

**ANNEXURE A**  
**MINING LICENCE NO 5189 (MIN 5189)**



Mining Licence No. 5189 Approved 06/05/1997

**Document no** RPT000013

**Report** Mining Licence No. 5189  
Approved 06/05/1997

**Revision** 02

**Site** Loy Yang

## Document Approval

Document Authorisation	Position	Approved Date
Nigel Browne	Head of Mining	03/06/2015
<b>Responsible Officer</b>		
Charles Wier	Strategic Planning Manager	
<b>Author</b>		
Paul Barrand	Infrastructure, Civil & Environment Manager	

## Stakeholders (Delete if not applicable)

**Note:** Stakeholders must be consulted by the Document Owner before revisions are approved.

Stakeholder Approval	Position	Review Date
Paul Barrand	Infrastructure, Civil & Environment Manager	24/02/2015
Gordon Russell	Engineering & Maintenance Manager	24/02/2015
Tim Murnane	Acting Production Manager	
Debra De Carli	HSE Business Partner	
Mike Freeman	Finance Manager	
Steve Rieniets	General Manager AGL Loy Yang	25/02/2015

**"Every person at AGL Loy Yang working together to create a No Harm workplace"**

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Mining Licence No. 5189 Approved 06/05/1997

**Document no** RPT000013

**Report** Mining Licence No. 5189  
Approved 06/05/1997

**Revision** 01

**Site** Loy Yang

## Document Approval

Document Authorisation	Position	Approved Date
Steve Rieniets	Head of Mining	25/02/2015
<b>Responsible Officer</b>		
Debbie Nay	Environmental Manager	
<b>Author</b>		
Charles Wier	Strategic Planning Manager	

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Debra De Carli	HSE Business Partner	
Grant Reimers	HSE Officer Mine	
Mike Freeman	Finance Manager	

**"Every person at AGL Loy Yang working together to create a No Harm workplace"**

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16.MAY.1997 14:59  
07/05/97 11:07

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MINERALS & PETROLEUM OPERATIONS + 61 3 92745111  
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NO.655 002

MF97/00049  
copy for John McMath

D97/5571

## MINISTER FOR AGRICULTURE AND RESOURCES

### ELECTRICITY INDUSTRY ACT 1993

#### ORDER GRANTING MINING LICENCE PURSUANT TO SECTION 47A

RECOMMENDED to the Governor in Council that the attached orders:

- (a) Granting Mining Licence Number 5189 to Loy Yang Power Limited, and.
- (b) Approving the authority to commence work and the work plans (including a rehabilitation plan) for the mine, and
- (c) Specifying the amount, the form of the rehabilitation and the conditions when the rehabilitation bond must be paid for the mine, and
- (d) Specifying that the order does not come into operation until completion of the Asset Sale Agreement dated 20 April 1997, or 6 May 1997 whichever date is the later.

be made pursuant to Section 47A of the *Electricity Industry Act 1993*.



**PATRICK JOHN McNAMARA**  
Minister for Agriculture and Resources



16 MAY '97 16:05

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07/05/97 11:07

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## ELECTRICITY INDUSTRY ACT 1993

### ORDER GRANTING MINING LICENCE

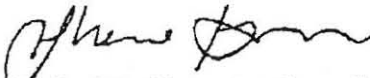
The Governor in Council under Section 47A of the Electricity Industry Act 1993, on recommendation of the Minister for Agriculture and Resources:-

1. Grants the Mining Licence Number 5189 attached hereto including the schedule of conditions attached thereto to Loy Yang Power Limited.
2. Approves:
  - (a) the authority to commence work set out in schedule A to this order, and
  - (b) the work plan (including a rehabilitation plan for the relevant land) set out in schedule B to this order.

which are included in and form part of the Order.
3. Specifies that:
  - (a) the amount of the rehabilitation bond required to be entered into by Loy Yang Power Limited be \$15 million;
  - (b) the rehabilitation bond be in the form of a bank guarantee issued by a bank licensed under the Banking Act 1959 (Cth);
  - (c) the rehabilitation bond must be entered into upon Loy Yang Power Limited ceasing to be owned by State Electricity Commission of Victoria and upon Loy Yang Power Limited being directed to do so by the Minister for Agriculture and Resources, and;
  - (d) This order does not come into operation until completion of the Asset Sale Agreement dated 20 April 1997, or 6 May 1997 whichever date is the later.

Date: - 6 MAY 1997

Responsible Minister:  
Hon P J McNamara  
Minister for Agriculture  
and Resources

  
Clerk of the Executive Council

16 MAY '97 16:09

ACT1993.DOC/KAO/ysm

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61 3 94127888 NU: 055 DB4

**ELECTRICITY INDUSTRY ACT 1993**

**MINING LICENCE NO 5189**

This mining licence is granted to **Loy Yang Power Limited** Bartons Lane Traralgon 3844. This licence is granted under section 47A of the Act, for a term of forty years from the date of issuing this licence by the Generation Council.

This licence is subject to the following Conditions and Schedule of Conditions attached:-

1. The authority given under this licence applies only within the land indicated on the attached plan and is subject to the depth restrictions, if any, indicated on that plan under Section 15(9) or 16(5) of the Mineral Resources Development Act 1990.
2. The licensee must keep a copy of -
  - (a) this licence; and
  - (b) any approved work plan or approved variation to a work plan; and
  - (c) any registered authority to commence work at a location near the licensed area; so that an Inspector and any other authorised officer can readily inspect them.
3. On receiving a registered authority to commence work, the licensee must notify an Inspector of Mines and if required by that Inspector must arrange an on-site briefing for any people the Inspector may nominate.
4. On discovering additional economic deposits of minerals, the licensee must report the occurrence to the Minister giving the estimated size, grade, suitability for mining, and an estimate of value at the time of discovery.
5. The licensee must supply Edison Mission Energy Australia Limited with coal pursuant to the Coal Procurement Agreement dated 29 March 1997 or any replacement agreement entered into between the licensee and the owner of the Loy Yang B Power Station.
6. Pursuant to Section 47A of the Electricity Industry Act 1993 the work plan, including the rehabilitation plan and the authority to commence work are deemed to be registered from the date of issuing of this licence by the Governor in Council.



Page 1 of 1

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Department of  
Energy and  
Minerals  
Government of Victoria

### PLAN OF AREA

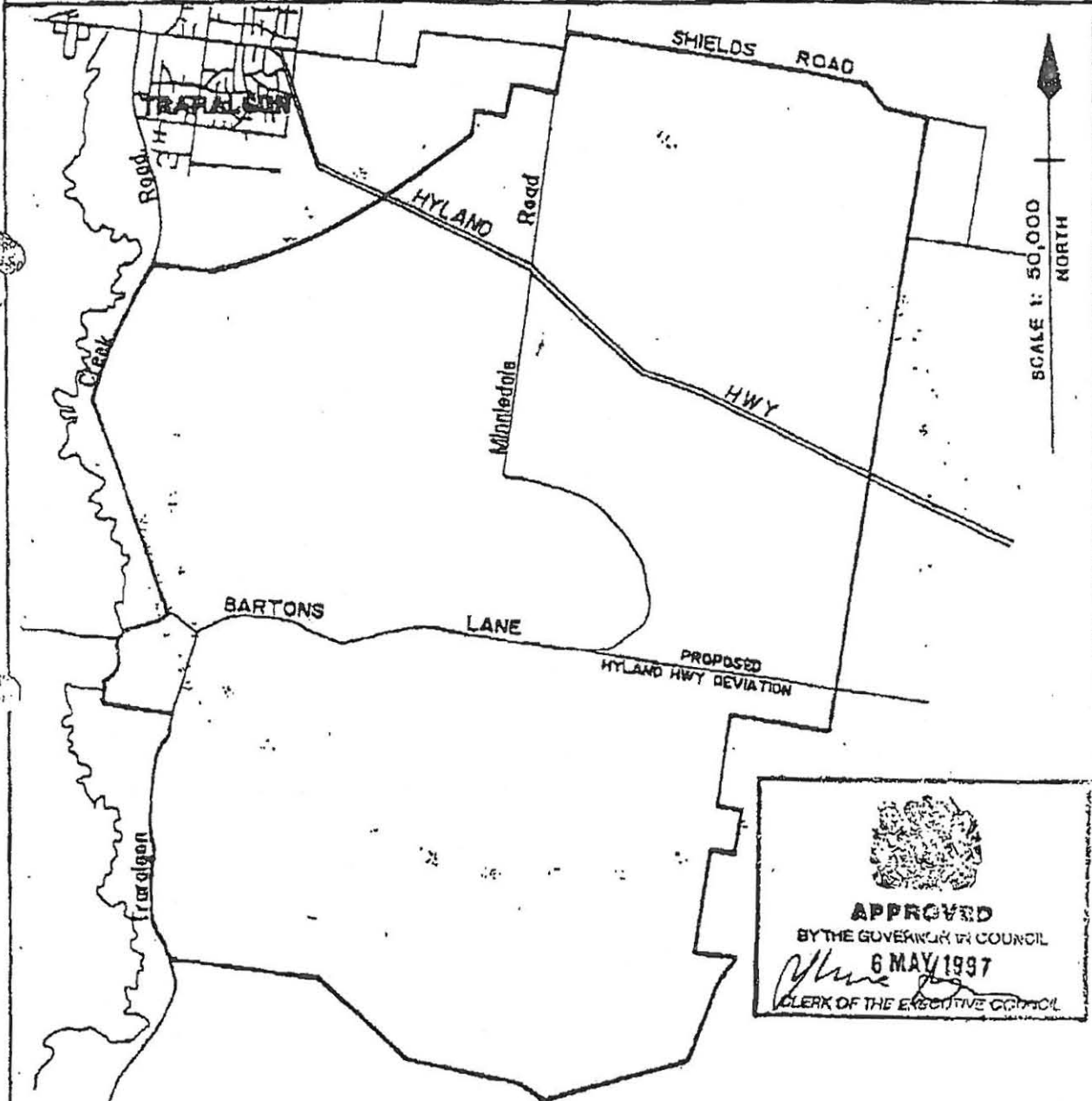
APPLIED FOR ON LICENCE  
under Mineral Resources Development Act 1990

