

RGM-8

MINERAL RESOURCES (SUSTAINABLE DEVELOPMENT) ACT 1990**INSTRUMENT OF VARIATION AND ADDITION OF LICENCE CONDITIONS**

LICENCE TYPE	Mining Licence
LICENCE NUMBER	5003
NAME OF LICENSEE	Yallourn Energy Pty Ltd
ADDRESSES OF LICENSEES	Level 31, 360 Collins Street Melbourne Vic 3000
AREA (IF RELEVANT)	5361 hectares
DATE OF INSTRUMENT APPROVAL	
GENERAL NATURE AND PURPOSE OF INSTRUMENT	To vary the Schedule of Conditions and add a new condition 1A – Risk Management.
STRATUM OF LAND (IF RELEVANT)	Not applicable

I, Lily D'Ambrosio, Minister for Energy and Resources acting under section 34 of the Mineral Resources (Sustainable Development) Act 1990 and all enabling provisions thereto, hereby vary the Schedule of Conditions to Mining Licence No. 5003 ('Schedule of Conditions') as outlined in Table 1 below and add a new condition 1A to the Schedule of Conditions as outlined in Attachment 1.

Table 1 – Variations to Schedule of Conditions

Current reference	Variation
All references to 'Mineral Resources Development Act 1990'.	Delete 'Development' and insert (Sustainable Development)
All references to 'MRD Act'.	Replace with 'MRSD Act'.
All references to 'Chief Administrator'	Replace with 'Secretary of the Department of Economic Development, Jobs, Transport and Resources'.
All references to 'his delegate'	Delete 'his'.
All references to 'Mineral Resources (Royalties) Regulations 1991'.	Delete '(Royalties) Regulations 1991' and insert (Sustainable Development) (Mineral Industries) Regulations 2013.
All references to 'Mineral Resources (Health and Safety for large Open-cut Mines) Regulations 1995'	Delete '(Health and Safety for large Open-cut Mines) Regulations 1995' and insert (Sustainable Development) (Mineral Industries) Regulations 2013.
All references to 'the Inspector' except as otherwise specified in this Table.	Replace with 'an Inspector'.
Condition 1.5 – Reference to 'Department of Natural Resources and Environment (DNRE)'	Replace with 'Department of Economic Development, Jobs, Transport and Resources (DEDJTR) and the Department of Environment Land, Water and Planning (DELWP)' .
Conditions 1.6, 1.9, 18.1, 19.1 and 19.3 – Reference to 'DNRE'	Replace with 'DEDJTR'.
Condition 22.17 – reference to 'Department'	

Condition 1.10 – Reference to 'Inspector'	Replace with 'Chief Inspector under the MRSD Act (hereinafter referred to as Chief Inspector)'
Condition 2.2 – Reference to 'Mines Inspector (hereinafter referred to as the Inspector)'	Replace with 'an Inspector under the MRSD Act (hereinafter referred to as 'an Inspector')'.
Condition 4.4 - Reference to 'Vermin & Noxious Weed Act 1958'	Replace with 'Catchment and Land Protection Act 1994'.
Conditions 4.4 and 21.2 – Reference to 'NRE'	Replace with 'DELWP'
Conditions 4.5, 5.1, 5.2, 6.4, 9.1, 9.2, 14.4 – reference to 'DNRE'.	Replace with 'DELWP'.
Condition 5.2 – Reference to ' <i>Fire Protection Regulations 1992</i> '.	Replace with 'Forests (Fire Protection) Regulations 2014.'
Condition 5.3	Replace with 'Where the licence covers private land, such fire-fighting equipment and appliances shall be kept on site in working order as may be required by the Chief Officer of the Country Fire Authority (CFA). With respect to public land, the requirements of the Forest (Fire Protection) Regulations 2014 apply.'
Condition 8.1 – Reference to 'Water Act 1989'	After '1989' insert '(or any successor legislation)'
Condition 9.2(b) – Reference to 'Regulation 2.24 Mineral Resources(Health and Safety) Regulations '	Deleted.
Conditions 13.2 and 20.3 – Reference to 'the Regional Mining Engineer'.	Replace with 'an Inspector'.
Conditions 8.4, 8.6, 18.3, 19.5, 24.1 and 24.2 – References to 'the Inspector'	Replace with 'Chief Inspector'.
Condition 19.4 – reference to 'lease or if the lease is declared void'	Replace with 'licence or if the licence is cancelled'.
Condition 20.4 – Reference from ' <i>...Archaeological..</i> ' to ' <i>...[Tel: (03) 9412 7498]</i> '	<p>Replace with '<i>...Aboriginal Heritage Act 2006 (or any successor legislation):</i></p> <p>Section 24(2) – "The person must report the discovery to the Secretary as soon as practicable unless, at the time of making the discovery, the person had reasonable cause to believe that the Register contained a record of the place or object"; and</p> <p>Section 27(1) – "A person is guilty of an offence if the person knowingly does an act that harms Aboriginal cultural heritage and at the time the act was done the person knew that the thing harmed was Aboriginal cultural heritage."</p>
Condition 22.9 – Reference to ' <i>[Health (Radiation Safety) Regulations 1994]</i> '	Replace with 'by the Radiation Act 2005.'
Condition 26.2 – Reference to 'the act'	Replace with 'MRSD Act'.

