DETERMINATION OF A DEVELOPMENT APPLICATION PURSUANT TO SECTION 101(8) OF THE UNAMENDED ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

I, the Minister for Urban Affairs and Planning, pursuant to Section 101(8) of the unamended Environmental Planning and Assessment Act, 1979 ("the Act") determine the development application ("the application") referred to in Schedule 1 by granting consent to the application subject to the conditions set out in Schedule 2.

The reasons for the imposition of the conditions are:

1. to minimise the adverse environmental impacts the development may cause; and
2. to provide for environmental monitoring and reporting.

Craig Knowles
Minister for Urban Affairs and Planning

Sydney, 25/2 1999 File No. W91001178

SCHEDULE 1

Application made by:	Tahmoor Coal Pty Ltd ACN 076 663 968 ("the Applicant").
To:	The Minister for Urban Affairs and Planning ("the Minister").
In respect of:	Certain lands within Mining Lease 1376 as shown on the map in Figure 1.
For the following:	Extension to underground coal mining as part of Tahmoor North Coal Mine ("the Development").
Development Application:	DA 67/98 lodged with Wollondilly Shire Council on 30 March 1998 accompanied by an Environmental Impact Statement ("EIS") prepared by Olsen Environmental Consulting Pty Ltd dated 11 March 1998.

NOTES:
1. To ascertain the date upon which the consent becomes effective, refer to section 101(9) of the unamended Act. To ascertain the date upon which the consent is liable to lapse, refer to section 99 of the unamended Act.
2. Reference to the unamended EP&A Act 1979 means the Act in force on 1 July 1998.

SCHEDULE 2

Abbreviations and definitions

AEMR	Annual Environmental Management Report
Council	Wollondilly Shire Council
DA	development application
DA area	area to which the DA applies, described in Schedule 1 and shown on Figure 1
Director-General	Director-General of the Department of Urban Affairs and Planning or her nominee
DLWC	Department of Land and Water Conservation
DMR	Department of Mineral Resources
DUAP	Department of Urban Affairs and Planning
EIS	environmental impact statement
EPA	Environment Protection Authority
first workings	establishment of mine access and ventilation roadways within the coal seam
Heritage Study	Wollondilly Heritage Study 1993
MSB	Mine Subsidence Board
second workings	removal or extraction of coal left after first workings

General

1. The Applicant shall carry out the development of the Tahmoor North Coal Mine Extension substantially in accordance with the Environmental Impact Statement (EIS) prepared by Olsen Environmental Consulting Pty Ltd in accordance with Section 77(3) of the unamended Environmental Planning and Assessment Act, 1979 and certified by David Olsen on 18 March 1998 and as may be modified by the following conditions.

Limit of approval

2. (i) No second workings shall be undertaken under land which was zoned Residential 2(a) in Redbank or South Picton at the date of lodgement of the DA with Council.

   (ii) Second workings shall not be undertaken under land which was zoned Industrial 4(a) at the date of lodgement of the DA with Council unless the Applicant has a binding compensation agreement with the landowner to the satisfaction of the Director-General in consultation with DMR.

3. The Applicant shall submit a revised mine plan to the Director-General and Council within three months from the date of granting of a mining lease pursuant to this consent.

4. The approval for mining is for a period of 21 years from the date of granting of a mining lease pursuant to this consent. If, at any time, the Director-General is aware of environmental impacts from the proposal that pose serious environmental concerns due to the failure of existing environmental management measures to ameliorate the impacts, the Applicant shall comply with any order by the Director-General to cease the activities causing those

impacts until those concerns have been addressed to the satisfaction of the Director-General.

5. The Applicant shall notify the Director-General and the Council in writing of the intended date of commencement of the first second workings in the area covered by this DA (DA 76/98) fourteen days prior to the commencement of such workings. No second workings shall commence until the compliance report in Condition 39 has been completed to the satisfaction of the Director-General.