Min. No. **5189**

Name of Applicant **Loy Long Power Limited & State Electricity Commission of Victoria.**

SHIRE OF **La Trobe**  
PARISH OF **Loy Yang**

TOTAL AREA  $\approx$  **4834** Hectares  
NET AREA Hectares



  
**APPROVED**  
 BY THE GOVERNOR IN COUNCIL  
**6 MAY 1997**  
*[Signature]*  
 CLERK OF THE EXECUTIVE COUNCIL

NOTE : \* GENERAL LOCATION PLAN (Subject to Survey)  
\* LAND OWNERSHIP DETAIL NOT SHOWN

ALL MEASUREMENTS ARE IN METRES

Certified correct  
Licensed Surveyor AS PER WORKING PLAN

Checked **Christy Thiagarajah**  
Date **06 / 03 / 97**  
Record plan **TRAPALSCN**

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07/25/97 11:08PHILLIPS FOX MELB 61 3 92745111  
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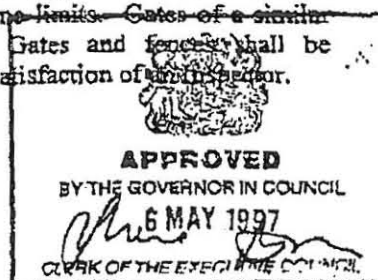
## SCHEDULE OF CONDITIONS MINING LICENCE NO. 5189

### 1. WORK PLANS & ENVIRONMENTAL MANAGEMENT

- 1.1 Work shall be carried out in accordance with the approved work plan, (incorporating a rehabilitation plan) as amended from time to time in accordance with the Mineral Resources Development Act 1990 (MRD Act). Where any inconsistency occurs between the work plan and other licence conditions or regulations, the licence conditions and regulations have precedence.
- 1.2 The licensee shall, within 60 days of being requested by the Executive Director, Minerals and Petroleum of the Department of Natural Resources and the Environment, submit a report on the status of work as per Schedule 14 of the MRD Act.
- 1.3 An Environmental Review Committee (ERC) shall be formed, comprising appropriate representatives from the Department of Natural Resources and the Environment (DNRE), representatives of the licensee, the Environment Protection Authority, the responsible water authority and a representative of the Minister responsible for the Water Act 1989, the LaTrobe Council and any other relevant agency with an interest or control over the site or operations. The community shall also be represented, with nominations to come from the LaTrobe Council. Up to two community representatives may be selected for renewable fixed terms. The ERC shall be convened at least once in every 6 months to review environmental effects of the project.
- 1.4 Results of environmental monitoring conducted under the Environmental Monitoring Program (EMP) shall be regularly reported to the ERC in a format agreed to by the Committee to enable it to assess environmental performance.
- 1.5 The ERC may from time to time recommend variations to the EMP and licence conditions where appropriate. Any variations to the EMP as accepted by the licensee and DNRE shall be registered as a variation to the work plan and shall be implemented.

### 2. FENCING AND SECURITY

- 2.1 Where public access is a safety hazard within the mining licence, the licensee must fence and signpost the area to ensure public safety is maintained.
- 2.2 When directed by an Inspector of Mines (hereinafter referred to as an Inspector), a fence or fences shall be erected around specified work site areas to a written specification which 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.



Page 1

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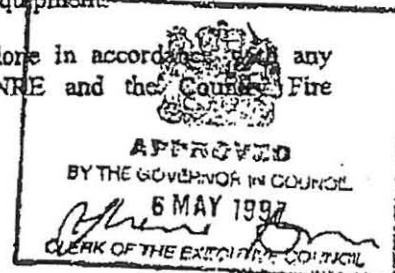
16.MAY.1997 11:15:01

PHILLIPS, FOX MELB 61 3 92745111 NO.007  
61 3 94127888**3. ROADS**

- 3.1 Internal roads additional to those shown in the working plan shall be sited as approved or directed by an Inspector after consultation with the Department of Natural Resources and the Environment in the case of Crown land.
- 3.2 Subject to the approval of the Mine Manager and appropriate site induction any such road may be used:
- (a) officers of or persons authorised by the DNRE or employees or persons engaged in fire control. (Mine Managers approval not required by authorised fire fighters in an emergency provided they are under the supervision of a mine employee).
  - (b) for the extraction of forest produce or for mining purposes by any other licensee under the MRD Act 1990 or Forests Act 1958 (or any successor legislation) under such conditions as may be determined by agreement between the parties concerned; and
  - (c) by the landowners or their agents where the licence covers private land.
- 3.3 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.

**4. SURFACE DISTURBANCE**

- 4.1 The area of surface disturbance must be kept to a minimum.
- 4.2 Adequate provision shall be made for the separate stockpiling or immediate utilisation for rehabilitation of any soils. These materials, if stored, are to be stored in neat and tidy dumps not exceeding 2 metres in height and such dumps are to be protected from erosion.
- 4.3 No area shall be opened up for exploration, mining and ancillary operations, except where approved as part of the approved work plan.
- 4.4 Where the licence covers Crown land, all surface activity may be subject to compliance with the Forests Act 1958 and Regulations.
- 4.5 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 Country Fire Authority. With respect to public land, the Forest Fire Regulations 1992 require the provision of fire fighting equipment and the provision of spark arrestors on engine powered equipment.
- 4.6 Burning of any timber at the site shall be done in accordance with any requirements of the Local Municipality, DNRE and the Country Fire Authority.



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## 5. DRAINAGE AND DISCHARGE CONTROL

- 5.1 Any discharges from the licence area shall be minimised and any water discharged must be as free as possible of pollutants, save as provided by any licence issued pursuant to the Environment Protection Act.
- 5.2 All discharges shall meet the standards required under the State Environment Protection Policies under the Environment Protection Act 1970.
- 5.3 Sediment retention structures, including dams, shall be constructed in accordance with the approved work plan. An Inspector may also direct such works to be undertaken, where necessary, to control drainage from any disturbed area.
- 5.4 Rainfall and other natural waters shall be diverted away from works area so as to control erosion, pursuant to Condition 7. However, such works shall, as far as practicable, not cause undue alteration to the general drainage pattern beyond the licensed area.

## 6. TAILING DAMS

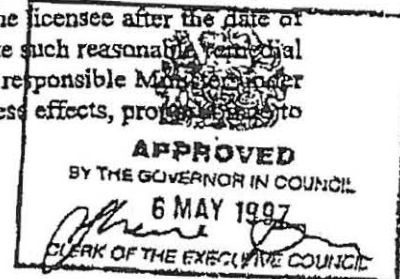
- 6.1 All proposed work associated with the construction of tailing dams or other tailing impoundment areas, shall be subject to written approval by the Chief Administrator (or his delegate) following certification by an approved geotechnical engineer.

## 7. GROUNDWATER

- 7.1 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.
- 7.2 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 his delegate.

The licensee shall ensure that results of the monitoring program are reported to the responsible Minister under the Water Act 1989 or his delegate and the Environmental Review Committee annually and at whatever times required by the Groundwater Licence.

- 7.3 In the event that the monitoring program in 7.2 indicates material adverse impacts beyond those evident at the date of issue of the licence which are attributable to the dewatering/depressurisation by the licensee after the date of issuing of the licence then the licensee must institute such reasonable remedial action as may be required by the Inspector and the responsible Minister under the Water Act 1989 or his delegate to ameliorate these effects, proportionate to the licensee's contribution.