The Schedule of Conditions as changed by this instrument is set out in Attachment 2.



Hon Lily D'Ambrosio MP
Minister for Energy and Resources

Date: 20-1-15

Date of Variation

Date of Registration ___ / ___ / ___ Time of Registration ___ : ___ am/pm
TENEMENTS REGISTRATION OFFICER MRSDA 1990 (Section 69)

ATTACHMENT 1

1A RISK MANAGEMENT

1A.1 Definitions:

‘Department Head’ bears the same meaning as that term is defined in section 4(1) of the MRSD Act.

1A.2 The licensee shall conduct a risk assessment and submit a risk assessment and risk management plan in accordance with condition 1A.4 (**Risk Assessment and Management Plan**) by 31 August 2015.

1A.3 The licensee shall appoint an independent expert or independent experts to assist it prepare the Risk Assessment and Management Plan. The expert or experts shall have appropriate expertise in all facets of the Risk Assessment and Management Plan, including mine safety and fire prevention, mitigation and suppression. For the avoidance of doubt, the term ‘independent’ in this section means, not an employee of the licensee or any of its related bodies corporate.

1A.4 The Risk Assessment and Management Plan shall:

- (a) assess the risk (likelihood and consequence) to the environment and public safety from the work done or proposed to be done under the licence, including but not limited to the prevention, mitigation and suppression of fire entering or breaking out in the licensed area;
- (b) review the following licensees’ documents in effect when preparing the Risk Assessment and Management Plan;-
 - (i) the ‘Mine Fire Service Policy and Code of Practice’
 - (ii) any mine emergency plan;
 - (iii) any crisis management and communication strategy;
 - (iv) any ground control plan; and
 - (v) any other relevant policy, code or plan.
- (c) detail quantifiable risk control standards to be achieved so as to protect the environment and public safety;
- (d) identify the most reasonably practicable effective actions to manage the risk(s) identified under condition 1A.4(a) as well as the requirements of condition 5 and condition 18 so as

to protect the environment and public safety, to the standards listed under condition 1A.4(c); and

(e) set milestones for completing the actions identified in condition 1A.4(d).

- 1A.5 The Risk Assessment and Management Plan must be to the satisfaction of the Department Head such that it incorporates all of the matters required and will achieve the outcomes specified in 1A.4. If the Risk Assessment and Management Plan submitted to the Department Head is not to the satisfaction of the Department Head, the licensee must, no later than two months (or later period as agreed by the Departmental Head) after the Department Head has by notice in writing notified the licensee of the reasons why it is not to his or her satisfaction, submit a revised Risk Assessment and Management Plan that addresses those reasons and is to the satisfaction of the Department Head.
- 1A.6 No later than three months after the approval of the Risk Assessment and Management Plan by the Department Head, the licensee shall submit to Department Head a work plan variation application in order to incorporate into the work plan for the licensed area any work required by the Risk Assessment and Management Plan, and any other plan, condition, policy, strategy or code of practice as provided for/approved by the Department Head in/under condition 1A.4.
- 1A.7 The licensee shall provide to the Department Head a statement of compliance in respect of each period of 12 months ending on 30 June within three months after the end of the period to which it relates. The statement of compliance must detail the progress in implementing actions in the Risk Assessment and Management Plan as well as compliance with the requirements of this licence and any approved work plan. The statement of compliance must be certified by the Chief Executive Officer (or delegate).
- 1A.8 The licensee shall review the Risk Assessment and Management Plan:
- a) every 3 years on or before 31 August;
 - b) when requested to do so by the Departmental Head; or
 - c) within three months of a Reportable Event described in section 41AB of the MRSD Act whichever is the earlier.
- 1A.9 On making a request that the licensee review the Risk Assessment and Management Plan under section 1A.8 (b), the Departmental Head must give the licensee notice in writing and state the reasons for it, and give the licensee an opportunity to comment.
- 1A.10 A review conducted under condition 1A.8 shall comply with the conditions 1A.4, 1A.5 and 1A.6.