6. The Applicant shall not:

   (i) change the location, layout, configuration or size of longwall panels in a manner that may increase the limit of subsidence shown in Figure 2 or may increase the number of structures predicted to be subject to structural damage in the moderate, or severe or very severe categories as indicated in Figure 3; or

   (ii) introduce new longwall panels or remove pillars in areas shown as first workings in Figure 2,

   without either an approved modification to this development consent or a new development consent, whichever is required for the variation under the Environmental Planning and Assessment Act, 1979.

7. Mining is not to occur so as to result in the subsidence of any habitable floors to below the 1:100 year flood level (1% flood level).

Statutory requirements

8. The Applicant shall ensure that all statutory requirements, including all relevant legislation, Regulations, Australian Standards, Codes, Guidelines and Notices, Conditions and Directions of the Council and relevant government agencies are met and approvals obtained.

Environmental Management Services

9. The Applicant shall engage recognised Environmental Management Services throughout the life of the mine. The Environmental Management Services shall:

   (i) provide for the preparation of environmental management plans;
   (ii) provide for considering and advising on matters specified in the conditions of this consent and compliance with such matters;
   (iii) provide for receiving and responding to complaints in accordance with Condition 40;
   (iv) be involved in the induction and training program for all persons involved with construction activities, mining and remedial activities (including surface drainage mitigation works);
   (v) have the authority and independence to require reasonable steps to be taken to avoid or minimise unintended or adverse environmental impacts. Failing the effectiveness of such steps immediately advise Senior Management of the mine of environmental implications and of any need to stop work; and
   (vi) provide a representative to be a member of the Community Consultative Committee (Conditions 32-34).

10. The Applicant shall notify the Director-General, EPA, DLWC, DMR, Council, the Community Consultative Committee of the role, responsibility, authority, accountability and reporting of personnel relevant to environmental management, including the name and contact details of the principal person responsible for overseeing environmental management of the mine. This principal person shall be a person who has the authority to stop work if an adverse impact on the environment is likely to occur.

Revision of subsidence predictions

11. Prior to submitting an application for approval for longwall mining under section 138 of the Coal Mine Regulation Act 1982:

    (i) the Applicant shall revise subsidence predictions and the impacts on bridge structures, culverts and embankments based on the final mine plan and prepare management plans in consultation with the relevant authorities;

    (ii) the Applicant shall revise subsidence predictions and the impacts on mains and overhead cables based on the final mine plan and prepare management plans in consultation with the relevant authorities; and

    (iii) for mining that may change drainage patterns of floodprone land, the Applicant shall revise subsidence predictions and prepare management plans for those lands in consultation with Council and relevant landowners.

    Any such revisions of subsidence predictions shall be reported in the Annual Environmental Management Report (Conditions 41-43).

Subsidence monitoring

12. The Applicant shall undertake a detailed and ongoing monitoring program of subsidence resulting from mining to the satisfaction of the Director-General and in consultation with DMR and Council from the date of commencement (Condition 5) and for a period of at least three years after the completion of mining, or other such period as determined by the Director-General in consultation with DMR and Council. Monitoring shall include the following:

    (i) impacts on dams that may be affected by subsidence occurring in the DA area;

    (ii) a survey of the stream channel system;

    (iii) monitoring of groundwater levels and quality;

    (iv) monitoring of remedial measures;

    (v) a comparison of predicted impacts with actual impacts, including mapping of subsidence profiles in residential areas and of anomalous events;

    (vi) strains and impacts in the vicinity of the Nepean Fault Zone; and

    (vii) the angle of draw.

The Applicant shall include information on monitoring conducted and the interpreted results in the Annual Environmental Management Report (Conditions 41-43).

13. If determined necessary by the Director-General in consultation with Council and DLWC, the Applicant shall carry out works in accordance with an Erosion and Sediment Control Plan, prepared to the requirements of DLWC, to restore any damage to watercourses (including the banks) resulting from the mining operations, subject to any other necessary approvals.

Water Quality

14. The Applicant shall prepare and implement a plan to monitor and manage any subsidence impacts on septic tanks or package sewage treatment plants. The plan shall be prepared to the satisfaction of the Director-General and in consultation with Council.