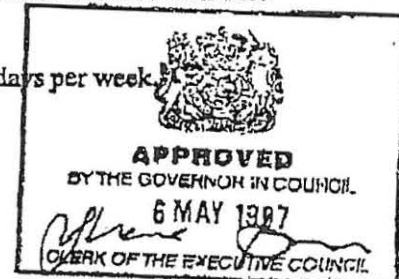
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- 7.4 For the purposes of 7.3 material adverse impacts comprise effects on aquifers in the LaTrobe Valley such that the interests of other users are materially prejudiced or subsidence on a significant scale occurs as a direct result of ground water extraction which materially adversely affects private property or public lands.
- 7.5 Any remedial action under 7.3 must be to the satisfaction of the Inspector and the responsible Minister under the Water Act 1989 or his delegate.
8. **EROSION**
- 8.1 The licensee shall undertake all necessary works to ensure that the potential for erosion of land affected by mining is minimised.
- 8.2 Should erosion occur, the licensee shall take all practical steps to minimise the erosion to the satisfaction of an Inspector.
9. **HYDROCARBONS**
- 9.1 Storage of hydrocarbons shall be undertaken in general accordance with AS 1940. Bunding or other methods to the satisfaction of an Inspector, capable of containing 125% of the maximum volume stored, shall be constructed around all fuel and lubricant storage facilities.
- 9.2 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.
10. **DUST EMISSIONS**
- 10.1 Dust control measures must be in place to minimise dust generation so that detriment is not caused to surrounding areas and residents.
- 10.2 Dust resulting from all operations including extraction, loading, transport and stockpiling shall be controlled to the satisfaction of an Inspector. The licensee must install any dust control measures to the satisfaction of an Inspector.
11. **NOISE**
- 11.1 Precautions to the satisfaction of an Inspector shall be taken to ensure that noise emissions comply with the provisions of any regulations under the MRD Act as they relate to noise exposure to workmen. Noise emissions measured at any residence within the vicinity of the licensed area shall comply with limits set using the procedures described in State Environment Protection Policy No. N1 (SEPPN-1) or any other limit set under the Environment Protection Act where SEPP N-1 is not applicable.
- 11.2 The mines are permitted to operate 24 hours per day 7 days per week.



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**12. PARKING AREAS**

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.

**13. DERELICT AND REDUNDANT PLANT**

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.

**14. BUFFER ZONES AND VISUAL SCREENING**

14.1 No excavation shall take place within 20 metres of the licence boundary, except that this requirement shall not apply with respect to any common licence boundary with an adjacent mining licence.

14.2 Existing vegetation outside of the area subject to surface disturbance shall be preserved and maintained provided due regard is taken of fire protection arrangements.

14.3 The licensee shall supplement existing vegetation by additional planting to provide a screen for mining and allied operations as required by the rehabilitation plan and any additional plantings as required by an Inspector. The fire protection at the site shall be considered.

14.4 Unless otherwise approved by an Inspector, the licensee shall take precautions to ensure that no species inconsistent with the surrounding vegetation are introduced to the area.

**15. PROGRESSIVE REHABILITATION**

15.1 Progressive reclamation will be conducted as per the rehabilitation plan. In addition, any further rehabilitation work will be carried out at the direction of an Inspector.

15.2 As and when directed by an Inspector of Mines, despite any compensation agreements between the licensee and the owner of any private land in the licence, the licensee shall undertake progressive reclamation of land on the area subject to surface disturbance.

**16. FINAL REHABILITATION**

16.1 Final reclamation will be in accordance with the rehabilitation plan and any additional requirements as directed by an Inspector.



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- 16.2 Failure to complete works in accordance with the rehabilitation plan or in accordance with the directions of an Inspector, shall constitute grounds upon which the rehabilitation bond may be forfeited either in whole or in part in accordance with Section 83 of the MRD Act.

#### 17. HERITAGE SITES

- 17.1 Any significant historic sites or relics that are to be removed shall be accurately mapped and documented prior to the commencement of any mining or allied operations. Such documentation shall be made available to the relevant section of the Department of Natural Resources and the Environment.
- 17.2 Tenure of this licence does not exempt the holder from the following provisions of the Archaeological and Aboriginal Relics Preservation Act 1972:

Section 21(1) - "A person who wilfully or negligently defaces or damages or otherwise interferes with a relic or carries out an act likely to endanger a relic shall be guilty of an offence against this Act"; and

Section 23(1) - "A person who discovers a relic shall forthwith report the discovery ... unless he has reasonable grounds to believe that the relic is recorded in the register ...". Reports in compliance with Section 23(1) should be submitted to:

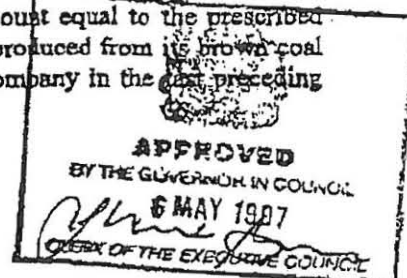
The Director  
Aboriginal Affairs Victoria  
Department of Human Services  
2nd Floor  
115 Victoria Parade  
FITZROY VIC 3065  
(Telephone (03) 9412 7498)

#### 18. BUILDINGS

- 18.1 No buildings shall be erected before any relevant building permits have been obtained.
- 18.2 All fixed plant and buildings shall be painted or surface treated in a colour to blend with the surroundings to the satisfaction of an Inspector in consultation with the local municipality and in the case of Crown land, Department of Natural Resources and the Environment.

#### 19. ROYALTY

- 19.1 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 preceding financial year.



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- 19.2 For the purposes of 19.1, a gigajoule unit of coal is a quantity of coal which, when mined, has a net wet specific energy content of 1 gigajoule.
- 19.3 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.
- 19.4 For the purposes of 19.1, the prescribed amount shall be the amount derived by multiplying \$0.0239 by
- A when -  
B
- 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.
- 19.5 The payment of the amount to the Minister under 19.1 shall be made in accordance with the Mineral Resources (Royalties) Regulations 1991.
- 19.6 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;

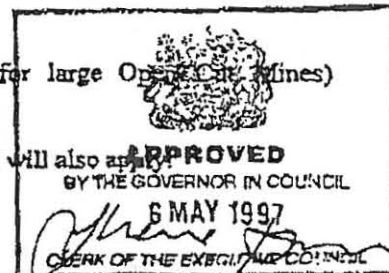
"relevant quarter" means the quarter ending on 30 June immediately preceding the financial year in relation to which the prescribed amount is being calculated.

## 20. REHABILITATION BOND

- 20.1 The licensee shall lodge with the DNRE a rehabilitation bond as described in Section 80(1) of the Act when required in accordance with these conditions. The bond must be lodged in the form of a bank guarantee issued by a bank licensed under the Banking Act 1959 (Cth).
- 20.2 The licensee shall be required to lodge that bond upon the licensee ceasing to be a State Owned Corporation and upon being directed to do so by the Minister for Agriculture and Resources.
- 20.3 The level of this bond has initially been assessed at \$15 million.

## 21. APPLICATION OF REGULATIONS

- 21.1 The Mineral Resources (Health and Safety for large Open Cut Mines) Regulations 1995 will apply to the licensee.
- 21.2 Any subsequent Regulations issued under the act will also apply.



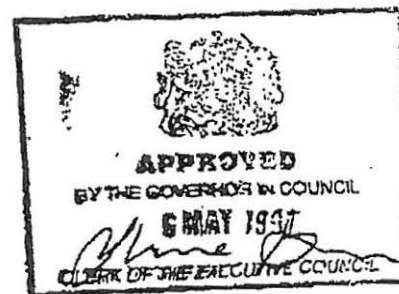
Page 7

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22. GOVERNING LAW AND JURISDICTION

22.1 The Licensees must submit to the laws of the State of Victoria and the non-exclusive jurisdiction of the courts of the State of Victoria in respect of all matters in respect of or incidental to this licence or conduct authorised under this licence.



16.MAY.1997 15:05

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## Schedule A

**AUTHORITY TO COMMENCE WORK**  
Sec 42 of the MRD Act 1990

MINING LICENCE NUMBER:	Mining Licence No 5189
NAME(S) OF LICENSEE(S):	Loy Yang Power Limited
ADDRESS(S) OF LICENSEE(S):	P O Box 1799 Traralgon Vic 3844
AREA TO WHICH AUTHORITY: TO COMMENCE WORK RELATES	As per Work Plan
LOCATION OF LICENCE:	La Trobe Valley
STRATUM OF LAND:	Not applicable

AN AUTHORITY TO COMMENCE WORK IS HEREBY GRANTED

Date of Registration	____/____/____
Time of Registration	____ am/pm
MINING REGISTRAR MRDA 1990	



16 MAY '97 16:14

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## Department of Economic Development, Jobs, Transport & Resources

55 Grey Street  
Traralgon Victoria 3844  
Phone (03) 5160 9000  
DX 219299

23 January 2015

Mr Doug Jackson  
Chief Operating Officer  
AGL Pty Ltd  
Level 22, 101 Miller Street  
NORTH SYDNEY NSW 2060

Dear Mr Jackson

### **VARIATION AND ADDITION OF LICENCE CONDITIONS**

Further to email correspondence dated 22 January 2015 please find attached the registered Instrument of Variation and Addition of Licence conditions enclosed.

