

# Instrument of Variation

## *Mining Lease 1471 (1992)*

I, **JAMIE TRIPODI, Executive Director Assessments & Systems**, Mining Exploration and Geoscience in the Department of Regional NSW, with the delegated authority of the Minister under section 261B and clause 12 of Schedule 1B of the *Mining Act 1992* (the Act), **vary** the conditions of mining lease **ML 1471 (1992)** as described in Schedule A.

The conditions of **ML 1471 (1992)**, as varied, are set out in Schedule B.

The variation takes effect on 17 October 2022.



**JAMIE TRIPODI**

**Executive Director Assessments & Systems**

**As delegate for the Minister administering the *Mining Act 1992***

**Delegation date: 14 May 2018**

Dated: 24 August 2022

# Schedule A

Condition		Variation	New Condition
	Definitions	Definitions of 'Department', 'Environment' 'Environmental incident notifications and reports' and 'Harm to the environment' omitted as no longer used.	N/A
1	Notice to Landholders	Wording amended to modernise the condition	1. Notice to Landholders – see Schedule B
2	Rehabilitation	Condition omitted	N/A
3	Mining Operations Plan and Annual Rehabilitation Report	Condition omitted	N/A
4	Non-Compliance Reporting	Condition omitted	N/A
5	Environmental Incident Report	Condition omitted	N/A
6	Extraction Plan	Condition omitted	N/A
7	Resource Recovery	Condition omitted	N/A
8	Group Security	Condition amended to modernise the wording. Condition has been re-numbered due to omission of other conditions.	2. Group Security– see Schedule B
9	Cooperation Agreement	Condition amended to modernise the wording. Condition has been re-numbered due to omission of other conditions.	3. Cooperation Agreement – see Schedule B
N/A		New condition attached	4. Assessable Prospecting Operations– see Schedule B
<b><u>SPECIAL CONDITIONS</u></b>			
10	Aboriginal Place or Relic	Condition has been re-numbered due to omission of other conditions.	5. Aboriginal Place or Relic – see Schedule B

# Schedule B

## Mining Lease Conditions

(Version as at February 2022)

### Definitions

Words used in this mining lease have the same meaning as defined in the *Mining Act 1992* except where otherwise defined below:

Term	Definition
<b>Act</b>	means the <i>Mining Act 1992</i> .
<b>Landholder</b>	for the purposes of these conditions: <ul style="list-style-type: none"><li>• does not include a secondary landholder</li><li>• includes, in the case of exempted areas, the controlling body for the exempted area.</li></ul>
<b>Minister</b>	means the Minister administering the Act.

#### Note:

1. The rights and duties of the Lease Holder(s) are those prescribed by the *Mining Act 1992* and the Mining Regulation 2016, subject to the terms and conditions of this mining lease.
2. This mining lease does not override any obligation on the lease holder(s) to comply with the requirements of other legislation and regulatory instruments which may apply (including all relevant development approvals) unless specifically provided under the *Mining Act 1992* or other legislation or regulatory instruments.

# MINING LEASE CONDITIONS

## Standard conditions

See Mining Regulation 2016, Schedule 8A, Part 2.

**NOTE TO HOLDERS:** The prescribed standard conditions in the Mining Regulation 2016, Schedule 8A, Part 2 apply in addition to the conditions in this Schedule 2 (but have not been replicated in this mining lease). The conditions imposed by the Mining Regulation 2016 prevail to the extent of any inconsistency with the conditions in this Schedule 2.

## General conditions

### 1. Notice to Landholders

- (a) Within 90 days from the date of grant or renewal of this mining lease, the lease holder must give each landholder notice in writing:

- (i) that this mining lease has been granted or renewed; and
- (ii) whether the lease includes the surface.

The notice must include a plan identifying the lease area and each landholder and individual land parcel within the lease area.

- (b) If there are ten or more landholders to which notice must be given, the lease holder will be taken to have complied with condition 1(a) if a notice complying with condition 1(a) is published in a newspaper circulating in the region where the lease area is situated.

### 2. Group Security

The security deposit to be provided and maintained for this mining lease is part of a group security deposit.

The lease holder is required to provide and maintain a security deposit to secure funding for the fulfilment of obligations under the mining leases covered by the group security deposit, including obligations under each mining lease that may arise in the future.

The amount of the security deposit to be provided as a group security deposit has been assessed at **\$605,000**.

