


Instrument of Variation

Mining Lease 1718 (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 1718 (1992)** as described in Schedule A.

The conditions of **ML 1718 (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 |
| 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 |
| <u>SPECIAL CONDITIONS</u> | | |

Nil

Schedule B

Mining Lease For Ancillary Mining Activities 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 |
|-------------------|--|
| Act | means the <i>Mining Act 1992</i> . |
| Landholder | for the purposes of these conditions: <ul style="list-style-type: none">• does not include a secondary landholder• includes, in the case of exempted areas, the controlling body for the exempted area. |
| Minister | 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 FOR ANCILLARY MINING ACTIVITIES 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 **\$1,405,000**.

The leases covered by the group security include this **ML 1718 (1992)** and:

| Lease type | Lease Number | Act Year |
|------------|--------------|----------|
| CL | 316 | 1973 |

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:

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

Special conditions

Nil

INSTRUMENT OF VARIATION

I, as delegate of the Minister for Resources for the State of New South Wales, under delegation dated 1 May 2017, and pursuant to Clause 12 of Schedule 1B of the *Mining Act 1992*, vary ML 1718 (1992) as follows:

Conditions 4 and 5 are varied by deleting the existing conditions and inserting instead the conditions set out below:

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 Mining Act or Regulations;
- (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*.

Definitions

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*.

This variation is effective from 19 February 2018.

SIGNED



As delegate for the Minister for Resources

Steven Palmer
Acting Director Title Services
Dated 19 February 2018

Office of State Revenue
NSW Treasury
Client No: 1846988 2372
Duty: N/A Trans No: ML1718
Asst details: COAL
gdd 2/10/15

MINING LEASE

MINING ACT 1992

NO 1718

DATED 15 SEPTEMBER 2015

THE MINISTER FOR INDUSTRY
RESOURCES AND ENERGY

OF THE STATE

OF NEW SOUTH WALES

TO

**WHITEHAVEN COAL MINING
LIMITED**

ACN 086 426 253

Mining Lease Application No **447**

Mining Lease

Section 63 of the *Mining Act 1992*

I, **THE HON ANTHONY ROBERTS MP, MINISTER FOR INDUSTRY, RESOURCES AND ENERGY** for the State of New South Wales, pursuant to section 63 of the *Mining Act 1992*, determine Mining Lease Application No **447** by granting a Mining Lease as described in Schedule 1 to **Whitehaven Coal Mining Limited, ACN 086 426 253**, subject to the conditions set out in Schedule 2.

The conditions set out in Schedule 2 are required to:

- ensure optimal resource recovery;
- prevent, minimise, and offset adverse environmental impacts;
- provide for the ongoing environmental management of the project; and
- ensure that 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*, 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

Anthony Roberts MP
Minister for Industry, Resources and Energy

Dated: 15/9/20

SCHEDULE 1

Description of Lease

Land: The lease area embraces all land described in the attached lease plan titled **M27338** and approved on **14 January 2015**.

Area: **841.7 hectares**

Surface Exception: **20 metres**

Depth Restriction: **900 metres below Australian Height Datum**

Mining Purpose: **All mining purposes for which development consent has been obtained as at the date of grant of this lease.**

Term: **21 years**

Due expiry date: **15 September 2036**

Schedule 2

MINING LEASE CONDITIONS 2013

Definitions

- 1. Notice to Landholders**
- 2. Rehabilitation**
- 3. Mining Operations Plan and Annual Rehabilitation Report**
- 4. Compliance Report**
- 5. Environmental Incident Report**
- 6. NOT USED**
- 7. NOT USED**
- 8. Security**
- 9. Cooperation Agreement**

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 Division of Resources & Energy within the Department of Trade and Investment, Regional Infrastructure and Services.

Environment has the same meaning as in 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.

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

Minister means the Minister administering the Act.

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

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, mining purposes 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, mining purposes 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, mining purposes and prospecting;
 - (iii) identifies how the mine will be managed and rehabilitated to achieve the post mining land use;
 - (iv) identifies how mining operations, mining purposes 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 at www.resources.nsw.gov.au/environment
- (d) The lease holder may apply to the Minister to amend an approved MOP at any time.
- (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 *Mine Health and Safety Act 2004 / Coal Mine Health and Safety Act 2002* and *Mine Health and Safety Regulation 2007 / Coal Mine Health and Safety Regulation 2006* or the *Work Health and Safety Act 2011*; and
 - (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 at www.resources.nsw.gov.au/environment.