Please contact John Mitas on (03) 9092 2044 or via email [john.mitas@ecodec.vic.gov.au](mailto:john.mitas@ecodec.vic.gov.au) should you require further clarification.

Yours sincerely

A handwritten signature in cursive script that reads "J Wood".

Joanne Wood  
Tenements Officer – Gippsland  
Earth Resources Regulation

**MINERAL RESOURCES (SUSTAINABLE DEVELOPMENT) ACT 1990**

**INSTRUMENT OF VARIATION AND ADDITION OF LICENCE CONDITIONS**

LICENCE TYPE	Mining Licence
LICENCE NUMBER	5189
NAME OF LICENSEE	<ol style="list-style-type: none"> <li>1. AGL LYP 3 Pty Ltd</li> <li>2. AGL LYP 1 Pty Ltd</li> <li>3. AGL LYP 2 Pty Ltd</li> <li>4. AGL LYP 4 BV</li> </ol>
ADDRESSES OF LICENSEES	<ol style="list-style-type: none"> <li>1. Level 22. 101 Miller Street North Sydney NSW 2060.</li> <li>2. Level 22. 101 Miller Street North Sydney NSW 2060.</li> <li>3. Level 22. 101 Miller Street North Sydney NSW 2060.</li> <li>4. Level 22. 101 Miller Street North Sydney NSW 2060.</li> </ol>
AREA (IF RELEVANT)	4834 hectares
DATE OF INSTRUMENT APPROVAL	20-01-2015
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. 5189 ('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**

<b>Current reference</b>	<b>Variation</b>
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

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	Industries) Regulations 2013.
Condition 1.2 - Reference to 'Executive Director, Minerals and Petroleum of the Department of Natural Resources and the Environment'.	Delete 'Minerals and Petroleum of the Department of Natural Resources and the Environment' and insert 'Earth Resources Regulation of the Department of Economic Development, Jobs, Transport and Resources (DEDJTR)'
Condition 1.2 - Reference to 'Schedule 14 of the MRD Act'	Replace with 'Schedule 15 of the Mineral Resources (Sustainable Development)(Mineral Industries) Regulations 2013'.
Condition 1.3 - Reference to 'Department of Natural Resources and the Environment (DNRE)'	Delete 'Natural Resources and the Environment (DNRE)' and insert 'DEDJTR'.
Conditions 1.5, 3.2(a) and 20.1 - Reference to 'DNRE'	Replace with 'DEDJTR'.
Condition 2.2 - Reference to 'Inspector of Mines'	Replace with 'Inspector under the MRSD Act'
Condition 3.1 - Reference to 'Department of Natural Resources and the Environment'	Delete 'Natural Resources and the Environment' and insert 'Environment, Land, Water and Planning' (DELWP).
Condition 4.5 - Reference to 'Country Fire Authority'.	Replace with 'Chief Officer (or delegate) of the Country Fire Authority (CFA)'.
Condition 4.5 - Reference from '...Forest Fire Regulations 1992 require the provision...' to '...engine powered equipment'.	Replace with 'requirements of the Forests (Fire Protection) Regulations 2014 apply'
Condition 4.6 - Reference to 'DNRE'	Replace with 'DELWP'.
Condition 7.1 - Reference to 'Water Act 1989'	After '1989' insert '(or any successor legislation)'.
Condition 7.2 - Reference to 'an Inspector'	Replace with 'the Chief Inspector under the MRSD Act (hereinafter referred to as the Chief Inspector)'
Condition 7.5 - Reference to 'an Inspector'	Replace with 'the Chief Inspector'
Condition 15.2 - Reference to 'an Inspector of Mines'	Replace with 'the Chief Inspector'
Conditions 17.1 and 18.2 - Reference to 'Department of Natural Resources and the Environment'.	Delete 'Natural Resources and the Environment' and insert 'DELWP'.
Condition 17.2 - Reference from '...following provisions of the..' to '...Telephone (03) 9412 7498)	<p>Replace with '...Aboriginal Heritage Act 2006 (or any successor legislation):</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 18.2 - reference to 'an Inspector'	Replace with 'the Chief Inspector'
Condition 21.2 - 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 <u>22 / 01 / 2015</u>
Time of Registration <u>15 : 02</u> am/pm
 TENEMENTS REGISTRATION OFFICER
MRSDA 1990 (Section 69)

F9000 1156

## 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 October 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 4.5 and condition 15 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 October;
  - 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 ENVIRONMENTAL MANAGEMENT**

- 1.1 Work shall be carried out in accordance with the approved work plan, (incorporating a rehabilitation plan) as amended from time to time in accordance with the *Mineral Resources (Sustainable Development) Act 1990* (MRSD Act). Where any inconsistency occurs between the work plan and other licence conditions or regulations, the licence conditions and regulations have precedence.
- 1.2 The licensee shall, within 60 days of being requested by the Executive Director, Earth Resources Regulation of the Department of Economic Development, Jobs, Transport and Resources (DEDJTR), submit a report on the status of work as per Schedule 15 of the *Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2013* (MRSD Regulations).
- 1.3 An Environmental Review Committee (ERC) shall be formed, comprising appropriate representatives from DEDJTR, representatives of the licensee, the Environment Protection Authority, the responsible water authority and a representative of the Minister responsible for the *Water Act 1989*, the Latrobe Council and any other relevant agency with an interest or control over the site or operations. The community shall also be represented, with nominations to come from the Latrobe Council. Up to two community representatives may be selected for renewable fixed terms. The ERC shall be convened at least once in every 6 months to review environmental effects of the project.
- 1.4 Results of environmental monitoring conducted under the Environmental Monitoring Program (EMP) shall be regularly reported to the ERC in a format agreed to by the Committee to enable it to assess environmental performance.
- 1.5 The ERC may from time to time recommend variations to the EMP and licence conditions where appropriate. Any variations to the EMP as accepted by the licensee and DEDJTR shall be registered as a variation to the work plan and shall be implemented.

## 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 October 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:

- (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;
  - (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 4.5 and condition 15 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:
- d) every 3 years on or before 31 October;
  - e) when requested to do so by the Departmental Head; or
  - f) 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.

## **2. FENCING AND SECURITY**

- 2.1 Where public access is a safety hazard within the mining licence, the licensee must fence and signpost the area to ensure public safety is maintained.
- 2.2 When directed by an Inspector under the MRSD Act (hereinafter referred as an Inspector), a fence or fences shall be erected around specified work site areas to a written specification which 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 an Inspector.

### **3. ROADS**

3.1 Internal roads additional to those shown in the working plan shall be sited as approved or directed by an Inspector after consultation with the Department of Environment, Land, Water and Planning (DELWP) in the case of Crown land.

3.2 Subject to the approval of the Mine Manager and appropriate site induction any such road may be used:

(a) officers of or persons authorised by the DEDJTR or employees or persons engaged in fire control. (Mine Managers approval not required by authorised fire fighters in an emergency provided they are under the supervision of a mine employee).

(b) for the extraction of forest produce or for mining purposes by any other licensee under the MRSD Act or *Forests Act 1958* (or any successor legislation) under such conditions as may be determined by agreement between the parties concerned; and

(c) by the landowners or their agents where the licence covers private land.

3.3 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.

### **4. SURFACE DISTURBANCE**

4.1 The area of surface disturbance must be kept to a minimum.

4.2 Adequate provision shall be made for the separate stockpiling or immediate utilisation for rehabilitation of any soils. These materials, if stored, are to be stored in neat and tidy dumps not exceeding 2 metres in height and such dumps are to be protected from erosion.

4.3 No area shall be opened up for exploration, mining and ancillary operations, except where approved as part of the approved work plan.

4.4 Where the licence covers Crown land, all surface activity may be subject to compliance with the *Forests Act 1958* and Regulations.

4.5 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 (or the delegate) of the Country Fire Authority (CFA). With respect to public land, the requirements of the *Forests (Fire Protection) Regulations 2014* apply.

4.6 Burning of any timber at the site shall be done in accordance with. any requirements of the Local Municipality, DELWP and the Country Fire Authority.

## **5. DRAINAGE AND DISCHARGE CONTROL**

5.1 Any discharges from the licence area shall be minimised and any water discharged must be as free as possible of pollutants, save as provided by any licence issued pursuant to the *Environment Protection Act 1970*.

5.2 All discharges shall meet the standards required under the State Environment Protection Policies under the *Environment Protection Act 1970*.

5.3 Sediment retention structures, including dams, shall be constructed in accordance with the approved work plan. An Inspector may also direct such works to be undertaken, where necessary, to control drainage from any disturbed area.

5.4 Rainfall and other natural waters shall be diverted away from works area so as to control erosion, pursuant to Condition 7. However, such works shall, as far as practicable, not cause undue alteration to the general drainage pattern beyond the licensed area.

## **6. TAILING DAMS**

6.1 All proposed work associated with the construction of tailing dams or other tailing impoundment areas, shall be subject to written approval by the Secretary of the Department of Economic Development, Jobs, Transport and Resources (or the delegate) following certification by an approved geotechnical engineer.