Notifications and pre-mining structural inspections

15. (i) The Applicant shall notify each relevant landowner/occupier under whose property it intends to commence first workings at least one (1) month prior to commencement of such workings; and

(ii) The Applicant shall notify in writing each landowner/occupier within a 35 degree angle of draw of its intentions to proceed with second workings at least three (3) months prior to making an application in accordance with section 138 of the Coal Mine Regulation Act, 1982 for that land.

Notification of second workings shall include:

(a) pre-mining inspection rights including a copy of consent conditions 15 to 26 inclusive;

(b) revised subsidence predictions using updated monitoring data;

(c) identification of potential damage to improvements;

(d) owner's obligation of disclosure under insurance policies and mortgage agreements;

(e) rights of claiming consequential loss under the Mining Act; and

(f) advice as to where an unabridged copy of these conditions of consent are available for public inspection.

16. If determined necessary by DMR, the Applicant shall cause a pre-mining structural inspection to be carried out on substantial improvements on land identified by the DMR at least one month prior to commencement of second workings taking place that may cause subsidence impacts on the relevant property. These inspections shall:

(i) be conducted with the consent of the landowner/occupier and in consultation with MSB;

(ii) include a report prepared on the structural integrity of all buildings in their entirety (including roofs, ceilings, openings, foundations and household sewage treatment and disposal systems);

(iii) be conducted by an independent and technically qualified person;

(iv) include permanent reference marks on each corner of all substantial improvements with level tied to Australian Height Datum to a stable point in the area; and

(v) include soil sampling for moisture content and soil type as appropriate.

A copy of the inspection report shall be provided to the landowner/occupier upon completion.

17. Where a pre-mining structural inspection under Condition 16 involves a building identified in the Wollondilly Heritage Study the report shall be prepared with the assistance of a qualified heritage expert. The Director-General may also require such a report on a building which is not identified in the Wollondilly Heritage Study be prepared with the assistance of a qualified heritage expert if the Director-General is satisfied, on the basis of available information, that the building may be older than 50 years and have heritage significance. Prior notice of such inspections shall be provided to the Director-General by the Applicant to enable a decision to be made.

Note: Structural inspections by the Applicant are in addition to any pre-mining surveys conducted by the Mine Subsidence Board.

Management, compensation and acquisition

18. Where a dwelling within the DA area is, or is likely to be, subject to damage as a result of the development, upon receipt of notification under Condition 15(ii) the landowner may request the Applicant in writing to:

(i) carry out such works as agreed by the landowner to remedy or mitigate any damage or compensate the landowner for such effects in accordance with the Mine Subsidence Compensation Act 1961 and/or the Mining Act 1992 (except where such works are the responsibility of the Mine Subsidence Board); or

(ii) where damage is, or is likely to be, severe, very severe or unrepairable (as defined in Figure 3), acquire the whole of the property, or such part of the property requested by the landowner if subdivision is approved, except where purchase is agreed by the Mine Subsidence Board.

The Applicant shall comply with any such request for acquisition in accordance with Conditions 20-22. If necessary to confirm the impact, the Applicant shall, at the request of the landowner in writing, conduct a follow-up structural inspection to one carried out under Conditions 16-17. Any inspection or assessment under this Condition shall be conducted as if it were conducted under Conditions 16-17.

19. The Applicant shall, if requested by the Mine Subsidence Board, ensure that any substantial improvements, including homes, sheds and pools, which are subject to residual tilts in the range of 4 mm/m to 7 mm/m as a result of mining or mining related activities, are relevelled within six months of receipt of a written request from the landowner.

Note: Relevelling of residual tilt of greater than 7 mm/m is the responsibility of the Mine Subsidence Board.