The leases covered by the group security include this **ML 1471 (1992)** and:

Lease type	Lease Number	Act Year
ML	1464	1992

### 3. Cooperation Agreement

The lease holder must make every reasonable attempt, and be able to demonstrate its attempts to the satisfaction of the Secretary, to enter into a cooperation agreement with the holder(s) of any overlapping authorisations issued under the *Mining Act 1992* and petroleum titles issued under the *Petroleum (Onshore) Act 1991*. The cooperation agreement should address but not be limited to:

Mining Lease Conditions 2021	Version Date: February 2022
Mining Lease 1471 (Act 1992)	Page 4 of 5

- access arrangements
- operational interaction procedures
- dispute resolution
- information exchange
- well location
- timing of drilling
- potential resource extraction conflicts; and
- rehabilitation issues.

#### 4. Assessable Prospecting Operations

- (a) The lease holder must not carry out any assessable prospecting operation on land over which this lease has been granted unless:
  - (i) it is carried out in accordance with any necessary development consent; or
  - (ii) if development consent is not required, the prior written approval of the Minister has been obtained.
- (b) The Minister may require the lease holder to provide such information as required to assist the Minister to consider an application for approval.
- (c) An approval granted by the Minister under this condition may be granted subject to terms.
- (d) The lease holder must comply with the approval granted to the holder under this condition.

### Special conditions

#### 5. Aboriginal Place or Relic

The lease holder shall not knowingly destroy, deface or damage any Aboriginal place or relic within the subject area except in accordance with an authority issued under the National Parks and Wildlife Act, 1974, and shall take every precaution in drilling, excavating or disturbing the land against any such destruction, defacement or damage.

### Exploration Reporting

*Note: Exploration Reports (Geological and Geophysical)*

*The lease holder must lodge reports in accordance with the requirements in section 163C of the Mining Act 1992 and clauses 59, 60 and 61 of the Mining Regulation 2016 as well as any further requirements issued by the Secretary under clause 62 of the Mining Regulation.*

*Guidelines for the structure, content and data format requirements for reports are set out in the Exploration Reporting: A guide for reporting on exploration and prospecting in New South Wales.*

Mining Lease Conditions 2021	Version Date: February 2022
Mining Lease 1471 (Act 1992)	Page 5 of 5

## **Renewal of Mining Lease 1471 (Act 1992)**

**Held by Whitehaven Coal Mining Limited, ACN 086 426 253**

### **Section 114 of the *Mining Act 1992***

I, **Georgina Beattie, Deputy Secretary, Mining, Exploration and Geoscience**, as delegate of the Minister administering the *Mining Act 1992* for the State of New South Wales, and pursuant to section 114 of the *Mining Act 1992*, determine to renew **Mining Lease 1471 (Act 1992)** subject to the following:

1. The renewed Lease is as described in Schedule 1 of this document.
2. The Lease conditions are amended upon renewal and are set out in Schedule 2 of this document.
3. For the avoidance of doubt, Schedules 1 and 2 of the Lease are amended by deleting the details set out in those Schedules prior to the date of this renewal, and inserting the details set out in Schedules 1 and 2 of this document.

The conditions set out in Schedule 2 are imposed pursuant to provisions of the *Mining Act 1992* and are required to:

- ensure optimal resource recovery;
- prevent, minimise, and/or offset adverse environmental impacts;
- provide for the ongoing environmental management of the project; and
- ensure the areas disturbed by mineral production and exploration activities are appropriately rehabilitated.

The rights and duties of a Lease Holder are those prescribed by the *Mining Act 1992* and the Mining Regulation 2016, subject to the terms and conditions of this Lease. This lease does not override any obligation on the Lease Holder to comply with the requirements of other legislation and regulatory instruments which may apply to the Lease Holder (including all relevant development approvals), unless specifically provided in the *Mining Act 1992* or other legislation or regulatory instruments.

Signed this 24<sup>th</sup> day of June 2021



**Georgina Beattie**  
**Deputy Secretary, Mining, Exploration and Geoscience**  
**Department of Regional NSW**  
**As delegate for the Minister administering the *Mining Act 1992***  
**Delegation dated: 14 May 2018**

Schedule 1

Description of Lease

**Land:** The lease area embraces all land described in the attached lease plan titled **M26913R** and approved on **17 August 2000**.

