

**INSTRUMENT OF RENEWAL**

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**LEASE:** **MINING LEASE NO. 1402 (ACT 1992)**

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**HOLDER:** **WAMBO COAL PTY LIMITED  
(ACN 000 668 057)**

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**DATE OF LEASE:** **23 September 1996**

**EXPIRY DATE OF LEASE:** **3 September 2009**

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**PERIOD OF RENEWAL UNTIL:** **14 August 2022**

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**AREA:** **352 Hectares**  
**AS SHOWN BY:** **PLAN NO. M26817R**

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**SURFACE EXCEPTION:** **NIL**

**DEPTH RESTRICTION:** **Various to a Maximum Depth of 900  
Metres Below Australian Height  
Datum (AHD)**

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**MINERALS:** **COAL**

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**ROYALTY PAYABLE:** **At the rate which, from time to time,  
may be prescribed.**

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**AMENDMENTS TO THE CONDITIONS OF THE LEASE:**

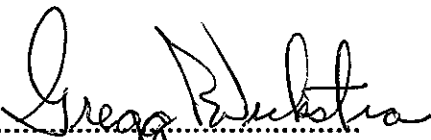
- (a) All the Conditions contained in the lease prior to the renewal have been deleted.
- (b) The lease is now subject to the attached Mining Lease Conditions 2008 numbered:

1-23 (inclusive), 25, 26, 28, 29 and 31.

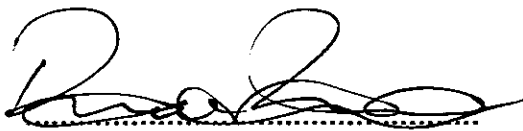
Condition Nos. 2-8 inclusive and 17-23 inclusive are identified as conditions relating to environmental management for the purposes of Sections 125(3) and 374A of the *Mining Act 1992*.

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We, Wambo Coal Pty Limited (ACN 000 668 057), hereby accept the renewal of this Lease and agree to be bound by the conditions specified.

  
.....  
WAMBO COAL PTY LIMITED  
(ACN 000 668 057)

Renewed this  day of  2008

  
.....  
by delegation from the Minister.

# MINING LEASE CONDITIONS 2008

## 1. Notice to Landholders

Within a period of three months from the date of grant/renewal of this lease or within such further time as the Minister may allow, the lease holder must serve on each landholder of the land a notice in writing indicating that this lease has been granted/renewed and whether the lease includes the surface. An adequate plan and description of the lease area must accompany the notice.

If there are ten or more landholders affected, 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 lease has been granted/renewed; state whether the lease includes the surface and must contain an adequate plan and description of the lease area.

## 2. Environmental Harm

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 development.

## 3. Mining Operations Plan

(a) Mining operations must not be carried out otherwise than in accordance with:

a Mining Operations Plan (MOP) which has been approved by the Director-General of the Department of Primary Industries.

(b) The MOP must:

- i) identify areas that will be disturbed by mining operations;
- ii) detail the staging of specific mining operations;
- iii) identify how the mine will be managed to allow mine closure;
- iv) identify how mining operations will be carried out on site in order to prevent and or minimise harm to the environment;
- v) reflect 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 lease; and
- vi) have regard to any relevant guidelines adopted by the Director-General.

(c) The titleholder may apply to the Director-General to amend an approved MOP at any time.

(d) It is not a breach of this condition if:

- i) the operations constituting the breach were necessary to comply with a lawful order or direction given under the *Mining Act 1992*, the *Environmental Planning and Assessment Act 1979*, *Protection of the Environment Operations Act 1997* or the *Occupational Health and Safety Act 2000*; and

Mining Lease Conditions 2008	Version Date: Sep 2008
Mining Lease No. 1402 (Act 1992)	Page 1 of 9

- ii) the Director-General had been notified in writing of the terms of the order or direction prior to the operations constituting the breach being carried out.
- (e) A MOP ceases to have affect 7 years after date of approval or other such period as identified by the Director-General. An approved amendment to the MOP under condition 5 does not constitute an approval for the purpose of this paragraph unless otherwise identified by the Director-General.

**4. Environment Management Reporting**

The lease holder must lodge Environmental Management Reports (EMR) with the Director-General annually or at dates otherwise directed by the Director-General.

**5. The EMR must:**

- a) report against compliance with the MOP;
  - b) report on progress in respect of rehabilitation completion criteria;
  - c) report on the extent of compliance with regulatory requirements; and
  - d) have regard to any relevant guidelines adopted by the Director-General;
6. Additional environmental reports may be required on specific surface disturbing operations or environmental incidents from time to time as directed in writing by the Director-General and must be lodged as instructed.

**7. Rehabilitation**

Disturbed land must be rehabilitated to a sustainable/agreed end land use to the satisfaction of the Director-General.

