ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

INTEGRATED STATE SIGNIFICANT DEVELOPMENT

DETERMINATION OF DEVELOPMENT APPLICATION PURSUANT TO SECTIONS 76(A)9 & 80

I, the Minister for Planning, pursuant to Sections 76(A)9 & 80 of the 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 to:

(i) minimise any adverse environmental impacts associated with the development;

(ii) provide environmental criteria which define acceptable levels of performance;

(iii) require environmental monitoring, reporting and independent review; and

(iii) set requirements for mine infrastructure provision.

Andrew Refshauge MP
Minister for Planning,

Sydney, 2002 File No. N00/00291

Schedule 1

Application made by:	Oceanic Coal Australia Limited (ACN 003 856 782) on behalf of Oceanic Coal Australia Limited (A.C.N. 003 856 782), Kokan Kogyo (Australia) Pty Limited (A.C.N. 007 294 117), Marubeni Coal Pty Limited (A.C.N. 009 932 236) and OCAL Macquarie Pty Limited (A.C.N. 054 532 884) ("the Applicant").
To:	The Minister for Planning (DA 125-5-2002)
In respect of:	Land described in Appendix "1".
For the following:	Extension to an extension to an open cut coal mine, construction of a relocated section of Wakefield Road, adjustment to Rhondda Road and construction and operation of associated surface facilities ("the Development").

NOTE:

1) To ascertain the date upon which the consent becomes effective, refer to section 83 of the Act.
2) To ascertain the date upon which the consent is liable to lapse, refer to section 95 of the Act.

SCHEDULE 2

Development Consent Conditions for the Westside Southern Extension Open Cut Coal Mine

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DEFINITIONS:

AEMR - *Annual Environmental Management Report*
CCC – *Community Consultative Committee*
Construction – *Clearing of vegetation, sediment and erosion structures and other preliminary works which may impact the surface of the land, construction of road works, surface facilities, and associated earthworks including visual bunding prior to the commencement of coal extraction within the Westside Mine Southern Extension Area.*
DA - *Development Application*
DA area - *Development Application area which includes all works described in the DA.*
Director-General - *Director-General of the Department of Planning or delegate.*
EIS - *Environmental Impact Statement*
Independent Dispute Resolution – *see notes at the end of this document.*
Project – *The construction, operation and post-operation revegetation and rehabilitation of the Westside Southern Extension Open Cut Mine in the development area and associated and ancillary works and transport as set out in the EIS except where these Conditions of Consent may vary the proposed works. The project does not include a second internal haulage road crossing of Cockle Creek.*
WS – *Westside Mine Southern Extension Open Cut Project.*
Mining Operations – *Coal extraction within the Westside Mine Southern Extension Area.*
Spoil - *any material such as tailings, rejects, waste ,etc including overburden and interburden (other than material sold for tile manufacture.*
Surface facilities – *coal crushing facilities, coal handling facilities, coal stock piles, overburden stockpiles, water storage dams, administration offices, bath house, heavy workshop, heavy and light vehicle washdown station, outdoor storage compound, equipment storage area, warehouse, and parking area.*
Works – *any clearing, construction, operation and post operation activities.*

Government Authorities

LMCC – *Lake Macquarie City Council*
DLWC - *Department of Land and Water Conservation*
DMR - *Department of Mineral Resources*
PlanningNSW – *Department of Planning*
EPA - *Environment Protection Authority*
MSB - *Mine Subsidence Board*
NPWS - *National Parks and Wildlife Service*
NSW Agriculture - *New South Wales Agriculture*
NSW Fisheries - *New South Wales Fisheries*
RTA - *New South Wales Roads and Traffic Authority*

1. General

(a) The Applicant shall ensure that all practicable measures are taken to prevent and minimise harm to the environment that may result from site establishment, operation and disestablishment activities.

(b) If, at any time, the Director-General becomes aware of the occurrence of any environmental impacts from the proposal that have arisen due to the failure of environmental management measures identified in this consent, the Director-General may order the Applicant to cease the activities causing those impacts until they have been addressed to the satisfaction of the Director-General.

1.1 Adherence to terms of DA, SEE, etc

(a) The development is to be carried out generally in accordance with:
- (i) Development Application No. 125-5-2002;
- (ii) Umwelt (Australia) Pty Limited, 2002: Environmental Impact Statement. Westside Mine Southern Extension Volumes 1 and 2 for OCAL Oceanic Coal Australia Limited, dated May 2002;
- (iii) Umwelt (Australia) Pty Limited, 2002: Email Response to Submission from PlanningNSW, 19 August 2002;
- (iv) Umwelt (Australia) Pty Limited, 2002: Letter dated 12 September, 2002 for reference to Sydney Coastal Estuary Swamp Forest Complex;
- (v) Umwelt (Australia) Pty Limited, 2002: Email Response to Department of Mineral Resources Submission, 25 October 2002;
- (vi) Umwelt (Australia) Pty Limited, 2002: Email Response to Community Submissions Part B, 8 November 2002;
- (vii) Payne, R., 2002: Addendum to Assessment of the Black-Eyed Susan, *Tetratheca juncea*. Westside Mine Extension. Ecological Surveys and Management. November 2002; and
- (viii) as modified by the conditions.

1.2 Period of Approval/Project Commencement

(a) This approval is for a period of 21 years from the date of granting of a mining lease pursuant to this consent.

(b) At least two weeks prior to the commencement of construction or within such period as agreed by the Director-General, the Applicant shall submit, for the approval of the Director-General, a compliance report detailing compliance with all the relevant conditions that apply prior to the commencement of construction.

(c) At least two weeks prior to the commencement of Mining Operations or within such period as agreed by the Director-General, the Applicant shall submit for the approval of the Director-General a compliance report detailing compliance with all the relevant conditions that apply prior to the commencement of Mining Operations.

(d) The date of commencement of construction is to be notified in writing to the Director-General and LMCC at least two weeks prior to commencement of construction.

(e) The date of commencement of Mining Operations is to be notified in writing to the Director-General and LMCC at least two weeks prior to commencement of Mining Operations.

1.3 Dispute Resolution

In the event that the Applicant, LMCC or a Government agency, other than the Department of Planning, cannot agree on the requirements applicable under this consent, the matter shall be referred by either party to the Director-General or if not resolved, to the Minister for Planning, whose determination of the disagreement shall be final and binding on the parties.

1.4 Decommissioning

(a) At least 2 years prior to decommissioning of the site, the Applicant shall consult EPA, DLWC, NPWS and LMCC and determine and report on a final strategy for implementation for the future use of the site within Westside Mine holdings to the satisfaction of the DMR and the Director-General.

The final strategy shall include and not be limited to:

- re-instatement of natural drainage to the satisfaction of DLWC;
- removal of structures identified as redundant to the satisfaction of LMCC;
- final land uses of ecological benefit to indigenous flora and fauna; and
- land uses of social benefit to the community in the Lake Macquarie Local Government Area.

(b) Implementation of the final strategy shall commence at the same time as decommissioning commences and shall be completed in a timely manner to the satisfaction of the DMR and the Director-General in consultation with NPWS, EPA, DLWC and LMCC.

2. Mine Management

2.1 Limits on Production

(a) Run of Mine coal production shall not exceed 1 million tpa.

(b) The coal handling and on-site preparation plant shall not process more than 1 million tpa.

2.2 Wakefield Road Hours of Construction

Wakefield Road construction hours shall be between 7am and 6pm Monday to Friday and 7am to 1pm Saturday. No construction work shall take place on Sundays or Public Holidays.

2.3 Hours of Mining Construction and Operation

[1]All activities, apart from security, maintenance and mine water pumping shall be only conducted between the hours of 7.00am to 10pm Monday to Saturday unless otherwise agreed by the Director-General in consultation with the EPA. No activities except security, maintenance and mine water pumping shall take place on Sundays or Public Holidays.

3. Land Environmental Management

3.1 Appointment of Environmental Officer

(a) Prior to the commencement of any works, the Applicant shall engage a suitably experienced Environmental Officer throughout the life of the mine extension whose appointment is to receive prior approval by the Director-General. The Officer(s) shall:

i) be responsible for the preparation of the environmental management plans (refer to Condition 3.2(d));

ii) be responsible for considering and advising on matters specified in the conditions of this consent and compliance with such matters;

iii) be responsible for receiving and responding to complaints in accordance with Condition 10.2;

[1] EPA General Terms of Approval

iv) facilitate an environmental induction and training program for all persons involved with construction, exploration, mining and remediation activities; and

v) have the authority to require all reasonable steps to be taken to avoid or minimise adverse environmental impacts.

(b) The Applicant shall notify the Director-General, DMR, EPA, NPWS, DLWC, LMCC and Community Consultative Committee (refer Condition 10.1) of the name and contact details of the Environmental Officer(s) upon appointment.

3.2 Environmental Management Strategies and Plans

(a) The Applicant shall prepare an Environmental Management Strategy providing a strategic context for the Environmental Management Plans (Condition 3.2(d)). The Environmental Management Strategy shall be prepared following consultation with the NPWS, DLWC, EPA, DMR, LMCC, Department of Planning and the Community Consultative Committee (CCC)(refer Condition 10.1) and to the satisfaction of the Director-General. The strategy shall be provided to the Director-General at the same time the first Environmental Management Plan under sub-clause (d) below is submitted.

(b) The Environmental Management Strategy shall include, but not be limited to:

(i) statutory and other obligations which the Applicant is required to fulfil during construction and operation, including all approvals and consultations and agreements required from authorities and other stakeholders, and key legislation and policies;

(ii) definition of the role, responsibility, authority, accountability and reporting of personnel relevant to environmental management, including the Environmental Officer(s);

(iii) overall environmental management objectives and performance outcomes, during construction, operation and decommissioning of the mine, for each of the key environmental elements for which management plans are required under this consent;

(iv) overall ecological and community objectives for the project, and a strategy for the restoration and management of the areas affected by construction and mining operations, including elements such as wetlands and other habitat areas, creek lines and drainage channels, within the context of those objectives;

(v) identification of cumulative environmental impacts and procedures for dealing with these at each stage of the development;

(vi) overall objectives and strategies to promote economic productivity within the area affected by mining;

(vii) steps to be taken to ensure that all approvals, plans, and procedures are being complied with;

(viii) processes for conflict resolution in relation to the environmental management of the project; and

(ix) documentation of the results of consultations undertaken in the development of the Environmental Management Strategy.

(c) The Applicant shall make copies of the Environmental Management Strategy available to LMCC, EPA, DLWC, NPWS, DMR, MSB and the CCC within fourteen days of approval by the Director-General.

(d) The Applicant shall prepare and implement the following Environmental Management Plans:

- Archaeology and cultural management plan (refer Condition 3.3(a));
- Flora and Fauna Management Plan including landscaping and revegetation (refer Condition 3.4.3(b));
- Lighting Management Plan (refer Condition 3.6(a));
- Bushfire Management Plan (refer Condition 3.7(c));
- Soil and Water Management Plan including an final void management plan (refer Condition 4.1(a));
- Dust Management Plan (refer Condition 5.1.2(a));
- Blasting/Vibration Management Plan (refer Condition 5.2.3(a));
- Road Closure Management Plan (refer to Condition 5.2.4(a));
- Noise Management Plan for construction and operation phases (refer Condition 5.3.3(a)); and
- Materials (including waste) Management Plan (refer Condition 7.1(a)).

The management plans are to be reviewed, and updated as necessary, at least every 5 years or as otherwise approved by the Director-General, in consultation with the relevant government agencies.

(e) The Applicant shall make copies of the Environmental Management Plans in Condition 3.2(d) available to the relevant government agencies and LMCC, and ensure the plans are made publicly available within two weeks of approval by the Department of Planning.

3.3 Heritage Assessment, Management and Monitoring

(a) The Applicant shall prepare an Archaeology and Cultural Management Plan to address Aboriginal cultural heritage issues. The Plan shall be prepared in consultation with the Koompahtoo Local Aboriginal Land Council (LALC) and NPWS to the satisfaction of the Director-General. The Plan shall include and not be limited to:

(i) details of consultation undertaken with the Koompahtoo LALC in the preparation of this Plan;
(ii) a protocol to ensure:
- adequate notification of the opportunities to assess the potential for indigenous heritage sites/items prior to the commencement of clearing within areas of archaeological potential identified on Figure 5.2 of Appendix 9 and in the recommendations of Appendix 9 (in the EIS) and for the presence of a LALC representative(s) during clearing; and
- consistentency with NPWS requirements, should an Aboriginal heritage site/item be discovered;

(iii) provision of management strategies for Aboriginal heritage sites for all parts of the DA area not affected by mining;
(iv) identification of any future salvage, excavation (including test pitting) and monitoring programs for any heritage/archaeological sites within the DA area, prior to and during development; and
(v) management procedures and protocols for issues relating to Aboriginal heritage for all stages of the development (training of field crews, staging of works, salvage etc).