**Area:** 385.4 hectares

**Minerals:** Coal

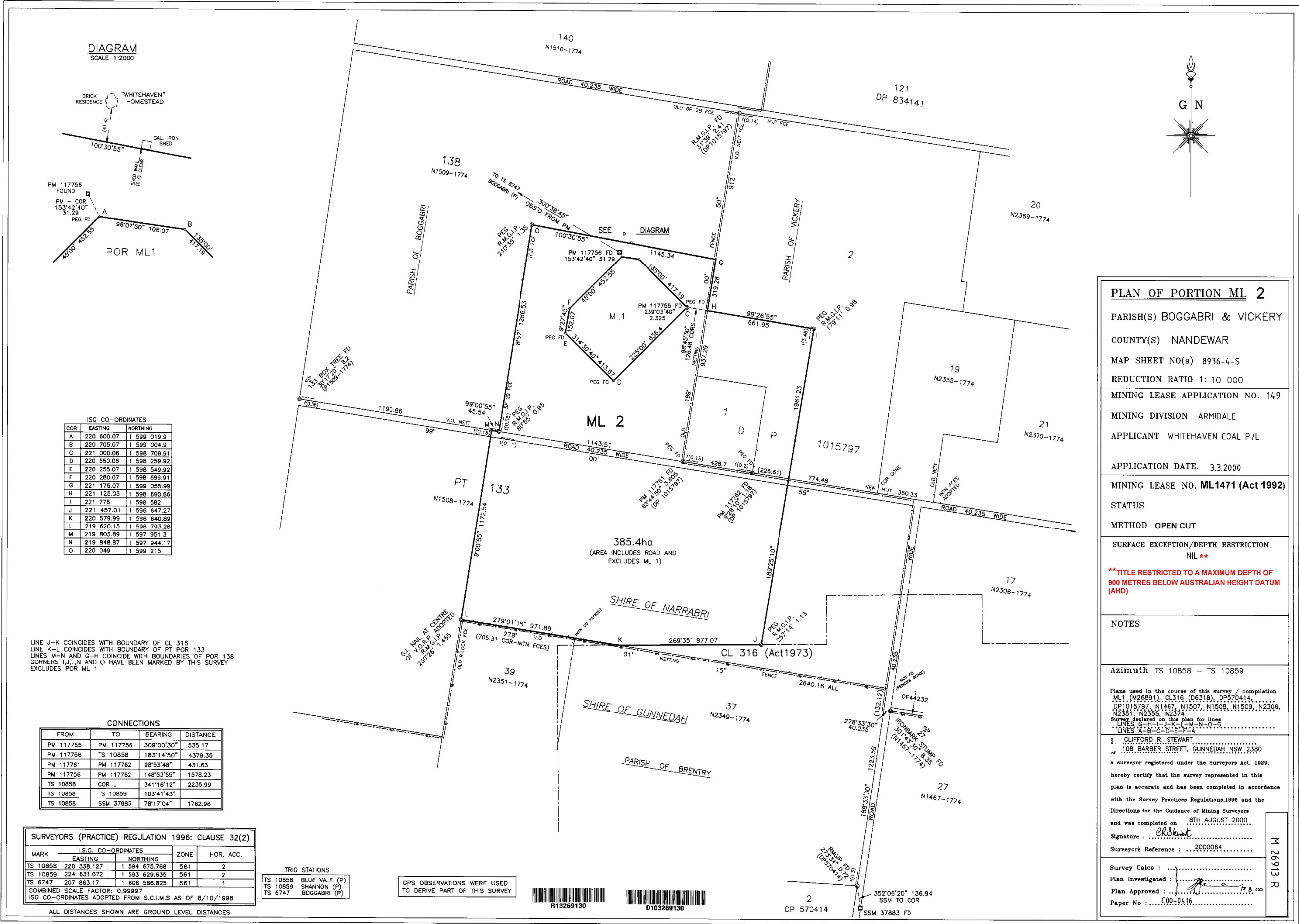
**Surface Exception:** Nil

**Depth Restriction:** 900 metres below AHD

**Method:** Open Cutting

**Term ending:** 6 September 2042

**Effective From:** 7 September 2021





## **Schedule 2**

### **Mining Lease Conditions 2013**

#### **Definitions**

- 1. Notice to Landholders**
- 2. Rehabilitation**
- 3. Mining Operations Plan and Annual Rehabilitation Report**
- 4. Non-Compliance Reporting**
- 5. Environmental Incident Report**
- 6. Extraction Plan**
- 7. Resource Recovery**
- 8. Group Security**
- 9. Cooperation Agreement**
- 10. Special Condition – Aboriginal Place or Relic**