Acquisition Procedure

20. Upon receipt of a written request to purchase property in accordance with any Condition 18(ii), unless mining proposals are altered to avoid this property purchase mechanism, the Applicant shall negotiate and purchase the whole of the property (unless the request specifically requests acquisition of only part of the property and subdivision has already been approved) within six months of receipt of the request. The Applicant shall pay the landowner an acquisition price resulting from proper consideration of:

    (i) a sum not less than the current market value of the owner's interest in the land, whosoever is the occupier, having regard to:
        - the existing use and permissible use of the land in accordance with the applicable planning instruments at the date of the written request; and
        - the presence of improvements on the land and/or any Council approved building or structure which although substantially commenced at the date of the request is completed subsequent to that date,

    as if the land was unaffected by the development proposal;

    (ii) the owner's reasonable compensation for disturbance allowance and relocation within the Wollondilly local government area, or within such other location as may be determined by the Director-General in exceptional circumstances;

    (iii) the owner's reasonable costs for obtaining legal advice and expert witnesses for the purposes of determining the acquisition price for the land and the terms upon which it is to be acquired; and

    (iv) the purchase price determined by reference to points (i), (ii) and (iii) shall be reduced by the amount of any compensation awarded to a landowner pursuant to the Mining Act, 1992 or other legislation providing for compensation in relation to coal mining but limited to compensation for dwellings, structures and other fixed improvements on the land, unless otherwise determined by the Director-General in consultation with the DMR or MSB.

21. An offer by the Applicant to purchase a property under Conditions 18(ii) and 20 shall remain open to the landowner three years after completion of mining of longwall panels that affect the property.

22. Notwithstanding any other condition of this consent, the landowner and the Applicant may enter into any other agreed arrangement regarding compensation; or the Applicant may, upon request of the landowner, acquire any property affected by the project during the course of this consent on terms agreed to between the Applicant and the landowner.

Independent Valuation

23. In the event that the Applicant and the landowner cannot agree within three months upon the acquisition price of the land and/or the terms upon which it is to be acquired under the terms of this consent, then either party may refer the matter to the Director-General who shall request an independent valuation to determine the acquisition price. The independent valuer shall consider any submissions from the landowner and the Applicant in determining the acquisition price.

24. If the independent valuer requires guidance on any contentious legal, planning or other issues, the independent valuer shall refer the matter to the Director-General, who, if satisfied that there is a need for a qualified panel, shall arrange for the constitution of the panel. The panel shall consist of:

    (i) the appointed independent valuer;

    (ii) the Director-General; and/or

    (iii) the President of the Law Society of NSW or nominee.

    The qualified panel shall, on the advice of the valuer, determine the issue referred to it and advise the valuer.

25. The Applicant shall bear the costs of any independent valuation or survey assessment requested by the Director-General.

26. The Applicant shall, within fourteen days of receipt of a valuation by the independent valuer, offer in writing to acquire the relevant land at a price not less than the said valuation.

Heritage Items

27. The Applicant shall not cause damage to any heritage item listed in Wollondilly LEP 1991 without the consent of Council as required under clause 30 of that plan. If such damage is proposed to occur, the Applicant shall provide, at the cost of the Applicant:

    (i) a detailed study with each development application on the expected damage from subsidence, including a report on the impact of the identified damage on the item's historical significance and appropriate management or restoration measures prepared by a qualified heritage expert endorsed by council;

    (ii) a copy of each development application and study to the owner of the heritage item and to the Community Consulative Committee within seven days of lodgement of the application with Council.

28. The Applicant shall not cause damage to any building or structure identified in the Heritage Study, other than heritage items listed in Wollondilly LEP 1991 and covered by Condition 27, without the prior approval of Council. If such damage is proposed to occur, the Applicant shall provide, at the cost of the Applicant:

    (i) a detailed study on the expected damage from subsidence, including a report on the impact of the identified damage on the historical significance of the building or structure and appropriate management

or restoration measures prepared by a qualified heritage expert endorsed by council;

(ii) a copy of each study to the owner of the building or structure and to the Community Consultative Committee within seven days of lodgement with Council.

29. Prior to commencement of mining the Applicant shall comply with the statutory requirements of NPWS in relation to works affecting Aboriginal sites.