## **7. GROUNDWATER**

7.1 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).

7.2 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 the Chief Inspector under the MRSD Act (hereinafter referred to as the Chief Inspector) and the responsible Minister under the *Water Act 1989* or delegate.

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 Environmental Review Committee annually and at whatever times required by the Groundwater Licence.

- 7.3 In the event that the monitoring program in 7.2 indicates material adverse impacts beyond those evident at the date of issue of the licence which are attributable to the dewatering/depressurisation by the licensee after the date of issuing of the licence then the licensee must institute such appropriate remedial action as may be required by an Inspector and the responsible Minister under the *Water Act 1989* or delegate to ameliorate these effects, proportionate to the licensee's contribution.
- 7.4 For the purposes of 7.3 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 ground water extraction which materially adversely affects private property or public lands.
- 7.5 Any remedial action under 7.3 must be to the satisfaction of the Chief Inspector and the responsible Minister under the *Water Act 1989* or delegate.

## **8. EROSION**

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

## **9. HYDROCARBONS**

- 9.1 Storage of hydrocarbons shall be undertaken in general accordance with AS 1940. Bunding or other methods to the satisfaction of an Inspector, capable of containing 125% of the maximum volume stored, shall be constructed around all fuel and lubricant storage facilities.
- 9.2 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.

**10. DUST EMISSIONS**

- 10.1 Dust control measures must be in place to minimise dust generation so that detriment is not caused to surrounding areas and residents.
- 10.2 Dust resulting from all operations including extraction, loading, transport and stockpiling shall be controlled to the satisfaction of an Inspector. The licensee must install any dust control measures to the satisfaction of an Inspector.

**11. NOISE**

- 11.1 Precautions to the satisfaction of an 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 workmen. Noise emissions measured at any residence within the vicinity of the licensed area shall comply with limits set using the procedures described in State Environment Protection Policy No. NI (SEPPN-1) or any other limit set under the Environment Protection Act where SEPPN-1 is not applicable.
- 11.2 The mines are permitted to operate 24 hours per day, 7 days per week.

**12. PARKING AREAS**

- 12.1 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.

**13. DERELICT AND REDUNDANT PLANT**

- a. 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.

**14. BUFFER ZONES AND VISUAL SCREENING**

- 14.1 No excavation shall take place within 20 metres of the licence boundary, except that this requirement shall not apply with respect to any common licence boundary with an adjacent mining licence.
- 14.2 Existing vegetation outside of the area subject to surface disturbance shall be preserved and maintained provided due regard is taken of fire protection arrangements.

14.3 The licensee shall supplement existing vegetation by additional planting to provide a screen for mining and allied operations as required by the rehabilitation plan and any additional plantings as required by an Inspector. The fire protection at the site shall be considered.

14.4 Unless otherwise approved by an Inspector, the licensee shall take precautions to ensure that no species inconsistent with the surrounding vegetation are introduced to the area.

## **15. PROGRESSIVE REHABILITATION**

15.1 Progressive reclamation will be conducted as per the rehabilitation plan. In addition, any further rehabilitation work will be carried out at the direction of an Inspector.

15.2 As and when directed by the Chief Inspector, despite any compensation agreements between the licensee and the owner of any private land in the licence, the licensee shall undertake progressive reclamation of land in the area subject to surface disturbance.

## **16. FINAL REHABILITATION**

16.1 Final reclamation will be in accordance with the rehabilitation plan and any additional requirements as directed by an Inspector.

16.2 Failure to complete works in accordance with the rehabilitation plan or in accordance with the directions of an Inspector, shall constitute grounds upon which the rehabilitation bond may be forfeited either in whole or in part in accordance with section 83 of the MRSD Act.

## **17. HERITAGE SITES**

17.1 Any significant historic sites or relics that are to be removed shall be accurately mapped and documented prior to the commencement of any mining or allied operations. Such documentation shall be made available to the relevant section of DELWP.

17.2 Tenure of this licence does not exempt the holder from the *Aboriginal Heritage Act 2006* (or any successor legislation):

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.”

## 18. BUILDINGS

- 18.1 No buildings shall be erected before any relevant building permits have been obtained.
- 18.2 All fixed plant and buildings shall be painted or surface treated in a colour to blend with the surroundings to the satisfaction of the Chief Inspector in consultation with the local municipality and in the case of Crown land, DELWP.

## 19. ROYALTY

- 19.1 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.
- 19.2 For the purposes of 19.1, a gigajoule unit of coal is a quantity of coal which, when mined, has a net wet specific energy content of 1 gigajoule.
- 19.3 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.
- 19.4 For the purposes of 19.1, 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.
- 19.5 The payment of the amount to the Minister under 19.1 shall be made in accordance with the Mineral Resources (Sustainable Development)(Mineral Industries) Regulations.
- 19.6 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.

**20. REHABILITATION BOND**

- 20.1 The licensee shall lodge with DEDJTR a rehabilitation bond as described in section 80(1) of the MRSD Act when required in accordance with these conditions. The bond must be lodged in the form of a bank guarantee issued by a bank licensed under the *Banking Act 1959* (Cth).
- 20.2 The licensee shall be required to lodge that bond upon the licensee ceasing to be a State Owned Corporation and upon being directed to do so by the Minister for Agriculture and Resources.
- 20.3 The level of this bond has initially been assessed at \$15 million.

**21. APPLICATION OF REGULATIONS**

- 21.1 The Mineral Resources (Sustainable Development)(Mineral Industries) Regulations 2013 apply to the licensee.
- 21.2 Any subsequent Regulations issued under the MRSD Act will also apply.

**22. GOVERNING LAW AND JURISDICTION**

- 22.1 The Licensees must submit to the laws of the State of Victoria and the non-exclusive jurisdiction of the courts of the State of Victoria in respect of all matters in respect of or incidental to this licence or conduct authorised under this licence.





Hon Lily D'Ambrosio MP

Minister for Industry  
Minister for Energy and Resources

121 Exhibition Street  
Melbourne Victoria 3000  
Telephone: 03 8392 2100  
DX210074

Mr Doug Jackson  
Chief Operating Officer  
AGL Pty Ltd  
Level 22, 101 Miller Street  
NORTH SYDNEY NSW 2060

Dear Mr Jackson

#### **VARIATION AND ADDITION OF LICENCE CONDITIONS**

I am writing to inform you that the proposed variations and addition to the conditions of the Loy Yang mining licence, MIN5189 will now be made. The changes to the licence conditions will take effect following registration. A number of changes were made to the proposed licence conditions in response to comments made by AGL during consultation.

The Instrument of Variation and Addition of Licence Conditions is enclosed.

#### **PUBLICLY REPORTING REHABILITATION**

As you are aware, the Government has announced that it will require public annual reporting on the progress of rehabilitation works by all coal mine owners. This will help to ensure the Victorian public has confidence in the regulatory framework compelling rehabilitation work to be undertaken, as well as the commitment of mine operators to fulfil these requirements.

I understand that you have discussed the new annual reporting arrangements with the Department of Economic Development, Jobs, Transport and Resources (DEDJTR) and have agreed to provide as a minimum:

- the area of rehabilitation completed in the reporting period
- the cumulative area rehabilitated since mining commenced
- a map showing worked areas, areas cumulatively rehabilitated and areas rehabilitated in the reporting period.

This information is to be provided annually by 30 September for publication on the DEDJTR website. AGL may also wish to publish this information on its own website.

I understand you are currently working with DEDJTR to finalise the details. Please contact John Mitas on 9092 2044 or via email [John.Mitas@ecodev.vic.gov.au](mailto:John.Mitas@ecodev.vic.gov.au) should you require further clarification regarding these matters.

Both the Victorian Government and the broader community welcome your commitment to improving the quality and accessibility of information on mine rehabilitation.

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Yours sincerely

A handwritten signature in black ink, appearing to read 'Lily D'Ambrosio', with a long horizontal flourish extending to the right.