**Note: Exploration Reports (Geological and Geophysical)**

**Definitions:**

Words used in this mining lease have the same meaning as defined in the *Mining Act 1992* except where otherwise defined below:

**Act** means the *Mining Act 1992*.

**Department** means the Mining, Exploration and Geoscience group within Regional NSW. It is noted that Regional NSW is a Department of the Public Service.

**Environment** has the same meaning as in the *Protection of the Environment Operations Act 1997*.

**Environmental incident notifications and reports** means any notifications and reports required to be provided to relevant authorities under Part 5.7 or Part 5.7A of the *Protection of the Environment Operations Act 1997*.

**Harm to the environment** has the same meaning as in the *Protection of the Environment Operations Act 1997*.

**Landholder** for the purposes of these conditions does not include a secondary landholder and includes, in the case of exempted areas, the controlling body for the exempted area.

**Minister** means the Minister administering the Act.

# MINING LEASE CONDITIONS 2013

## 1. Notice to Landholders

- (a) Within a period of three months from the date of grant/renewal of this mining lease, the lease holder must serve on each landholder a notice in writing indicating that this mining lease has been granted/renewed and whether the lease includes the surface. A plan identifying each landholder and individual land parcel subject to the lease area, and a description of the lease area must accompany the notice.
- (b) If there are ten or more landholders, the lease holder may serve the notice by publication in a newspaper circulating in the region where the lease area is situated. The notice must indicate that this mining lease has been granted/renewed; state whether the lease includes the surface and must contain a plan and description of the lease area. If a notice is made under condition 1(b), compliance with condition 1(a) is not required.

## 2. Rehabilitation

Any disturbance resulting from the activities carried out under this mining lease must be rehabilitated to the satisfaction of the Minister.

## 3. Mining Operations Plan and Annual Rehabilitation Report

- (a) The lease holder must comply with an approved Mining Operations Plan (MOP) in carrying out any significant surface disturbing activities, including mining operations, ancillary mining activities and prospecting. The lease holder must apply to the Minister for approval of a MOP. An approved MOP must be in place prior to commencing any significant surface disturbing activities, including mining operations, ancillary mining activities and prospecting.
- (b) The MOP must identify the post mining land use and set out a detailed rehabilitation strategy which:
  - (i) identifies areas that will be disturbed;
  - (ii) details the staging of specific mining operations, ancillary mining activities and prospecting;
  - (iii) identifies how the mine will be managed and rehabilitated to achieve the post mining land use;
  - (iv) identifies how mining operations, ancillary mining activities and prospecting will be carried out in order to prevent and or minimise harm to the environment; and
  - (v) reflects the conditions of approval under:
    - the *Environmental Planning and Assessment Act 1979*;
    - the *Protection of the Environment Operations Act 1997*; and
    - any other approvals relevant to the development including the conditions of this mining lease.
- (c) The MOP must be prepared in accordance with the *ESG3: Mining Operations Plan (MOP) Guidelines September 2013* published on the [Department's website](#).
- (d) The lease holder may apply to the Minister to amend an approved MOP at any time.

Mining Lease Conditions (Coal) 2013	Version Date: 22 June 2020
Mining Lease. 1471 (Act 1992)	Page 3 of 8

- (e) It is not a breach of this condition if:
  - (i) the operations which, but for this condition 3(e) would be a breach of condition 3(a), were necessary to comply with a lawful order or direction given under the *Environmental Planning and Assessment Act 1979*, the *Protection of the Environment Operations Act 1997*, the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* and *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014* or the *Work Health and Safety Act 2011*; and *Work Health and Safety Regulation 2017*.
  - (ii) the Minister had been notified in writing of the terms of the order or direction prior to the operations constituting the breach being carried out.
- (f) The lease holder must prepare a Rehabilitation Report to the satisfaction of the Minister. The report must:
  - (i) provide a detailed review of the progress of rehabilitation against the performance measures and criteria established in the approved MOP;
  - (ii) be submitted annually on the grant anniversary date (or at such other times as agreed by the Minister); and
  - (iii) be prepared in accordance with any relevant annual reporting guidelines published on the [Department's website](#).