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

4. Compliance Report

- (a) The lease holder must submit a Compliance Report to the satisfaction of the Minister. The report must be prepared in accordance with any relevant guidelines or requirements published by the Minister for compliance reporting.
- (b) The Compliance Report must include:
- (i) the extent to which the conditions of this mining lease or any provisions of the Act or the regulations applicable to activities under this mining lease, have or have not been complied with;
 - (ii) particulars of any non-compliance with any such conditions or provisions,
 - (iii) the reasons for any such non-compliance;

- (iv) any action taken, or to be taken, to prevent any recurrence, or to mitigate the effects, of that non-compliance.
- (c) The Compliance Report must be lodged with the Department annually on the grant anniversary date for the life of this mining lease.
- (d) In addition to annual lodgement under condition 4(c) above, a Compliance Report:
 - (i) must accompany any application to renew this mining lease under the Act;
 - (ii) must accompany any application to transfer this mining lease under the Act; and
 - (iii) must accompany any application to cancel, or to partially cancel, this mining lease under the Act.
- (e) Despite the submission of any Compliance Report under (c) or (d) above, the titleholder must lodge a Compliance Report with the Department at any date or dates otherwise required by the Minister.
- (f) A Compliance Report must be submitted one month prior to the expiry of this mining lease, where the licence holder is not seeking to renew or cancel this mining lease.

5. Environmental Incident Report

- (a) The lease holder must notify the Department of all:
 - (i) breaches of the conditions of this mining lease or breaches of the Act causing or threatening material harm to the environment; and
 - (ii) breaches of environmental protection legislation causing or threatening material harm to the environment (as defined in the *Protection of the Environment Operations Act 1997*),

arising in connection with significant surface disturbing activities, including mining operations, mining purposes and prospecting operations, under this mining lease. The notification must be given immediately after the lease holder becomes aware of the breach.

Note. Refer to www.resources.nsw.gov.au/environment for notification contact details.

- (b) The lease holder must submit an Environmental Incident Report to the Department within seven (7) days of all breaches referred to in condition 5(a)(i) and (ii). The Environmental Incident Report must include:
 - (i) the details of the mining lease;
 - (ii) contact details for the lease holder;
 - (iii) a map identifying the location of the incident and where material harm to the environment has or is likely to occur;

- (iv) a description of the nature of the incident or breach, likely causes and consequences;
- (v) a timetable showing actions taken or planned to address the incident and to prevent future incidents or breaches referred to in 5(a).
- (vi) a summary of all previous incidents or breaches which have occurred in the previous 12 months relating to significant surface disturbing activities, including mining operations, mining purposes and prospecting operations under this mining lease.

Note. The lease holder should have regard to any relevant Director General's guidelines in the preparation of an Environmental Incident Report. Refer to www.resources.nsw.gov.au/environment for further details.

- (c) In addition to the requirements set out in conditions 5(a) and (b), the lease holder must immediately advise the Department of any notification made under section 148 of the *Protection of the Environment Operations Act 1997* arising in connection with significant surface disturbing activities including mining operations, mining purposes and prospecting operations, under this mining lease.

6. Extraction Plan

NOT USED

7. Resource Recovery

NOT USED

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 **\$200,000**.

The leases covered by the group security include:

Coal Lease 316 (Act 1973)

This group security is extended to apply to this lease.

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

Exploration Reporting

Note: Exploration Reports (Geological and Geophysical)

The lease holder must lodge reports to the satisfaction of the Minister in accordance with section 163C of the Mining Act 1992 and in accordance with clause 57 of the Mining Regulation 2010.

Reports must be prepared in accordance with Exploration Reporting: A guide for reporting on exploration and prospecting in New South Wales (Department of Trade and Investment; Regional Infrastructure and Services 2010).

SPECIAL CONDITIONS

Note: The standard conditions apply to all mining leases. The Division of Resources & Energy (DRE) reserves the right to impose special conditions, based on individual circumstances, where appropriate.