30. If the Applicant becomes aware of any heritage or archaeological material that may be affected by mining or subsidence, all work likely to affect the material shall cease immediately and the relevant authorities consulted about an appropriate course of action prior to recommencement of work. The relevant authorities may include NPWS, the Heritage Office, and the Local Aboriginal Land Council. Any necessary permits or consents shall be obtained and complied with prior to recommencement of work.

Counselling services

31. The Applicant shall provide funding to Council for independent counselling services for landowners who may request support on stress-related matters resulting from the development. These counselling services shall be available to landowners from two years prior to mining of longwall panels that affect the landowner's property and until three years after completion of mining of longwall panels that affect the landowner's property.

Community Consultative Committee

32. The Applicant shall establish a Community Consultative Committee, whose meetings shall be open to the public, and ensure that the first meeting is held prior to commencement of mining under this consent. Selection of representatives shall be agreed by Council and the appointment of an independent Chairperson shall be to the satisfaction of Council in consultation with the Applicant and the Director-General. The Committee shall include two representatives from the Applicant (including an Environmental Management representative), four community representatives and two Council representatives. Representatives from relevant government agencies (including DUAP) may be invited to attend meetings of the Committee as required, including an annual liaison meeting.

The Committee may make comments and recommendations about the implementation of the development and draft management plans, environmental plans and/or studies to the Applicant and Director-General. The Applicant shall ensure that the Committee has access to the necessary plans and/or studies for such purposes. The Applicant shall consider the recommendations and comments of the Committee and provide a response to the Committee and the Director-General.

33. The Applicant shall, at its own expense:

(i) provide appropriate facilities and secretarial functions for meetings of the Committee;

(ii) nominate a representative to attend all meetings of the Committee;

(iii) provide to the Committee regular information on the progress of the work and monitoring results;

(iv) promptly provide to the Committee such other information as the Chairperson of the Committee may reasonably request concerning the environmental performance of the development and the effect of subsidence upon improvements; and

(v) provide reasonable access for site inspections by the Committee.

34. The Applicant shall establish a trust fund to be managed by the Chairperson of the Committee to facilitate functioning of the Committee and pay $2000 per annum to the fund for the duration of mining under this consent. The payment shall be indexed according to the Consumer Price Index (CPI) at the time of payment. The first payment shall be made by the date of the first Committee meeting. The Applicant shall also contribute reasonable funds for payment of the independent Chairperson, to the satisfaction of the Director-General.

Community Information

35. The Applicant shall, in consultation with Council, ensure that the local community is kept informed of the progress of the project, at least at six monthly intervals after commencement of mining under this consent. This information may be by way of local newsletters, leaflets, newspaper advertisements and community notice boards as appropriate, and include prior notice of:

(i) the nature of mining activity proposed for the forthcoming period;

(ii) a 24-hour contact telephone number; and

(iii) individuals' rights under the conditions of this approval (such as the rights for acquisition) and mechanisms proposed to be used to safeguard the community and individual properties against adverse impacts from the development.

Dispute Resolution

36. In the event that the Applicant and an individual, the Council or a Government agency other than DUAP, cannot agree on the specification or requirements applicable under this consent, the matter shall be referred by either party to the Director-General, or if not resolved within six months, to the Minister for Urban Affairs and Planning, whose determination of the disagreement shall be final and binding on the parties.

37. In the event that a landowner is in dispute with the Applicant, the Director-General may require the Applicant to appoint an independent mediator, at the cost of the Applicant, to mediate the dispute. The selection of the mediator shall be approved by the Director-General in consultation with the landowner.

Compliance

38. The Applicant shall comply or ensure compliance with all requirements of the Director-General in respect of the implementation of any measures

arising from the conditions of this approval. The Applicant shall bring to the attention of the Director-General any matter that may require further investigation and the issuing of instructions from the Director-General. The Applicant shall ensure that these instructions are implemented to the satisfaction of the Director-General within such time that the Director-General may specify. If necessary, the Director-General may order the Applicant to cease work until non-compliance has been addressed to her satisfaction.