**Hon Lily D'Ambrosio MP**  
Minister for Energy and Resources

Date: 24 / /2015

**MINERAL RESOURCES (SUSTAINABLE DEVELOPMENT) ACT 1990**

**INSTRUMENT OF VARIATION AND ADDITION OF LICENCE CONDITIONS**

LICENCE TYPE	Mining Licence
LICENCE NUMBER	5189
NAME OF LICENSEE	<ol style="list-style-type: none"> <li>1. AGL LYP 3 Pty Ltd</li> <li>2. AGL LYP 1 Pty Ltd</li> <li>3. AGL LYP 2 Pty Ltd</li> <li>4. AGL LYP 4 BV</li> </ol>
ADDRESSES OF LICENSEES	<ol style="list-style-type: none"> <li>1. Level 22. 101 Miller Street North Sydney NSW 2060.</li> <li>2. Level 22. 101 Miller Street North Sydney NSW 2060.</li> <li>3. Level 22. 101 Miller Street North Sydney NSW 2060.</li> <li>4. Level 22. 101 Miller Street North Sydney NSW 2060.</li> </ol>
AREA (IF RELEVANT)	4834 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. 5189 ('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**

<b>Current reference</b>	<b>Variation</b>
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.
Condition 1.2 - Reference to 'Executive Director, Minerals and Petroleum of the Department of Natural Resources and the Environment'.	Delete 'Minerals and Petroleum of the Department of Natural Resources and the Environment' and insert 'Earth Resources Regulation of the Department of Economic Development, Jobs, Transport and Resources (DEDJTR)'
Condition 1.2 - Reference to 'Schedule 14 of the MRD Act'	Replace with 'Schedule 15 of the Mineral Resources (Sustainable Development)(Mineral Industries) Regulations 2013'.
Condition 1.3 - Reference to 'Department of Natural Resources and the Environment (DNRE)'	Delete 'Natural Resources and the Environment (DNRE)' and insert 'DEDJTR'.
Conditions 1.5, 3.2(a) and 20.1 - Reference to 'DNRE'	Replace with 'DEDJTR'.
Condition 2.2 - Reference to 'Inspector of Mines'	Replace with 'Inspector under the MRSD Act'
Condition 3.1 - Reference to 'Department of Natural Resources and the Environment'	Delete 'Natural Resources and the Environment' and insert 'Environment, Land, Water and Planning' (DELWP).
Condition 4.5 - Reference to 'Country Fire Authority'.	Replace with 'Chief Officer (or delegate) of the Country Fire Authority (CFA)'.
Condition 4.5 - Reference from '...Forest Fire Regulations 1992 require the provision...' to '...engine powered equipment'.	Replace with 'requirements of the Forests (Fire Protection) Regulations 2014 apply'
Condition 4.6 - Reference to 'DNRE'	Replace with 'DELWP'.
Condition 7.1 - Reference to 'Water Act 1989'	After '1989' insert '(or any successor legislation)'.
Condition 7.2 - Reference to 'an Inspector'	Replace with 'the Chief Inspector under the MRSD Act (hereinafter referred to as the Chief Inspector)'
Condition 7.5 - Reference to 'an Inspector'	Replace with 'the Chief Inspector'
Condition 15.2 - Reference to 'an Inspector of Mines'	Replace with 'the Chief Inspector'
Conditions 17.1 and 18.2 - Reference to 'Department of Natural Resources and the Environment'.	Delete 'Natural Resources and the Environment' and insert 'DELWP'.
Condition 17.2 - Reference from '...following provisions of the..' to '...Telephone (03) 9412 7498)	<p>Replace with '...Aboriginal Heritage Act 2006 (or any successor legislation):</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 18.2 - reference to 'an Inspector'	Replace with 'the Chief Inspector'
Condition 21.2 - 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 October 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 4.5 and condition 15 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 October;
  - 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 ENVIRONMENTAL MANAGEMENT**

- 1.1 Work shall be carried out in accordance with the approved work plan, (incorporating a rehabilitation plan) as amended from time to time in accordance with the *Mineral Resources (Sustainable Development) Act 1990* (MRSD Act). Where any inconsistency occurs between the work plan and other licence conditions or regulations, the licence conditions and regulations have precedence.
- 1.2 The licensee shall, within 60 days of being requested by the Executive Director, Earth Resources Regulation of the Department of Economic Development, Jobs, Transport and Resources (DEDJTR), submit a report on the status of work as per Schedule 15 of the *Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2013* (MRSD Regulations).
- 1.3 An Environmental Review Committee (ERC) shall be formed, comprising appropriate representatives from DEDJTR, representatives of the licensee, the Environment Protection Authority, the responsible water authority and a representative of the Minister responsible for the *Water Act 1989*, the Latrobe Council and any other relevant agency with an interest or control over the site or operations. The community shall also be represented, with nominations to come from the Latrobe Council. Up to two community representatives may be selected for renewable fixed terms. The ERC shall be convened at least once in every 6 months to review environmental effects of the project.
- 1.4 Results of environmental monitoring conducted under the Environmental Monitoring Program (EMP) shall be regularly reported to the ERC in a format agreed to by the Committee to enable it to assess environmental performance.
- 1.5 The ERC may from time to time recommend variations to the EMP and licence conditions where appropriate. Any variations to the EMP as accepted by the licensee and DEDJTR shall be registered as a variation to the work plan and shall be implemented.



## 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 October 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:

- (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;
  - (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 4.5 and condition 15 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:
- d) every 3 years on or before 31 October;
  - e) when requested to do so by the Departmental Head; or
  - f) 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.

## **2. FENCING AND SECURITY**

- 2.1 Where public access is a safety hazard within the mining licence, the licensee must fence and signpost the area to ensure public safety is maintained.
- 2.2 When directed by an Inspector under the MRSD Act (hereinafter referred as an Inspector), a fence or fences shall be erected around specified work site areas to a written specification which 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 an Inspector.

### **3. ROADS**

3.1 Internal roads additional to those shown in the working plan shall be sited as approved or directed by an Inspector after consultation with the Department of Environment, Land, Water and Planning (DELWP) in the case of Crown land.

3.2 Subject to the approval of the Mine Manager and appropriate site induction any such road may be used:

- (a) officers of or persons authorised by the DEDJTR or employees or persons engaged in fire control. (Mine Managers approval not required by authorised fire fighters in an emergency provided they are under the supervision of a mine employee).
- (b) for the extraction of forest produce or for mining purposes by any other licensee under the MRSD Act or *Forests Act 1958* (or any successor legislation) under such conditions as may be determined by agreement between the parties concerned; and
- (c) by the landowners or their agents where the licence covers private land.

3.3 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.

### **4. SURFACE DISTURBANCE**

4.1 The area of surface disturbance must be kept to a minimum.

4.2 Adequate provision shall be made for the separate stockpiling or immediate utilisation for rehabilitation of any soils. These materials, if stored, are to be stored in neat and tidy dumps not exceeding 2 metres in height and such dumps are to be protected from erosion.

4.3 No area shall be opened up for exploration, mining and ancillary operations, except where approved as part of the approved work plan.

4.4 Where the licence covers Crown land, all surface activity may be subject to compliance with the *Forests Act 1958* and Regulations.

4.5 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 (or the delegate) of the Country Fire Authority (CFA). With respect to public land, the requirements of the *Forests (Fire Protection) Regulations 2014* apply.

4.6 Burning of any timber at the site shall be done in accordance with. any requirements of the Local Municipality, DELWP and the Country Fire Authority.

## **5. DRAINAGE AND DISCHARGE CONTROL**

5.1 Any discharges from the licence area shall be minimised and any water discharged must be as free as possible of pollutants, save as provided by any licence issued pursuant to the *Environment Protection Act 1970*.

5.2 All discharges shall meet the standards required under the State Environment Protection Policies under the *Environment Protection Act 1970*.

5.3 Sediment retention structures, including dams, shall be constructed in accordance with the approved work plan. An Inspector may also direct such works to be undertaken, where necessary, to control drainage from any disturbed area.

5.4 Rainfall and other natural waters shall be diverted away from works area so as to control erosion, pursuant to Condition 7. However, such works shall, as far as practicable, not cause undue alteration to the general drainage pattern beyond the licensed area.

## **6. TAILING DAMS**

6.1 All proposed work associated with the construction of tailing dams or other tailing impoundment areas, shall be subject to written approval by the Secretary of the Department of Economic Development, Jobs, Transport and Resources (or the delegate) following certification by an approved geotechnical engineer.

## **7. GROUNDWATER**

7.1 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).

7.2 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 the Chief Inspector under the MRSD Act (hereinafter referred to as the Chief Inspector) and the responsible Minister under the *Water Act 1989* or delegate.

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 Environmental Review Committee annually and at whatever times required by the Groundwater Licence.

- 7.3 In the event that the monitoring program in 7.2 indicates material adverse impacts beyond those evident at the date of issue of the licence which are attributable to the dewatering/depressurisation by the licensee after the date of issuing of the licence then the licensee must institute such appropriate remedial action as may be required by an Inspector and the responsible Minister under the *Water Act 1989* or delegate to ameliorate these effects, proportionate to the licensee's contribution.
- 7.4 For the purposes of 7.3 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 ground water extraction which materially adversely affects private property or public lands.
- 7.5 Any remedial action under 7.3 must be to the satisfaction of the Chief Inspector and the responsible Minister under the *Water Act 1989* or delegate.

## **8. EROSION**

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

## **9. HYDROCARBONS**

- 9.1 Storage of hydrocarbons shall be undertaken in general accordance with AS 1940. Bunding or other methods to the satisfaction of an Inspector, capable of containing 125% of the maximum volume stored, shall be constructed around all fuel and lubricant storage facilities.
- 9.2 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.

**10. DUST EMISSIONS**

- 10.1 Dust control measures must be in place to minimise dust generation so that detriment is not caused to surrounding areas and residents.
- 10.2 Dust resulting from all operations including extraction, loading, transport and stockpiling shall be controlled to the satisfaction of an Inspector. The licensee must install any dust control measures to the satisfaction of an Inspector.