(b) All reasonable costs associated with site monitoring by the LALC shall be borne by the Applicant.

<u>Monitoring</u>

(c) The Applicant shall monitor the effectiveness of the measures outlined in the Archaeology and Cultural Management Plan (Condition 3.3(a)). A summary of the monitoring results shall be included in the AEMR.

Note	No Aboriginal archaeological sites, that have been identified, shall be destroyed without the approval of the Director-General of NPWS, under section 90 of the *National Parks and Wildlife Act 1974*, prior to any disturbance of the identified sites by construction and Mining Operations.

3.4 Flora and Fauna Assessment, Management and Monitoring

3.4.1 <u>Conservation Areas</u>

(a) The Voluntary Conservation Agreement (VCA) for the conservation of 18 hectares of Sydney Coastal Estuary Swamp Forest Complex (SCESFC) on OCAL land north of Rhondda Road shall be developed in consultation with NPWS and the Department of Planning within 6 months of the date of development consent and finalised within 12 months of the development consent or as otherwise approved by the Director-General and to the satisfaction of the Director-General.

(b) The VCA for the conservation of *Tetratheca juncea* Sites 2, 6, 7, 8 and 9 (all as one unit) shall be developed in consultation with NPWS and the Department of Planning within 6 months of the date of development consent and finalised within 12 months of the development consent or as otherwise approved by the Director-General, to the satisfaction of the Director-General; and

(i) in relation to Site 6 the Applicant shall consult LMCC and State Forests regarding the long term conservation of this area;
(ii) in relation to Site 7, the Applicant shall exchange correspondence with the owner on which part of Site 7 is located, confirming agreement of exchange of land, in order to transfer the land of which part of Site 7 occurs, to the ownership of OCAL; and
(iii) should any part of the land associated with Sites 2, 6, 7, 8 and 9 not be available, the Applicant shall investigate and report on whether an equivalent habitat offset is available consistent with Payne, R. 2000*: Lake Macquarie Tetratheca juncea Conservation Management Plan* Ecological Surveys and Management to the satisfaction of the Director-General.

(c) For the SCESFC area and sites of *T. juncea*, identified in Conditions 3.4.1(a) and (b), the Conservation Area shall be defined by a suitably qualified specialist. The boundaries of each Conservation Area shall be surveyed and marked by a suitably qualified surveyor using a recognised accurate surveying technique with the assistance of a botanist previously involved in identifying the complete extent of each site.

(d) The Conservation Management Plan shall consider any appropriate conservation and management measures for the utilisation of these areas by threatened fauna species that may potentially occur within the areas.

(e) The Applicant shall make copies of the Conservation Management Plan(s) available to NPWS, LMCC and the Community Consultative Committee within 14 days of approval by the Director-General.

(f) The Flora and Fauna Management Plan shall be consistent with the Management Plans for the Conservation Areas.

(g) Any activities associated with the VCAs shall be reported in the AEMR.

3.4.2 Fauna Surveys

(a) Prior to the commencement of any works the Applicant shall commence, when seasonally appropriate, surveys for the following species: Squirrel Glider, Little Bent-wing Bat, Large Bent-wing Bat and the Masked Owl, Grey-crowned Babbler, Hooded Robin, Black-chinned Honeyeater, Brown Treecreeper, Speckled Warbler, Diamond Firetail, Regent Honeyeater, Turquoise Parrot and Swift Parrot. This survey effort shall be applied for a minimum of three years to the satisfaction of the Director-General and shall make recommendations to optimise the potential habitat for these species with respect to the rehabilitation effort consistent with Condition 3.4.3(c)(vi).

3.4.3 Flora and Fauna Management

(a) The Applicant shall bear the reasonable cost of the appointment, by the Director-General of an independent flora and fauna expert(s) to assist in the implementation of the Conditions of Consent. The independent expert(s) shall:
  (i) be selected in consultation with the Applicant;
  (ii) assess and advise the Director-General on the Applicant's proposed Conservation Areas and management plans for those areas;
  (iii) assess and advise the Director-General on the Applicant's proposed Indigenous Vegetation Conservation area (s);
  (iv) assess and advise the Director-General on the Applicant's proposed Flora and Fauna Management Plan and Rehabilitation Plan; and
  (v) assess and advise the Director-General on the Applicant's monitoring of Flora, Fauna and rehabilitation.

(b) The Flora and Fauna Management Plan (FFMP) shall be developed in consultation with LMCC and the Department of Planning and developed prior to construction and finalised within 12 months of the development consent or as otherwise approved by the Director-General and to the satisfaction of the Director-General. The Plan shall be prepared by an appropriately qualified and experienced ecologist and shall include but not be limited to measures to minimise potential impacts on threatened and protected species. The ecologist shall be responsible for providing advice to minimise potential impacts upon threatened and protected fauna species that may utilise the site and to provide expert advice on the regeneration and reconstruction of flora and fauna habitat on mined areas. The Applicant shall make final copies of the FFMP available to NPWS, DLWC, LMCC and CCC within 14 days of approval by the Director-General.

(c) The Flora and Fauna Management Plan shall include but not be limited to:

(i) the clear definition of the mine extension boundaries and associated roadworks. To ensure on site definition, these boundaries shall be flagged or fenced to retain the adjacent habitats before clearing commences;

(ii) a vegetation map delineating major vegetation communities, threatened flora species and communities, topographic features and the location of threatened species habitats including nest and roost trees;

(iii) details of measures to manage the impacts of the development, including:
- management of invasive weed species including on stockpile areas, feral animals and introduced species including Mosquito Fish;
- establishment of an appropriate hazard reduction regime in keeping with the ecological values of the area;
- pre-clearing surveys and the welfare of fauna affected by clearing including protection during trapping and releasing of fauna that may be impacted by construction activities;
- staged clearing whereby non-habitat trees and under scrub are removed first;
- protection of areas of remnant vegetation within the DA area that are outside the mine impact area;
- prevention and rehabilitation of land degradation;
- protection of areas from hydrological changes and runoff; and
- revegetation and the provision of compensatory areas of equivalent ecological and habitat value where necessary.

(iv) details of measures to manage the impacts of environmental management on flora and fauna, including the impact of erosion and sediment control measures and hazard reduction burning;

(v) priorities for action and a timetable for all works outlined in the Plan;

(vi) a program to monitor flora and fauna impacts on disturbed and undisturbed portions of the mining lease area and downstream environments. The program shall extend from the commencement of clearing for the life of the mine extension and for a period thereafter as approved by the Director-General, and shall include:
- justification for monitoring intervals and locations;
- monitoring of the presence and persistence of native flora and fauna species over time, particularly threatened species;
- monitoring the progress of revegetation with native species and the progression to final species diveristy;
- monitoring and measures to ensure environmental flows in Cockle Creek are not adversely impacted; and
- monitoring the effectiveness of management measures including revegetation measures during and following mining activities to assess the success of ameliorative measures.

(vii) evidence of licences held from NPWS in relation to handling and monitoring threatened species. The Applicant shall ensure that personnel are suitably licenced under the provisions of the National Parks and Wildlife Act and Threatened Species Conservation Act, as relevant to the proposed activities;

(viii) implementation of a feedback/review mechanism to ensure land management adapts to changing site and environmental conditions; and

(ix) as part of the Plan, the Applicant shall ensure that:
- immediately following the construction of culverts, cover for fauna shall be provided in cleared areas associated with the culvert construction to provide cover across cleared land to vegetated areas;
- at least one area of sufficiently tall trees for glider crossings shall be retained close to the road on either side of the road crossing to enable glider crossing;
- revegetation shall be undertaken on those areas, including the section of disused Rhondda Road within six months of cessation of use of that section of Rhondda Road;
- any changes to the hydrological regime of Cockle Creek shall be minimised;

- clearing on any native vegetation is minimised;
- hollow-bearing tree resources including roosts for bats, Squirrel Gliders and other arboreal fauna are maintained in size, number, height and direction within the DA area either through preservation in situ, relocation or provision of boxes. These shall be provided prior to clearing. Monitoring of use of nest boxes shall be undertaken on a seasonal basis and reported through the monitoring report to the satisfaction of the Director-General.

(d) The Flora and Fauna Management Plan shall include but not be limited to details of the measures to be undertaken to progressively rehabilitate disturbed areas of the mine to be similar to the original vegetation cover that existed before mining occurred. The Applicant shall be responsible for the management and monitoring of the rehabilitated mine site until such time as the Director-General agrees that restoration has been successful. The revegetation shall include the following:

(i) Seeds of locally indigenous native species shall be collected prior to the commencement of construction to provide seed stock for revegetation purposes by a qualified bushland regeneration officer as identified by the Australian Association of Bushland Regenerators as appropriate to the site. Topsoil and leaf mulch shall be stripped and stored for placement back in the area undergoing rehabilitation, subject to Condition of Consent 3.4.3(c)(iii);

(ii) plantings/revegetation shall ensure vegetation listed in the Hunter Regional Organisation of Councils (HROC) *1750 Pre-settlement Extant Vegetation*, the *Lower Hunter Central Coast Regional Environmental Management Strategy (REMS)* and Lake Macquarie City Council (1998) *Lake Macquarie City Wide Vegetation, Fauna Habitat and Biodiversity Mapping Project* for the site and adjacent areas are re-established, as appropriate in consultation with NPWS and to the satisfaction of the Director-General;

(iii) weed infested topsoil, as identified by a qualified ecologist, shall not be used in the rehabilitation works unless it is sterilised or treated in an appropriate manner;

(iv) a report summarising the progress towards original diversity in the final composition of the revegetated areas shall be submitted to the satisfaction of the Director-General and NPWS every two years;

(v) the Applicant shall monitor and maintain all proposed vegetation plantings for a minimum of three years after the completion of mining and shall undertake measures to control weeds; and

(vi) cleared vegetation shall be reused or recycled to the greatest extent practicable. Reuse options shall include providing native animal refuges, mulching and chipping unusable vegetation waste for on site use.

(e) All elements of the Flora and Fauna Management Plan which are required prior to the finalisation of the Plan, shall be undertaken as if the Plan had been completed to the satisfaction of the Director-General.

(f) The Applicant shall revise the Flora and Fauna Management Plan as necessary and provide an updated Plan five years after commencement of mining to the Director-General, NPWS, Councils and the Community Consultative Committee.

(g) As part of the AEMR, the Applicant shall submit a report to the satisfaction of the Director-General and NPWS with respect to the above matters and shall comply with all reasonable requirements of the Director-General and the NPWS with respect to measures arising from, or recommendations in, the report and related matters.

3.5 Site Rehabilitation Management

The Applicant shall carry out rehabilitation of all mine areas in accordance with the requirements of any Mining Lease granted by the Minister for Mineral Resources and shall ensure that the progressive rehabilitation of the area is also to the satisfaction of DLWC.

3.6 Visual Amenity and Landscaping

(a) The Applicant shall, prior to commencement of construction in areas potentially visible from Wakefield, prepare, or review and update, a Lighting Management Plan in consultation with LMCC, and to the satisfaction of the Director-General. The Plan shall include details of the implementation of visual controls to screen, direct or manage all on-site lighting from mine related activities with respect to residences and roadways. The Plan shall include, but not be limited to:

(i) details of the planting of vegetation screens along the mine boundary, such as along the Wakefield Road, to screen potential lighting impacts;
(ii) details of technical measures and work practices necessary to minimise the spillage of light from areas to be illuminated, and to minimise the total night time glow from the mine;
(iii) details of the construction or placement of visual screens and/or overburden emplacements to screen lighting impacts;
(iv) details of the proposed process and measures to address complaints that may be received from residents or road users impacted by lighting from the mine site; and
(v) details of any other effective operating practices to manage potential lighting impacts.

(b) The Applicant shall report on the effectiveness of the lighting emission controls in the AEMR.

(c) All external lighting associated with the Westside Mine facility shall comply with Australian Standard *AS4282(INT) 1995 – Control of Obtrusive Effects of Outdoor Lighting.*

(d) A Landscape and Revegetation Management Plan shall be prepared by the Applicant and approved by the Director-General within 6 months of development consent . The Plan shall be prepared in consultation with the LMCC. The Plan shall include, but not limited to, the following:

(i) An on-site landscaping strategy detailing design and proposed planting of trees and shrubs and the construction of mounding or bunding:

1) around water storage dams visible from Wakefield or Wakefield Road;
2) in areas of the present alignment of Wakefield Road which are redundant to mining and transport requirements;
3) the overburden emplacements; and
4) at any other areas identified as necessary by LMCC for the maintenance of satisfactory visual amenity, and as agreed by the Director-General.