39. The Applicant shall submit to the Director-General a compliance report concerning the implementation of conditions of the 1994 approval by the Land and Environment Court as applicable and the relevant conditions of this consent, prior to commencement of mining under this consent. No mining under this consent shall commence until the Director-General is satisfied with the compliance report. A copy of the compliance report shall be made available to the Community Consultative Committee (Condition 32).

Complaints

40. The Applicant shall record details of all complaints received in an up-to-date log book, and ensure that a response is provided to the complainant within 24 hours. The Applicant shall make available a report on complaints received to the Community Consultative Committee (Condition 32), all relevant government agencies and the Council upon request, and include a summary in the Annual Environmental Management Report (Conditions 41-43).

Annual Environmental Management Report

41. The Applicant shall, for the duration of mining under this consent and for a period of at least three years after the completion of mining under this consent, prepare and submit an Annual Environmental Management Report (AEMR) to the satisfaction of the Director-General. The AEMR shall review the performance of the mine against the conditions of this consent and other licences and approvals relating to the mine (including the 1994 approval by the Land and Environment Court).

    To enable ready comparison with the EIS's predictions, diagrams and tables, the report shall include, but not be limited to, the following matters:

    (i) an annual compliance audit of the performance of the project against conditions of consent and statutory approvals;

    (ii) a review of the effectiveness of the environmental management of the mine in terms of DUAP, EPA, DLWC, DMR, and Council requirements;

    (iii) results of all environmental monitoring required under this consent or other approvals, including interpretations and discussion by a suitably qualified person;

    (iv) a listing of any variations obtained to approvals applicable to the DA area during the previous year;

    (v) the outcome of the water budget for the year, the quantity of water used from water storages and details of discharge of any water from the site;

(vi) an update on work to reduce gas emissions from the mine;

(vii) a rehabilitation report; and

(viii) environmental management targets and strategies for the next year.

42. In preparing the AEMR, the Applicant shall:

(i) consult with the Director-General during preparation of each report for any additional requirements;

(ii) comply with any requirements of the Director-General or other relevant government agency; and

(iii) ensure that the first report is completed and submitted within twelve months of commencement of mining under this consent, or at a date determined by the Director-General in consultation with the DMR and the EPA.

43. The Applicant shall ensure that copies of each AEMR are submitted at the same time to DUAP, EPA, DLWC, NPWS, Council and the Community Consultative Committee, and made available for public information at Council within fourteen days of submission to these authorities. The AEMR shall also be submitted to the DMR in accordance with its requirements under the mining lease.

Independent Environmental Audit

44. Every four years from commencement of mining under this consent, and at any additional time as the Director-General may direct, the Applicant shall arrange for an independent environmental audit of the development. The audit shall be conducted pursuant to ISO 14010 – Guidelines and General Principles for Environmental Auditing, ISO 14011 – Procedures for Environmental Auditing (or the current versions) and any specifications of the Director-General. The Applicant shall submit six copies of the report to the Director-General, who shall provide a copy to the EPA, DLWC, DMR, the Council and the Community Consultative Committee.

45. The audit shall:

(i) assess compliance with the requirements of this consent, licences and approvals;

(ii) review the effectiveness of the environmental management of the mine, including any mitigation works;

