

Wambo responses to our issues for Mod 12 for PAC 8 November 2016

Regarding the responses to submissions the consultant has chosen a set of issues that can be addressed by them to redirect and mislead readers, particularly regulators such as the Department of Planning and Environment.

The issues listed by the consultant, 39 in total, do not form any logical list and do not represent the issues raised by many. In my submission I list 11 general points with many of these referenced and expanded in reference to the EIS provided.

Issue no 1, description: The description of the modification has again been falsely represented. Areas that have not been assessed and approved for the modification are new areas and this has been falsely represented in the responses.

Issue 2, 3,4,5,6 Subsidence:

The area above the main heading for area 3, **item 2**, is privately owned and there was no consultation for this. This area will be impacted by subsidence despite the claim made. The subsidence impacts to the fences, **item 3**, have not been part of consultation and there is no assurance that WCPL or MSB will repair the fences let alone timely or satisfactorily. The powerlines and telecommunications cables mentioned in the response, **item 4**, are Wambo related. There is a power line and phone cable unrelated to the mine that runs near Wambo road and continues to three properties beyond Wambo land.

The impact on unsealed roads, **item 5**, is wrong. There is also another right of way that will be impacted. Neither the built features management plan, **item 5**, nor the Extraction plan, **item 6**, can assure safety to the public on these roads.

Issue 7, 8 land resources:

The allegation of feral animal control, **item 7**, and fencing to exclude livestock does nothing to keeping feral animals, native and introduced under any location or control.

The concerns related to the bushfire management plan, **item 8**, are misleading. The plan was not updated in 20013, simply cut and paste. It contains information that has not been checked and directs RFS across private lands to the dewatering borehole. The fire trail passes through private land and Wambo does nothing to assist in a fire.

Issue 9, 10 groundwater:

The groundwater assessment by Hydrosimulations in 2015, **item 9**, alleges four bores have modelled drawdowns greater than 2m, with no additional bores affected. Page 63 under conclusions one of my wells is mentioned. The location of bores, figure 8 shows my bores yet they are not where the map states. The trigger levels and actions will do nothing to protect the losses one way or another.

The conclusions of the peer review have little credence considering the fact that it notes that all data was used for calibration without verification and to this, it is alleged drawdown predictions are considered plausible.

I consider that plausibility within the industry groups does not equate to reasonable or accurate and I have been unable to find any reference *within consent information to support any indication of approval of any influence of mining on the surface and groundwater.*

Issue 11, 12, 13 Surface water:

Previous subsidence impact on Wambo and Stony creeks, **issue 11**, under DA 108/91 is an ongoing impact that has not been addressed. DA 108/91 is under Singleton Council consent and is held active under the current consent, DA 305-7-2003, which despite listing under deferred commencement does not clearly indicate why it is deferred and what needs to be done to allow surrendering it.

The allegation that there will be no additional subsidence impact to the creek on our land has no supportive evidence and there is no evidence of the alleged ongoing remediation.

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Advisan's assessment of South Wambo creek has no flow records, appendix B to support the conclusions of highly ephemeral. There is no complete information of the impact to the creek only local subsidence of 3.1m and the claim it will not lead to significant impacts on surface water.

Wambo fails to consider historical flows, issue 13, and the reference to continuous recording station is a diversion. This needs to be verified.

Issue 15, 16 Aboriginal Heritage:

There is no connection with the area within the stakeholders' consultation, **issue 15**, and there are more grounds not recorded, **issue 16**.

Issue 17, 18, 19, 20 Noise:

The cumulative impacts, **issue 18**, and the exceedances, **issue 19**, of noise do not reflect the true impacts. Wambo reports only reflect monitoring information provided by Wambo and do not reflect the noises experienced away from the selective stations.

The claim of nearest receiver areas, **issue 20**, is a presumptive attempt to minimise. The consultant has not bothered to investigate the impacts and the "vicinity of Bulga" is lack of validation of the report.

Issue 22 Air quality:

The issue raised, **issue 22**, there will be no reduction and the use of "unlikely" ignore the fact that the modification will contribute to dump traffic that will be additional to the open cut of today and the addition of the joint venture with Glencore.

Issue 23 and issue 24 need to be considered now. Regarding the one exceedance referred to, **issue 23**, what evidence is there this is the only exceedance on private residences?

Issue 27, 28 rehabilitation:

Both responses have no reply to issues raised. The rehabilitation deferral for the spoil heaps, **issue 27**, will extend the air, dust and visual impacts.

The rehabilitation after subsidence, **item 28**, has not been forthcoming for lands subsided under DA 108/91 and there is evidence this subsidence is still ongoing despite previous predictions. What makes the potential for the extraction plan and the MOP to overcome the impacts in the future?

Issue 34 Visual amenity and night lighting:

The response overlooks the current position where the spoil heaps are an eyesore to the community and the lighting of the operations including the preparation plant are intrusive, **issue 34**.

Issue 35, 36 Community consultation:

The allegations of consultation are misleading. The august 2012 was only to a few people and was totally different to this modification. The 2015 reference was also presented with little time to make assessment. Reference to website information from 2012 does not assure public consultancy nor does the reference to the information sessions of 2012 and 2013.

The duration of the exhibition and concerns are valid. This Mod has been developing for over 4 years, is on display for 3 weeks and WCPL understanding does not alter the issue.

Issue 38, 39 Other Standards of environmental management and cumulative impacts:

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WCPL ownership of the mine is irrelevant. It is simply a name/ title change made by the current owners, Peabody. Wambo mine has an extremely poor history of meeting obligations, whether development consents or otherwise.

DA 108/91 conditions have and are being ignored as are other requirements pertinent to the current approval and agreement of 2004.

The issue of water has not shown an attempt to consider cumulative impact. The EA is able to claim minimal impact to aquifer and creek regimes and regarding the creeks claim ephemerality without taking the credit for this state resulting from previous mining without monitoring the creek or aquifers.

The response to NGO's simply passes the buck to ignore the facts and allege survey of the area under subsidence not the entire creek. Cumulative impact is not treated in section 3.7

Response to CPCFM regarding public safety:

It is noted that negligible subsidence would occur on any privately-owned land.

There should be no subsidence impact on private land and what occurs will not be properly addressed.

8 August 2003

David Kitto
Major Development Assessment
Planning NSW
GPO Box 3927
SYDNEY NSW 2001

**Reference: Expansion of Wambo Coal Mine
DA - 305 - 7 - 2003 - i**

The information presented in this statement and supporting appendices is confidential. It is intended for your evaluation of their presentation and I request that it is not to be forwarded to Wambo Mining, Singleton Shire Council nor any of their agents.

Dear Sir,

I do not support the expansion proposal as presented by this company.

The company has a history of non compliance and avoidance of responsibilities. This is easily seen throughout the history of the mine to present date where they continue to operate outside their current approval DA 108/91.

The performance of the company within parameters set to protect the environment is extremely poor, with breaches involving clearing of flora, water discharges, noise, blast vibration and dust and severely degraded South Wambo Creek to the state where its flow has been downgraded from indefinite watercourse to semi-perennial, intermittent.

A remedial notice was issued by DLWC 22 May 1997, and is yet to be satisfactorily addressed.

Consenting authorities have done nothing to cause Wambo to meet conditions and have accepted corrupted information to permit continuance.

The company relies on denial, delay and deceit to support their deviation from required conditions.

Information in the EIS is inaccurate and misleading and supportive of the direction the company wishes to go.

The cumulative impact of non compliances since 1989 leaves us with corrupted baselines to use for reference and to allow their continuance to avoid responsibilities. Our land is within the mine lease area, has been undermined by longwall operation. The previous mining was meant to be controlled by a new consent meant to consolidate all previous consents.

Omissions from and non compliance with conditions of consent has meant important environmental issues were not of concern. Consenting authorities choose to rely on self assessment by the company rather than acting.