(ii) screening for adjacent non-mined owned properties. Screening shall be provided in consultation with the relevant landowners;
(iii) appropriate erosion and sediment control practices for earthworks associated with the landscaping.
(iv) the process of incorporating vegetation screening and fauna protection corridors into the proposed visual and landscaping works; and
(v) use of indigenous species as identified in Condition 3.4.3(d);

(e) In the event that a landowner considers that the visual impacts from the proposal are greater than those predicted in the EIS at the landowner's dwelling, the Applicant shall, upon the receipt of a written request, consult the landowner and, where necessary, implement appropriate mitigation measures.

(e) Should the Applicant and / or landowner dispute the level of impact or any proposed mitigation measures from subclause (d) above, then either party may refer the matter to the Director-General. If the matter cannot be resolved within 21 days, the matter shall be referred to an Independent Dispute Resolution Process. The decision of the Independent Dispute Resolution Process shall be final, as agreed by the Director-General.

(f) The visual amenity provided by the ridge line on the western side of Wakefield Road shall be preserved and shall not be affected by highwall or augering mining methods.

3.7 Bushfire and other Fire Controls

The Applicant shall:

(a) provide adequate fire protection works on site, including the availability of trained personnel, fire fighting equipment and annual hazard reduction measures;

(b) make fire fighting equipment available to the Rural Fire Service and emergency services when required; and

(c) within 6 months of development consent prepare a Bushfire Management Plan for the DA area in consultation with LMCC and to the satisfaction of the Rural Fire Service.

4. <u>Water Management and Monitoring</u>

4.1 Management

(a) The Applicant shall prepare or review and update the existing Soil and Water Management Plans (SWMP) in consultation with the DLWC and LMCC. The Plan shall be prepared in accordance with the Department of Housing's Manual *Managing Urban Stormwater* (1998) and taking account of the DLWC *Draft Guideline for Establishment of Stable Drainage Areas on Rehabilitated Minesites* or its latest version, and to the satisfaction of the Director-General and DLWC. For the construction and operation stages, the Plans shall be developed prior to the commencement of any activities associated with that stage and finalised within 6 months of the commencement of those activities or as otherwise approved by the Director-General. For the receipt of material for void filling from outside the DA area and other purposes, the revision of the SWMP for this section shall be provided at least one year prior to the commencement of receipt. All works required prior to the finalisation of the SWMP shall be undertaken in accordance with the SWMP as if it had been finalised.

(b) The SWMPs shall include but not be limited to:

(i) details of sediment and erosion control systems to be used during both mine construction, operation and rehabilitation;

(ii) measures that will be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters at any time;

(iii) details of the proposed measures to maximise the retrieval of topsoil for subsequent use in the rehabilitation program;

(iv) measures to manage erosion and sedimentation of surface watercourses/waterbodies, including all creeklines within the DA area;

(v) measures to manage stormwater and general surface runoff diversion to ensure separate effective management of clean and dirty water;

(vi) a program for reporting on the effectiveness of the sediment and erosion control systems and groundwater quality. Reporting shall be provided as part of the AEMR unless otherwise agreed by the Director-General;

(vii) contingency plans for managing adverse impacts of the development on surface and groundwater quality;

(viii) details of any water pumped to or from Rhondda Colliery or other sites. The volume of any such water transfers is to be documented in the AEMR;

(ix) details of a strategy for the decommissioning of water management structures, including dirty water dams and clean water diversion dams;

(x) details of any licencing requirements for extraction, storage, or other construction on the site;

(xi) [2]provision for prompt notification to the DLWC of the permanent cessation of its operations by which groundwater is abstracted directly or indirectly from the area. Upon such notification the Licence Holder shall:

- provide evidence that all areas affected by dewatering (and any associated activity) have been rehabilitated/restored to pre-mining or otherwise agreed condition; and
- undertake further rehabilitation work based on the findings of any investigation into the performance of the licence holder's cessation obligations or as required by DLWC.

(c) [3]The Applicant shall obtain a licence from DLWC under Part 5 of the *Water Act* 1912 for monitoring and production bores for the proposal and pumping and containment works for the extraction of groundwaters and other works which intercept the groundwater table, including open cut and underground workings;

(d) [4]Any work associated with the Project shall not commence until a formal licence has been issued by DLWC as required under section 112 of the *Water Act* 1912.

(e) [5]Except as may be expressly provided by a licence under the Protection of the Environment Operations Act 1997 in relation to the development, section 120 of the *Protection of the Environment Operations Act* 1997 shall be complied with in and in connection with the carrying out of the development.

(f) The works associated with the proposal shall not damage or interfere in any way with:
(i) vegetation outside the area of operation in the DA area other than that required for mine clearing;
(ii) the stability of adjacent or nearby streams including Cockle Creek; or
(iii) the quality of water discharged from the site remaining below the water quality limits identified in Condition 4.4.1 at all times.

(g) drainage associated with the realigned section of Wakefield Road, construction of box culverts on Diega Creek, clearing along the creek channel upstream of Culvert 3 and scour protection in the form of embankments downstream of Culvert 1on Diega Creek shall be designed to minimise afflux for the 1:50 and 1:100 year Average Recurrence Interval (ARI) floods to the satisfaction of DLWC.

(h) Any works associated with construction in the vicinity of creeks and drainage lines shall minimise disturbance to vegetation and prevent scouring and erosion.

(i) All reasonable measures shall be undertaken to protect all other vegetation on the site and on adjoining lands from damage during construction. Such measures shall include but not be limited to:

- clearly marking trees to be retained;
- avoiding compaction of ground around trees to be retained;
- clearly delineating the area of disturbance, and keeping all vehicles, construction materials and refuse within that area; and
- limiting the number of access points.

<u>4.1.1 Council Road Requirements</u>

(a) As part of the SWMP, works on Council roads associated with this development shall be undertaken in accordance with the appropriate requirements set out in Consent Condition 4.1 and in [6]accordance with LMCC's *Erosion and Sediment Control Policy* (Appendix 'K' of Council's Subdivision Code).

(b) The construction/operation [7]SWMPs shall be submitted and approved prior to the issue of LMCC's Construction Certificate. All site works shall be carried out in accordance with the approved Plan(s) and no

[2] DLWC General Terms of Approval
[3] DLWC General Terms of Approval
[4] DLWC General Terms of Approval
[5] EPA General Terms of Approval
[6] LMCC General Terms of Approval
[7] LMCC General Terms of Approval

work shall commence on site until the erosion and sediment control works specified in the Plan are in place and their placement has been approved by the Principal Certifying Authority. No works shall commence prior to the issue of a Construction Certificate and all works shall be completed prior to the issue of a Compliance Certificate/Subdivision Certificate.

(c) [8]The Applicant shall construct silt traps and all necessary runoff diversion works and sediment trapping devices to prevent top soil, road base or other material from entering any drainage easements, drainage system, natural watercourses downstream of the site or Lake Macquarie during construction works. Plans and calculations for such erosion controls shall be submitted prior to the issue of a Construction Certificate and the works shall be completed as part of the initial construction work in the first stage of the development. Minor additional works may be approved by the Principal Certifying Authority during construction works.

(d) [9]The Applicant shall arrange for the design and construction of stormwater drainage works in accordance with the requirements of the publications and standards identified in this consent.

(e) [10]The Applicant shall submit to LMCC a Compliance Certificate or certification from a suitably qualified Geotechnical Consultant verifying that the filling required is supplied and placed in accordance with the requirements of Australian Standard 3798 - 1990.

(f) [11]Trees and other vegetation shall only be removed from the site of road, drainage and regrading works as approved in the Construction Certificate. An application shall be made to Council in accordance with Council's Tree Preservation Policy for the removal of any other trees.

4.2 Groundwater

(a) [12]The Applicant shall permit DLWC or any person authorised by it, full and free access to the mine site and works during construction, operation and rehabilitation, for the purpose of carrying out any inspection or test of the works for protection of the quality and prevention from pollution or contamination of sub-surface water. Any inspections of the site by DLWC shall be carried out in consultation with the mine operator and meet the mine's reasonable safety requirements.

(b) [13]The Applicant shall install an appliance(s) to measure the quantity of water extracted from the works such that the location, type, and construction of the appliance are to the satisfaction of DLWC. The appliance(s) shall consist of either a measuring weir or weirs with automatic recorder, or meter or means of measurement as may be approved by DLWC. The appliance(s) shall be maintained in good working order and condition. A record of all water extracted from the works shall be kept and supplied to DLWC upon request. The Applicant, when requested, shall provide a test certificate as to the accuracy of the appliance(s) furnished either by the manufacturer or by some person or authority duly qualified.

(c) [14]An application shall be lodged for a licence to sink a bore under Part 5 of the *Water Act* 1912 in accordance with the Water (Part 5) General Regulation 1995 with details as required by the DLWC.

(d) [15]Any bore driller engaged to construct any work associated with the mine extension shall be licenced pursuant to section 118A of the *Water Act* 1912.

(e) Water shall not be discharged into any watercourse or source of groundwater unless it meets the requirements of the *Protection of the Environment Operations Act* 1997 to the satisfaction of the EPA.

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[8] LMCC General Terms of Approval
[9] LMCC General Terms of Approval
[10] LMCC General Terms of Approval
[11] LMCC General Terms of Approval
[12] DLWC General Terms of Approval
[13] DLWC General Terms of Approval
[14] DLWC General Terms of Approval
[15] DLWC General Terms of Approval

(f) Works used for the purpose of conveying, distributing or storing water from the work authorised by a DLWC licence shall not obstruct the free passage of floodwaters.

(g) [16]The Applicant shall, at its cost, prepare for submission to DLWC, a groundwater assessment report and management strategy which:

(i) reviews the impacts that the construction and mining operations have on any aquifer and any water resources in the area;
(ii) outlines a methodology and rationale demonstrating how construction and mining operations do/will not cause the quality of the groundwater or any connected surface water systems in the area to deteriorate below acceptable water quality limits in the medium to long term; and
(iii) [17]demonstrates the barrier distance to the alluvial fringe to Diega Creek provides adequate protection to groundwater flux and groundwater dependent ecosystems.

(h) [18]To maintain groundwater regimes in their current form, the following shall be implemented:
(i) The existing intact riparian buffer to Diega Creek shall be maintained. This area shall be delineated along the vegetation community of Sydney Coastal Estuary Swamp Forest Complex. Marker species for shallow groundwater dependent ecosystems include members of the Swamp Open Forest and moist soaks mapped in Appendix 6 of the EIS. Unless otherwise varied by these Conditions, the relevant recommendations of EIS Appendix 6, Sections 4.2 and 5 shall be implemented;
(ii) with respect to Cockle Creek, repairs and enlargement of the crossing over Cockle Creek shall be kept below a width of 10 metres through the vegetation community;
(iii) drainage controls to the haulage road and sediment basins shall be kept outside the riparian vegetation corridor with the exception of drainage and sediment controls related to the bridge and entry ramps leading to the crossing; and
(iv) [19]should the groundwater regime deteriorate below limits as defined by DLWC for the SCESFC as a result of mining induced changes to groundwater regime, a remediation strategy shall be implemented, which is aimed at protection of the groundwater dependent ecosystem of the SCESFC to the satisfaction of DLWC.

4.2.1 Groundwater Monitoring

(a) [20]As part of the SWMP, the Applicant shall prepare and implement a Groundwater Monitoring Program to the satisfaction of the DLWC to monitor the effects of the operational and post-operational impacts on groundwater, connected surface water sources and any groundwater-dependent ecosystems.

(b) The Program shall be provided to DLWC at least 1 month prior to the commencement of works in the vicinity of the monitoring points or as otherwise approved by the Director-General in consultation with DLWC and shall include, but not be limited to:

(i) locations of monitoring bores both up gradient and down gradient of the operations;
(ii) parameters/analytes to be monitored, including procedures and protocols for sampling and testing;
(iii) periodic monitoring of groundwater quality, at a frequency of no less than once every 6 months;
(iv) details of a baseline survey to establish groundwater quality prior to the commencement of operations;
(v) details of groundwater quality limits that would indicate contamination from the operations; and
(vi) a contingency plan in the event that contamination occurs.

[16] DLWC General Terms of Approval
[17] DLWC General Terms of Approval
[18] DLWC General Terms of Approval
[19] DLWC General Terms of Approval
[20] DLWC General Terms of Approval

(c) [21]The monitoring program shall focus on mining induced changes to local groundwater regimes in the buffer to the SCESFC and Diega Creek and the hard rock barrier to the mine pit.

(d) [22]The Applicant shall submit an Annual Report to the satisfaction of DLWC which shall include:

(i) the annual monitoring undertaken including where the activity has resulted in water quality impacts; and
(ii) compliance with licence conditions.