ATTACHMENT 2**SCHEDULE OF CONDITIONS****1. WORK PLANS AND PROPOSED ENVIRONMENTAL MANAGEMENT PROGRAM**

- 1.1 The licensee shall at all times comply with the Mineral Resources (Sustainable Development) Act 1990 (MRSD Act) and the Regulations declared under this Act and as they may be amended.
- 1.2 The licensee shall, subject to the following conditions, conduct the operations on the licence area according to the Work Plan approved under section 40 of the MRSD Act and in general accordance with the proposal as outlined in the Supplementary Report to the Environment Effects Statement (EES) released in July 2001 and the Assessment Report released by the Minister of Planning in September 2001.
- 1.3 The licensee, in consultation with the Environmental Review Committee (ERC, constituted under Clause 1.5), shall prepare a Rehabilitation Plan (as required by the MRSD Act) and an Environmental Management Program (EMP) based on studies carried out in preparation of the EES, and any subsequent studies. The Rehabilitation Plan forms part of the Work Plan. The EMP shall address but not be confined to the following:
- a) protection of the Morwell and Latrobe Rivers and underground aquifers from any deleterious discharges;
 - b) progressive rehabilitation;
 - c) measures to control and contain noise, dust and other discharges to air from and within the mining licence;
 - d) measures to control and monitor residual chemical levels in any discharge to disposal areas;
 - e) proposals for monitoring noise, dust, surface-and groundwater quality, erosion and other environmental parameters as may be determined from time to time;
 - f) identification and monitoring for any leakage of any toxicants in ground and surface waters adjacent to stockpiles; water and tailings storage areas; and the sampling procedure to apply;
 - g) a Conservation Management Plan;

h) any other environmental issues requiring management.

- 1.4 The licensee shall submit the EMP to the Secretary of the Department of Economic Development, Jobs, Transport and Resources for approval and registration as part of the Work Plan.
- 1.5 An ERC shall be formed and chaired by a person independent of the licensee. The ERC will comprise representatives of the licensee, the Environment Protection Authority (EPA), Department of Environment, Land, Water and Planning (DELWP), the Department of Economic Development, Jobs, Transport and Resources (DEDJTR), the public, the Latrobe City, Southern Rural Water, West Gippsland Catchment Management Authority (WGCMA), Department of Human Services and any other relevant agency with an interest in the operations.
- 1.6 At least two community representatives, and alternates for each may be selected for renewable fixed terms. The licensee shall provide funding for an independent chairperson. The DEDJTR, in consultation with the licensee and the Department of Infrastructure shall be responsible for selection of the chairperson.
- 1.7 The ERC shall be convened at least once in every 6 months to review environmental effects of the project.
- 1.8 Results of environmental monitoring conducted under the EMP shall be regularly reported to the ERC in a format agreed to by the ERC to enable it to assess environmental performance.
- 1.9 The ERC may from time to time consider variations to the Work Plan, EMP and licence conditions where appropriate and make recommendations to the DEDJTR with regard to approvals.
- 1.10 The licence holder must notify the Chief Inspector under the MRSD Act (hereinafter referred as Chief Inspector) and EPA in writing as soon as practicable of any performance monitoring result that indicates a breach of any condition of this licence or the Work Plan.
- 1.11 The licence holder must notify the Chief Inspector and EPA of incidents in accordance with the relevant procedure specified in the current approved EMP.

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- (b) assess the risk (likelihood and consequence) to the environment and public safety from the work done or proposed to be done under the licence, including but not limited to the prevention, mitigation and suppression of fire entering or breaking out in the licensed area;
 - (b) review the following licensees' documents in effect when preparing the Risk Assessment and Management Plan;-
 - (i) the 'Mine Fire Service Policy and Code of Practice'
 - (ii) any mine emergency plan;
 - (iii) any crisis management and communication strategy;
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 - (v) any other relevant policy, code or plan.
 - (c) detail quantifiable risk control standards to be achieved so as to protect the environment and public safety;
 - (d) identify the most reasonably practicable effective actions to manage the risk(s) identified under condition 1A.4(a) as well as the requirements of condition 5 and condition 18 so as to protect the environment and public safety, to the standards listed under condition 1A.4(c); and
 - (e) set milestones for completing the actions identified in condition 1A.4(d).
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- period as agreed by the Departmental Head) after the Department Head has by notice in writing notified the licensee of the reasons why it is not to his or her satisfaction, submit a revised Risk Assessment and Management Plan that addresses those reasons and is to the satisfaction of the Department Head.
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- 1A.9 On making a request that the licensee review the Risk Assessment and Management Plan under section 1A.8 (b), the Departmental Head must give the licensee notice in writing and state the reasons for it, and give the licensee an opportunity to comment.
- 1A.10 A review conducted under condition 1A.8 shall comply with the conditions 1A.4, 1A.5 and 1A.6.

2. FENCING AND SECURITY

- 2.1 Where public access may present a safety hazard within the mining licence, the licensee must adequately fence and signpost the area to ensure public safety is maintained.
- 2.2 When directed by the an Inspector under the MRSD Act (hereinafter referred to as 'an Inspector'), a fence or fences shall be erected around specified work site areas to a written specification that may include time limits. Gates of a similar standard shall be provided when directed. Gates and fences

shall be maintained during the term of the licence to the satisfaction of the Inspector. Gates must be locked when the work site is unattended.