Our land, zoned rural 1a has been heavily impacted on. The mine have avoided responsibility to the lands and the creeks have been severely downgraded to the point where action to rehabilitate them may not see the creeks to conditions prior to mining being evident for 200 years. By then there will be nothing done to rectify.

In order that our rights to use our land as it has been for generations it is important that conditions are set to protect us and these conditions must be enforced rather than modify them when it is evident that the company activities do not meet the conditions. We presently see justification for non-compliance based on present activities and past requirements not applicable.

The following specific issues need to be addressed:

Water

The company refers to the high degree of historical disturbance of the creeks and the effects of subsidence as a result of underground mining activities.

"The Project would result in further dewatering of the Permian aquifers and lowering of groundwater levels. Loss of aquifer pressures in the Permian strata is not predicted to impact any existing licensed water supply bores within the coal measures."

Minimal impact is assured, as was previously by the company, yet South Wambo creek (in the EIS called Wambo Creek) was severely affected as were our wells.

Noise

The noise levels suggested by the company are guided by corruption of facts. Baselines are taken as from current operations ignoring the facts that noise levels are being based on their current and projected activities.

Rural 1a is our land. Noises expected are bird, animal, human activities. To boldly declare that noise > 30dbA becomes projected to 40dbA is ludicrous and shows their concern is not within reason.

To state "As open cut mining progresses to the north, select Project mobile equipment would be modified to meet current "achievable" maximum noise suppression standards. Evening and night-time controls would also be implemented for operations in the open cut to the north including modification of overburden haulage and dumping practices and restriction of some activities to daytime only." again shows the company chooses to do as little as possible, hoping to do nothing.

Visual Aspect

The presentation is flawed in that the present views are taken from unrealistic points and projections are similarly corrupted. Present views are far more offensive than those shown.

Lighting

References made as to the immediate rectification of any problems with lighting are also questionable. Glows in the skyline and assurances that lights are ground directed are rarely checked and assured.

Subsidence Impacts The impacts of subsidence have been brushed off with the comfort that mainly Wambo owned land is being subsided. Cumulative impacts will see in excess of 5 metre drop in some areas, no correlation with the impact on groundwater and the fact that they will deny any damage to the point where nothing can be done to repair the damage. The angle of draw indicated by the cumulative subsidence of all layers will most likely mean that areas beyond the watercourses, hence stream integrity will be further affected. Land and improvements outside mining areas will be affected. The history of the company suggests that when we see damage Wambo will deny responsibility to the point that they currently profess.

Our land has already been affected by the actions of the company, and will be further affected in the future. Wambo has yet to honour agreements made in the past without having in place an honourable agreement with us in writing to cover the proposed development. The manner in which the company has negotiated in the past has been delaying, evasive, deceptive and dictatorial to the point of rudeness, leaving me in no doubt that they will dishonour agreements in the future.

With full knowledge of the history of the company and the lack of commitment to honour agreements made or conditions imposed on them I could not support any process of expansion of the company. In fact I would request the company be denied development rather than allow further degradation of the area. The claim that the development is needed to ensure servicing of their market is questionable. They are currently supplying their customers by producing 3M tonne per year. The need to expand by 11M tonne defies logic.

With changes of ownership the company has ignored and/or dodged conditions to their advantage, continuing to offer apologies and commitment to meet all conditions in the future. The company has traditionally continued outside consent conditions, denying any breach or omission. When shown the facts, they are avoided with the standard denial "we believe we are within conditions", the belief supported by their legal advisers.

The accuracy of information presented by the company is only to the extent of support for any development. It is questionable that heritage, land capabilities, flora and fauna surveys were carried out as claimed. Photos were selectively chosen and treated to show minimal visual impacts rather than honest representations. Water is an area where information presented is extremely misleading. References to local creek flows avoids the fact that severe degradation has been imposed by Wambo on the streams and aquifers by their previous actions. Partial facts and chosen statements are presented with the intent to support the company record and intent.

Company history is full of breaches and omissions to the point where credibility is nil yet they have always been allowed to continue. Their environmental record is poor yet supported by their lack of premining records and monitoring programs which have not been forthcoming for each DA, yet they continue to claim that they meet all requirements.

They have severely damaged water resources within their mining operation and because they did not do premining surveys claim they have had no impact. Rehabilitation in the area has been treated poorly with no real commitment to quality works but continue to claim full commitment and quote vast sums of moneys claimed to have been used in this pursuit.

South Wambo Creek may never be returned to premining conditions, nor Stoney Creek as well as the substreams.

They are using machinery well outside that stated for the current development and provided misleading information to council to improperly approve a fuel farm.

The noise levels from current operations have been well outside acceptable levels with the company using stall and bluff to disadvantage us as neighbouring residents.

Activity during the past months suggests the company is acting in anticipation of approval for their development as it has so often in the past. Dumps for overburden are proceeding at a pace that outstrips anything implied in the current approvals and a stockpile of coal is growing at a similar rate. Both of these mountains of rubble and coal are visible from roads and residences and further add to the impacts of noise and dust within the area.

Blasting has been advanced in frequency and levels and when reported that noise and vibration impacts have been noted it is brushed off that monitoring indicates they are operating within the guidelines. Our residence is approximately 5km from operations (according to Wambo) and yet house and other improvements have been shaken by the blasting, noise has been extreme to the point that animals took fright and on at least one occasion dust from the blast has fallen on our house.

The only real commitment the company has shown has been to the extraction of coal at the cheapest output with token attempts to meet other commitments.

There is realistically no need for the company to expand. The workforce has been reduced to only a few with most current operations being by contract, future operations will be similarly staffed. The project should be refused approval and the company made to meet all current consent conditions. This includes all relevant components from the inception of the company to 108/91.

If the company is allowed to proceed with this new development it must be made accountable for their past actions. Responsible rehabilitation of all damage should be a pre-requisite to future activities and an absolute priority that the following points needs to be absolute:

- 1 The inclusion of all relevant consent conditions including those which were omitted from DA 108/91 and were implied as being grounds for the provisions of DA 108/91.
- 2 The inclusion of the major components from DA 108/91 particularly those intended to protect the total environment, all heritage components of the area and the living style of the residents within the area.
- 3 The formation of Compensation Bonds imposed on the company to ensure that conditions are adhered to and to ensure residents are not denied their lifestyles through the denials, delays and actions of the mine. This avenue would correct any operation venturing outside boundaries already in place with further bonds imposed as each compensation event depletes the bond value.
- 4 The removal of any safety net clauses that have been previously set to impose banishment of residents rather than imposing compliance on the mining company.
- 5 Planning NSW must regularly honestly assess the compliance of the company. Truly independent audits will need to be regularly carried out including comparative input and comment from concerned locals rather than simply formality records as in the past.
- 6 Guarantee of heritage preservation to include availability of resident visits/inspections.

Within the specific conditions needed to truly protect our lands and the general environment the following must be included:

Impartial monitoring. A system to regularly monitor activities must be in place prior to any further mining.

Any breaches should result in immediate cessation of operations with immediate rectifying action required before operations are allowed to continue and further protections put in place to ensure no repetition of breaches will occur.

Noise. All emissions to be treated to minimum rather than set ridiculous levels of acceptability. Mine plans will need to be monitored and adjusted to ensure rural ambience is retained. As the machinery in use currently has been outside parameters of consent, all machinery must be immediately brought to maximum achievable noise reduction levels. As technology improves the new lower levels should be applied. The washery needs to be brought to the levels stated in DA 108/91 or better.

This will require true responses to complaints rather than the current denial, delay, dispute method shown by Wambo.

Subsidence Impacts. Proper monitoring under realistic time-frames (not 12 months only) with practical treatment of all subsidence. Currently ground cracks are not attended to and this is both dangerous and impedes the groundwater recharge capabilities.