(e) The monitoring program shall be incorporated in the Soil and Water Management Plan and shall include the duration (pre, during and post mining), sites to be sampled, frequency of sampling, the parameters to be measured, the need for any contingency plans, the reporting procedure and determination of appropriate cut-off criteria for monitoring purposes determined in consultation with DLWC. The monitoring program for post-mining shall be prepared by year 6 of mine operations.

(f) The results of monitoring shall be provided in the AEMR. Information provided shall include but not be limited to:

(i) a basic review of the results for the previous year against the baseline data from the same bore;
(ii) an interpretation of the water quality results and changes in time for water quality and water levels (supported with graphs, contour plots showing changes in aquifer pressure levels) as appropriate; and
(iii) an interpretation of the water balance identifying the volume and make up of mine pit inflows as compared to Part V licence (required under Part V of the *Water Act 1912*), and predictions made in the previous AEMR.

4.3 Surface Water

(a) A waste water management system shall be constructed and operated to manage the collection, storage, treatment, use and disposal of mine water and other wastewater.

4.3.1 Surface Water Monitoring

(a) [23]For each monitoring/discharge point specified in Table 1 below, the concentration of pollutant discharged at that point, or applied to that area, shall not exceed the concentration limits specified for that pollutant in Table 1, unless otherwise directed or approved in writing by the EPA:

Note: To avoid any doubt, this condition does not authorise the pollution of waters by any other pollutant other than those specified in the tables to the limits given.

Table 1. Water limits for discharge from Sediment dams M, L, O

Pollutant	Units of measure	100 percentile concentration limit
Total Suspended Solids	mg/L	50
pH	pH	6.5-8.5

(b) [24]For each monitoring/discharge point specified in Tables 2 and 3 below, the Applicant shall monitor (by sampling and obtaining results by analysis) each pollutant specified in accordance with the Tables 2 and 3 unless otherwise directed or approved in writing by the EPA:

[21] DLWC General Terms of Approval
[22] DLWC General Terms of Approval
[23] EPA General Terms of Approval
[24] EPA General Terms of Approval

Table 2. Water monitoring for discharge from Sediment Dam N

Pollutant	Units of measure	Frequency	Sampling Method
Total Suspended Solids	mg/L	Weekly	Grab Sample
pH	pH	Weekly	Grab Sample
Conductivity	μg/L	Weekly	Grab Sample

Table 3. Water monitoring for discharge from Sediment Dams M, L, O

Pollutant	Units of measure	Frequency	Sampling Method
Total Suspended Solids	mg/L	Weekly	Grab Sample
pH	pH	Weekly	Grab Sample

(c) The Applicant shall commence monitoring prior to the commencement of works and shall report the results of the monitoring program in the AEMR except where any exceedence is recorded. Any exceedence shall be reported within 3 months of occurrence to the satisfaction of the Director-General.

4.4 Void Management

(a) The Applicant shall, at least two years prior to completion of mining from the Southern Extension of Westside Mine, prepare a Final Void Management Plan to the satisfaction of the Director-General, in consultation with the DMR, DLWC, and LMCC. The Plan shall include, but not be limited to, the following:

- (i) details of a strategy for the long term management of the final voids and the water contained in them;
- (ii) strategies that shall be implemented to minimise any adverse impacts where the assessment indicates the potential for degradation to surrounding water resources; and
- (iii) any further requirements as set out at that time through consultation with the Director-General, DMR, DLWC, and LMCC.

5. Air Quality, Blast and Noise Management and Monitoring

5.1 Air Quality Management and Monitoring

5.1.1 Air Quality Standards/Goals

The Applicant shall manage the Project to satisfy EPA air quality criteria for dust deposition and particulate matter in Tables 4, 5 and 6 below:

Table 4. Long Term Particulate Matter Criteria

Pollutant	**Criterion**	**Agency**
Total Suspended Particulate Matter (TSP)	90μg/m^3 (annual mean)	NH&MRC
Particulate matter < 10μm (PM_{10})	30μg/m^3 (annual mean)	NSW EPA

Table 5. Short Term Particulate Matter Criterion

Pollutant	Criterion	Agency
Particulate matter < 10μm (PM_{10})	50μg/m^3 (24 hour average)	NSW EPA

Table 6. Long Term Criteria for Dust Deposition

Pollutant	Averaging Period	Maximum Increase in Deposited Dust Level	Maximum Total Deposited Dust Level
Deposited dust	Annual	2 g/m^2/month	4 g/m^2/month

Note: Dust is assessed as insoluble solids as defined by AS 3580.10.1-1991 (AM-19)

5.1.2 Dust Management Plan

(a) The Applicant shall, within 3 months of development consent, prepare or review and update the existing Dust Management Plan. The Plan shall be prepared in consultation with the EPA and LMCC and to the satisfaction of the Director-General. The Plan shall include, but not be limited to, details of:

(i) the identification of properties which are likely to be affected by dust generated by the mine in accordance with the criteria identified in condition 5.1.1;

(ii) a procedure for notifying property owners and occupiers identified, either in the EIS or through monitoring, as likely to be affected by dust generated by the mine in excess of criteria identified in condition 5.1.1;

(iii) mitigation measures to minimise dust emissions during both the construction and operation phases;

(iv) appropriate mechanisms for community consultation;

(v) the establishment of a protocol for handling dust complaints that includes recording, reporting and acting on complaints;

(vi) methods and frequency of making dust monitoring data publicly available, such as the placement of monitoring details and results on the internet ; and

(vii) a program to undertake ambient monitoring of TSP and PM_{10} concentrations and dust deposition rates at nearest sensitive receptors determined in consultation with the EPA and to the satisfaction of the Director-General.

(b) The Plan shall include a procedure to address potential particulate matter impacts on residential tenants that is prepared in consultation with EPA, NSW Health and landowners of affected residences in Table 7 and any other property which is identified through monitoring:

Table 7. Properties at which a procedure shall be developed to address health concerns of tenants

Location	Landowner*
W	Macquarie Coal Joint Venture
Y	Macquarie Coal Joint Venture
Z	Macquarie Coal Joint Venture

* at date of development consent being granted

The procedure shall:

(i) ensure that all existing and potential tenants of identified properties are advised in writing of the increase in particulate levels likely to occur at those locations during the operational life of the mine and that these increases are likely to result in exceedences of the criteria in Condition 5.1.1. Information shall also be provided to the residents on the available research relating to the health effects of fine particulate matter;

(ii) ensure that the advice provided to current and future tenants is based on current knowledge of ambient air quality monitoring, dispersion modelling results and air quality criteria; and

(iii) provide a mechanism for providing ambient air quality, dispersion modelling results and air quality criteria to the residents of these affected residences.

(c) The Dust Management Plan shall be implemented in a timely manner to the satisfaction of the Director-General.

5.1.3 Air Quality and Dust Monitoring

(a) The Applicant shall:

(i) monitor dust deposition rates and the concentration of TSP and PM_{10} in accordance with a Dust Monitoring Plan submitted to the EPA with an application for a licence variation. The Environment Protection Licence will include conditions specifying the location, frequencies and methods used to monitor air emissions. The results of this monitoring and reporting shall be incorporated into the AEMR;

(ii) monitor for all three variables for any period of works for which the dust management plan is not available;

(iii) commence monitoring prior to the commencement of works and shall report the results of the monitoring program in the AEMR except where an exceedence is recorded. Any exceedence shall be reported within 3 months of the occurrence to the satisfaction of the Director-General;

(iv) include sites for monitoring the impacts of particulate matter at the nearest non-mine owned residences and at locations as may be determined to be necessary by the Director-General and in accordance with the Dust Management Plan referred to in Condition 5.1.2(a). These site shall include and not be limited to the sites identified in Condition 5.1.3(a)(iii) below;

(v) [25]for each monitoring point specified below (in Table 8), the Applicant shall monitor (by sampling and obtaining results by analysis) for each pollutant specified in Column 2. The licensee shall use the sampling method, units of measure and sample at the frequency, specified in Table 8, unless otherwise directed or approved in writing by the EPA; and

Table 8. Initial particulate monitoring sample points

Location	Pollutant	Unit of Measure	Frequency
No. 9 Wakefield Road	Particulates – Deposited Matter	g/m^2/month	Monthly
High Volume Air Sampler monitoring point located on School Road as shown on Figure 3.2 in the EIS for this Project	Particulate Matter PM_{10}	$\mu g/m^3$	One day in 6 days

(b) In the event that a landowner or occupier considers that dust at his/her dwelling is in excess of the criteria provided in Tables 4, 5 and 6 above or a landowner, having selected a suitable site for a dwelling on his/her vacant land, considers that dust from the project at his/her future dwelling would be in excess of the criteria provided in Tables 4, 5 and 6 above, and that the Director-General is satisfied that an investigation is required, the Applicant shall, upon the receipt of a written request from the landholder, in a timely manner:

[25] EPA General Terms of Approval

(i) consult with the landowner or occupant affected to determine his/her concerns;

(ii) make arrangements for, and bear the costs of appropriate independent investigations in accordance with the Dust Management Plan, and to the satisfaction of the Director-General, to quantify the impact;

(iii) modify the mining activity or take other steps in accordance with the Dust Management Plan if exceedences are demonstrated by the independent investigations. This action may include:

1) introduction of additional controls to minimise air quality impacts; and
2) negotiate, as far as reasonably practicable, to the satisfaction of the Director-General, an agreement with the landowner or provide acceptable compensation for the air quality impacts experienced.

(iv) conduct follow up investigation(s) to the satisfaction of the Director-General, where necessary.

Note: Vacant land in this condition means the whole of the lot in a current plan registered at the Land Titles Office as at the date of this consent that does not have a dwelling situated on the lot and is permitted to have a dwelling on that lot.

(c) If the independent investigations in sub-clause (b) above confirm that air quality impacts are in excess of the criteria provided in Tables 4 and 6 above, and if the measures in sub-clause (b)(iii) (1) above do not reduce the air quality impacts below the criteria in Tables 4 and 6, or if agreement in accordance with sub-clause (b)(iii) (2) above cannot be reached, the Applicant shall, at the written request of the owner, acquire the relevant property. Acquisition shall be in accordance with the procedures set out in Condition 11.1.

(d) At the same time as Condition 5.1.3(c) above, if the independent investigations in 5.1.3(b) confirm that air quality impacts at the residence or proposed residence are in excess of the criterion provided in Table 5 above, and if the measures in Condition 5.1.3(b)(iii) above do not reduce the air quality impacts below the criterion in Table 5, or if agreement in accordance with Condition 5.1.3(b)(iii)(2) above cannot be reached, the Applicant shall assess the ambient air quality against the criteria set out in Table 9 below:

Table 9. Short Term Particulate Matter Acquisition Criteria

Pollutant	Criterion	Agency
Particulate matter < 10μm (PM_{10})	50$\mu g/m^3$ (contribution of the project to ambient levels)	NSW EPA
Particulate matter < 10μm (PM_{10})	150$\mu g/m^3$ (cumulative)	US EPA

(e) if the independent investigations in subclause (b) above confirm that air quality impacts at the residence or proposed residence are in excess of either of the criteria provided in Table 9 above, the Applicant shall, at the written request of the owner, acquire the relevant property. Acquisition shall be in accordance with the procedures set out in Condition 11.1.

(f) If a landowner disputes any mitigation or other measures proposed by the Applicant in accordance with subclause (b) above, the matter shall be referred by either the Applicant or landowner to the Director-General in consultation with LMCC. If this matter cannot be resolved within 21 days, the matter shall be referred to the Independent Dispute Resolution Process.

(g) Further independent investigation(s) shall cease if the Director-General is satisfied that the criteria in Tables 4, 5 and 6 are not being exceeded and are unlikely to be exceeded in the future.

(h) For those properties identified in the EIS and in Table 10 below, as likely to experience exceedence of the acquisition criteria of Table 6, the Applicant shall, at the written request of the landowner, purchase or exchange these properties in accordance with the Acquisition Management Plan (Condition 11).

Table 10. Properties identified at which acquisition criteria would be exceeded

Location	Landowner*
X	R Peel and V. Dewez

* at date of development consent being granted

5.1.4 Dust Suppression and Control

(a) The Applicant shall ensure the prompt and effective rehabilitation of all disturbed areas of the DA area following the completion of mining and associated activities in that area to minimise the generation of wind blown dust.

(b) Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

5.2 Blast Management and Monitoring

(a) During any period for which a Blast/Vibration Management Plan is not available, the Applicant shall monitor all blasts to the satisfaction of the Director-General;

(b) The Applicant shall commence monitoring at the commencement of blasting and shall report the results of the monitoring program in the AEMR except where an exceedence is recorded. Any exceedence shall be reported within 3 months of occurrence to the satisfaction of the Director-General.