(iii) be carried out at the Applicant's expense; and

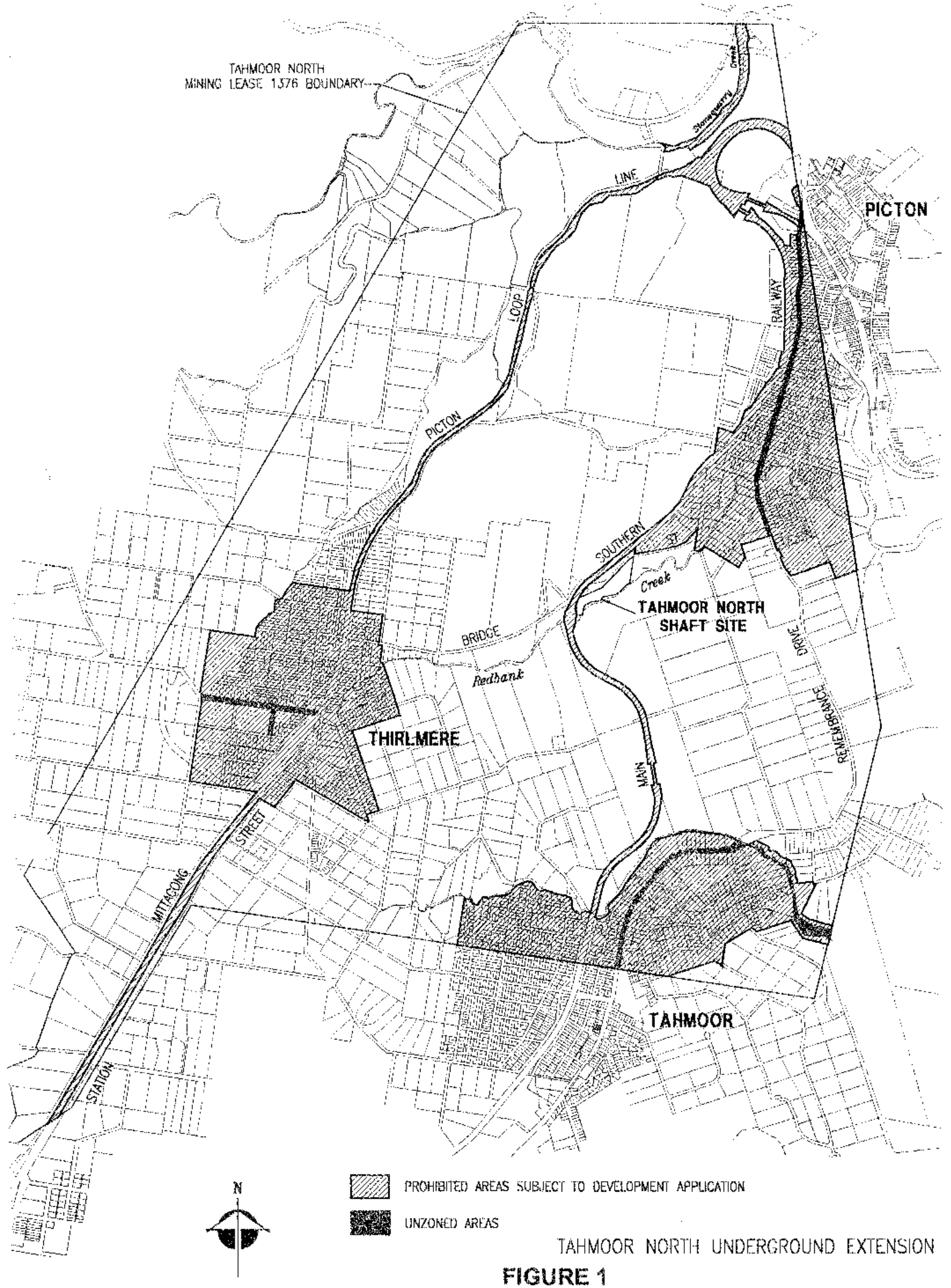
(iv) be conducted by a duly qualified independent person or team approved by the Director-General in consultation with the Council.

46. The Director-General may, after assessing compliance in accordance with this consent and after considering any submission made by the EPA, DLWC, DMR, the Council or the Community Consultative Committee on the report, notify the Applicant of any reasonable requirements for compliance with this consent. The Applicant shall comply with those requirements within such time as the Director-General may require.