- 2.3 Domestic stock are to be excluded by fencing from all disturbed areas and those areas undergoing rehabilitation.

3. BUFFER ZONES AND VISUAL SCREENING

- 3.1 Buffer zones and visual screening measures shall be designed and constructed after consultation with council, residents and the ERC to minimise visual impact in the proximity to the South East boundary of Maryvale field.
- 3.2 No excavation shall take place within 10 metres of the licence boundaries. This requirement shall not apply with respect to any boundary with an adjacent mining licence where there is an agreement to mine the common boundary.
- 3.3 Existing vegetation (excluding weed species) within these buffer zones shall be preserved and maintained unless otherwise specified in the EMP.
- 3.4 Where required by an Inspector, the licensee shall supplement existing vegetation by additional planting to provide a screen for mining and allied operations.
- 3.5 The licensee shall take precautions to ensure that no species inconsistent with the surrounding native vegetation are introduced to the area.

4. PLANT DISEASES AND NOXIOUS WEEDS

- 4.1 The licence holder must make every effort not to bring plant diseases (such as *Phytophthora cinnamoni*) or weeds onto the site.
- 4.2 All plant, vehicles and machinery must be thoroughly cleaned (ie. removing soil and organic matter) prior to coming onto the site and must be similarly cleaned before moving to new locations.
- 4.3 Soil must not be imported onto the site for any reason whatsoever unless approved by an Inspector in consultation with the landowner or responsible land manager.
- 4.4 The licence holder will make every effort to suppress and destroy proclaimed and prescribed dangerous noxious weeds as defined under the Catchment and Land Protection Act 1994. A management plan to control noxious weeds on the site will be prepared to the satisfaction of DELWP within 12 months of works commencing.

- 4.5 In consultation with DELWP and the landowner, pest animals shall be controlled within the mining licence area. This shall be to the satisfaction of DELWP.

5. FIRE PRECAUTIONS

- 5.1 The licensee shall exercise adequate fire precautions at all times. Local fire hazard conditions or fire susceptibility, particularly during declared fire danger periods, shall be checked with the local Country Fire Authority or DELWP fire officer.
- 5.2 All fire bans regulations and directions from Country Fire Authority or DELWP officers shall be observed. It is the responsibility of the licensee to be aware when fire bans and associated conditions are in force. The relevant regulations to be observed when conducting operations on Crown land are the Forests (Fire Protection) Regulations 2014.
- 5.3 Where the licence covers private land, such fire- fighting equipment and appliances shall be kept on site in working order as may be required by the Chief Officer of the Country Fire Authority (CFA). With respect to public land, the requirements of the Forests (Fire Protection) Regulations 2014 apply.
- 5.4 All internal combustion engines shall be fitted with effective exhaust pipes, mufflers and spark arresters.

6. SURFACE DISTURBANCE / VEGETATION REMOVAL

- 6.1 Prior to commencement of excavation, adequate provision shall be made for the separate stockpiling of grasses, leaf litter, topsoils and subsoils. These materials are to be stored in separate neat and tidy dumps not exceeding 2 metres in height (for native vegetation topsoil) or 8 metres for agricultural land topsoil. Such dumps are to be protected from erosion. Where practicable, subsoil up to a depth of 1000 mm should also be stockpiled. Areas reserved for subsoil stockpiles shall be stripped of topsoil prior to establishment of the stockpile.
- 6.2 The area of surface disturbance must be kept to a minimum.
- 6.3 No area shall be opened up for exploration, mining or ancillary operations, except where approved as part of the Work Plan.
- 6.4 Where areas are to be clear felled for mining purposes, the licensee must give at least one month's notice to the landowner or responsible Crown land manager within the DELWP to allow for the harvesting of such timber. Where any timber is felled on Crown land and harvesting is not carried out (for whatever reason), the licensee is liable for royalties payable on the value of the timber.

- 6.5 Where practicable, seed shall be collected from indigenous plants to be removed from the site, to provide a source of seed stock for rehabilitation.
- 6.6 All native vegetation cleared shall be mulched and stockpiled in neat and tidy dumps for re-use in rehabilitation of native vegetation.

7. SOIL MANAGEMENT

- 7.1 Soil disturbance shall be kept to a minimum. Prior to the commencement of any excavation or the construction of any road, plant or stockpile area, all soil material shall be removed and utilised for progressive rehabilitation purposes or stored appropriately. Topsoil, including leaf litter, grasses etc., shall be removed and handled separately to subsoil.
- 7.2 Stockpiles are to be protected from erosion. These measures may include use of chemical binding agents, wind barriers or planting with grass. Soil shall be replaced as soon as is practicable, in order that the microbial activity, seed viability and soil fertility is maintained.