**8. Subsidence Management**

- (a) The lease holder shall prepare a Subsidence Management Plan prior to commencing any underground mining operations which will potentially lead to subsidence of the land surface.
- (b) Underground mining operations which will potentially lead to subsidence include secondary extraction panels such as longwalls or miniwalls, associated first workings (gateroads, installation roads and associated main headings, etc), and pillar extractions, and are otherwise defined by the *Applications for Subsidence Management Approvals guidelines (EDG17)*
- (c) The lease holder must not commence or undertake underground mining operations that will potentially lead to subsidence other than in accordance with a Subsidence Management Plan approved by the Director-General, an approval under the *Mine Health & Safety Act 2004*, or the document *New Subsidence Management Plan Approval Process – Transitional Provisions (EDP09)*.
- (d) Subsidence Management Plans are to be prepared in accordance with the *Guideline for Applications for Subsidence Management Approvals*.
- (e) Subsidence Management Plans as approved shall form part of the Mining Operations Plan required under Condition 3 and will be subject to the Annual Environmental Management Report process as set out under Condition 4. The SMP is also subject to the requirements for subsidence monitoring and reporting set out in the document *New Approval Process for Management of Coal Mining Subsidence - Policy*.

## 9. Working Requirement

The lease holder must:

- (a) ensure that at least **15** competent people are efficiently employed on the lease area on each week day except Sunday or any week day that is a public holiday,

OR

- (b) expend on operations carried out in the course of prospecting or mining the lease area, an amount of not less than **\$262,500** per annum whilst the lease is in force.

The Minister may at any time or times, by instrument in writing served on the lease holder, increase or decrease the expenditure required or the number of people to be employed.

## 10. Control of Operations

- (a) If an Environmental Officer of the Department believes that the lease holder is not complying with any provision of the Act or any condition of this lease relating to the working of the lease, he may direct the lease holder to:-
  - (i) cease working the lease; or
  - (ii) cease that part of the operation not complying with the Act or conditions; until in the opinion of the Environmental Officer the situation is rectified.
- (b) The lease holder must comply with any direction given. The Director-General may confirm, vary or revoke any such direction.
- (c) A direction referred to in this condition may be served on the Mine Manager.

## 11. Reports

The lease holder must provide an exploration report, within a period of twenty-eight days after each anniversary of the date this lease has effect or at such other date as the Director-General may stipulate, of each year. The report must be to the satisfaction of the Director-General and contain the following:

- (a) Full particulars, including results, interpretation and conclusions, of all exploration conducted during the twelve months period;
- (b) Details of expenditure incurred in conducting that exploration;
- (c) A summary of all geological findings acquired through mining or development evaluation activities;
- (d) Particulars of exploration proposed to be conducted in the next twelve months period;
- (e) All plans, maps, sections and other data necessary to satisfactorily interpret the report.

## 12. Licence to Use Reports

- (a) The lease holder grants to the Minister, by way of a non-exclusive licence, the right in copyright to publish, print, adapt and reproduce all exploration reports lodged in any form and for the full duration of copyright.
- (b) The non-exclusive licence will operate as a consent for the purposes of section 365 of the Mining Act 1992.

### 13. Confidentiality

- (a) All exploration reports submitted in accordance with the conditions of this lease will be kept confidential while the lease is in force, except in cases where:
  - (i) the lease holder has agreed that specified reports may be made non-confidential.
  - (ii) reports deal with exploration conducted exclusively on areas that have ceased to be part of the lease.
- (b) Confidentiality will be continued beyond the termination of a lease where an application for a flow-on title was lodged during the currency of the lease. The confidentiality will last until that flow-on title or any subsequent flow-on title, has terminated.
- (c) The Director-General may extend the period of confidentiality.

### 14. Terms of the non-exclusive licence

The terms of the non-exclusive copyright licence granted under condition 12 are:

- (a) the Minister may sub-licence others to publish, print, adapt and reproduce but not on-licence reports.
- (b) the Minister and any sub- licensee will acknowledge the lease holder's and any identifiable consultant's ownership of copyright in any reproduction of the reports, including storage of reports onto an electronic database.
- (c) the lease holder does not warrant ownership of all copyright works in any report and, the lease holder will use best endeavours to identify those parts of the report for which the lease holder owns the copyright.
- (d) there is no royalty payable by the Minister for the licence.
- (e) if the lease holder has reasonable grounds to believe that the Minister has exercised his rights under the non-exclusive copyright licence in a manner which adversely affects the operations of the lease holder, that licence is revocable on the giving of a period of not less than three months notice.

### 15. Blasting

#### (a) Ground Vibration

The lease holder must ensure that the ground vibration peak particle velocity generated by any blasting within the lease area does not exceed 10 mm/second and does not exceed 5 mm/second in more than 5% of the total number of blasts over a period of 12 months at any dwelling or occupied premises as the case may be, unless determined otherwise by the Department of Environment and Climate Change.