Water. The mine will have serious impacts on the waters within and outside areas of operation. Measures must be taken and plans put into operation to genuinely ensure that the impacts are reduced. Waters must be returned to the local creek systems and quality of the waters will need to be addressed. Our creeks and wells together with the viability of rivers needs to have this in place.

Visual Aspect and Lighting. These are two areas that are of lesser importance yet must be treated seriously.

The visual aspect ties in with the rehabilitation of the site. To simply prepare doctored plans, that will not be realised, the company will need to be bonded to ensure that prior to shutdown the area is rehabilitated to provide realistic land usage for the future. This will support aesthetic visual aspects that were here prior to mining. During the operation lighting will need to be properly addressed to ensure minimum invasion for residences as well as traffic.

The mine plan has changed since December 2002 to the EIS with the company no longer stating intention to mine under our land. However the intended longwall mining comes to the northern boundary along Stoney Creek and subsidence will impact on our land. This has not been addressed in the EIS nor has there been any indication from the company as to how they will deal with the problems that subsidence will impose on the alluvial flats adjacent to the undermined lands and the covering aquifers.

Yours faithfully,

A black rectangular box redacting the signature of Ronald W Fenwick.

Ronald W Fenwick



8th December 2003

David Kitto
Major Development Assessment
Planning NSW
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reference: Audit of Wambo Coal

The information presented in this statement is confidential. It is intended for your evaluation of their DA in light of their statements as seen in the audit. I would request that it is not to be forwarded to Wambo Mining, Singleton Shire Council nor any of their agents.

Both Wambo Coal and Singleton Council stalled and obstructed my attempt to get a copy of the Compliance Audit Report from either of them. On reading the audit I was able to see why they were reluctant to have me see the report, let alone have the time to read it.

Since 1989 I have had cause to bring to the attention of the prime consenting authority over Wambo Mining Company, through all its changing ownerships, as well as government agencies my concerns regarding the company.

I have found that they have been reluctant to meet agreements and/or consents relying on a number of methods to put off meeting their commitments and hopefully avoiding them. **As each development has been presented Singleton Council has noted that the mine has proceeded ahead of these applications and has not taken action to ensure that this has not continued.** Nothing has changed to date. **An example of this is an application to close roads (roads that link with our Right of Way) in the mining areas and for the expansion application including the rail loop.**

As part of their support to close roads Council staff were able to photograph these areas and reach the conclusion that the roads would be unsuitable to use as Wambo has previously mined the area. Here again is evidence that they have continued to do as they wish, ignoring issues that had been raised to them. **Council have displayed support for them by processing the application to close the roads rather than treat the matter as they would if an individual proceeded with a development without their approvals.**

The manner in which Wambo Coal approached the audit together with the evidence provided in support for their responses indicates that the company still considers itself beyond authority. The situation whereby Wambo has always proceeded with little check by Council has enhanced their position.

I believe that both Wambo Coal and Singleton Shire Council assumed that their input to the audit would not be open to be questioned.

I have found that within the audit there is evidence that they have deliberately provided information that is incorrect and misleading with no evidence of any attempt to ensure that the information is correct.

I have knowledge the information provided contains deliberate lies and avoidance of responsibility. This is illustrated within Wambo Mine comments to finalise the audit.

As with the previous audit Wambo were able to review and amend the Draft.

The audit for DUAP (June 1998). Compliance audit of Wambo Mine. AGC Woodward Clyde did not check all inputs and disallowed other inputs offered.

It is reasonable to assume that their inputs would not be questioned.

The priority for required action to be taken by the company could be used as further measure of the integrity of the company:

“*High: to be done within 2 months from the issuing of the final audit report

Medium: to be done within 6 months from the issuing of the final audit report”

Will the required actions be addressed and if so with what commitment and to what standard?

Will the company attempt to turn the misleading and inaccurate statements into truths in the same period?

It would appear as reasonable that their intended expansion will be on hold until there is absolute evidence that all previous compliance issues are rectified.

This is suggested in:

“Significant environmental issues identified during the audit will be addressed in the assessment process and consent conditions for these proposals (if approval is recommended).”

The following references support the fact that Wambo Coal has always progressed as they saw fit, and nothing has changed.

Non-Compliance with condition No. 3, DA 228/95(77)

Non-Compliance with condition No. v. b. DA 86/133

Non-Compliance with condition No. 24, DA 108/91

Non-Compliance with condition No. 21(4), DA 108/91

The flow and quality of the creek were never recorded either, as required in DA 108/91, these were to be done immediately, then at three monthly intervals.

Non-Compliance with condition No. 26ii, DA 108/91:

There is a need to ensure compliance with the noise monitoring requirements.

Monitoring was to be independent, directed by Council and paid for by Wambo.

Non-Compliance with condition No. 12, DA 108/91

The recommendations associated with the twenty-six improvement opportunities were observed included:

Ensure proper groundwater assessment is carried out using onsite data prior to any new mining operations.

Provided the water quality is acceptable, pump water from Wollemi Box Cut to North Wambo Creek, in accordance with Environmental Protection Licence No. 529 or build a wall to cut off water draining into the boxcut and redirect it back to the alluvial aquifer of the Creek.

How about delivering clean water to South Wambo Creek as a component of their restoration of the creek flow?

Confirm with the EPA the noise goal for the Coal Handling and Preparation Plant based on the amenity criteria for industrial premises and the new goals for intrusive noise.

Nothing was ever done to meet 108/91 noise impacts. ***To ensure the noise is realistic, what is wrong with controlling noise levels from sources to comply with those considered normal within RURAL rather than industrial and have the monitoring honestly performed to reflect the situation with required levels more in realistic terms.***

Improve unattended and attended noise monitoring to report the noise contribution from the mine and develop a "Noise compliance assessment protocol" (see Chapter 11 of NSW Industrial Noise Policy).

Why not require mine to obtain realistic determined ambience and evaluate noise production from mine and associated sources then develop realistic limits to control?

It is ludicrous to suggest that frogs, dogs and birds make anywhere near the invasive noises in the area as continually referred to in AEMRs.

The company stance on their compliances is well stated on Page 2 regarding "all previous development consents be replaced with a single consent" Wambo Mining Corporation have relied on omissions from this and Council have never attempted to enforce the conditions. Both parties have worked with the same legal advice throughout. This fact has led to errors and biased actions being evident and probably also contributed to the non recall of prior consents. We have experienced similar failings of their legal advisers. With the previous consents still operative there are areas of concern that both Wambo Coal and the Council have chosen to ignore that may now be able to be corrected.

"A compliance audit of Wambo Mine was carried out in 1998 on behalf of the Department of Urban Affairs and Planning (DUAP, 1998). This audit noted non-compliances with the following consent conditions:

Installation of a stacker/reclaimer.

Continue development of the 15 metre bund at the north-eastern open-cut.

Treat the washery to the point where noise emission levels meet 55 dB(A) at 200 m.

Install and undertake mechanical dewatering of the fine reject material.

Water management plan (not approved by EPA).

Dust monitoring (baseline data not approved by EPA; isopleths not presented in Annual Environmental Monitoring Report).

Ground water management (DLWC not informed of monitoring impacts).

Funding of recommendations from the safety audit of MR 213.

The first four non-compliances were addressed in a modification of DA 108/91, issued on 10th July 1998.

The audit also recommended that: "Wambo should improve its communications with Singleton Shire Council in respect of compliance issues and its progress in addressing issues which are out of compliance".

The audit was not complete:

The auditors were offered input regarding non-compliance issues and refused to consider information offered.

The audit in 1998 could be assumed to be a corrupt audit in that Clyde refused to accept input from myself and others and was reliant on the input of Wambo mining and Singleton Shire Council. Nothing would have been in place to ensure both parties would provide all relevant information as was the case with the current audit.