*Note: The Rehabilitation Report replaces the Annual Environmental Management Report.*

#### 4. Non-Compliance Reporting

- (a) The lease holder must notify the Department upon becoming aware of any breaches of the conditions of this mining lease or breaches of the Act or Mining Regulation 2016;
- (b) Notifications under condition 4(a) must be provided in the form specified on the Department's website within seven (7) days of the mining lease holder becoming aware of the breach.

#### 5. Environmental Incident Report

The lease holder must provide environmental incident notifications and reports to the Secretary no later than seven (7) days after those environmental incident notifications and reports are provided to the relevant authorities under the *Protection of the Environment Operations Act 1997*.

#### 6. Extraction Plan

- (a) In this condition
  - (i) **approved Extraction Plan** means a plan, being:
    - an extraction plan or subsidence management plan approved in accordance with the conditions of a relevant development consent and provided to the Secretary; or
    - a subsidence management plan relating to the mining operations subject to this lease:

Mining Lease Conditions (Coal) 2013	Version Date: 22 June 2020
Mining Lease. 1471 (Act 1992)	Page 4 of 8

- o submitted to the Secretary on or before 31 December 2014; and
  - o approved by the Secretary.
- (ii) **relevant development consent** means a development consent or project approval issued under the Environmental Planning and Assessment Act 1979 relating to the mining operations subject to this lease.
- (b) The lease holder must not undertake any underground mining operations that may cause subsidence except in accordance with an approved Extraction Plan.
- (c) The lease holder must ensure that the approved Extraction Plan provides for the effective management of risks associated with any subsidence resulting from mining operations carried out under this lease.
- (d) The lease holder must notify the Secretary within 48 hours of any:
  - (i) incident caused by subsidence which has a potential to expose any person to health and safety risks;
  - (ii) significant deviation from the predicted nature, magnitude, distribution, timing and duration of subsidence effects, and of the potential impacts and consequences of those deviations on built features and the health and safety of any person; or
  - (iii) significant failure or malfunction of a monitoring device or risk control measure set out in the approved Extraction Plan addressing:
    - built features;
    - public safety; or
    - subsidence monitoring

## 7. Resource Recovery

The lease holder must optimise recovery of the minerals that are the subject of this mining lease to the extent economically feasible.

## 8. Group Security

The lease holder is required to provide and maintain a security deposit to secure funding for the fulfilment of obligations of all or any kind under the mining lease, including obligations of all or any kind under the mining lease that may arise in the future.

The amount of the security deposit to be provided as a group security has been assessed by the Minister at **\$605,000**.

The leases covered by the group security include:

**Mining Lease No. 1464 (Act 1992)**

**Mining Lease No. 1471 (Act 1992)**

## 9. Cooperation Agreement

The lease holder must make every reasonable attempt, and be able to demonstrate its attempts, to enter into a cooperation agreement with the holder(s) of any overlapping title(s). The cooperation agreement should address but not be limited to issues such as:

- access arrangements

Mining Lease Conditions (Coal) 2013	Version Date: 22 June 2020
Mining Lease. 1471 (Act 1992)	Page 5 of 8

- operational interaction procedures
- dispute resolution
- information exchange
- well location
- timing of drilling
- potential resource extraction conflicts; and
- rehabilitation issues.

## Special Conditions

*Note: The standard conditions apply to all mining leases. The Department reserves the right to impose special conditions, based on individual circumstances, where appropriate.*

### 10. Aboriginal Place or Relic

The lease holder shall not knowingly destroy, deface or damage any Aboriginal place or relic within the subject area except in accordance with an authority issued under the National Parks and Wildlife Act, 1974, and shall take every precaution in drilling, excavating or disturbing the land against any such destruction, defacement or damage.

## Exploration Reporting

Note: Exploration Reports (Geological and Geophysical)

*The lease holder must lodge reports to the satisfaction of the Secretary in accordance with section 163C of the Mining Act 1992 and in accordance with clause 59, 60 and 61 of the Mining Regulation 2016.*

*Reports must be prepared in accordance with Exploration Reporting: A guide for reporting on exploration and prospecting in New South Wales.*

Mining Lease Conditions (Coal) 2013	Version Date: 22 June 2020
Mining Lease. 1471 (Act 1992)	Page 8 of 8