**11. NOISE**

- 11.1 Precautions to the satisfaction of an 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 workmen. Noise emissions measured at any residence within the vicinity of the licensed area shall comply with limits set using the procedures described in State Environment Protection Policy No. NI (SEPPN-1) or any other limit set under the Environment Protection Act where SEPPN-1 is not applicable.
- 11.2 The mines are permitted to operate 24 hours per day, 7 days per week.

**12. PARKING AREAS**

- 12.1 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.

**13. DERELICT AND REDUNDANT PLANT**

- a. 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.

**14. BUFFER ZONES AND VISUAL SCREENING**

- 14.1 No excavation shall take place within 20 metres of the licence boundary, except that this requirement shall not apply with respect to any common licence boundary with an adjacent mining licence.
- 14.2 Existing vegetation outside of the area subject to surface disturbance shall be preserved and maintained provided due regard is taken of fire protection arrangements.

14.3 The licensee shall supplement existing vegetation by additional planting to provide a screen for mining and allied operations as required by the rehabilitation plan and any additional plantings as required by an Inspector. The fire protection at the site shall be considered.

14.4 Unless otherwise approved by an Inspector, the licensee shall take precautions to ensure that no species inconsistent with the surrounding vegetation are introduced to the area.

## **15. PROGRESSIVE REHABILITATION**

15.1 Progressive reclamation will be conducted as per the rehabilitation plan. In addition, any further rehabilitation work will be carried out at the direction of an Inspector.

15.2 As and when directed by the Chief Inspector, despite any compensation agreements between the licensee and the owner of any private land in the licence, the licensee shall undertake progressive reclamation of land in the area subject to surface disturbance.

## **16. FINAL REHABILITATION**

16.1 Final reclamation will be in accordance with the rehabilitation plan and any additional requirements as directed by an Inspector.

16.2 Failure to complete works in accordance with the rehabilitation plan or in accordance with the directions of an Inspector, shall constitute grounds upon which the rehabilitation bond may be forfeited either in whole or in part in accordance with section 83 of the MRSD Act.

## **17. HERITAGE SITES**

17.1 Any significant historic sites or relics that are to be removed shall be accurately mapped and documented prior to the commencement of any mining or allied operations. Such documentation shall be made available to the relevant section of DELWP.

17.2 Tenure of this licence does not exempt the holder from the *Aboriginal Heritage Act 2006* (or any successor legislation):

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.”

## 18. BUILDINGS

- 18.1 No buildings shall be erected before any relevant building permits have been obtained.
- 18.2 All fixed plant and buildings shall be painted or surface treated in a colour to blend with the surroundings to the satisfaction of the Chief Inspector in consultation with the local municipality and in the case of Crown land, DELWP.

## 19. ROYALTY

- 19.1 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.
- 19.2 For the purposes of 19.1, a gigajoule unit of coal is a quantity of coal which, when mined, has a net wet specific energy content of 1 gigajoule.
- 19.3 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.
- 19.4 For the purposes of 19.1, 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.
- 19.5 The payment of the amount to the Minister under 19.1 shall be made in accordance with the Mineral Resources (Sustainable Development)(Mineral Industries) Regulations.
- 19.6 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.



**20. REHABILITATION BOND**

- 20.1 The licensee shall lodge with DEDJTR a rehabilitation bond as described in section 80(1) of the MRSD Act when required in accordance with these conditions. The bond must be lodged in the form of a bank guarantee issued by a bank licensed under the *Banking Act 1959* (Cth).
- 20.2 The licensee shall be required to lodge that bond upon the licensee ceasing to be a State Owned Corporation and upon being directed to do so by the Minister for Agriculture and Resources.
- 20.3 The level of this bond has initially been assessed at \$15 million.

**21. APPLICATION OF REGULATIONS**

- 21.1 The Mineral Resources (Sustainable Development)(Mineral Industries) Regulations 2013 apply to the licensee.
- 21.2 Any subsequent Regulations issued under the MRSD Act will also apply.

**22. GOVERNING LAW AND JURISDICTION**

- 22.1 The Licensees must submit to the laws of the State of Victoria and the non-exclusive jurisdiction of the courts of the State of Victoria in respect of all matters in respect of or incidental to this licence or conduct authorised under this licence.



## Department of Economic Development, Jobs, Transport & Resources

GPO Box 4509  
Melbourne Victoria 3001 Australia  
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DX 210074

Mr Doug Jackson  
Chief Operating Officer  
AGL Pty Ltd  
Level 22, 101 Miller Street  
NORTH SYDNEY NSW 2060

Dear Mr Jackson,

### **RISK MANAGEMENT CONDITIONS FOR LATROBE VALLEY COAL MINE LICENCES**

Please find attached the 'Requirements for Compliance with Risk Management Conditions' document that will assist AGL to comply with condition 1A (Risk Management) of Mining Licence 5189 (MIN5189). Your comments regarding the draft guidance document have been considered and taken into account when preparing the final document.

The purpose of the document is to provide guidance regarding the requirements for the risk assessment and management plan for the Department Head to be satisfied, as set out in condition 1A.5 of MIN5189.

Thank you for your attendance at the meeting held on 20 March 2015 between representatives of the other Latrobe Valley and Anglesea coal mines and Earth Resources Regulation (ERR). The discussions regarding the coal mines' approach and ERR's expectations for compliance with condition 1A were valuable and went a long way towards helping to reach a common understanding of the requirements set by the new condition.

Thank you for your efforts to date in preparing your risk assessment and management plan, and particularly your focus on fire risk management.

If you have any queries, please do not hesitate to contact Duncan Pendrigh on 03 9092 1983 or via [duncan.pendrigh@ecodev.vic.gov.au](mailto:duncan.pendrigh@ecodev.vic.gov.au)

Yours sincerely

**Ross McGowan**  
Executive Director, Earth Resources Regulation

7 / 5 / 2015.

Encl: Requirements for Compliance

# Requirements for Compliance with Risk Management Conditions

Department of Economic Development,  
Jobs, Transport and Resources



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### Disclaimer

The information in this document is intended as guidance. It does not constitute legal or other professional advice, and should not be relied on as a statement of the law in any jurisdiction. Because it is intended as guidance, it may contain generalisations. You should obtain professional advice if you have any specific concern.

## Introduction

The following information provides assistance for compliance with licence condition 1A (Risk Management). This information should be taken into account when developing the risk assessment and management plan, the work plan variation application as well as the compliance statements.

Condition 1A.5 provides that a licensee's risk assessment and management plan must be to the satisfaction of the Department Head. Addressing the matters below is essential to submitting a satisfactory risk assessment and management plan.

The Department of Economic Development, Jobs, Transport and Resources (DEDJTR) has developed a process and structure for risk-based work plans to guide submissions and track work plan applications and work plan variation applications online. The structure and guideline prepared for the online facility should be used to prepare the information for the assessment and controls of each risk as part of the preparation of the risk assessment and management plan.

### 1. Risk assessment and management plan

Licence condition 1A requires the licensee to undertake a risk assessment and prepare a risk assessment and management plan. Condition 1A.4 (**Attachment 1**) sets out the requirements of a risk assessment and management plan that must be prepared and implemented.

The information required by licence condition 1A.4 may already be available in existing mine documents or systems. The risk assessment and management plan may refer to those documents or systems. If the information in the existing documents or systems will be used to form part of the risk assessment and management plan, the information must be reviewed and the documents updated (if appropriate) to reflect the current state of the mine, the current level of risk appreciation and the past, present and future operations.

The risk assessment for the licence area must be comprehensive in regard to hazards to the environment and/or public safety.

<b>Environment</b>	<p>As a <u>minimum</u>, the geography, topography, biological, climate, socio-demographic, geological and hydrological factors must be considered within the mine and the surrounding locality.</p> <p>Particular attention is to be given to identifying environmental receptors that may be harmed from a single event or gradually over a period of time as a result of the mining operation.</p>
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**Public safety** The safety of all people who are not engaged through employment or contracts to provide services to the mine irrespective of whether they are within the area of the mining licence or the surrounding locality.

Public safety includes the health of individuals and communities. Harm caused by a single event or gradually over time must be considered.

**Risk** All risks to the environment and public safety as a result of the operation of the mine are to be identified, and their management described, within the risk assessment and management plan.

Hazards associated with the work that has been done must be identified. This includes the hazards associated with the working area of the mine, the worked out areas of the mine and where associated mining operations (monitoring and access) take place.

Hazards associated with the work that is yet to be done (work that has been approved in a work plan but not yet carried out) must also be identified. This includes the hazards attributed to the relevant areas in their current state and the future state.

The hazards identified are to include, but not necessarily be limited to the following categories: ground stability, fire, noise, dust, terrorism, earthquake and flood.