"The objectives of this audit was assessment of compliance of the mine with the conditions of development consents issued by Singleton Shire Council and identifying follow up actions where non-compliances or observations were identified."

The auditors would rely on the open provision of answers to question by the Council and the mine.

This thought is supported by reference to the site inspection on the 9-10th September 2003 and desktop review of information provided by Wambo Mine, together with discussions with other authorities with a role in regulating the mine including the EPA, Singleton Shire Council, the Department of Mineral Resources, and the Natural Resources Division of DIPNR.

Environmental management has always been shown to be a non-issue with the company as seen in their failure to meet requirements including appointment of a suitably qualified Environmental Officer.

Non-Compliance 1 (non-compliance with the Water Act)

CONDITIONS OF CONSENT

An evaluation of compliance against relevant conditions of consent has been made on the basis of an interview of managers and a review of relevant documentation provided by the company.

3.1 Water quality

Non-Compliance 2 (non-compliance with condition No. 3, DA 228/95(77))

Non-Compliance 3 (non-compliance with condition No. v. b. DA 86/133)

Non-Compliance 4 (non-compliance with condition (No. 24, DA 108/91) Non-Compliance 5 (non-compliance with condition (No. 21(4), DA 108/91): The replenishment rates of water in wells is not measured at three monthly intervals, *nor is the impact on the stream measured nor considered.*

Non-Compliance 7 (non-compliance with condition No. 26ii, DA 108/91)

Another point to consider is that ALL Noise monitoring has been carried out by agents of the mine and the results have always been questionable. Now that it is done by the mine it is even more questionable. *No monitoring has been done without operations knowing.*

Fuel Farm. The fuel farm comprised four 50,000 L tanks of diesel and tanks and drums of oils. *Consent was by Council without proper review and on input that was questionable.*

"It is noted that since 1998 Ronald Fenwick has expressed considerable dissatisfaction with the rehabilitation of land and waterways affected by subsidence due to the undermining of Stony Creek and South Wambo Creek. This remedial work has been the subject of negotiations between Mr Fenwick and the mine over a number of years."

I approached the auditors during the site inspection of South Wambo Creek and conveyed my current concerns to them aware that the mine would avoid my input.

I have had concern regarding Wambo obligations to reduce impacts or to rehabilitate since 1994. I likewise raised concern regarding the non-compliance with the issue of creek protection (from the first longwall undermining the creek). This was regularly raised with Wambo Mining and Singleton Council with negative responses from both parties.

Information provided regarding Stoney creek is incorrect. Corrupted information has been provided, as listed in the AEMR and Wambo have refused to correct this document and have appeared to provide it to DIPNR to ease their position. The works were performed under the direction of Wambo executive under guidance from A Dawkins (Geoterra).

The only order placed on me was to ensure my cattle are kept out of the area until complete rehabilitation is evident.

All works to rehabilitate the creeks were to be performed to the satisfaction of the DLWC and the Landowner. Basic requirements are listed in a Plan of Works that was prepared over a lengthy period by T Voller (DLWC) and R Fenwick (Landowner) and presented to R Hopps (Wambo) to activate. *Works performed by Hunter Bulk, Wambo contractors has been far short of satisfactory.*

I find it difficult to accept that any officer of Natural Resources of DIPNR informed that the earth work required under notice (Stoney Creek) has been carried out to their satisfaction. *What work has been carried out has been done outside the supervision required and is not to the satisfaction of the DLWC and the Landowner.*

Regarding South Wambo creek it has had only intermittent flows since degraded by mining. The stream is potentially flowing below the new bed surface with pools evident throughout its length. The rock weir shown to the auditors has not stabilised the creek at the boundary with the Fenwick property.

DLWC Officers (now officers of Natural Resources of DIPNR) have carried out numerous inspections of South Wambo creek to develop a plan of works to rehabilitate the creek to a standard no worse than pre-mining. The *remedial works* done in South Wambo Creek failed to follow this plan as did the works on Stoney Creek. *No plans were prepared to achieve the desired results nor did the DLWC have any requests for direction or permits.* The office became involved when officers observed workings in Stoney Creek that were without 3A permit and detrimental to the stream integrity.

"During recent inspections to repair the damage done officers found that:

Rock used is too small and of poor quality.

Structures are too high, too steep, and unstable.

Most of the constructed structures are incorrectly located, performing no identified rehabilitation function.

In most areas the creek banks have been too steeply graded to establish vegetation for stabilisation

Further remedial work will be required on Mr Fenwick's property, such as.

Removal and/or modification of most structures.

Re-grading and battering banks that are too steep.

Constructing bed control structures where the bed of the creek has been lowered and the grade changed.

revegetation along the creek."

I am presently, and will continue to deny HBM permission to enter the property for any work until they are prepared to work as required and with the appropriate authority and supervision.

Ground water has been monitored to meet Wambo's interpretation of requirements and results provided to confirm what they wish to show, similar to the noise monitoring.

To anyone taking time to analyse what is presented their interpretations are questionable.

The conductivity increase with distance along Stony Creek indicates either chemical increase or water reduction to the system. Either possibility may be directly or indirectly caused by subsidence through the area. Stoney creek has been impacted by subsidence since 1991.

The reference to South Wambo Creek, the conductivity at Brosi's property being lower than that further downstream and the conductivity in the region of panels 9 and 9A supports the belief that the flow has been affected by the mining.

Ground water data is impossible to interpret as there is insufficient data to compare. There was insufficient data collected as required in DA 108/91 for either creek. Flow and quality was to be monitored from compliance as was the bore information requirement. Nothing was done to meet this requirement despite continued reference to the Mine and council.

This leaves to conjecture the assessment of the impact of mining on ground water in this area.

Similarly the influence of the mining on the alluvial bores is flawed. The mine only were to accept their impact on bores if mining was directly below the bore. They refuse to accept that supply to the bore may be impacted on by Longwall panels further away from the bore.

The reference to the review of the ground water monitoring program for the longwall mines indicated the desire of Wambo to further remove adequate monitoring. The analysis of the survey will support their need to remove the markers yet evidence would show the ongoing subsidence that is occurring.

The claim is invalid. The statement is avoiding considering that subsidence is still obviously ongoing over longwalls as, shown on our land with Longwalls 1,2,4,5,6,7 and 8.

Additional references can be seen throughout the EIS for expansion to see the "possible" period for rehabilitation to occur.

Removal of the markers will void their need to monitor and repair as there will be no evidence.

There has been no evidence previously for concern for farmers (owners and agistors), perhaps the fact that one of the agistors is one of the owners.

Observation 23 indicated Ground water data was not obtained prior to mining beneath Stony Creek and was limited prior to mining beneath South Wambo Creek.

The recommendation to clarify with DIPNR the requirement to measure the replenishment rates of water in the wells at three monthly intervals is unnecessary. This is a current condition. It does not need clarification, ***it is simply another condition they do not wish to follow.*** It was one of the conditions I requested and they, Wambo, agreed to in 1991. ***It was necessary to evaluate the impact on mining upon the water (surface and subsurface) on the property. Their failure to comply, Council's failure to enforce compliance has led to invalid monitoring, a seriously degraded creek and unreliable bore systems.***

At the September 2003 Community Consultative meeting it was requested that neighbours be informed of proposed blasting times. Wambo responded negatively.

Regarding the Complaints Register, I have not seen action taken to correct many complaints. I believe complaints are closed when the complainant is notified of the complaint being "taken on board" rather than when positive action has been taken.

Regarding the environmental permits and licences claimed to be held by Wambo Coal, No 3A permits have been applied for for any works related to the creeks on our land.

The Remedial notice issued (to prepare Rehabilitation Plan), South Wambo Creek (May 1997) was only partially adhered to. It was not fully complied with and the need to continue was regularly highlighted by myself until it appeared to reactivate.

