent) or over more than 25% of any property in the vicinity of Maison Dieu Road is the Applicant shall purchase such property within six (6) months of receipt of a written request from the owner of the affected property.
- iii) In respect of a request to purchase land arising under subclause 17A, 17B, 17C(i) or 17C(ii), the Applicant shall pay the owners the acquisition price which shall take into account and provide payment for:
 - a) a sum not less than the current market value of the owner's interest in the land or part thereof (as the case may be) having regard to the existing use of the land whosoever is the occupier and all improvements thereon immediately prior to the granting of this consent as if the land was unaffected by the development proposal. The provisions of this subclause do not apply to the holder of an authority under the Mining Act, 1992.

- b) the owners reasonable compensation for disturbance allowance and relocation costs within the Local Government Areas of Singleton or Muswellbrook.
 - c) the owners 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.
- iv) In the event that the Applicant and any owner referred to in subclause 17(A) and 17(B)(i) and 17(C) 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:
- a) either party may refer the matter to the Director who shall request the President for the time being of the Australian Institute of Valuers and Land Economists to appoint a qualified independent valuer, suitably experienced in compensation issues, who shall determine, after consideration of any submissions from the owners and the Applicant, the acquisition price as described and referred to in subclause (ii) herein.
 - b) in the event that the independent valuer requires guidance on any contentious legal, planning or other issues, the independent valuer shall refer the matter to the Director, recommending the appointment of a qualified panel. The Director, 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, or her nominee,
 - and/or
 - 3) the President of the Law Society of NSW or his nominee.

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

The panel may recommend to the Director to request the Institution of Surveyors (NSW) to appoint an independent surveyor to determine the part of the land to be acquired in relation to the area of affectation which may reasonably be subdivided and acquired having regard to topography, provisions of planning instruments and other associated matters;

- c) The Applicant shall bear the costs of any valuation or survey assessment requested by the Director in accordance with subclauses (a) and (b) herein.
- d) Upon receipt of a valuation arising pursuant to subclauses (a) and (b), the Applicant shall offer to acquire the relevant land at a price not less than the said valuation. Should the Applicant's offer to acquire not be accepted by an owner within six (6) months of the date of such offer, the Applicant's obligations to such owner pursuant to this Clause shall cease.

- e) Upon settlement of the acquisition referred to in this Clause the Applicant shall also pay to the owner the costs and compensation assessed pursuant to subclause (iii) herein including the owner's reasonable costs in the event of a subdivision.

All acquisitions of land under this condition shall be reported in the Annual Report. Once sub-clauses 17A, 17B and 17C have been complied with they shall not be reapplied for the duration of the development consent. This applies to lands already purchased under the development consent of 19 October, 1989.

Reasons: To provide for acquisition of affected land.

Environmental Officer

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

Environmental Management Plan Report

- 19. The Applicant shall:

- i) prepare and submit to DMR for approval an Annual Environmental Management Plan Report. The report shall include:
 - a) short, medium and long-term mining plans;
 - b) rehabilitation report in respect of open cut operations;
 - c) a review of effectiveness of environmental management of the subject area in terms of EPA and DMR requirements;
 - d) a review of performance in terms of the conditions of development consent;
 - e) results of environmental monitoring in respect of air, water and noise pollution;
 - f) a listing of any variations obtained to approvals applicable to the subject area during the previous year;
 - g) the outcome of the water budget for the year, the quantity of clean water used from water storages. Details of the disposal of any contaminated water on site or into water courses;
 - h) set out environmental management targets for the next year.

- ii) consult with the Director during report preparation concerning any additional requirements.
- iii) ensure that copies of the annual Environmental Management Plan Report are submitted to the Director, EPA, LAWC, DMR, NPWS, and the Council.
- iv) ensure that the first report is completed and submitted within twelve (12) months of this consent, at a date to be determined in consultation with DMR, and thereafter.

Complaints

20. The Applicant shall observe all requirements of the DMR complaints protocol and refer to complaints received in the Annual Report (Condition 19).

Reasons: To provide for environmental monitoring and performance reporting.