Modification to the Court's consent

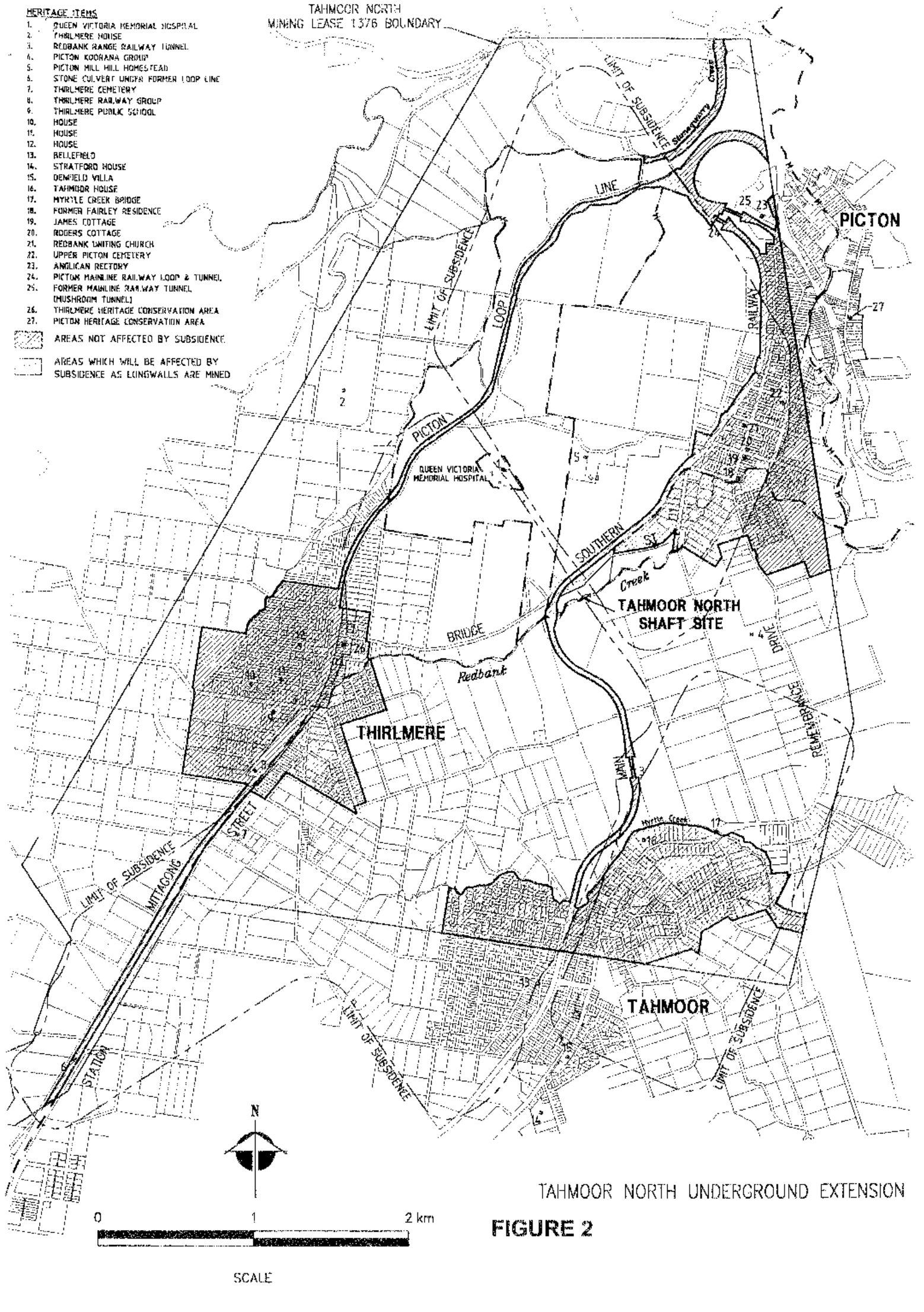
47. Prior to commencement of mining under this consent, the Applicant shall obtain any necessary modifications to the 1994 approval by the Land and Environment Court arising out this consent. The Applicant shall supply copies of any such application for modification to DUAP, Council and the Community Consultative Committee upon lodgement with the Court.

Note:
Nothing in these conditions removes or lessens any obligations by the Applicant under the mining lease, mining legislation or other legislation in relation to matters covered by these conditions.



TAHMOOR NORTH UNDERGROUND EXTENSION

FIGURE 1



TAHMOOR NORTH UNDERGROUND EXTENSION

FIGURE 2