Wambo has not applied for any permits, as I would need to know of these applications. I would have to be assured of their ability to perform the works satisfactorily and would be required to countersign their application. With the performance to date of both Wambo and their contractors I believe I could not trust their intent.

I agree that the "Effect of underground cracks or land subsidence on ground waters" has never been of concern and should be in the Water Management Plan.

Likewise with reference to the Subsidence Management Policy regarding the replenishment rates and the quality of water in wells, and the flow and quality of surface streams needs to be addressed and corrected

Company reference to my denial of access to monitoring wells on our property over the past two months is a misrepresentation.

Access has not been denied, merely restricted by reasonable conditions the company refused to consider.

Replenishment rates for the wells were never determined, despite claims by site staff. No well on our property and I suspect elsewhere has been properly tested for replenishment rates. Staff have no idea on requirement of this testing, nor the ability to do so sensibly by non wastage of water taken. The water could be used for irrigation, stock water or to assist South Wambo Creek recovery. Regarding replacement of water according to 21 (8a) the company has never seriously honoured this relying on the drought argument. The dry spells experienced over the past few years has been relatively normal for the area. Prior to mining the creek would have still exhibited flow. The creek is

presumable flowing still, be it at a depth below the current stream bed and/or through cracks to lower levels.

Your advice that electrical power has been supplied to one of Ron Fenwick's wells can only be represented for what it is. A blatant lie. There is no electrical power to any of my wells. Why would they have given this information to the auditors if not to further misrepresent and deceive?

Take such steps as are reasonably available to ensure the continual flow of water in the natural streams servicing the properties. (8b) (No. 21, 108/91)

None of the above has been addressed nor attempted on our land and this is compounded with 89/159 requirement similarly ignored. Non action is justified by their response that "It is not required by DA 108/91"

89/159 (x) Where the subsidence monitoring shows that adverse effects are occurring on Stony Creek and South Wambo Creek, the mine plan being designed to minimise or eliminate such effects.

Reference to implementation of a remediation program is another misleading statement. There has been no properly attempted/supervised remediation works performed. A plan of works has been put together to address the problems related to the bed and banks of the streams. This is yet to be implemented despite the advice given.

Nothing has yet been considered nor attempted to provide rehabilitation to the water in both quality and flow to a standard no worse than prior to mining.

Work is claimed to have been undertaken to implement the "South Wambo and Stony Creek Management Plan". This includes subsidence and leakage repair works to South Wambo and Stony Creeks. The only leakage repairs to my knowledge have been done over Longwalls 9, 9A. To imply any other would only be to mislead and produce a false credibility profile. I find it a difficult task to monitor what is not available to be monitored. It is unfortunate that Longwall impacts have not been sealed and works in place where they should. The creeks are still fragile as are recharge areas that have not and will not be rehabilitated/sealed.

The success of this work will be monitored during the next high-flow event in the creeks. If it proves to be successful, DIPNR will sign off on the remediation work, and its performance will be monitored for another five years.

We have seen no evidence of mitigation of mining impacts on land or water nor modifications to mining operations, if any, to mitigate any adverse environmental impacts. Proof is the degradation of the creeks on our property with no real attempts to mitigate nor repair damage.

Wambo's input to "correct" the draft rely heavily on the assumptions that management made or were given without proper consideration.

Management rely heavily on knowing that Council have rarely enforced compliance and have always overlooked their non-compliances even when brought on notice by concerned locals.

Wambo should check that all wells used are licensed. The fact that they decommissioned a well and installed another without appropriate procedures is evidence of their disregard for authorities.

To assume Condition 24 of DA108/91 does not require approval of the plan by the EPA **is negligent and dismissive.**

Their approach to DA 108/91 is monotonous and insulting.

Wambo's understanding indicates that no one has checked, despite it being continually being brought to the attention of both Wambo and Council.

It is easier to stonewall on "It is Wambo's understanding that..."

rather than to investigate and act according to the results of a proper investigation.

The groundwater and surface water monitoring programs as claimed to be approved by DLWC may have been filed, nothing has been produced to my knowledge for informing the community.

Their statement that noise limits are "not applicable" is ridiculous.

How could any reasonably intelligent man reach this assumption??

If the noise goals were changed, were they truly at the request of the consent authority, the Singleton Council?

If so why was the modification to the consent 108/91 dated 10 July 1998 condition 7 processed in the manner it was?

Similarly with the noise goals were also discussed at the meeting of the Singleton Shire Council 22 January, 2001, why were neighbours not consulted?

How reliable is the statement of valid noise monitoring with the monitoring appearing to be corrupted by the fact that they do the monitoring (in the past organised others to do so) and all areas would be aware of the monitoring.

The bed control structure upstream of the South Wambo creek crossing was inspected by Fergus Hancock from the DLWC on 28 October 2002, with all works within South Wambo creek on Wambo property being verbally approved by Fergus during the site visit.

How accurate is this? Which site visit? Is a verbal approval valid?

"The structure was constructed by the same contractors (HBM) who installed all the other structures on the Wambo/ Fenwick properties, with the same degree of supervision."

This is a bold statement to make, particularly in light of the problems created by the lack of protocol during the **attempts by the contractors (HBM) and the lack of plans and supervision of their works.**

The query regarding Para 6 appears to be a **"footshot"**: Where were the results for North Wambo creek obtained? Our monitoring site has been dry since June 2000.

As with all leading/misleading statements one would assume that these came from Wambo. Perhaps no one checked what was presented to DIPNR.

A simple conclusive observation is that Wambo Coal in all its forms and changes in ownership still have not improved their credibility. They still show little evidence that they can be trusted to keep their side of any agreement. Likewise they are very backward in compliance yet quick to move ahead of consents with "we were of the opinion" as their reason for their actions.

SINGLETON SHIRE COUNCIL

ENVIRONMENTAL SERVICES DIVISION

DIRECTOR - ENVIRONMENTAL SERVICES REPORT NO. 5/92

COUNCIL MEETING - 10 FEBRUARY 1992

1. NOTICE OF THIRD PARTY APPEAL BY MR RONALD FENWICK -PROPOSED EXPANSION OF THE WAMBO COLLIERY AT WARKWORTH. DA 108/91

REPORT

The Shire President, myself and Mr Colin [REDACTED] of Wambo met with Mr & Mrs Fenwick on 8 February and discussed their concerns with Council's approval. A frank and worthwhile discussion ensued and Mr & Mrs Fenwick indicated that their concerns related to the Company's Subsidence Management Policy for Private Lands (condition no. 21) and Council's ability to periodically review and follow up consent conditions.

Mr & Mrs Fenwick suggested a number of amendments to the Subsidence Management Policy for Private Lands which were accepted by the Company's representative. The proposed amendments generally "tighten up" the existing condition, for example by providing for a third party to arbitrate on repair work not covered by the Mine Subsidence Compensation Act.

Mr [REDACTED] also provided an undertaking to investigate the feasibility of providing auxiliary power in the extremely unlikely event that subsidence on the property caused damage to power poles or transformers.

Mr & Mrs Fenwick were assured that Council would review and follow up conditions and they were encouraged to maintain regular communication with Council on this matter.

Provided that Council adopts the amended Subsidence Management Policy for Private Lands (condition 21), Mr Fenwick indicated that he would withdraw his appeal.

That Council amend condition no. 21 of DA 108/91 in accordance with the suggestions made by Mr and Mrs Fenwick to now provide as follows:-

Subsidence Management Policy for Private Lands

21. *The Applicant is to comply with the following Subsidence Management Policy for Private Lands and is to make a copy available to all owners of private land whose land will be undermined;*

"Mine subsidence is the lowering of the surface due to the removal of the underlying coal seams.

In some instances, mine subsidence may cause damage to "improvements" and water resources.

