

# Instrument of Variation

## *Coal Lease 388 (1973)*

I, **JAMIE TRIPODI, Executive Director Assessments & Systems**, Mining Exploration and Geoscience in the Department of Regional NSW, with the delegated authority of the Minister under section 261B and clause 12 of Schedule 1B of the *Mining Act 1992* (the Act), **vary** the conditions of coal lease **CL 388 (1973)** as described in Schedule A.

The conditions of **CL 388 (1973)**, as varied, are set out in Schedule B.

The variation takes effect on 17 October 2022.



**JAMIE TRIPODI**  
**Executive Director Assessments & Systems**  
**As delegate for the Minister administering the *Mining Act 1992***  
**Delegation date: 14 May 2018**

Dated: 08 September 2022

# Schedule A

Condition	Variation	New Condition	
Definitions	Definitions of 'Department', 'Environment' 'Environmental incident notifications and reports' and 'Harm to the environment' omitted as no longer used.	N/A	
1	Notice to Landholders	Wording amended to modernise the condition	1. Notice to Landholders – see Schedule B
2	Rehabilitation	Condition omitted	N/A
3	Mining Operations Plan and Annual Rehabilitation Report	Condition omitted	N/A
4	Non-Compliance Reporting	Condition omitted	N/A
5	Environmental Incident Report	Condition omitted	N/A
6	Extraction Plan	Condition omitted	N/A
7	Resource Recovery	Condition omitted	N/A
8	Security	Condition amended to modernise the wording. Condition has been re-numbered due to omission of other conditions.	2. Group Security– see Schedule B
9	Cooperation Agreement	Condition amended to modernise the wording. Condition has been re-numbered due to omission of other conditions.	3. Cooperation Agreement – see Schedule B
N/A	New condition attached	4. Assessable Prospecting Operations– see Schedule B	
<b>SPECIAL CONDITIONS</b>			
10	Prescribed Dam	Condition amended to modernise wording and update references. Condition has been re-numbered.	5. Dams Safety – Mining Leases – see Schedule B
11	Petroleum	Condition amended to modernise the wording. Condition has been re-numbered due to omission of other conditions.	6. Petroleum (Mining Operations By-Product Only) – see Schedule B

# Schedule B

## Mining Lease Conditions

(Version as at February 2022)

### Definitions

Words used in this mining lease have the same meaning as defined in the *Mining Act 1992* except where otherwise defined below:

Term	Definition
<b>Act</b>	means the <i>Mining Act 1992</i> .
<b>Landholder</b>	for the purposes of these conditions: <ul style="list-style-type: none"><li>• does not include a secondary landholder</li><li>• includes, in the case of exempted areas, the controlling body for the exempted area.</li></ul>
<b>Minister</b>	means the Minister administering the Act.

#### Note:

1. The rights and duties of the Lease Holder(s) are those prescribed by the *Mining Act 1992* and the Mining Regulation 2016, subject to the terms and conditions of this mining lease.
2. This mining lease does not override any obligation on the lease holder(s) to comply with the requirements of other legislation and regulatory instruments which may apply (including all relevant development approvals) unless specifically provided under the *Mining Act 1992* or other legislation or regulatory instruments.

# MINING LEASE CONDITIONS

## Standard conditions

See Mining Regulation 2016, Schedule 8A, Part 2.

**NOTE TO HOLDERS:** The prescribed standard conditions in the Mining Regulation 2016, Schedule 8A, Part 2 apply in addition to the conditions in this Schedule 2 (but have not been replicated in this mining lease). The conditions imposed by the Mining Regulation 2016 prevail to the extent of any inconsistency with the conditions in this Schedule 2.

## General conditions

### 1. Notice to Landholders

- (a) Within 90 days from the date of grant or renewal of this mining lease, the lease holder must give each landholder notice in writing:
- (i) that this mining lease has been granted or renewed; and
  - (ii) whether the lease includes the surface.

The notice must include a plan identifying the lease area and each landholder and individual land parcel within the lease area.