#### (b) Blast Overpressure

The lease holder must ensure that the blast overpressure noise level generated by any blasting within the lease area does not exceed 120 dB (linear) and does not exceed 115 dB (linear) in more than 5% of the total number of blasts over a period of 12 months, at any dwelling or occupied premises, as the case may be, unless determined otherwise by the Department of Environment and Climate Change.

## 16. Safety

Operations must be carried out in a manner that ensures the safety of persons or stock in the vicinity of the operations. All drill holes shafts and excavations must be appropriately protected, to the satisfaction of the Director-General, to ensure that access to them by persons and stock is restricted. Abandoned shafts and excavations opened up or used by the lease holder must be filled in or otherwise rendered safe to a standard acceptable to the Director-General.

## 17. Exploratory Drilling

- (a) At least twenty eight days prior to commencement of drilling operations the lease holder must notify the relevant Department of Water and Energy Regional Hydrologist of the intention to drill exploratory drill holes together with information on the location of the proposed holes.
- (b) If the lease holder drills exploratory drill holes he must satisfy the Director-General that:-
  - (i) all cored holes are accurately surveyed and permanently marked in accordance with Departmental guidelines so that their location can be easily established;
  - (ii) all holes cored or otherwise are sealed to prevent the collapse of the surrounding surface;
  - (iii) all drill holes are permanently sealed with cement plugs to prevent surface discharge of groundwaters;
  - (iv) if any drill hole meets natural or noxious gases it is plugged or sealed to prevent their escape;
  - (v) if any drill hole meets an artesian or sub-artesian flow it is effectively sealed to prevent contamination of aquifers.
  - (vi) once any drill hole ceases to be used the hole must be sealed in accordance with Departmental guidelines. Alternatively, the hole must be sealed as instructed by the Director-General.
  - (vii) once any drill hole ceases to be used the land and its immediate vicinity is left in a clean, tidy and stable condition.

## 18. Prevention of Soil Erosion and Pollution

Operations must be carried out in a manner that does not cause or aggravate air pollution, water pollution (including sedimentation) or soil contamination or erosion, unless otherwise authorised by a relevant approval, and in accordance with an accepted Mining Operations Plan. For the purpose of this condition, water shall be taken to include any watercourse, waterbody or groundwaters. The lease holder must observe and perform any instructions given by the Director-General in this regard.

## 19. Transmission lines, Communication lines and Pipelines

Operations must not interfere with or impair the stability or efficiency of any transmission line, communication line, pipeline or any other utility on the lease area without the prior written approval of the Director-General and subject to any conditions he may stipulate.

## 20. Fences, Gates

- (a) Activities on the lease must not interfere with or damage fences without the prior written approval of the owner thereof or the Minister and subject to any conditions the Minister may stipulate.
- (b) Gates within the lease area must be closed or left open in accordance with the requirements of the landholder.

## 21. Roads and Tracks

- (a) Operations must not affect any road unless in accordance with an accepted Mining Operations Plan or with the prior written approval of the Director-General and subject to any conditions he may stipulate.
- (b) The lease holder must pay to the designated authority in control of the road (generally the local council or the Roads and Traffic Authority) the cost incurred in fixing any damage to roads caused by operations carried out under the lease, less any amount paid or payable from the Mine Subsidence Compensation Fund.

22. Access tracks must be kept to a minimum and be positioned so that they do not cause any unnecessary damage to the land. Temporary access tracks must be ripped, topsoiled and revegetated as soon as possible after they are no longer required for mining operations. The design and construction of access tracks must be in accordance with specifications fixed by the Department of Environment and Climate Change.

## 23. Trees and Timber

- (a) The lease holder must not fell trees, strip bark or cut timber on the lease without the consent of the landholder who is entitled to the use of the timber, or if such a landholder refuses consent or attaches unreasonable conditions to the consent, without the approval of a warden.
- (b) The lease holder must not cut, destroy, ringbark or remove any timber or other vegetative cover on the lease area except such as directly obstructs or prevents the carrying on of operations. Any clearing not authorised under the Mining Act 1992 must comply with the provisions of the *Native Vegetation Act 2003*.
- (c) The lease holder must obtain all necessary approvals or licences before using timber from any Crown land within the lease area.

## 25. Resource Recovery

- (a) Notwithstanding any description of mining methods and their sequence or of proposed resource recovery contained within the Mining Operations Plan, if at any time the Director-General is of the opinion that minerals which the lease entitles the lease holder to mine and which are economically recoverable at the time are not being recovered from the lease area, or that any such minerals which are being recovered are not being recovered to the extent which should be economically possible or which for environmental reasons are necessary to be recovered, he may give notice in writing to the lease holder requiring the holder to recover such minerals.