8. GROUNDWATER

- 8.1 Any aquifer dewatering and/or depressurisation must be carried out in accordance with the conditions specified in the Groundwater Licence issued by the Minister responsible for the Water Act 1989 (or any successor legislation), and in accordance with any licence issued under the *Environment Protection Act 1970* (the EPA licence).
- 8.2 A monitoring program consistent with the programs previously carried out by the State Electricity Commission of Victoria and Generation Victoria to determine the impacts of dewatering/depressurisation both on site and regionally must be maintained to the satisfaction of an Inspector and the responsible Minister under the Water Act 1989 or delegate.
- 8.3 The licensee shall ensure that results of the monitoring program are reported to the responsible Minister under the Water Act 1989 or delegate and the ERC annually and at whatever times required by the Groundwater Licence and the EPA licence.
- 8.4 In the event that the monitoring program in 8.2 indicates material adverse impacts beyond those evident at the date of issue of the licences which are attributable to the dewatering/depressurisation by the licensee after the date of issuing of the licences then the licensee must institute such reasonable remedial action as may be required by the Chief Inspector, the EPA and the responsible Minister under the Water Act 1989 or delegate, to ameliorate these effects, proportionate to the licensee's contribution.

- 8.5 For the purposes of 8.3 material adverse impacts comprise effects on aquifers in the Latrobe Valley such that the interests of other users are materially prejudiced or subsidence on a significant scale occurs as a direct result of groundwater extraction which materially adversely affects private property or public lands.
- 8.6 Any remedial action under 8.3 must be to the satisfaction of the Chief Inspector, the EPA and the responsible Minister under the Water Act 1989 or delegate.

9. ROADS, TRAFFIC AND TRANSPORT

- 9.1 Internal roads and external road modifications shall be situated as approved in the Work Plan or directed by an Inspector after consultation with DELWP in the case of Crown land, and/or the Chief Executive Officer, Latrobe City and the landowner on private land.
- 9.2 Any such road may be used:
- (a) by officers of, or persons authorised by DELWP, officers of the Country Fire Authority or employees or persons engaged in fire control;
 - (b) for the extraction of forest produce or for mining purposes by any other licensee under the MRSD Act or the Forests Act 1958 (or any successor legislation) under such conditions as may be determined by agreement between the parties concerned;
 - (c) by the landowners or their agents where the lease covers private land as agreed with the Mine Manager.
- 9.3 The licensee shall ensure that all internal roads are properly formed, drained, surface treated and maintained to the satisfaction of an Inspector and that any dust nuisance originating from use of the roads by the licensee shall be controlled to the satisfaction of an Inspector.
- 9.4 Roads no longer required for mining or ancillary operations shall be rehabilitated in a timely manner.
- 9.5 Parking areas are to be provided within the licensed area for all vehicles used in connection with the operation, including private vehicles used by employees and visitors.
- 9.6 Unless approved in writing by Council no machinery, buildings or materials shall be loaded/unloaded, stored or parked in road reserves.
- 9.7 Vehicular access to and from private land onto Council road reserves shall be to the approval and satisfaction of a delegated officer of the Latrobe City.

- 9.8 The wheels and undercarriage of all vehicles leaving the mine site shall be clean and all loads are to be managed (by tarpaulin or chemical stabilisers) to prevent spillage.

10. DRAINAGE AND DISCHARGE CONTROL

- 10.1 Rainfall and other natural waters shall be diverted away from works areas and must be as free as possible of pollutants, including silt and clay. As far as is practicable, such works shall not cause undue alteration to the general drainage pattern beyond the licensed area.
- 10.2 There shall be no discharge of water or solutions from the mining site unless it meets the standards prescribed in the relevant State Environment Protection Policy and EPA licence, and is approved in the Work Plan.
- 10.3 Sediment retention structures, including dams, shall be constructed in accordance with the Work Plan. An Inspector may also direct such works to be undertaken, where necessary.
- 10.4 No drainage discharges, including surface drainage water, shall be permitted to discharge to Council road reserves without the written approval of Council.

11. TAILING DAMS

- 11.1 Water or tailings dams shall be constructed in accordance with the Work Plan.

12. EROSION

- 12.1 The licensee shall undertake all necessary works to ensure that the potential for erosion of land affected by mining is minimised.
- 12.2 Should erosion occur, the licensee shall take all necessary steps to rectify the erosion to the satisfaction of an Inspector.

13. HYDROCARBONS AND CHEMICALS

- 13.1 Bunding or other methods capable of containing 125% of the volume of the largest container or tank shall be constructed around all fuel and lubricant storage facilities in accordance with AS 1940. The minimum height of any bund shall be 150 mm.
- 13.2 Bulk chemicals shall be stored in banded areas or other methods capable of containing 125% of the largest tank. These shall be constructed in accordance with the appropriate Australian Standard or as agreed to by an Inspector.