ESD

SINGLETON SIIIRE COUNCIL

"Improvements" are defined in the Mine Subsidence Compensation Act (1962), and include:

"any building or work erected or constructed on land; any formed road, street, path, walk or drive-way; any pipeline, water, sewer, telephone, gas or other service main, whether above or below the surface of the land".

This document addresses Wambo's responsibilities and the actions it will take to minimise the impact of subsidence on landowners that may be affected by mining at Wambo.

- 1. Landowners have the right to know when portions of their properties may be affected.*
- 2. Schedules of extraction will be prepared showing the expected subsidence areas at quarterly intervals, 2 years ahead of mining. These schedules will be block outlines superimposed on aerial photos and copies will be supplied to affected landowners.*
- 3. Immediately prior to mining, a structural report including a comprehensive set of photos will be prepared in conjunction with Mine Subsidence Board (MSB) officials. Particular attention will be paid to plaster work in homes, door frames, window frames, operation of doors and windows, and the condition of fences and dams.*

The report, including a fully documented set of photos will be supplied to the affected landowner, and the MSB.

- 4. Immediately following the issue of development consent and thence at three monthly intervals, the replenishment rates and the quality of water in wells will be established. The flow and quality of surface streams is to be similarly established.*
- 5. Whilst the MSB is ultimately responsible for the cost of repairs to improvements damaged by subsidence, Wambo will assist the landowners in making application to the MSB to ensure that any such repair work required will be carried out at a time convenient to the landowner, and Wambo will if necessary organise the repairs itself and subsequently recover the cost of these repairs from the MSB.*
- 6. Cost of repairs will be established by quotation. Landowners may quote for repairs, but work performed by unlicensed personnel will not be subject to further claims.*
- 7. Repair work not covered by the Mine Subsidence Act including ripping, ploughing or grading to repair surface damage or restore drainage patterns is to be undertaken by the applicant to the satisfaction of the landowner.*

- (a) The landowner is to detail this work in writing and where appropriate by the use of plans and is to submit a request to the Company that this*

SINGLETON SHIRE COUNCIL

work be undertaken.

- (b) The applicant shall within 3 months of the date of receiving this request carry out this work.
- (c) In the event that the applicant does not agree within the time limit to carry out the work, then either party may refer the matter to Council who shall appoint an independent agricultural expert to carry out an assessment of the work required on the land.
- (d) Upon receipt of the report by the independent agricultural expert, the applicant shall be required to carry out all of the work identified in that report.
- (e) "Die applicant shall bear the costs of the independent agricultural expert.

Note that the MSB does cover earthwork repairs where these are required to eliminate Public or Private Danger.

8. Wambo undertakes to:

- (a) provide in the event of an interruption to water supplies either through a change in quality or quantity, for whatever period, an equivalent amount of water of at least equivalent quality to a location convenient to the private landowner. If required Wambo is to provide at its cost a storage receptacle appropriate for the volume of water to be delivered.
- (b) take such steps as are reasonably available to ensure the continual flow of water in the natural streams servicing the properties; and
- (c) take such steps as are necessary to overcome the sterilisation of lands through ponding.

9. Surveys will be undertaken as a means of measuring subsidence for the purpose of improving prediction methods and to establish changes in drainage patterns caused by subsidence.

10. A copy of this policy will be provided to both landowners and the Mine Subsidence Board."

DA 108/91

17 February 1992

DETERMINATION OF DEVELOPMENT APPLICATION

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

To: Wambo Mining Corporation Pty Limited, Private Mail Bag, Singleton 2330, being the applicant in respect of Development Application No. 108/91.

Pursuant to Section 92 of the Act, notice is hereby given of the determination of the application relating to the land and development described as follows:-

Land:

The Wambo Colliery holding containing the Homestead underground mine and the North East Open Cut Mine consists of 3,400 ha of land at Warkworth, 15km west of Singleton.

Development:

The company proposes to increase its saleable production from 1.5 mtpa to a new maximum of 3 mtpa by expanding both underground and open cut mines, and by upgrading the coal handling and preparation facilities.

Saleable coal will be transported by 27.5 tonne semi-trailers and 39 tonne B-double trucks via the new access road (Hales Crossing) and Jerrys Plains Road to the Mount Thorley Coal Loader 24 hours per day, up to 7 days per week.

Longwall mining equipment will operate in the underground mine and a dragline will be utilised in the open cut to supplement the loaders and trucks currently operating.

In addition to providing for increased output, the application seeks to secure additional underground and open cut reserves. Specifically, the company wishes to extend its underground workings into Authorisation 398 located to the west of the Wambo holding and extend its open cut operations from the North East open cut and towards the west of the holding between previous open cuts and North Wambo Creek (the proposed North Wambo Creek open cut).

Underground mining will be limited to the Whybrow seam whilst open cut mining will occur in the Whybrow, Redbank Creek, Wambo and Whynot seams within the Colliery holding and in the Whybrow seam within A398.

It is proposed that all previous development consents be replaced with a single consent embracing the introduction of new mining methods, improvements to surface facilities, and increases in coal transport to the Mount Thorley Coal loader.

The development application has been approved subject to compliance with the following conditions:-

Conditions of Approval:

General

1. The development and operation is to be carried out generally in accordance with the Environmental Impact Statement, as may be modified by the conditions set out herein.

Duration

2. This consent shall lapse 21 years from the issue of the coal lease.

Water Supply

3. The applicant shall obtain all necessary approvals from the Department of Water Resources for the proposed water management strategy.

State Pollution Control Commission

4. Prior to the commencement of construction of the proposed development, the applicant shall obtain from the State Pollution Control Commission ("the Commission") all statutory approvals and licences as may be required under the Clean Air Act 1961, the Clean Waters Act 1970 and the Noise Control Act 1975 together with such other approvals or licences as may be required under future legislation or regulations for the conduct of the proposed development. The applicant shall conduct the development in accordance with the terms of such approvals and licences.

Statutory Requirements

5. The Applicant shall meet the requirements of all public authorities having statutory responsibilities in respect of the proposed development and shall negotiate with all relevant authorities with a view to meeting their reasonable requirements.

National Park

6. The applicant shall negotiate with the National Parks and Wildlife Service for the purchase and/or swap of that area of land which is currently National Park prior to any extraction of coal from that area.

Noise Mitigation

7. The applicant shall undertake all noise mitigation measures as outlined in the EIS prior to any increase in production or within the time frame indicated within the EIS whichever is the later. These measures include:-
- * The installation of an automatic stacker/reclaimer on the underground coal stockpile to replace the front end loader operation no later than 30 June 1994.
 - * Continue the progressive development of the 15m high bund southwards from the Northeast Open Cut as shown in Figures 2 and 3. This is only to occur in daylight hours.
 - * Treat the existing washery to reduce noise emission levels by 3 dB. An acoustical engineer is to certify that this result has been achieved.
 - * Treat the new expanded washery to the point where noise emission levels meet 55 dB(A) at 200m. An acoustical engineer is to certify that this result has been achieved.

Off Site Effects

8. (a) Additional background noise monitoring at noise monitoring stations no's 3 and 6 and residence 16 (as well as any other point requested by residents) is to be undertaken over a period of at least 5 days at Council's discretion by a noise consultant appointed by Council and funded by the Applicant. The results of that monitoring are to be then interpreted by the noise consultant and compared with the results in the Environmental Impact Statement.

In the event that impact of noise from the mining operations at residences is in excess of the Commission's (and its successor's) goals, the Applicant shall at the request of the owner purchase the affected land on a mutually agreed basis or by reference to clause 8(b) herein.