- (b) The notice shall specify the minerals to be recovered and the extent to which they are to be recovered, or the objectives in regard to resource recovery, but shall not specify the processes the lease holder shall use to achieve the specified recovery.
- (c) The lease holder must, when requested by the Director-General, provide such information as the Director-General may specify about the recovery of the mineral resources of the lease area.
- (d) The Director-General shall issue no such notice unless the matter has firstly been thoroughly discussed with and a report to the Director-General has incorporated the views of the lease holder.
- (e) The lease holder may object to the requirements of any notice issued under this condition and on receipt of such an objection the Minister shall refer it to a Warden for inquiry and report under Section 334 of the *Mining Act, 1992*.
- (f) After considering the Warden's report the Minister shall decide whether to withdraw, modify or maintain the requirements specified in the original notice and shall give the lease holder written notice of the decision. The lease holder must comply with the requirements of this notice.

## 26. Indemnity

The lease holder must indemnify and keep indemnified the Crown from and against all actions, suits, claims and demands of whatsoever nature and all costs, charges and expenses which may be brought against the lease holder or which the lease holder may incur in respect of any accident or injury to any person or property which may arise out of the construction, maintenance or working of any workings now existing or to be made by the lease holder within the lease area or in connection with any of the operations notwithstanding that all other conditions of this lease shall in all respects have been observed by the lease holder or that any such accident or injury shall arise from any act or thing which the lease holder may be licensed or compelled to do.

## 28 Security

- (a) The single security in the sum of **\$42,878,000** must be given and maintained with the Minister by the lease holder for the purpose of ensuring the fulfilment by the lease holder of obligations under **CCL 743, CL 365, CL 374, CL 397, ML 1402, ML 1572 and ML 1594**. If the lease holder fails to fulfil any one or more of the obligations under this lease, then the security held may be applied at the discretion of the Minister towards the cost of fulfilling such obligations. For the purpose of this clause the lease holder shall be deemed to have failed to fulfil the obligations of the lease if the lease holder fails to comply with any condition or provision hereof, any provision of the Act or regulations made thereunder or any condition or direction imposed or given pursuant to a condition or provision hereof or of any provision of the Act or regulations made thereunder.
- (b) The lease holder must provide the security required by sub-clause (a) in one of the following forms:
  - (i) cash,
  - (ii) a security certificate in a form approved by the Minister and issued by an authorised deposit-taking institution

## 29. Prescribed Dam

- (a) Notwithstanding any Mining Operations Plan, the lease holder must not mine within any part of the lease area which is within the notification area of the **Wambo Tailings Dam** without the prior written approval of the Minister and subject to any conditions he may stipulate.
- (b) Where the lease holder desires to mine within the notification area he must:
- (i) at least twelve (12) months before mining is to commence or such lesser time as the Minister may permit, notify the Minister of the desire to do so. A plan of the mining system to be implemented must accompany the notice; and
  - (ii) provide such information as the Minister may direct.
- (c) The Minister must not, except in the circumstances set out in sub-paragraph (ii), grant approval unless sub-paragraph (i) of this paragraph has been complied with.

This sub-paragraph is complied with if:

- (i) the Dams Safety Committee as constituted by Section 7 of the *Dams Safety Act 1978* and the owner of the dam have been notified in writing of the desire to mine referred to in paragraph (b).
  - (ii) the notifications referred to in clause (a) are accompanied by a description or plan of the area to be mined.
  - (iii) the Director-General has complied with any reasonable request made by the Dams Safety Committee or the owner of the dam for further information in connection with the mining proposal.
  - (iv) the Dams Safety Committee has made its recommendations concerning the mining proposal or has informed the Minister in writing that it does not propose to make any such recommendations; and
  - (v) where the Dams Safety Committee has made recommendations the approval is in terms that are:
    - in accordance with those recommendations; or
    - where the Minister does not accept those recommendations or any of them - in accordance with a determination under sub-paragraph (ii) of this paragraph.
  - (vi) Where the Minister does not accept the recommendations of the Dams Safety Committee or where the Dams Safety Committee has failed to make any recommendations and has not informed the Minister in writing that it does not propose to make any recommendations, the approval shall be in terms that are, in relation to matters dealing with the safety of the dam:
    - as determined by agreement between the Minister and the Minister administering the *Dams Safety Act 1978*; or
    - in the event of failure to reach such agreement - as determined by the Premier.
- (d) The Minister, on notice from the Dams Safety Committee, may at any time or times:
- (i) cancel any approval given where a notice pursuant to Section 18 of the *Dams Safety Act 1978* is given.
  - (ii) suspend for a period of time, alter, omit from or add to any approval given or conditions imposed.

### 31. Cooperation Agreement

The licence holder must make every reasonable attempt, and be able to demonstrate their attempts, to enter into a cooperation agreement with the holder(s) of any overlapping petroleum 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.