#### **FOR NOTING**

##### **Terrorism hazards**

Licensees have a Plan that has been submitted under Part 6 of the *Terrorism (Community Protection) Act 2003*. The commencement of the *Emergency Management Amendment (Critical Infrastructure Resilience) Bill 2014* on 1 July 2015 will replace the existing requirements.

A gap analysis must be undertaken to determine whether the existing Plan describes all threats from malicious activities on the operations and licence area that may pose a risk to the environment and/or public safety. Any identified threats that are not included in the Plan must be included in the risk assessment and management plan.

The Plan may be included as part of the risk assessment and

management plan but this is not mandatory. The relevant parts of the Plan where risks to the environment and public safety are described should be referenced in the risk assessment and management plan. Following the approval of the risk assessment and management plan and subsequent approval of the work plan variation, the licensee will be consulted about the content to be redacted from the work plan variation before the registered work plan variation is released.

In addition, the savings and transitional provisions mean that the Plan submitted under Part 6 of the *Terrorism (Community Protection) Act 2003* continues to be exempt from the *Freedom of Information Act 1982*.

Once hazards are identified, their likelihood and consequence must be assessed to determine the risk. The definitions used for each level of likelihood and consequence to determine the risk must be included. Also, the basis/data used to determine the likelihood and consequence should be provided. The DEDJTR guideline for completing a risk-based work plan in RRAM may assist the preparation of this information.

Hazards that are identified must include those that have a relatively low probability and relatively high consequence. These may include hazards that have not been captured or considered by previous analyses.

All treatment options (controls) for risks rated greater than medium should be included. The controls selected to reduce the risks must be described (as per DEDJTR's guideline on completing a risk-based work plan in RRAM). The reasons why the option(s) that were not selected as the most reasonably practicable effective action(s) should be provided. In addition, the treatment options (controls) for risks rated as medium or low must be included if they are different from the controls in DEDJTR's guideline on completing a risk-based work plan in RRAM.

In relation to fire risks, consideration must be given to the controls for prevention, mitigation and suppression, irrespective of the source and location of a fire.



**RECOMMENDATION**

**Methodology** – it is expected that the method to be used to undertake the risk assessment and prepare the risk management plan will be consistent with Australian standard, AS/NZS ISO 31000:2009 Risk management – Principles and guidelines.

The Australian Standard includes monitoring the performance of the selected treatment options (controls).

<b>Independent expert</b>	<p>Condition 1A.3 requires the appointment of an independent expert or experts (see <b>Attachment 1</b>). The expert or experts must not be employed by the licensee or any of its related bodies corporate.</p> <p>Condition 1A.3 requires the expert or experts to have appropriate expertise in all facets of the risk assessment and management plan. This would include, for example, geotechnical, hydrogeological and fire prevention, mitigation and suppression.</p>
<b>Risk Assessment</b>	<p>The independent expert or experts must be skilled and experienced in developing and applying risk assessments that demonstrate transparency, consistency and logic of approach.</p> <p>In applying the risk assessments, the step-by-step approach outlined in ISO 31000:2009 should be followed. An environmental scan (study and interpretation of political, economic, social, technological, environmental and legal factors, events and trends that influence business, industry or markets) is recommended in order to demonstrate a comprehensive risk identification approach and application of consistent measures of likelihood and consequence.</p>
<b>Quantitative risk control standards (applicable to risks rated higher than medium)</b>	<p>Condition 1A.4(c) requires the risk assessment and management plan to include quantifiable risk control standards that are to be achieved so as to protect the environment and public safety. This includes both the controls that currently operate to manage the identified risks, and those that will be developed and implemented as a result of this risk analysis activity.</p> <p>To provide context to the development of a risk control</p>

standard, an assessment of inherent risk is recommended in order to allow control objectives to be expressed in terms of seeking to reduce the likelihood and mitigate the consequence of a particular event.

The objectives should be aspirational. If they cannot be met within the three year duration of the risk assessment and management plan, a longer term strategy to achieve the objectives must be described.

The controls in the risk assessment and management plan should include:

- The risk mitigation purpose (objective) of each control
- Criteria or measures to be satisfied (standard) to demonstrate the effective operation of each control
- A description of the selected controls
- The targeted or residual risk arising from the effective operation of each control
- Reference to policies, guidelines, instructions that apply each control.

**For example:**

**Performance objective** What needs to be achieved

*No noise emitted beyond the mining licence boundary*

**Standard** How well the activity needs to be done (minimum and/or maximum thresholds identified where relevant)

*Noise emissions comply with the SEPP N-1 and NIRV limits at all times*

**Controls** Actions to be carried out that ensure the standard and objective are met

1. *Locate noisy plant and equipment at the minimum distance necessary to ensure noise levels at the closest sensitive receptor is within limits*
2. *Enclose noisy plant and equipment within sound dampening equipment*

**Guidelines** Relevant guidance material detailing expectations

*Noise from industry in regional Victoria (NIRV), EPA publication 1411*

**Milestone** All actions arising from the risk assessment and management plan that need to be implemented must have key achievements or events identified as milestones.

The key achievements or events must be set out in an implementation plan that details each action. The implementation plan must form part of the risk assessment and management plan. The implementation plan should identify (as a minimum):

- The new actions to be introduced
- The tasks required to introduce the new actions
- Dates of commencement, milestones and completion

dates

- Priority of each action

The approach to implement the actions should follow the SMART model – Specific, Measurable, Achievable, Realistic and Timely.

It is expected that the implementation plan will include milestones over a period of three years.

The licensee should aim for continuous improvement in the quality of risk assessments and the level of control achieved. The implementation plan should describe improvements in risk assessments and controls that will be introduced over three years.

## 2. Work Plan

The licensee will be required to prepare a risk-based work plan once section 16 of the *Mineral Resources (Sustainable Development) Amendment Act 2014* commences, which is expected to be in December 2015. The risk assessment and management plan fulfils a key component of the new requirement to prepare risk-based work plans.

No later than three months after the risk assessment and management plan is approved by the Department Head, the licensee must include it as part of the work plan by submitting a work plan variation to incorporate it. The work plan variation must provide the information required by the risk-based work plan guidelines and include relevant documents that support the actions to be carried out in the risk assessment and management plan (for example the Mine Fire Service Policy and Code of Practice, ground control management plan and other key mine policies and procedures).

## 3. Statement of compliance

Condition 1A.7 (see **Attachment 1**) requires a statement of compliance detailing the progress of implementing the actions identified in the risk assessment and management plan as well as compliance with the licence and any approved work plan.

The statement of compliance must state whether the milestones within the risk assessment and management plan for the 12 month reporting period have been met. The information should indicate whether the relevant objectives were

achieved at each milestone and whether the standards were met in achieving the objectives.

It is recommended that the statement of compliance be audited by an appropriately qualified independent auditor before it is certified by the Chief Executive Officer (or delegate). Evidence of such an audit should accompany the statement of compliance.

### 3.1. Compliance with the risk assessment and management plan

The implementation plan within the risk assessment and management plan must contain details of how and when each action will be implemented into the operation of the mine.

The implementation plan should be used to guide the information provided in the statement of compliance.

### 3.2. Compliance with the mining licence

The mining licence is the assignment of the right to mine granted under the MRSD Act. The mining licence sets out the area of the mining licence and a number of conditions.

The information to be provided in the statement of compliance must include compliance with the conditions of the mining licence. Compliance with the relevant sections in the MRSD Act should also be included, such as:

12A	Royalties for lignite
38AAE	When and how is the mine stability levy to be paid?
38AA	Boundaries of licence area must be surveyed and marked out
39A	Licensee's duty to consult with community
41AB	Reporting requirements for declared mines
80	Rehabilitation bond
113	Discovery of uranium or thorium to be reported
116	Licensee must supply information

### 3.3. Compliance with the work plan

Part 3 of the MRSD Act is the principal part governing the work that occurs under a mining licence. The work plan and work plan variations were approved with conditions under the relevant sections of Part 3 of the MRSD Act.

The information to be provided in the compliance statement must include compliance with the relevant details in the approved work plan, the approved work plan variations and conditions. Compliance with the relevant sections in the MRSD Act should also be included, such as:

40	Work plan
41	Application for variation of work plan
41A	Minister may require impact statement
41AC	Chief Inspector to be notified of reportable events in relation to exploration or mining
42	Commencement of work under mining licence or prospecting licence
47A	Management of worksites
78	Licensee must rehabilitate land
81	Rehabilitation

### 3.4. Evidence

Evidence of compliance with the items set out in the statement of compliance should be retained for 12 months from the date of the statement of compliance. Under section 95A of the MRSD Act, you must provide access to the evidence when requested to do so by an Inspector of DEDJTR.

## 4. Other reports

Regulation 45 of the *Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2013* requires a report every six months detailing the outcomes of reviews of the management of geotechnical and hydrogeological risks.

The reporting period for every second report required by regulation 45 of the *Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2013* ends on the same date as the statement of compliance reporting period (30 June). You may wish to incorporate this report with each statement of compliance.

## Attachment 1

### CONDITION 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 October 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 4.5 and condition 15 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 30 June;
  - 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.