- (b) In respect of a request to purchase land arising under subclause 8(a) the Applicant shall:-

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- (i) Pay all owners not less than the market value for the land at the time of the determination of the value to be determined having regard to the use of the land and the improvements thereon at the date of this consent.
 - (ii) Pay the owners reasonable compensation for disturbance and relocation.
 - (iii) Pay the owners reasonable costs for obtaining legal advice and expert witnesses for the purposes of determining the purchase price of the land and the terms upon which it is to be acquired.
 - (iv) The purchase price determined by reference to points (i), (ii) and (iii) shall be reduced by the amount of any compensation awarded to the land owner or in respect of the land pursuant to part eight of the Coal Mining Act or any other legislation providing for compensation in relation to coal mining.
- (c) In the event that the Applicant and the owners cannot agree within the time limit upon the purchase price of the land or the terms upon which it is to be acquired, then the following shall apply:-
- (i) either party may refer the matter to the Singleton Shire Council who shall request the President for the time being of the Australian Institute of Valuers and Land Administration (inc) to appoint an independent valuer who shall determine the current market value of the land as if it was not affected by the proposed development, together with the amount of costs and compensation referred to in condition 8(b);
 - (ii) in the event of a dispute between the Applicant and an owner as to that part of a property which is to be acquired under condition 8(a), either party may refer the matter to the Director who shall request the President for the time being of the Institution of Surveyors NSW Inc. 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;
 - (iii) the Applicant shall bear the costs of any valuation or survey assessment requested by conditions 8 (c) (i) & (ii);

- (iv) upon receipt of a valuation arising pursuant to condition 8 (c) (i) herein, the Applicant shall offer to purchase the relevant land at a price not less than the said valuation. Should the Applicant's offer to purchase not be accepted by an owner within six months of the date of such offer, the Applicant's obligations to such owner pursuant to this condition (iv) and to this consent shall cease;
- (v) upon settlement of a purchase referred to in this condition (iv) the Applicant shall also pay to the owner the costs and compensation assessed pursuant to condition 8 (c) herein including the owner's reasonable costs in the event of a subdivision.

Purchase Option - Kelly residence [REDACTED] and Kennedy residence [REDACTED] Section 4 and Part Closed Road, lots 3 to 6 being PO 70/21, Village of Warkworth

9. In addition to any land purchase required by condition 8., in any case;

- (a) The applicant shall within 6 months of receipt of a request purchase land described as allotment 33 DP 610878, Village of Warkworth and lots 1 to 23, 26, Part lots 24 & 25, Section 4 and Part Closed Road (Lots 3 to 6 being PO 70/2), Village of Warkworth.
- (b) In respect of a request to purchase land arising under subclause 9(a) the Applicant shall:-
 - (i) Pay all owners not less than the market value for the land at the time of the determination of the value to be determined having regard to the use of the land and the improvements thereon at the date of this consent.
 - (ii) Pay the owners reasonable compensation for disturbance and relocation.
 - (iii) Pay the owners reasonable costs for obtaining legal advice and expert witnesses for the purposes of determining the purchase price of the land and the terms upon which it is to be acquired.
 - (iv) The purchase price determined by reference to points (i), (ii) and (iii) shall be reduced by the amount of any compensation awarded to the land owner or in respect of the land pursuant to part eight of the Coal Mining Act or any other legislation providing for compensation in relation to coal mining.

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- (c) In the event that the Applicant and the owners cannot agree within the time limit upon the purchase price of the land or the terms upon which it is to be acquired, then the following shall apply:-
- (i) either party may refer the matter to the Singleton Shire Council who shall request the President for the time being of the Australian Institute of Valuers and Land Administration (inc) to appoint an independent valuer who shall determine the current market value of the land as if it was not affected by the proposed development, together with the amount of costs and compensation referred to in condition 9(b);
 - (ii) in the event of a dispute between the Applicant and an owner as to that part of a property which is to be acquired under condition 9(a), either party may refer the matter to the Director who shall request the President for the time being of the Institution of Surveyors NSW Inc. 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;
 - (iii) the Applicant shall bear the costs of any valuation or survey assessment requested by conditions 9 (c) (i) & (ii);
 - (iv) upon receipt of a valuation arising pursuant to condition 9 (c) (i) herein, the Applicant shall offer to purchase the relevant land at a price not less than the said valuation. Should the Applicant's offer to purchase not be accepted by an owner within six months of the date of such offer, the Applicant's obligations to such owner pursuant to this condition (iv) and to this consent shall cease;
 - (v) upon settlement of a purchase referred to in this condition (iv) the Applicant shall also pay to the owner the costs and compensation assessed pursuant to condition 9 (c) herein including the owner's reasonable costs in the event of a subdivision.

Coal Transportation

10. (a) The Applicant shall transport all coal from the Mine by rail but shall be permitted to road-haul coal from the mine to the Mt Thorley coal loading facility for a maximum period of six (6) years from the date of consent.

- (b) The Applicant is to pay Council a sum not exceeding \$30,000 for an assessment of pavement condition and a safety audit of MR 213 between the Hales Crossing access road and the Mt Thorley coal loader.
- (c) The Applicant shall fund any recommendations from the pavement assessment and safety audit.
- (d) The Applicant is pay an annual indexed road maintenance contribution as determined by Council after considering the pavement condition and safety audit report on MR 213.
- (e) There shall be no road haulage of coal to any destination other than the Mt Thorley Coal Loader without the prior consent of Council and the Roads and Traffic Authority.
- (f) Hours of coal haulage being limited to between 6.00am and 6.00pm Monday to Friday inclusive during periods of flooding when either Hale's bridge or the low level causeway on Lemington Mine's private coal haul road are impassable.

Production Levels

- 11. The production levels of saleable coal shall not exceed three (3) million tonnes per annum.

Blasting

- 12. The Applicant shall monitor every blast, with the blast results to be made available upon request to Council, the State Pollution Control Commission and the Department of Mineral Resources. All blasts are to comply with State Pollution Control Commission criteria for overpressure and ground vibration.

Coal Washery Reject Disposal

- 13. The applicant shall install and undertake mechanical dewatering on all fine reject material.

Dust Suppression - General

- 14. (a) The applicant shall:-
 - (i) take all steps in accordance with the procedures outlined in the EIS necessary to minimise the emission of dust from all activities associated with the development;

- (ii) maintain sufficient equipment with the capacity to apply water to all trafficked areas at the rate of at least one litre per square metre per hour;
- (iii) ensure the rehabilitation of all disturbed areas as soon as practicable to minimise the generation of wind erosion dust and in accordance with the requirements of all relevant authorities.

CWR Disposal Dust Control

15. The applicant shall undertake dust control measures in carrying out CWR transport, disposal and site rehabilitation, including use of water trucks, water spraying of working areas and roads, as specified by the State Pollution Control Commission.

Annual Report

16. (a) Within six (6) months of the commencement of the construction of the proposed development, the Applicant shall ascertain the requirements of the Director in relation to an annual report to be submitted to the Director, the Commission and the Council in respect of the performance of the development. Each report shall be in respect of the calendar year ending 31st December and the first such report shall be submitted by 31st March of each year.
- (b) The annual report shall provide the following information:-
- (i) the performance of the development including, but not limited to, production levels of saleable coal, quantity of coal hauled by rail and road over the preceding 12 months;
 - (ii) the implementation and effectiveness of the environmental controls and conditions relating to the development;
 - (iii) results of environmental monitoring in respect of air, water and noise pollution;
 - (iv) mining operations undertaken during the preceding 12 months;
 - (v) workforce characteristics of the development;
 - (vi) modifications to mining operations, if any, to mitigate any adverse environmental impacts.
 - (vii) social impact of the development.

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- (viii) results of subsidence monitoring and subsidence impacts upon natural and the built environment, and measures implemented to rectify any damage caused.
- (ix) the outcome of the water budget for the year, that is the quantity of contaminated water used on site, the quantity of clean water used from storages and the quantity of water extracted from Wollombi Brook. Details of the disposal of any contaminated water on site or into water courses are to be supplied.

Environmental Officer

17. The Applicant shall employ a suitably qualified Environmental Officer to 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.