5.2.1 Overpressure

(a) The overpressure level from blasting operations at any sensitive receptor shall not:

(i) exceed 115dB (Linear Peak) for more than 5% of the total number of blasts over a period of 12 months;
(ii) exceed 120dB (Linear Peak) at any time; and
(iii) the overpressure from blasting shall not impact on the amenity in (i) and (ii) of the relevant landowner

when measured at any point that is located at least 3.5m from any building or structure including residences, hospitals, schools etc. unless otherwise agreed in writing with the landowner of the affected residence. Prior to any such agreement, the Applicant shall advise the landowner regarding the predicted blast overpressure levels, the results of any applicable post development consent monitoring and any associated potential amenity impacts. Such agreements shall have the option of review on request from the landowner.

5.2.2 Ground vibration (ppv)

(a) Ground vibration peak particle velocity from the blasting operations at the premises shall not:

(i) exceed 5mm/s for more than 5% of the total number of blasts over a period of 12 months; and
(ii) exceed 10mm/s at any time

when measured at any point within the grounds of noise sensitive locations at least the longest dimension of the foundations of a building or structure away from such building or structure.

5.2.3 Blasting/Vibration Management Plan

(a) The Applicant shall prepare and implement a Blasting/Vibration Management Plan to the satisfaction of the Director-General, in consultation with the EPA within 6 months of the development consent. The Plan shall include, but not be limited to, the following matters:

(i) compliance standards;
(ii) mitigation measures;
(iii) remedial action;
(iv) monitoring methods and program;
(v) monitoring program for flyrock distribution;
(vi) measures to be undertaken to demonstrate that the Westside Mine Extension is achieving best practice in minimising air blast overpressure and ground vibration levels from blasting activities;
(vii) measures to ensure all monitoring and associated equipment is calibrated and in full working order prior to each blasting episode;
(viii) measures to protect underground utilities (eg: rising mains, subsurface telecommunication and electric cables, irrigation lines) and livestock on non-mine owned land;
(ix) procedures for the investigation of blast related complaints from the Westside Mine Extension;
(x) procedures for the notification of occupiers of buildings and residents prior to each blast; and
(xi) measures to ensure no damage by flyrock to people, property, livestock and powerlines.

(b) The applicant shall advise all potentially affected landowners of future blasting events on at least a monthly basis, and of any changes to the proposed blast schedules.

(c) Prior to the commencement of any works likely to cause structural damage to property, the Applicant shall arrange at its own costs, for the inspection by a technically qualified person agreed to by both parties, to record the material condition of any structure on such property. The Applicant shall supply a copy of any inspection report, certified by the person who undertook the inspection, to the relevant property owner within fourteen (14) days of receipt of the report.

(d) In the event that a landowner considers that property has been damaged by blasting or other mine related impact, the Applicant shall arrange at its own costs, for an inspection as outlined in Condition 5.2.3(c) and where such damage is identified shall compensate the landowner to the satisfaction of the Director-General.

(e) Blasting shall be confined to the hours of 9am to 5pm Monday to Friday inclusive (excluding any Public Holiday), unless permission is granted by the DMR district inspector of coal mines where special circumstances related to the safety of the mine requires a blast to be initiated outside these hours.

5.2.4 <u>Road Closure Management Plan</u>

(a) The Applicant shall, in consultation with LMCC, prepare a Road Closure Management Plan to the satisfaction of the Director-General prior to the commencement of any blasting likely to impact the roadway. The Plan shall include, but not be limited to, the following matters:

i) details of the proposed safety management measures during the period of the road closure and blast;
ii) details of the procedures for closing Wakefield Road and the period which the road will be closed during blasting activities;
iii) methods for ensuring the safety of road users and the general public during the blast period;
iv) strategies for informing road users and the local community of the proposed road closure;
v) details of the procedures for permitting the passage of emergency vehicles during the road closure. This shall also include details of the proposed methods for sufficiently notifying emergency service providers of the proposed times and period of the road closures;
vi) methods for clearing the road of any debris resulting from a blast; and
vii) details of the disruptions that are likely to occur during the closure period.

(b) The Applicant shall incur the costs for any damage to Wakefield Road resulting from any blast related activities. The repairs shall be undertaken to a standard acceptable to LMCC.

5.2.5 Blast Monitoring

(a) The applicant shall monitor ground vibration and airblast overpressure of all blasts at the most affected residence in consultation with the EPA and to the satisfaction of the Director-General.

(b) Instrumentation used to monitor compliance must meet the requirements of Australian Standard (1993) 2187.2.

(c) The results of the blast monitoring shall be submitted to the EPA at the end of each reporting period and be summarised and interpreted in the AEMR.

5.3 Noise Management

5.3.1 Noise Criteria

(a) Except there is a written agreement between the Applicant and the relevant landowner, [26]noise emissions from the Project shall:
   - (i) not exceed an $L_{Aeq(15\ mins)}$ noise emission criteria of 42dB(A) during the day (7am to 6pm) at any residential receiver; and
   - (ii) not exceed an $L_{Aeq(15\ mins)}$ noise emission criteria of 39dB(A) during the evening (6pm to 10pm) at any residential receiver; and
   - (iii) not exceed an $L_{Aeq(15\ mins)}$ noise emission criteria of 36dB(A) during the night (10pm to 7am) at any residential receiver

for day or night-time under winds up to 3 metres per second (measured at 10 metres above ground level) and Pasquill stability class from A to F. Work shall be scheduled to minimise noise impacts during all atmospheric conditions.

(b) [27]The L_{Aeq} noise level shall be measured or computed at the most affected area within 30 metres of the residence or at the boundary, if the boundary is closer than 30 metres to the residence, over a period/s of 15 minutes using "FAST" response on the sound level meter.

(c) [28]For noise which is substantially tonal or impulsive in character, 5dB(A) shall be added to the measured level prior to assessing this type of noise against the criteria in (a) above.

(d) Measurements shall be made to determine compliance with the noise criteria on receipt of complaints, during noisy works and at any other time as specified by EPA. At least one week's continuous noise monitoring shall be undertaken. The results of noise monitoring and the measures employed to meet noise criteria shall be provided in the relevant Noise Monitoring Report.

5.3.2 Noise Acquisition Criteria

(a) The acquisition zone for properties in the vicinity of this Project is defined as
   - (i) those residences at which the $L_{Aeq(15\ mins)}$ noise emission criteria is equal to or greater than 47dB(A) during the day (7am to 6pm); and
   - (ii) those residences at which the $L_{Aeq(15\ mins)}$ noise emission criteria is equal to or greater than 44dB(A) during the evening (6pm to 10pm); and
   - (iii) those residences at which the $L_{Aeq(15\ mins)}$ noise emission criteria is equal to or greater than 41dB(A) during the night (10pm to 7am) if the mine were to receive permission to extend working hours.

[26] EPA General Terms of Approval
[27] EPA General Terms of Approval
[28] EPA General Terms of Approval

(b) The properties in Table 11 are predicted to experience noise levels greater than the acquisition criteria identified above and shall be either acquired by the Applicant or exchanged by the Applicant if requested by the landowner in accordance with Condition 11.1.

Table 11. Dwellings and vacant land predicted to be within the Noise Acquisition Zone for mine noise alone

Property identifier (as stated and in Figure 2.3, both in the EIS)	Owner (as stated in the EIS)
pink	R.W. Miller Co. Pty Ltd (vacant land)
green	J.P. Farrell

5.3.3 Noise Management Plan

(a) Within six months of development consent, the Applicant shall prepare, or review and update, and finalise a Noise Management Plan to the satisfaction of the Director-General for implementation during the relevant phase of construction, operation and post-construction. The Plan shall include, but not be limited to the following matters:

i) compliance standards;

ii) community consultation;

iii) monitoring protocol including Australian Standards used and a program consistent with Condition 5.3.4 below. The protocol shall ensure that prior to monitoring, all monitoring equipment shall be checked and calibrated to ensure it is in full working order. If monitoring equipment is not in full working order, noisy works shall not be undertaken until the monitoring equipment has been demonstrated to meet requirements;

iv) complaints handling monitoring/system including a protocol for handling noise complaints that includes recording, reporting and responding to complaints, particularly where it is demonstrated that noise levels are in excess of the criteria contained in this consent;

v) details of the methods to be used for the continuous monitoring of noise to evaluate, assess and report the $L_{Aeq\ (15\ minute)}$ ("FAST" response) and provide data for periods directly comparable with the noise criteria set out in Condition 5.3.1 for the following:

- works identified as noisy through estimated cumulative noise characteristics; and
- work during which complaints were previously received.

vi) the design and orientation of the proposed mitigation methods demonstrating best practice and not limited to:

- an outline of proactive/predictive and reactive mitigation measures to be employed on the site to limit noise emissions;
- an outline of measures to reduce the impact of intermittent, low frequency and tonal noise (including truck reversing alarms);
- longer term strategies directed towards mitigating noise levels that exceed the noise target levels in Condition 5.4.1 above.
- details of management measures where the target criteria in Condition 5.3.1 above of this consent are predicted to be exceeded, or are exceeded during construction and mining operations.

vii) methods (including noise monitoring) for the management of construction, operation, post-construction, and transport noises both on and off site.

(b) Except where there is a written agreement with the relevant landowner, road noise from the Wakefield Road relocation shall not exceed $L_{Aeq(1hr)}$ 55dB(A) for the hours 7am to 10pm and $L_{Aeq(1hr)}$ 50dB(A) for the hours

10pm to 7am at any residence and/or where the criteria are exceeded, mitigation shall be applied to, where feasible, reduce the exceedence to below these criteria.

(c) The relocated road shall be designed so as not to increase $L_{Aeq(1hr)}$ by more than 2 dB.

(d) Where noise mitigation cannot be successfully applied to limit noise below an increase in $L_{Aeq(1hr)}$ of 2dB, the Applicant shall offer to acquire or exchange the property as outlined in Condition 11.

(e) The Applicant shall make copies of the Noise Management Plans available to the EPA, LMCC and CCC within fourteen days of the Director-General's approval, or as otherwise agreed to be the Director-General.

5.3.4 Noise Monitoring

(a) During any period for which the Noise Management Plan is not finalised, noise monitoring shall be conducted at the most impacted receptors, in consultation with the EPA and to the satisfaction of the Director-General.

(b) The Applicant shall commence monitoring prior to the commencement of works and shall report the results of the monitoring program in the AEMR except where an exceedence is recorded. Any exceedence shall be reported within 3 months of the exceedence to the satisfaction of the Director-General.

(c) The levels of noise emitted from the premises shall be monitored in accordance with the noise monitoring program required in Condition 5.3.3 at locations agreed to by the EPA. The monitoring shall determine $L_{Aeq,15\ min}$ levels and include an assessment of the impact of operational noise on adjoining residents and those residents at which exceedences may occur.

(d) Noise monitoring at the specified locations shall be undertaken during daytime (7.00am to 6pm), evening (6pm to 10pm) and night-time (10pm to 7am) for periods representative of noisiest works during each quarter. Continuous unattended monitoring shall be supported at the same location by attended monitoring during hours of operation.

(e) For the purpose of noise measurement for Condition 5.3.3(a)(v), the L_{Aeq} noise level shall be measured or computed at the most affected area within 30 metres of the residence or at the boundary, if the boundary is closer than 30 metres to the residence, over a period/s of 15 minutes using "FAST" response on the sound level meter.

(f) Except where there is a written agreement between the relevant landowner and the Applicant, noise monitoring shall be undertaken at the following properties during Years 1 to 4 inclusive to verify the predictions of the EIS unless otherwise required by the Director-General:

Table 12. Properties at which mine noise monitoring shall occur

Property identifier (as stated and in Figure 2.3, both in the EIS)	Owner (as stated in the EIS)
T	M. & L. Burns
Q	W. Donnelly
S	Maher
U	R. Donnelly
T	M. and L. Burns
X	R. Peel and V. Dewez

(g) For road related noise, monitoring shall be conducted at the following residences and at any other locations potentially affected by traffic noise along the haulage route as determined, in consultation with the Director-General:

Table 13. Properties at which road noise monitoring shall occur

Property identifier (as stated and in Figure 2.3, both in the EIS)	Owner (as stated in the EIS)
X	R. Peel and V. Dewez

(h) For noise impacts from road haulage of coal from the development, noise monitoring shall be implemented at the most impacted residential receptors on each haulage route in consultation with the EPA, to the satisfaction of the Director-General;

(i) A campaign of noise monitoring shall be undertaken for water pumping between 10pm and 7am under adverse weather conditions during the first 6 months of the development and for any subsequent period specified by the Director-General;

(j) Noise monitoring at other locations shall be undertaken as determined in consultation with the EPA and to the satisfaction of the Director-General.

5.3.5 <u>Noise Reporting</u>

(a) A noise monitoring report shall be provided to the satisfaction of the Director-General and a copy provided to the EPA, LMCC and CCC as part of the AEMR except where an exceedence has occurred. Any exceedences shall be reported within 3 months of its occurrence to the satisfaction of the Director-General. The report shall include details of operating time, noise monitoring intervals, meteorological data, locations, periods and times of measurements.