13.3 Bunded areas shall be surfaced with an impervious material and drained to a sump. Ponding of collected stormwater should be minimised by regular discharge, ensuring that such water is not contaminated with hydrocarbons.

13.4 Any drainage from an area that may be subject to hydrocarbon spillage, such as a machinery maintenance area, shall be free from hydrocarbon contamination and directed to a sump or interceptor trap.

14. AIRBORNE EMISSIONS

14.1 Control measures must be in place to minimise airborne emissions so that:

- detriment is not caused to surrounding areas and residents, and;
- any discharge complies with State Environment Protection Policy.

14.2 Dust resulting from all operations including mining, loading, transport, crushing, stockpiling and rehabilitation works shall be controlled to the satisfaction of an Inspector. Such measures may include the use of water sprays and/or dust extraction systems or other appropriate measures wherever necessary. The revegetation of waste dumps and other bare areas shall be undertaken as soon as possible to minimise the generation of dust.

14.3 Where required by an Inspector, a water tanker of appropriate size shall be maintained on-site in operable condition for the purposes of suppressing dust on internal roads, work areas and Council roads as required.

14.4 The increase in dust deposition (measured in accordance with AS 3580.10.1) as a result of mining or related activities must not exceed $2\text{g/m}^2/\text{month}$ at sites determined by EPA in consultation with DELWP. Notwithstanding the foregoing, no increase in dust deposition resulting in total levels greater than $4\text{g/m}^2/\text{month}$ are permitted.

14.5 When windy conditions are forecast water or other dust suppressants shall be applied on areas susceptible to wind erosion.

14.6 Airborne dust emissions of size fractions with a mean aerodynamic diameter less than or equal to 10 microns (PM 10) from all sources shall be limited in accordance with specific requirements for the mining and extractive industries provided for under the State Environment Protection Policy (Air Quality Management) and state protocols for environmental management for mining.

15. NOISE

- 15.1 Precautions to the satisfaction of the Inspector shall be taken to ensure that noise emissions comply with the provisions of any regulations under the MRSD Act as they relate to noise exposure to workers.
- 15.2 Noise emissions from the work site, measured at any residence in the vicinity of the licensed area, shall comply with limits set using the procedures described in the relevant State Environment Protection Policy or any other limits set under the Environment Protection Act 1970.
- 15.3 Noise emissions are to comply with the requirements of the EPA at all times. Noise levels under this condition shall be assessed in accordance with the EPA SEPP N-1.

Maximum noise levels at affected residences shall be:

Day: 50 dB(A)

Monday -Friday (0700 -1800 hrs), Saturday (0700 -1300 hrs)

Evening: 44 dB(A)

Monday -Friday (1800 -2200 hrs), Saturday (1300 -2200 hrs), Sunday & Public Holidays (0700 - 2200 hrs)

Night: 39 dB(A)

Monday -Sunday (2200 -0700 hrs)

- 15.4 During the construction phase an additional allowance of 10 dB(A) shall apply to the Day period noise limit defined in 15.3. The construction phase is defined as that period needed for:

soil (topsoil and subsoil) stripping; construction of roads including haul roads; construction of sediment, de-watering or tailings dams; construction of drainage works; construction of buildings or treatment plant; formation of purpose-built earthen noise bunds, and; clearing vegetation. Removal of overburden is specifically excluded.

16. WORKING HOURS

- 16.1 Subject to compliance with EPA noise limits working hours shall be 24 hours per day, seven days a week.

17. DERELICT AND REDUNDANT PLANT

- 17.1 All derelict and redundant plant, vehicles, machinery and equipment shall be either:

- removed from the licensed area and deposited at an appropriate waste disposal site;
or
- properly stored/stockpiled on the licensed area in a location and manner approved by an Inspector.

18. PROGRESSIVE REHABILITATION

- 18.1 Progressive reclamation shall be conducted in accordance with the Work Plan, the Rehabilitation Master Plan and Five-year Rehabilitation plans. In addition, any further rehabilitation work will be carried out at the direction of the DEDJTR.
- 18.2 In consultation with the ERC, the licensee shall prepare Annual Rehabilitation Plans and undertake rehabilitation in accordance with such plans.
- 18.3 As and when directed by the Chief Inspector, despite any compensation agreements between the licensee and the owner of any private land in the lease, the licensee shall undertake progressive reclamation of land on the area subject to surface disturbance.
- 18.3 The license holder must report annually to the public and the ERC on the progress of rehabilitation.

19. FINAL REHABILITATION

- 19.1 Final rehabilitation will be in accordance with the Work Plan and any additional requirements as directed by the DEDJTR. The final rehabilitation concept should give priority to the water management regime and landform.
- 19.2 In consultation with the ERC the licensee shall conduct research work to establish the feasibility and desirability of alternative final landforms of the mine area and its interconnection with surface and groundwater systems.
- 19.3 A review of the rehabilitation bond held against this lease can be carried out at any time by the DEDJTR.
- 19.4 After the expiration of the final term of the licence or if the licence is cancelled for any reason whatsoever, the licensee shall continue to be bound by the rehabilitation provision of the licence and the Work Plan.
- 19.5 Failure to complete works in accordance with the Work Plan or in accordance with the directions of the Chief Inspector shall constitute grounds upon which the bond may be forfeited either in whole or in part in accordance with section 83 of the MRSD Act.