Landscaping

18. (a) Within 6 months of the date of granting this consent or within such further period as the Council may permit, the Applicant shall submit for the Council's approval:-
- (i) A detailed landscaping plan illustrating the establishment of trees and shrubs both prior to and during the construction stage, showing existing stands of vegetation and the location of plantings around the surface facilities. Information on the proposed landscaping of the rejects emplacement area should also be included.

This plan should incorporate appropriate erosion control and sedimentation control practices for any earthworks associated with the development.
 - (ii) Proposals for the visual appearance of the structural components of the development including paint colours and specifications. Buildings and structures shall be designed so as to present a neat and orderly appearance and to blend as far as possible within the surrounding landscape.
 - (iii) A comprehensive plan of landscape management, which shall include detailed plans, programs to be undertaken, maintenance of all landscape works and plantings and maintenance of building materials and cladding.

Flood Lighting

19. All floodlighting on the site shall be constructed to the satisfaction of the Council. The Applicant shall not construct on-site flood lighting which will directly emit light into the line of sight of nearby dwellings. The light emitted from any direct flood lighting and any vehicle headlights shall be directed away from dwellings and public roads.

Aboriginal Heritage

20. The Applicant shall undertake at its own expense and comply with the requirements of the National Parks and Wildlife Service regarding works affecting Aboriginal Sites in the development area.

Subsidence Management Policy for Private Lands

21. The Applicant is to comply with the following Subsidence Management Policy for Private Lands and is to make a copy available to all owners of private land whose land will be undermined;

"Mine subsidence is the lowering of the surface due to the removal of the underlying coal seams.

In some instances, mine subsidence may cause damage to "improvements" and water resources.

"Improvements" are defined in the Mine Subsidence Compensation Act (1962), and include:

"any building or work erected or constructed on land; any formed road, street, path, walk or drive-way; any pipeline, water, sewer, telephone, gas or other service main, whether above or below the surface of the land".

This document addresses Wambo's responsibilities and the actions it will take to minimise the impact of subsidence on landowners that may be affected by mining at Wambo.

1. *Landowners have the right to know when portions of their properties may be affected.*
2. *Schedules of extraction will be prepared showing the expected subsidence areas at quarterly intervals, 2 years ahead of mining. These schedules will be block outlines superimposed on aerial photos and copies will be supplied to affected landowners.*
3. *Immediately prior to mining, a structural report including a comprehensive set of photos will be prepared in conjunction with Mine Subsidence Board (MSB) officials. Particular attention will be paid to plaster work in homes, door frames, window frames, operation of doors and windows, and the condition of fences and dams.*

The report, including a fully documented set of photos will be supplied to the affected landowner, and the MSB.

4. *Immediately following the issue of development consent and thence at three monthly intervals, the replenishment rates and the quality of water in wells will be established. ✓
The flow and quality of surface streams is to be similarly established.*
5. *Whilst the MSB is ultimately responsible for the cost of repairs to improvements damaged by subsidence, Wambo will assist the landowners in making application to the MSB to ensure that any such repair work required will be carried out at a time convenient to the landowner, and Wambo will if necessary organise the repairs itself and subsequently recover the cost of these repairs from the MSB.*
6. *Cost of repairs will be established by quotation. Landowners may quote for repairs, but work performed by unlicensed personnel will not be subject to further claims.*
7. *Repair work not covered by the Mine Subsidence Act including ripping, ploughing or grading to repair surface damage or restore drainage patterns is to be undertaken by the applicant to the satisfaction of the landowner.*
 - (a) *The landowner is to detail this work in writing and where appropriate by the use of plans and is to submit a request to the Company that this work be undertaken.*
 - (b) *The applicant shall within 3 months of the date of receiving this request carry out this work.*
 - (c) *In the event that the applicant does not agree within the time limit to carry out the work, then either party may refer the matter to Council who shall appoint an independent agricultural expert to carry out an assessment of the work required on the land.*
 - (d) *Upon receipt of the report by the independent agricultural expert, the applicant shall be required to carry out all of the work identified in that report.*
 - (e) *The applicant shall bear the costs of the independent agricultural expert.*

Note that the MSB does cover earthwork repairs where these are required to eliminate Public or Private Danger.

8. *Wambo undertakes to:*
 - (a) *provide in the event of an interruption to water supplies either through a change in quality or quantity, for whatever period, an equivalent amount of water of at least equivalent quality to a location convenient to the private landowner. If required Wambo is to provide at its cost a storage receptacle appropriate for the volume of water to be delivered.*

- (b) *take such steps as are reasonably available to ensure the continual flow of water in the natural streams servicing the properties; and*
 - (c) *take such steps as are necessary to overcome the sterilisation of lands through ponding.*
9. *Surveys will be undertaken as a means of measuring subsidence for the purpose of improving prediction methods and to establish changes in drainage patterns caused by subsidence.*
10. *A copy of this policy will be provided to both landowners and the Mine Subsidence Board."*

Land Management Plan

22. The applicant shall prepare, to Council's satisfaction and regularly update, a Land Management Plan to provide for satisfactory land management practices.

Street Lighting

23. Provision of two lights at each of the intersections of the new mine access road and Jerry's Plains Road as well as Wallaby Scrub Road and Jerry's Plains Road and the payment to Council of a capitalised contribution for their on-going running of \$6,000 based on a 5 year capitalisation of \$1,200 per annum.

Provision of reflectors to delineate road edges, median strip and lane divisions at the intersection of Jerrys Plains Road and Mt Thorley Roads to the satisfaction of Council's Manager Design.

Water Management Plan

24. A water management plan is to be submitted for the Colliery holding. The revised plan shall be prepared to the satisfaction of the Department of Water Resources and shall include the following information:-
- (i) groundwater accession rates, demands, losses and pondage capacities;
 - (ii) water requirements and water supply at the Wambo washery;
 - (iii) capacity of the open cuts to store excess mine water, surface run-off and stormwater;
 - (iv) examination of hydraulic relationships between Wollombi Brook and the existing and proposed underground operations;

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- (v) quantification of the proposal in terms of likely affects on the salinity of receiving waters;
- (vi) proposals for monitoring discharges and water quality.

Maison Dieu Connection

25. Satisfactory negotiations being held with Council and agreement being reached regarding the payment of the proportion of the costs attributable to Wambo Mining Corporation Pty Ltd, of a light vehicle only alternative route to Singleton. Such alternative route to involve the upgrading of the existing Maison Dieu and Comleroi Roads, construction of the bridge approaches to the Hunter River and the construction of a low level bridge across the Hunter River. The road standard required to be a bitumen sealed two lane rural road.

Environmental Monitoring - Specific Requirements

26. (i) The Applicant shall install dust deposition gauges and in each calendar month shall determine the dust deposition rate in gm/m2/mth such that the +2gm/m2/mth incremental isopleth for dust arising from mining operations is able to be plotted on an annual basis, with baseline defined by the Commission. The annual results are to be reported in the Mine's Annual Report.
- (ii) In addition to the requirements of condition 8 the Applicant shall measure and record the L90 noise level over a 72 hour period at least twice per year such that the 40dBA day-time and 35dBA night-time noise level isopleths elated to the mining operations are able to be plotted for the general area.

Please refer to the attached Schedule 1 which contains the details regarding appeal rights, the lapsing of consent etc.

Yours faithfully



for **GENERAL MANAGER**

Encl.

MC/L

SCHEDULE 1

1. To ascertain the date upon which the consent becomes effective refer to Section 93 of the Act.
2. To ascertain the extent to which the consent is liable to lapse refer to Section 99 of the Act. Section 99 of the Act generally provides that a development application lapses after 2 years from the date on which the consent becomes effective, unless the development is commenced. A further 12 month extension of consent may be granted upon application being made prior to the lapse of consent.
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 Environmental Court exercisable within 12 months after receipt of this notice.