(b) In the event that a landowner or occupier of a non-mine owned property considers that noise from the project once operational is in excess of the noise criteria in Condition 5.3.1 and the Director-General is satisfied that an investigation is required, the Applicant shall, upon the receipt of a written request:
  i) consult the landowner or occupant affected to determine his/her concerns; and
  ii) make arrangements for, and bear the costs of, appropriate independent noise investigations in accordance with the noise management plan (Condition 5.3.3), and to the satisfaction of the Director-General, to quantify the impact; and
  iii) take steps in accordance with a noise reduction plan prepared as part of the noise management plan, if exceedences from the Westside Mine Extension are demonstrated. This shall include:
    1) introduction of additional controls to ensure that the criteria in Condition 5.3.1 above are complied with, as far as possible; or
    2) with the agreement of the landowner, undertake noise control at the dwelling to achieve internal noise levels, which are at least 10dBA below the relevant external noise criterion. Internal noise levels shall be measured at the centre of any habitable room; and
  iv) conduct follow up investigation(s) to the satisfaction of the Director-General, where necessary.

Note: Vacant land in this condition means the whole of the lot in a current plan registered at the Land Titles Office as at the date of this consent that does not have a dwelling situated on the lot and is permitted to have a dwelling on that lot.

(c) If the independent noise investigation(s) in sub-clause (b) above confirms that noise criteria for acquisition are being exceeded and the measures in Condition 5.3.1(b)(iii) do not reduce the noise levels below the acquisition criteria, the Applicant shall, at the written request of the landowner, acquire or exchange the relevant property. Acquisition or exchange shall be in accordance with the procedures set out in Condition 11.1.

(d) If continued complaints and noise investigations confirm that noise criteria in Condition 5.3.1(a) are exceeded, but are less than the noise levels in Condition 5.3.2(a), the Applicant shall continue to negotiate with the landowner, until a resolution to the satisfaction of the Director-General is reached.

(e) If a landowner disputes any noise mitigation or other measures proposed by the Applicant in accordance with sub-clause (c) above, the matter shall be referred by either the Applicant or landowner to the Director-General in consultation with the EPA. If the matter cannot be resolved within 21 days, the matter shall be referred to the Independent Dispute Resolution Process provided in the Appendix at the end of these Conditions.

(f) Further independent investigations shall cease if the Director-General is satisfied that the relevant criteria in Condition 5.3.1(a) are not being exceeded and are unlikely to be exceeded in the future.

(g) For noise generated from coal and spoil haulage to and from the mine (including return trips of empty vehicles) if noise complaints are received once construction or operation commences, either by the Applicant, the EPA or the Department, regarding noise on local roads or in the vicinity of the haulage road, either of which are part of the Applicant's haulage/return route, continuous noise monitoring over a period of at least 7 days shall be undertaken by the Applicant at the Applicant's expense to the satisfaction of the EPA.

6 <u>Transport and Utilities</u>

6.1 Council Building Requirements

(a) [29]For the purposes of section 80A(11) of the *EP&A Act*, the following conditions are prescribed in relation to a development consent for development that involves any building work:
- (i) that the work must be carried out in accordance with the requirements of the Building Code of Australia;
- (ii) in the case of residential building work for which the *Home Building Act* 1989 requires there to be a contract of insurance in force, in accordance with Part 6 of that Act, that such a contract of insurance shall be in force; and
- (iii) occupation of the premises shall not commence until all conditions of this consent are complied with.

(b) Development and subdivision construction works associated with Council Roads in accordance with these Conditions shall not commence until detailed engineering plans and specifications relating to the work have been endorsed with a Construction Certificate by:
- (i) Council, or
- (ii) an accredited certifier registered under the Institution of Engineers Australia accreditation scheme, for Council Roads and

the Applicant has appointed a Principal Certifying Authority, and has notified LMCC of the appointment, and the Applicant has given at least two (2) days notice to Council of the intention to commence development or subdivision works.

6.2 Submission for Subdivision Certificate

[30]The following shall be satisfied prior to the issue of the Compliance Certificate/Subdivision Certificate (pursuant to Section 109J of the *EP&A Act* 1979 in respect of a subdivision) by the Principal Certifying Authority:

- (i) The Applicant shall submit an application for a Subdivision Certificate accompanied by the Final Plan of Subdivision, ten (10) copies, an A3 copy if filling of any lot has taken place, a digital copy on floppy disc and the location of all buildings and/or other permanent improvements indicated on one (1) full-size print. When all conditions of the Development Consent relating to this subdivision have been satisfactorily complied with the Subdivision Certificate will be issued.
- (ii) The Applicant shall provide an instrument under Section 88B of the Conveyancing Act setting out terms of easements and/or restrictions as to user as may be required by conditions of this consent. Council is to be a party empowered to release, vary or modify those (and only those) easements and/or restrictions required by conditions of this development consent.

[29] LMCC General Terms of Approval
[30] LMCC General Terms of Approval

(iii) The Applicant shall obtain and submit a Certificate under Section 50 of the *Hunter Water Board (Corporation) Act* 1991. It is the Applicant's responsibility to make all pertinent arrangements for the forwarding of this notification to the Hunter Water Corporation.

6.3 Council Fees

(a) The Applicant shall obtain any certificates as required to satisfy these conditions.

(b) [31]The Applicant shall fulfil to LMCC the following fee requirements, as applicable:
For road and associated drainage only:

Construction Certificate	$11,960.00 (inc GST)
Compliance Certificate	$18,200.00 (inc GST)
Subdivision Certificate	$105.00

Applications for these certificates shall be lodged on the approved application form and accompanied by the appropriate fee. These fees do not cover internal roadworks or buildings.

(c) [32]Where the development includes construction works valued at $25,000.00 or more, the Applicant shall pay to LMCC the Long Service Levy, as detailed in the Building and Construction Industry Long Service Payments Scheme. The Levy shall be paid prior to the issue of the Construction Certificate. The Levy may be paid directly to the Long Service Payments Corporation or to LMCC as agent for the Corporation. The Levy rate is 0.2% of the cost of building and construction works.

(d) [33]The fees identified in (b) and (c) are subject to change without notice and confirmation should be obtained from LMCC prior to the lodgement of any application.

6.4 Road Construction

(a) The Applicant shall undertake the following to the satisfaction of LMCC and the RTA:

(i) all detailed design, road works, signposting and line marking plans associated with this development are to be designed and constructed to LMCC and the RTA Traffic Committee standards;
(ii) construct the proposed section of relocated Wakefield Road to accommodate the current speed limit in accordance with relevant standards; and
(iii) undertake the construction of improvements to intersection works on Wakefield Road and Rhondda Road, to ensure Austroads standards are met.

(b) [34]The use of mechanical rock breakers or blasting associated with road construction shall be confined between the hours of 9am and 3.30pm Monday to Friday (excluding any Public Holiday).

(c) [35]The Applicant shall arrange, at the time of registration of the Final Plan of Subdivision, for the dedication of the proposed new roads to the public at no cost to LMCC.

(d) [36]The Applicant shall arrange for the design and construction of roads, accessways and footways, including drainage, in accordance with the provisions of the publications and standards identified in Conditions 12.1(b) and (c). No works shall commence on site prior to the issue of a Construction Certificate and all works shall be completed prior to the issue of a Compliance Certificate/Subdivision Certificate.

[31] LMCC General Terms of Approval
[32] LMCC General Terms of Approval
[33] LMCC General Terms of Approval
[34] LMCC General Terms of Approval
[35] LMCC General Terms of Approval
[36] LMCC General Terms of Approval

(e) Access shall be maintained to all residences affected by road works at no cost to the landowner. [37]Residential road pavements shall be designed in accordance with *A Guide To The Design of New Pavements for Light Traffic* (AUSTROADS, 1998). Main and Industrial road pavements shall be designed in accordance with *Pavement Design, A guide to the Structural Design of Road Pavements* (AUSTROADS, 1992). Designs for road pavements shall be submitted to and approved by the Principal Certifying Authority or a Compliance Certificate shall be obtained prior to the construction of road pavements. Where work is to be undertaken within a classified Main Road, the pavement design shall also be submitted to the RTA for its approval prior to the commencement of works.

(f) [38]Prior to requesting a Construction Certificate, the Applicant shall provide all engineering plans and specifications for works on or impacting upon a Classified Road, firstly to LMCC and these shall then be provided to the RTA by LMCC. The Applicant shall obtain from the RTA, consent for all engineering plans and specifications relating to works on a Classified Road prior to the commencement of any such works.

(g) [39]For the duration of work being carried out as part of this development, the Applicant shall ensure that traffic control is undertaken in accordance with the requirements of Australian Standards AS 1742 - Manual Uniform Traffic Control Services – Parts 1, 2 and 3.

(h) At least one week prior to the commencement of road construction works,[40] written notification shall be given by the Applicant to landowners and residents who live adjacent to the proposed development or who may be affected by the proposed works. The notification shall include the expected date of commencement of works and a brief description of the works.

(i) [41]The Applicant shall submit to LMCC, in writing, details of the proposed haulage routes to be used during construction works. These details shall be submitted a minimum of seven days before the commencement of haulage operations. No haulage operations shall take place prior to the approval of the routes by LMCC. The haulage routes shall not be varied without the approval of LMCC.

The Applicant shall maintain and restore the haulage route roads, as near as possible, to their original condition.

(j) [42]The Applicant shall make good any damage or injury caused to a public road or associated structures including drains and kerb and gutter, caused as a consequence of the development/subdivision works, prior to the issue of a Compliance Certificate/Subdivision Certificate.

(k) [43]Construction works shall not commence until a meeting between the contractor and a representative of the Principal Certifying Authority (PCA) has taken place on site.

Seven days notice shall be provided in writing prior to such meeting taking place. The notice shall include the names of the contractor undertaking construction and the developer's supervising officer.

(l) [44]A works-as-executed plan plotted on film and signed by the Consulting Civil Engineer supervising the works or the Registered Surveyor in charge of the development/subdivision and certified by the Principal Certifying Authority, shall be lodged with LMCC prior to release of the Compliance Certificate/ Subdivision Certificate. Where applicable a Registered Surveyor's Certificate certifying that all pipes have been laid within the easements shown on the Final Plan of Subdivision shall also be submitted. The works-as-

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[37] LMCC General Terms of Approval
[38] LMCC General Terms of Approval
[39] LMCC General Terms of Approval
[40] LMCC General Terms of Approval
[41] LMCC General Terms of Approval
[42] LMCC General Terms of Approval
[43] LMCC General Terms of Approval
[44] LMCC General Terms of Approval

executed plan shall, in addition to construction details, show limits and depths of filling, locations of service conduits and street names.

(m) [45]The Applicant shall provide street lighting for the Development to the satisfaction of Energy Australia and in accordance with the road classification. The road classification shall be determined by Council and Energy Australia.

The street lighting provided shall include any necessary upgrading of the lighting of the intersection of any new roads with existing roads.

(n) [46]The Applicant shall supply and erect new street name signs in accordance with the requirements of Council's Subdivision Code. The signs shall comply with Council's standard design.

(o) [47]The Applicant shall arrange for the creation of an "easement for support" on the Final Plan of Subdivision submitted to cover all fill embankments that extend into lots if the side slopes are steeper than one (1) in three (3) and such embankments as are in excess of six hundred (600) mm in height.

(p) [48]The Applicant shall submit a statement from a Registered Surveyor verifying that the works did not interfere with any survey control marks OR the Applicant shall submit verification that the Survey Control Branch of the Department of Lands has been advised of any marks which will be destroyed and an undertaking that the requirements of the Survey Control Branch will be complied with.

(q) The Applicant shall ensure that the designated mine access road route as described in the EIS is the only route used by employees and contractors traveling to and from the mine site, except in emergency circumstances.

(r) Prior to the haulage of any coal in excess of 50,000tpa, ramps shall be constructed at the junction of the private haul road and MR220 (Awaba Road) designed to current road safety standards to the satisfaction of the RTA.

(s) The Applicant shall apply to DLWC to close and purchase non-essential Crown Road Reserve potentially affected by the Project. If, for any reason the application is unsuccessful, the Applicant shall negotiate with DLWC for approval to mine the Crown road and to provide alternative access during the period of mining and rehabilitation works and shall obtain consent of DLWC for ancillary works and structures on Crown road reserve prior to the commencement of any works which may impact on the Crown road reserve.

(t) Any costs incurred in transferring the Crown Road Reserve associated with the mine extension shall be at the Applicant's expense.

(u) The design of the relocated Wakefield Road shall minimise the acquisition of land from private land owners.

(v) [49]The Applicant shall ensure that all public utility service pipes, mains and conduits are laid and/or installed in all new roads and existing roads, where work is required in existing roads, as part of the construction and drainage works associated with the Development.