Community Consultative Committee

21. The Applicant shall:

- i) participate and co-operate in the establishment by the Council of a Community Consultative Committee including representatives of three (3) government agencies (LAWC, EPA, DMR) four (4) community representatives to monitor compliance with conditions of this consent during the term of the development. The Committee, initially chaired by the Council, shall be convened every four (4) months or as required at the request of any representative to discuss compliance matters.
- ii) The Applicant shall at its own expense:
 - a) nominate two (2) representatives to attend all meetings of the Committee;
 - b) provide to the Committee copies of the latest Environmental Management Plan Report, referred to in Condition 19;
 - c) promptly provide to the Committee such other information as the Chairman of the Committee may reasonably request concerning the environmental performance of the development;
 - d) provide access for site inspections by the Committee;
 - e) take and distribute minutes of Committee Meetings and provide meeting facilities for the Committee.

Reasons: To provide community access to environmental monitoring and performance review.

Financial Contributions

22. The Applicant shall pay to the Council a financial contribution pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 in the amount of \$900.00 per additional employee (as identified within the EIS and Supplementary Document) according to the requirements of the Council's Section 94 Contributions Plan No. 1. The Applicant shall pay the contribution to Council within six (6) months of acting upon this consent;

Reasons: To meet the requirements of the Act in relation to community infrastructure contributions.

Closure of the New England Highway for blasting

23. The Applicant shall:

- a) The Applicant shall provide road deviations adjacent to the highway in accordance with Figure 34 of the EIS to the satisfaction of the RTA and the Council unless a valid Management Plan is in operation. These deviations shall be constructed at the Applicant's cost and be constructed to allow two-way traffic movement and to an all weather gravel standard for a design speed of forty (40) kilometres per hour.
- b) The Applicant shall conduct all closures of the New England Highway for blasting in accordance with the Management Plan included in Appendix 2 of the EIS Supplementary Document to the satisfaction of the RTA and the Council.
- c) In the event that the RTA, after consultation with the Applicant and the Council deems that the requirements of the Management Plan are not being met, the Applicant shall cease blasting within 500 metres of the highway.

Closure/Relocation of Middle Fallbrook Road

24. The Applicant shall liaise with the Council in regard to the future closure/relocation of Middle Fallbrook Road in order to provide an alternative road link and proceed to construct such alternative road link as required, in conjunction with potential alternative road link to be provided by other mines to the north of the development. Any relocation shall be designed and constructed to the Council's bitumen sealed rural roads standard.

Reasons: To provide for road relocations in the event of road closures.

Dispute Resolution

25. In the event that the Applicant and the Council or a Government body other than the Department, cannot agree on the specification or requirements applicable under this consent, other than in subclause 17C(iv), the matter shall be referred by either party to the Director or if not resolved, to the Minister, whose determination of the disagreement shall be final and binding on the parties.

Reasons: To provide for dispute resolution in respect to conditions of consent.

Independent Environmental Audit

26. Within 12 months from the date of Consent, the Applicant shall make arrangements for and bear the total cost of an independent comprehensive environmental audit for the development. Further independent audits are to be conducted every fifth year (ie. from year 6 from the date of Consent) or as directed by the Director. The Applicant shall conduct an environmental audit of the mining and infrastructure areas of the development and submit the report to the Director who shall provide a copy to the Council.

The audit shall be conducted by a duly qualified independent person or team approved by the Director in consultation with Council.

The Director may, after considering any submission made by Council on the report, notify the Applicant of the Director's reasonable requirements with regard to any measures arising from or recommended by the independent environmental report. The Applicant shall comply with those reasonable requirements within such time as the Director may reasonably require.

Reason: To provide for periodic independent environmental audits.

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

ATTACHMENT 1

RIXS CREEK COAL MINE EXPANDED PROJECT - LAND PARTICULARS

PROPERTY OWNER	LAND PARTICULARS (lot/DP)
A S Bowman	A/404824
E S Bowman	12/739911
Canravo P/L	55/252692
Wendy Bowman & G R Elder	1/126663
D W Cramp	1001/811415
Wyoming Holstein	1004/811415
D J & I E Dunn	1002/811415
E R Hungerford	1003/811415
J D Hardy	1/626145
Bradford & Souris	102/740380
A C & H C Dunlop	8/253172
	9/253172
R O'Hara	3/614110
Singleton Council	7/251618