20. HERITAGE SITES

20.1 Any archaeological/historic sites and/or relics that are included in the Victorian Heritage Register, or any other significant archaeological/historic sites and/or relics in or adjacent to work areas shall be protected from damage by flagging or fencing to the satisfaction of an Inspector.

20.2 Tenure of the mining licence does not exempt the holder from the following provisions of the Heritage Act 1995:

Section 127(1) -"A person must not knowingly or negligently deface or damage or otherwise interfere with an archaeological relic or carry out an act likely to endanger an archaeological relic..." and

Section 132(1) -"A person who discovers an archaeological relic must as soon as practicable report the discovery to the Executive Director or the Inspector unless he or she has reasonable cause to believe that the relic is recorded in the Heritage Register."

20.3 Where required by an Inspector, in consultation with the responsible land manager, the licensee shall provide an inventory of historic sites and/or relics that may be affected by mining or allied operations.

20.4 Tenure of the mining licence does not exempt the holder from the following provisions of the Aboriginal Heritage Act 2006:

Section 24(2) – “The person must report the discovery to the Secretary as soon as practicable unless, at the time of making the discovery, the person had reasonable cause to believe that the Register contained a record of the place or object”; and

Section 27(1) – “A person is guilty of an offence if the person knowingly does an act that harms Aboriginal cultural heritage and at the time the act was done the person knew that the thing harmed was Aboriginal cultural heritage.”

21. BUILDINGS

21.1 No buildings shall be erected before any relevant planning or building permits have been obtained.

21.2 All fixed plant and buildings shall be painted or surface treated in a colour to blend with the surroundings to the satisfaction of the Inspector in consultation with the Responsible Authority. In the case of Crown land, consultation shall be with the responsible DELWP land manager.

22. DRILLING AND DRILLHOLE ABANDONMENT

- 22.1 Drill sites shall be confined to the smallest area in which it is practicable to conduct operations.
- 22.2 Where topsoil is removed during drill pad preparation, this shall be stockpiled for use when rehabilitating the site.
- 22.3 At the completion of drilling, where practicable the drill-pad shall be re-instated back to natural surface. Topsoil shall be re-spread and, where appropriate, the area revegetated with species consistent with the surrounding vegetation.
- 22.4 Where a drilling sump is excavated, the sump shall be of sufficient size to contain drilling fluids, well constructed, and lined with a suitable impermeable membrane such as plastic. Topsoil shall be stockpiled separate from the subsoil, and adjacent to the sump excavation.
- 22.5 At the completion of drilling the sump shall be drained and the liner removed. The sump excavation shall be refilled with the subsoil replaced first and the topsoil replaced last. Liners and sump contents shall be disposed of at a site approved for the disposal of such waste.
- 22.6 Where a drillhole intersects an aquifer or stratigraphic layer containing significant groundwater, the licensee shall notify the Minister administering the Water Act 1989 of the existence of, and depth to the groundwater layer.
- 22.7 If substantial quantities of groundwater are encountered during drilling and the flow of water cannot be contained within the rig circulatory system, drilling shall cease until arrangements are made for a suitable disposal method as approved by the Inspector in consultation with the relevant authorities.
- 22.8 The drilling, construction or abandonment of bores drilled for water supplies drainage, dewatering or groundwater monitoring shall be undertaken in accordance with the Water Act 1989.
- 22.9 Where downhole logging is undertaken, licensees shall comply with statutory regulations covering the use, handling and transport of radiation sources by the Radiation Act 2005.
- 22.10 In the case of a radiation source becoming lost down a drillhole, the licensee shall take all reasonable steps to ensure that the source is recovered.
- 22.11 Where drillholes are to be abandoned, any significant aquifers that were intersected downhole shall be sealed off.

- 22.12 Immediately upon completion of the drilling program, drillholes shall be capped below ground surface. If drill holes are required to remain open for further evaluation some form of temporary cap shall be provided.
- 22.13 Where groundwater flows at the surface from an unconfined aquifer, a grout plug at least two metres thick shall be part of the surface cap to permanently stop the flow.
- 22.14 The top of the grout, bridge, casing cap or any casing remaining in the abandoned drillhole shall be a minimum depth of 300 mm below ground surface and the void above the grout, bridge, casing cap or casing shall be backfilled with soil.
- 22.15 Immediately upon completion of the drilling program, sample bags containing drill cuttings shall be removed from the site. Where there is agreement from the landowner or land manager, samples may be retained on-site for up to 4 weeks from the completion of the drilling program.
- 22.16 In the case of wide diameter drilling, by bucket auger (or Caldwell) equipment, drillholes shall be backfilled and samples removed from the surface at the completion of drilling.
- 22.17 Accurate records shall be kept of abandonment procedures to provide future reference and to demonstrate to the DEDJTR that the drillholes have been satisfactorily abandoned.