(w) [50]The Applicant shall also install conduits to cater for the installation of natural gas services to each proposed lot in conjunction with road and drainage works.

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[45] LMCC General Terms of Approval
[46] LMCC General Terms of Approval
[47] LMCC General Terms of Approval
[48] LMCC General Terms of Approval
[49] LMCC General Terms of Approval
[50] LMCC General Terms of Approval

(x) [51]A letter of compliance from each service authority and service company shall be submitted to LMCC prior to the issue of a Compliance Certificate/Subdivision Certificate.

(y) [52]The Applicant shall submit to the Principal Certifying Authority a utilities layout plan showing the location of mains, associated installations and service conduits prior to the issue of a Compliance Certificate/Subdivision Certificate.

6.5 Land stability and earthworks

(a) [53]The Applicant shall arrange for all fill to be placed in accordance with the standards specified in Table 5.1 of AS3798 1990 *Guidelines on Earthworks for Commercial and Residential Developments*.

Prior to the issue of the Compliance/Certificate Subdivision Certificate, the Applicant shall obtain a Compliance Certificate or submit a report from a suitably experienced Geotechnical Testing Authority confirming that all filling complies with the above minimum standard. The inspection and testing shall be at the responsibility level set out below, as defined in Appendix B of AS 3798-1990.:

FILL AREA	RESPONSIBILITY LEVEL
Water retaining embankments	1
Road embankments (greater than 2m high)	1
Road embankments (less than 2m high)	2*
Residential allotments	1
Industrial/Commercial allotments	1

*Level 1 may be used if desired by the applicant.

(b) [54]The Applicant shall obtain and submit a Compliance Certificate/s to certify that all construction works and associated development have been constructed in accordance with this Development Consent, the Construction Certificate and all other standards specified in these Conditions.

(c) [55]The Applicant shall ensure that the requirements of Energy Australia for easements and sites for electricity purposes are indicated on the Final Plan of Subdivision and associated Section 88B *Conveyancing Act* 1919 Instrument which is submitted to the Principal Certifying Authority for approval.

6.6 Road Maintenance

(a) [56]The current requirement that the Applicant make a road maintenance contribution to LMCC shall continue at a rate of 3 cents/tonne/kilometre for any coal haulage on Council owned roads.

6.7 Road Closures

(a) The Applicant shall maintain signs and through the information line established under Condition 10.2 give at least 24 hours notice of temporary road closures associated with the Wakefield Road relocation. The location and wording of the signs are to be approved by LMCC. A protocol is to be established in consultation with the emergency services during road closures. Notification shall also be provided to relevant emergency services via fax seven (7) days prior to the road closure.

[51] LMCC General Terms of Approval
[52] LMCC General Terms of Approval
[53] LMCC General Terms of Approval
[54] LMCC General Terms of Approval
[55] LMCC General Terms of Approval
[56] LMCC General Terms of Approval

(b) Any closures shall be scheduled outside peak periods for the communities in the vicinity of the mine including, but not limited to times during which residents leave for and return from work and school drop off and pick up times.

6.8 Road Relocation

(a) At least 3 months prior to the commencement of road section relocation works or other road works requiring private land acquisition, the Applicant shall finalise, by mutual agreement, a commercial agreement with the relevant landowner following the appropriate steps of the process set out in Conditions 11.1(b) to (h);

(b) Acquisition of Crown Roads (CR) or exchange of CR for other property acceptable to DLWC shall be finalised at least 6 months prior to the commencement of construction of any road works to the satisfaction of DLWC;

(c) The relocation of the Great North Walk shall be completed to the satisfaction of DLWC. In providing the relocation, the Applicant shall provide the following and other as reasonably required by DLWC:
- the construction of the footpath for the Walk;
- revegetation and maintenance of this realigned section of the Walk until established; and
- funding for the provision of updated maps of that portion of the Walk.

6.9 Truck Movements

(a) The Applicant shall haul no more than 50,000 tpa of coal on the existing coal haulage route to Vales Point Power Station and shall implement a strategy to haul any coal in excess of 50,000tpa by means other than truck. Coal in excess of 50,000tpa shall not be directed by other road route to the Vales Point Power Station without prior approval of the Director-General.

6.10 Safety audits

(a) A road safety audit of the design and construction phases of the Wakefield Road relocation and associated intersection upgrades shall be undertaken in accordance with the procedures set out in the AUSTROADS road safety guidelines, 1994 and the RTA Road Safety Audit Manual to the satisfaction of the LMCC and RTA. The timing of the provision of these audits shall be determined in consultation with LMCC and RTA. All reasonable recommendations arising from the safety audits shall be implemented by the Applicant.

(b) A road safety audit of the routes proposed for road haulage on or intersecting roads managed by the RTA shall be undertaken in accordance with the procedures set out in the AUSTROADS road safety guidelines, 1994 and the RTA Road Safety Audit Manual to the satisfaction of the RTA prior to the commencement of coal haulage on roads managed by the RTA from the development. All reasonable recommendations arising from the safety audit shall be implemented by the Applicant prior to the commencement of coal haulage from the development.

7 <u>Waste, Spoil and Hazardous Material Management</u>

7.1 General

(a) Within 6 months of development consent, the Applicant shall prepare and implement a Materials Management Plan (MMP) for the DA area in consultation with LMCC and EPA and to the satisfaction of the Director-General. The Plan shall include, but not be limited to:

(i) details of measures to facilitate waste management on site;
(ii) details of compliance with the Applicant's obligations under the *Protection of the Environment Operations Act* (1997);
(iii) identification of all types and quantities of waste materials produces at the mine site during construction, operation and rehabilitation;
(iv) programs aimed at minimising the production of waste at the mine site through the implementation of operational and management measures;

(v) details of the potential reuse and recycling avenues for waste materials produced at the mine site, including collection and handling procedures;
(vi) details of appropriate disposal routes in the event that reuse and recycling avenues are not available or are not practicable; and
(vii) programs for involving and encouraging employees and contractors to minimise waste production at the mine site and reuse / recycling where appropriate.

(b) [57]The Applicant shall not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the *Protection of the Environment Operations Act* 1997.

(c) The Applicant shall dispose of all solid waste and putrescible matter from the site to the satisfaction of LMCC or EPA, as relevant.

7.1.1 Storage of materials including spoil and hazardous materials

(a) The Applicant shall undertake measures, as far as practical, to prevent spontaneous combustion from occurring on the site.

(b) [58]The Applicant shall ensure that any liquid and/or non-liquid waste generated and/or stored at the premises is assessed and classified in accordance with EPA Environmental Guidelines: *Assessment, Classification and Management of Liquid and Non-Liquid Waste*, in force as at July 1999.

(c) [59]All liquid chemicals, fuels and oils shall be stored in containers inside a suitable bund(s)

(d) [60]The Applicant shall ensure that the bund(s) are designed, constructed and maintained in accordance with EPA Technical Guideline *Bunding and Spill Management*.

7.1.2 Receipt of spoil from external sources

(a) At least one year prior to the receipt of the first tailings/rejects/waste materials from an external source including the Macquarie Coal Preparation Plant, the Applicant shall complete, as part of the Materials Management Plan (MMP), an addendum to the MMP for this material in consultation with the EPA and to the satisfaction of the Director-General.

(b) This addendum shall include but not be limited to the following:

(i) appropriate licences for transfer and storage of waste;
(ii) date of receipt of material, source and composition of material received;
(iii) location of any temporary and permanent storages in relation to drainage lines; and
(iv) measures to minimise leachate to ground and surface waters.

(c) As part of the MMP, waste transfer logs shall be maintained for the duration of the receipt of this material. The log shall be maintained in a legible and easily accessible form and be updated on receipt of material. Information maintained shall include and not be limited to the information required in (b) above. This information shall be summarised in the AEMR and shall be supplied in full on request from the Director-General.

7.1.3 Storage, removal and acceptance of materials from/to the DA area

[57] EPA General Terms of Approval
[58] EPA General Terms of Approval
[59] EPA General Terms of Approval
[60] EPA General Terms of Approval

(a) Material stockpiles/storage areas of material for sale, exchange or free removal shall be maintained at all times to minimise loss to air and to ground areas outside the stockpile.

(b) All loading and unloading of materials shall be undertaken to minimise any loss to air and surrounding ground areas.

(c) For sale, exchange or free removal of materials other than coal, a log shall be maintained and reported incorporating requirements of Condition 7.1(a)(i) to (iii) and Condition 7.1(c). The location to which material will be ultimately removed, prior to processing into product, shall be provided.

(d) Measures to achieve subclauses (a) and (b) shall be provided as part of the MMP.

8 Monitoring/Auditing

(a) In addition to the requirements contained elsewhere in this consent, the Director-General may, at any time in consultation with the relevant government authorities and Applicant, require the monitoring programs in this consent to be revised/updated to reflect changing environmental circumstances or changes in technology/operational practices. Changes shall be made and approved in the same manner as the initial monitoring programs. All monitoring programs shall also be made publicly available at LMCC chambers within two weeks of approval of the relevant government authority.

(b) All sampling strategies and protocols undertaken as part of any monitoring program shall include a quality assurance/quality control plan and shall be included in the relevant environmental management plan. Only accredited laboratories shall be used for laboratory analysis.

8.1 Third Party Monitoring / Auditing

Independent Environmental Auditing

(a) Every three years from the date of this consent until completion of mining in the DA area, or as otherwise directed by the Director-General, the Applicant shall conduct an environmental audit of the mining and infrastructure areas of the development in accordance with ISO 14010 - Guidelines and General Principles for Environmental Auditing, and ISO 14011 - Procedures for Environmental Auditing (or the current versions), and in accordance with any specifications required by the Director-General. Copies of the report shall be submitted by the Applicant to the Director-General, LMCC, EPA, DLWC, DMR, NPWS and CCC for comment within two weeks of the report's completion.

(b) The audit shall:

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

ii) assess the development against the predictions made in the EIS;

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

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

v) be conducted by a duly qualified independent person approved by the Director-General in consultation with LMCC.

8.2 Meteorological Station(s)

(a) The Applicant shall establish a meteorological station(s) at a relevant location(s) in accordance with the requirements of AS 2922 1987 "Ambient Air Guide for Siting of Sampling Units" or its updated version or as directed by the EPA. The Meteorological station(s) shall be capable of recording wind direction and speed, temperature and sigma theta and be operated in accordance with the requirements of AS 2923-1987 "Ambient Air Guide Horizontal Wind for Air Quality Application", or subsequent relevant standards.

(b) The Applicant must monitor (by sampling and obtaining results by analysis) the parameters specified in Column 1. The applicant must use the sampling method, units of measure, averaging period and sample at the frequency, specified opposite in the other columns:

Parameter	***Units of measure***	***Averaging Period***	**Frequency**	***Method***
Rainfall	*mm/hr*	*1-hour*	Continuous	*AM-4*
Sigma Theta @ 10 m	°	*1-hour*	*Continuous*	*AM-2*
Siting	-	-	-	*AM-1*
Temperature @ 10 m	*K*	*1-hour*	*Continuous*	*AM-4*
Temperature @ 2 m	*K*	*1-hour*	*Continuous*	*AM-4*
Atmospheric inversion	^{0}*C/100m*		Continuous	*See note*
Total Solar Radiation @ 10 m	*W/m^2*	*1-hour*	*Continuous*	*AM-4*
Wind Direction @ 10 m	°	*1-hour*	*Continuous*	*AM-2*
Wind Speed @ 10 m	*m/s*	*1-hour*	Continuous	*AM-2*

Note: The Applicant shall calculate temperature inversion from measurements at 2 and 10m.

9 Reporting

9.1 Annual Environmental Management Report (AEMR)

(a) The Applicant shall, throughout the construction and operation of the mine and for a period of at least three years after the completion of mining in the DA area, prepare and submit an Annual Environmental Management Report (AEMR) to the satisfaction of the Director-General and DMR. The AEMR shall review the performance of the mine against the Environmental Management Strategy and the relevant Mining Operations Plans, the conditions of this consent, and other licences and approvals relating to the mine. To enable ready comparison with the predictions made in the EIS, 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 this consent and statutory approvals;
- (ii) a review of the effectiveness of the environmental management of the mine in terms of the Department of Planning, EPA, DLWC, DMR, and LMCC requirements;
- (iii) results of all environmental monitoring required under this consent or other approvals, including interpretations and discussion by a suitably qualified person;
- (iv) identification of trends in monitoring results over the life of the mine and provide sufficient background information to demonstrate these in each AEMR;
- (v) a listing of any variations obtained to approvals applicable to the DA area during the previous year;
- (vi) 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;
- (vii) a revegetation and rehabilitation report; and
- (viii) environmental management targets and strategies for the next year, taking into account identified trends in monitoring results.