- (b) If there are ten or more landholders to which notice must be given, the lease holder will be taken to have complied with condition 1(a) if a notice complying with condition 1(a) is published in a newspaper circulating in the region where the lease area is situated.

### 2. Group Security

The security deposit to be provided and maintained for this mining lease is part of a group security deposit.

The lease holder is required to provide and maintain a security deposit to secure funding for the fulfilment of obligations under the mining leases covered by the group security deposit, including obligations under each mining lease that may arise in the future.

The amount of the security deposit to be provided as a group security deposit has been assessed at **\$23,090,000**.

The leases covered by the group security include this **CL 388 (1973)** and:

Lease type	Lease Number	Act Year
CCL	767	1973
CL	381	1973
ML	1382	1992
ML	1433	1992
ML	1574	1992
ML	1678	1992
ML	1698	1992

### 3. Cooperation Agreement

The lease holder must make every reasonable attempt, and be able to demonstrate its attempts to the satisfaction of the Secretary, to enter into a cooperation agreement with the holder(s) of any overlapping authorisations issued under the *Mining Act 1992* and petroleum titles issued under the *Petroleum (Onshore) Act 1991*. The cooperation agreement should address but not be limited to:

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

### 4. Assessable Prospecting Operations

- (a) The lease holder must not carry out any assessable prospecting operation on land over which this lease has been granted unless:
- (i) it is carried out in accordance with any necessary development consent; or
  - (ii) if development consent is not required, the prior written approval of the Minister has been obtained.
- (b) The Minister may require the lease holder to provide such information as required to assist the Minister to consider an application for approval.
- (c) An approval granted by the Minister under this condition may be granted subject to terms.
- (d) The lease holder must comply with the approval granted to the holder under this condition.

## Special conditions

### 5. Dams Safety – Mining Leases

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

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- (i) This sub-paragraph is complied with if:
  - (a) Dams Safety NSW as constituted by section 6 of the *Dams Safety Act 2015* and the owner of the dam have been notified in writing of the desire to mine referred to in paragraph (b).
  - (b) the notifications referred to in clause (a) are accompanied by a description or plan of the area to be mined.
  - (c) the Secretary has complied with any reasonable request made by Dams Safety NSW or the owner of the dam for further information in connection with the mining proposal.
  - (d) Dams Safety NSW has made its recommendations concerning the mining proposal or has informed the Minister in writing that it does not propose to make any such recommendations; and
  - (e) where Dams Safety NSW has made recommendations the approval is in terms that are:
    - in accordance with those recommendations; or
    - where the Minister does not accept those recommendations or any of them - in accordance with a determination under sub-paragraph (ii) of this paragraph.
- (ii) Where the Minister does not accept the recommendations of Dams Safety NSW or where Dams Safety NSW has failed to make any recommendations and has not informed the Minister in writing that it does not propose to make any recommendations, the approval shall be in terms that are, in relation to matters dealing with the safety of the dam:
  - as determined by agreement between the Minister and the Minister administering the *Dams Safety Act 2015*; or
  - in the event of failure to reach such agreement - as determined by the Premier.
- (d) The Minister, on notice from Dams Safety NSW, may at any time or times:
  - (i) cancel any approval given where a notice pursuant to section 19 of the *Dams Safety Act 2015* is given.
  - (ii) suspend for a period of time, alter, omit from or add to any approval given or conditions imposed.

## 6. Petroleum (Mining Operations By-Product Only)

For the purposes of this lease, petroleum is limited to coal bed methane that is captured or extracted as a by-product in the course of carrying out mining activities.

### Exploration Reporting

*Note: Exploration Reports (Geological and Geophysical)*

*The lease holder must lodge reports in accordance with the requirements in section 163C of the Mining Act 1992 and clauses 59, 60 and 61 of the Mining Regulation 2016 as well as any further requirements issued by the Secretary under clause 62 of the Mining Regulation.*

*Guidelines for the structure, content and data format requirements for reports are set out in the Exploration Reporting: A guide for reporting on exploration and prospecting in New South Wales.*

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