23. TRENCHING AND BULK SAMPLING

- 23.1 Trenching shall not be carried out on slopes greater than 1V:5.7H without prior approval of an Inspector.
- 23.2 For trenches (other than ditchwitch trenches) and bulk sampling excavations, excavated topsoil and subsoil shall be stockpiled separately.
- 23.3 An Inspector may direct that fencing is erected around bulk sampling excavations and trenches left open for more than 24 hours and where public safety is at risk.
- 23.4 Trenches shall be refilled and compacted. Trenches shall be refilled such that subsoil is replaced first and the topsoil is replaced last.
- 23.5 Bulk sampling excavations shall be refilled and compacted where so directed by the Inspector, in consultation with the owner. Pits shall be refilled so that subsoil is replaced first and the topsoil is replaced last.
- 23.6 Where an Inspector does not direct refilling of bulk sampling excavations, excavations shall be battered to slopes not exceeding 1V:3H.

- 23.7 Rehabilitation of bulk sampling excavations and trenches shall be undertaken to achieve final revegetation with species consistent with the surrounding vegetation.
- 23.8 Immediately upon completion of the trenching or bulk-sampling program, any samples shall be removed from the site. Where there is agreement from the landowner or land manager, samples may be retained on-site for up to 4 weeks from the completion of the program.

24. WATERCOURSE DIVERSION WORKS

- 24.1 The licensee may only divert the flow of watercourses or pump water either into, or out of, the Morwell River diversion embankment and the Morwell West Drain diversion following the written agreement of the Chief Inspector and the West Gippsland Catchment Management Authority (WGCMA).
- 24.2 The licensee shall undertake mitigation or repair works in the diversion works area to control run-off and soil erosion in order to comply with the State Environment Protection Policy (Waters of Victoria) and other works as directed by the Chief Inspector in consultation with the WGCMA.
- 24.3 Flood protection levees shall be constructed to the satisfaction of the WGCMA.

25. ROYALTY

- 25.1 Each mining company must pay to the Minister for payment to the Consolidated Fund in each financial year an amount equal to the prescribed amount in respect of each gigajoule unit of coal produced from its brown coal workings in the State and used or sold by the company in the last preceding financial year.
- 25.2 For the purposes of 25.1, a gigajoule unit of coal is a quantity of coal which, when mined, has a net wet specific energy content of 1 gigajoule.
- 25.3 The net wet specific energy content of coal produced by a company from its brown coal workings and used or sold by the company in a financial year shall be calculated in such manner and in accordance with such method of sampling as is agreed to by the Minister and the company or as is, in default of the agreement, determined by the Governor in Council.
- 25.4 For the purposes of 25.1, the prescribed amount shall be the amount derived by multiplying \$0.0239 by $\frac{A}{B}$ where:
- A is the consumer price index number in respect of the relevant quarter; and
- B is the consumer price index in respect of the quarter ending on 30 June 1993.

25.5 The payment of the amount to the Minister under 25.1 shall be made in accordance with the Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2013.

25.6 In this section -

"consumer price index number" means the all groups consumer price index number for Melbourne published by the Commonwealth Statistician in respect of the quarter ending on 30 June in each year or, if that statistic is no longer calculated, the nearest substitute for it;

"relevant quarter" means the quarter ending on 30 June immediately preceding the financial year in relation to which the prescribed amount is being calculated.

26. APPLICATION OF REGULATIONS

26.1 The Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2013 will apply to the licensee.

26.2 Any subsequent Regulations issued under the MRSD Act will also apply.

27. CULTURAL HERITAGE

27.1 The licensee shall provide for archaeological monitoring to be undertaken during construction in areas identified as having potential for Aboriginal archaeological sites.

27.2 The licensee shall provide for selective sub-surface sampling to be undertaken in areas identified as having high potential for Aboriginal archaeological sites, prior to commencement of any works.

27.3 The licensee shall identify procedures to register any sites identified as a result of the above, and obtain permission for their disturbance, prior to commencement of works.

27.4 The licensee shall negotiate with the Aboriginal community about the need for recording, survey, removal and relocation of scarred trees, and inspection, removal and cataloguing of any artefacts found at the base of the trees.

27.5 The licensee shall monitor, assess, collect, catalogue and conserve any archaeological materials identified when topsoil layers are stripped off at the former farm house site.

27.6 The licensee shall develop operating procedures aimed at protecting cultural heritage sites- particularly those in close proximity to construction of any perimeter roadworks and heavy machinery.