(b) In preparing the AEMR, the Applicant shall:

- (i) consult the Director-General during preparation of each report for any additional requirements;
- (ii) comply with any reasonable 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 this consent, or at a date determined by the Director-General in consultation with the DMR and the EPA.

(c) The Applicant shall ensure that copies of each AEMR are submitted at the same time to the Director-General, DMR, EPA, DLWC, LMCC and CCC, and made available for public information at LMCC chambers within fourteen days of submission to these authorities.

9.2 Recording and Reporting Requirements

(a) [61]The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the *Protection of the Environment Operations Act* 1997, in relation to the development or in order to comply with any load calculation protocol shall be recorded and retained as set out in subclauses (b) and (c).

(b) All records required to be kept by the licence shall be:
- in a legible form, or in a form that can readily be reduced to a legible form;
- kept for at least 4 years after the monitoring or event to which they relate took place; and
- produced in a legible form to any authorised officer of the EPA who asks to see them.

(c) The following records shall be kept with respect to any samples required to be collected:
- the date(s) on which the sample was taken;
- the time(s) at which the sample was collected;
- the point at which the sample was taken; and
- the name of the person who collected the sample.

(d) Prior to the taking of all samples and measurements, equipment shall be checked to ensure that it is calibrated and in full working order. If equipment is not found to be in such order, the operation for measurement shall be delayed until equipment is calibrated and in full working order;

10 <u>Applicant's Obligations</u>

10.1 Community Consultative Committee

(a) The Applicant shall

(i) establish a Community Consultative Committee within 3 months of development consent. Selection of representatives shall be to the satisfaction of the Director-General in consultation with the Applicant and LMCC. The Committee shall comprise at least two (2) representatives of the Applicant, one (1) representative of LMCC, one (1) representative of NPWS, and no more than four (4) community representatives. The Committee shall be chaired by LMCC or other as approved by LMCC and the Director-General.

(ii) Representatives from relevant government agencies or other individuals may be invited to attend meetings as required by the Chairperson. The Committee may make comments and recommendations about the preparation and implementation of environmental management plans, monitor compliance with conditions of this consent and other matters relevant to the operation of the mine during the term of the consent. The Applicant shall ensure that the Committee has reasonable access to the necessary plans for such purposes. The Applicant shall consider the recommendations and comments of the Committee and provide a response to the Committee and Director-General.

(b) The Applicant shall, at its own expense:

(i) nominate two (2) representatives (including the Environmental Officer) to attend all meetings of the Committee;

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

(iii) promptly provide to the Committee such other information as the Chair of the Committee may reasonably request concerning the environmental performance of the development;

(iv) provide access for site inspections by the Committee; and

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[61] EPA General Terms of Approval

(v) provide meeting facilities for the Committee, and take minutes of Committee meetings. These minutes shall be available for public inspection at LMCC within 14 days of the meeting, or as agreed by the Committee.

(c) If required by the Committee, the Applicant shall establish a trust fund or other funding arrangement that may be agreed between the Applicant and Committee, to be managed by the Chair of the Committee to facilitate the functioning of the Committee, and pay $2000 per annum to the fund for the duration of mining in the DA area, or as otherwise reasonably directed by the Director-General. The monies are to be used only if required for the engagement of consultants to interpret technical information and the like. The annual 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. A record of the finances of the trust fund during each year shall be provided to the Director-General and Applicant by the Chair on each anniversary of the first payment. Any unspent monies shall be returned to the Applicant each year.

10.2 Community Information

The Applicant shall maintain a 24 hour information line to provide timely notice of temporary road and lane closures. Notice of these closures should also be provided in Wakefield and through a local or community newspaper or newsletter.

10.3 Complaint Handling Procedures

(a) The Environmental Officer(s) employed by the mine (refer Condition 3.1) shall be responsible for:

i) [62]operating, during its operating and coal handling hours, a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises unless otherwise specified in the environment protection licence issued by the EPA;
ii) [63]notifying the public of the complaints line telephone number, identify the number as a complaints line and provide an outline to the community how a complaint may be made;
iii) establishing and maintaining a system for recording complaints with respect to construction works and mine operations on a dedicated and publicly advertised telephone line, 24 hours per day 7 days per week, entering complaints or comments in an up to date log book, or other suitable data base, and ensuring that an initial response is provided to the complainant within 24 hours;
iv) ensuring that the response to the complaint is finalised in a timely manner having regard to continuous improvement principles to rectify problems and ensure non-repeat of the offending action;
v) providing a report of complaints received with respect to the construction and operation of the mine, every six months throughout the life of the project to the Director-General, LMCC, EPA, DMR, and CCC, or as otherwise agreed by the Director-General. A summary of this report shall be included in the AEMR (Condition 9.1).

(b) The Applicant shall nominate at least two persons (and their telephone numbers) who will be available to the EPA on a 24 hours basis, and who have authority to provide information and to implement such measures as may be necessary from time to time to address a pollution incident or to prevent pollution from continuing as directed by an authorised officer of the EPA.

11 Land Acquisition

11.1 Area of Affection – Land Acquisition

> **Note**: In Condition 11.1 (a)-(g) "land" means the whole of a lot in a current plan registered at the Land Titles Office as at the date of this consent.

[62] EPA General Terms of Approval
[63] EPA General Terms of Approval

(a) The Applicant shall negotiate and either exchange or purchase a property, as identified by Conditions 5.1.3(c) and (e), 5.4.2(b), 5.4.5(d) and 6.4(a) within six (6) months of a written request from the affected land owner. The owner of any dwelling, or vacant land (as described in Condition 5.1.3(c) and (e), 5.4.2(b) and 5.4.5(c)), located in areas that exceed noise and/or air quality criteria established in accordance with conditions 5.1.3(c) and 5.4.2 of this consent, and at any time after the granting of development consent, may request the Applicant in writing to purchase the whole of that property.

(b) With respect to a request to purchase or exchange property arising under this condition and under Condition 6.4(a), the Applicant shall pay the owner(s) the acquisition price which shall include, and not be limited to:
- (i) a sum not less than the current market value of the owner's interest in the property at the date of this consent, as if the property were unaffected by the Westside Mine, and this shall be calculated from :
  1) the existing use and permissible use of the land in accordance with the applicable planning instruments at the date of the written request; and
  2) existing improvements on that land including all approved buildings and structures; and
  3) improvements on the land and/or any Council approved buildings or structures which, although substantially commenced at the date of request, are completed subsequent to that date.
- (ii) the owner's reasonable compensation for disturbance allowance and relocation costs within the Lake Macquarie Local Government Area, or within such other location as may be determined by the Director-General in exceptional circumstances; and
- (iii) the owner's reasonable costs for obtaining legal advice and expert witnesses for the purposes of determining the acquisition price of the property and the terms upon which it is to be acquired.

or, upon request from the landowner, shall exchange the property in question for a property of equal value having regard to the improvements on the property held by the landowner and the Applicant shall ensure that in any exchange and where the landowner so requests, the value of improvements on the property offered for affected property are of commensurable value to those of the affected property.

Notwithstanding any other condition of this consent, 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.

(c) In the event that the Applicant and any owner referred to in this condition cannot agree within the time limit upon the acquisition price of the property and/or the terms upon which it is to be acquired, then:
- (i) either party may refer the matter to the Director-General, who shall request the President of the Australian Institute of Valuers and Land Economists to appoint a qualified independent valuer or Fellow of the Institute, who shall determine, after consideration of any submissions from the owners, a fair and reasonable acquisition price for the property as described in sub-clause (b) and/or terms upon which it is to be acquired;
- (ii) in the event of a dispute regarding outstanding matters that cannot be resolved, the independent valuer shall refer the matter to the Director-General, recommending the appointment of a qualified panel. The Director-General, if satisfied that there is need for a qualified panel, shall arrange for the constitution of the panel. The panel shall consist of:
  1) the appointed independent valuer,
  2) the Director-General or nominee, and
  3) the President of the Law Society of NSW or nominee.

The qualified panel shall determine a fair and reasonable acquisition price as described in sub-clause (b) above and/or the terms upon which the property is to be acquired.

(d) The Applicant shall bear the costs of any valuation or survey assessment requested by the independent valuer, panel, or the Director-General and the costs of determination referred to in sub clauses (b) and (c).

(e) Upon receipt of a determination pursuant to sub-clauses (b) and (c), the Applicant shall, within 14 days, offer in writing to acquire the relevant property at a price not less than the determination. Should the Applicant's offer to acquire not be accepted by the owner within six (6) months of the date of such offer, the Applicant's obligations to purchase the property shall cease, unless otherwise agreed by the Director-General.

(f) In the event that the Applicant and the land owner agree that only part of the property is to be transferred to the Applicant, the Applicant shall pay all reasonable costs associated with obtaining Council approval to any plan of subdivision and registration of the plan at the Office of the Registrar-General.

(g) In the event that the owner of a dwelling or vacant land identified in Condition 11.1 requests an exchange of a whole or part of the property they own for a whole or a part of another property, then a valuation of the landowner's property and the property offered in exchange shall be valued according to the method set out in Condition 11.1(b) and the directions set out under Condition 11.1 shall be applied for disturbance, relocation and resolution of disputes in relation to the exchange of land;

(h) The provisions of this condition do not apply to a land owner who is the holder of an authority under the *Mining Act*, 1992.

11.2 Other Land Acquisition agreements

Where the Applicant has deemed that it is appropriate to purchase or exchange a property other than for property within a zone of affectation, but directly impacted by the proposal, such as land acquired for the new corridor, should the purchase or exchange not be completed within 6 months of this approval, or, for negotiations commencing subsequent to approval being granted, within 6 months of negotiations commencing, then the process provided under these Conditions 11.1 for acquisition shall apply.

12 Further Approvals and Agreements

12.1 Statutory Requirements

(a) The Applicant shall ensure that all statutory requirements including but not restricted to those set down by the Local Government Act 1993, Protection of the Environment Administration Act 1991, Protection of the Environment Operations Act 1997, Rivers and Foreshores Improvement Act 1948, Water Act 1912, National Parks and Wildlife Act 1974, Threatened Species Conservation Act 1995 and all other relevant legislation, Regulations, Australian Standards, Codes, Guidelines and Notices, Conditions, Directions, Notices and Requirements issued pursuant to statutory powers by the LMCC, EPA, DMR, NPWS, DLWC, RTA and NSW Fisheries, are fully met.

(b) [64]The Applicant shall arrange for all development/subdivision and associated works to be designed in accordance with the following publications (as amended or updated), as applicable:-

- (i) Australian Rainfall and Runoff (1987);
- (ii) AUSTROADS *Guide to Traffic Engineering Practice*;
- (iii) Department of Housing *Road Manual* (1987);
- (iv) City of Lake Macquarie *Subdivision Code* (1990);
- (v) Roads and Traffic Authority *Road Design Guide*;
- (vi) Roads and Traffic Authority *Interim Guide To Signs and Markings*;
- (vii) NSW Department of Housing *Managing Urban Stormwater* (1998);
- (viii) Department of Land and Water Conservation *The Constructed Wetlands Manual* (1998).

Where any inconsistency exists between these documents the Applicant shall verify in writing with Council, the relevant standard to be adopted.

(c) [65]All construction works shall be undertaken in accordance with the requirements of the NSW Department of Housing Construction Specification 1989, Council's Subdivision Code and Managing Urban Stormwater - NSW

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[64] LMCC General Terms of Approval
[65] LMCC General Terms of Approval

Department of Housing. In the event of a discrepancy between these documents the requirements of the Subdivision Code shall apply.
Note:- Appendix E of Council's Subdivision Code consists of an addendum to the NSW Department of Housing Construction Manual.

Notes for Independent Dispute Resolution Process

1. The process will be subject to a procedural protocol to ensure that the process is transparent and consistent

2. The process will be subject to terms of reference on both a qualitative and quantitative basis against which judgements will be made.

3. In relation to disputes regarding noise impacts, the process will only result in agreed outcomes regarding mitigation measures proposed by the Applicant in the noise management zone. Acquisition is not an option in the noise management zone, unless otherwise privately agreed between the Applicant and landowner, and therefore acquisition will not be an option for the dispute resolution process to consider in these cases.

APPENDIX 1

Land to which this Development Application refers, all in the Parish of Teralba, County of Northumberland:

Lot 1, DP 868920;
Part Lot 7, DP 755262;
Lot 800, DP 749388;
Part Lot 21, DP 776221;
Part Lot 3, DP 7878;
Part Lot 4, DP 7878;
Lot 1, DP 446592;
Part Lot 13, DP 755262;
Part Lot 11, DP 829293;
Part Crown Roads; Part Wakefield Road;
Part Rhondda Road; Part School Road
Part Public Road (through Rhondda);
Crown Reserve: Crown Water Reserve No. 86