DETERMINATION OF A DEVELOPMENT APPLICATION FOR STATE SIGNIFICANT AND INTEGRATED DEVELOPMENT UNDER SECTION 80 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

I, the Minister for Infrastructure and Planning, under Section 80(3) of the *Environmental Planning and Assessment Act 1979* ("the Act"), determine the development application ("the Application") referred to in Schedule 1 by granting consent, subject to the conditions set out in Schedule A, B, C and D.

The reason for the imposition of conditions is to:
(i) prevent, minimise, and/or offset adverse environmental impacts;
(ii) provide for regional road infrastructure, community services and other strategic planning issues specified under *State Environmental Planning Policy No. 59 – Central Western Sydney Economic and Employment Area*;
(iii) provide for and suitable protect services and public areas, including public access for roads and shared pathways; and
(iv) provide for the on-going environmental monitoring and management of the development.

Craig Knowles MP
Minister for Infrastructure and Planning
Minister for Natural Resources

Sydney 30 June 2005 File No. 9037380

SCHEDULE A

Development Application:	DA-308-12-2004-i
Applicant:	Macquarie Goodman Management Limited
Consent Authority:	Minister for Infrastructure and Planning.
Land:	Part of Lots 11, 13 and 14, DP 1072146, off Wallgrove Road, Eastern Creek, Blacktown Local Government Area
Proposed Development:	Construction and operation of a distribution centre for Coca-Cola Amatil; subdivision of site including provisions of utilities, construction of roads and stormwater infrastructure, and creation of a riparian corridor. The scope of the development is provided in the draft plan of Subdivision provided in Schedule D of this consent, drawing number 111055009 revision 3 dated 23 June 2005.

State Significant Development:	The proposal is classified as State significant development under Section 76A(7)(a) of the *Environmental Planning and Assessment Act 1979* as it satisfies the criteria described in *State Environmental Planning Policy No. 34 – Major Employment-Generating Industrial Development*.
Integrated Development:	The proposal is classified as integrated development, under Section 91 of the *Environmental Planning and Assessment Act 1979*, because it requires additional approvals from the Department of Infrastructure Planning and Natural Resources under the *Rivers and Foreshores Improvement Act 1948* and the Blacktown City Council , with the concurrence of the Roads and Traffic Authority, under the *Roads Act 1993*.
Non-Designated Development:	The proposal is of a type of development that is not listed in Schedule 3 of the *Environmental Planning & Assessment Regulation 2000*, and is therefore is not designated development.

Note:

(1) *To find out when this consent becomes effective, see Section 83 of the Act;*

(2) *To find out when this consent is liable to lapse, see Section 95 of the Act; and*

(3) *To find out about appeal rights, see Section 97 of the Act.*

KEY TO CONDITIONS

DEFINITIONS

In this consent, except in so far as the context or subject-matter otherwise indicates or requires, the following terms have the meanings indicated:

Act	*Environmental Planning and Assessment Act, 1979*
Applicant	Macquarie Goodman Management Limited
BCA	Building Code of Australia
construction	any activity requiring a Construction Certificate, the laying of a slab or significant excavation work
Council	Blacktown City Council
CPW	Cumberland Plain Woodland
dB(A)	decibel (A-weighted scale)
the Department	NSW Department of Infrastructure, Planning and Natural Resources
Developer Agreement	the agreement entered into by Macquarie Goodman and Austral Bricks and the Minister in accordance with clause 271 of the Regulation
the development	the development the subject of this consent
dust	any solid material that may become suspended in air or deposited
$L_{Aeq(15\text{-minute})}$	equivalent average sound pressure level that is measured over a 15 minute period
$L_{A1(1\text{-minute})}$	equivalent average sound pressure level that is measured over a 1 minute period
M7 Hub	the land specified as such iin the Developer Agreement, generally being land west of Wallgrove Road, south and east of Old Wallgrove Road and north of the Sydney Water pipeline
Minister	NSW Minister for Infrastructure and Planning, or delegate
operation	any activity at the proposed development that results in the storage or distribution of food and/ or beverages for commercial purposes
Part 3A Permit	a Part 3A Permit issued under the RFI Act
PCA	Principal Certifying Authority: the Minister, the Council or an accredited certifier, appointed under Section 109E of the Act, to issue a Part 4A Certificate as provided under Section 109C of the Act
Protected Waters	Reedy Creek, being a tributary to Eastern Creek, and other water body connected to Reedy Creek
Regulation	*Environmental Planning and Assessment Regulation, 2000*
Riparian Zone	the area, to be established by the Applicant in accordance with this development consent, a minimum of 40 metres from the top of the bank of Reedy Creek
RFI Act	*Rivers and Foreshores Improvement Act 1948*
SCRFF	Sydney Coastal River Flat Forest
site	the land to which this consent applies
SEE	Statement of Environmental Effects, submitted to support the development application, entitled *Statement of Environmental Effects: Proposed Coca Cola Amatil Distribution Facility,* prepared by Integrated site Design Pty Ltd on behalf of the Applicant and dated December 2004
Subdivision Certificate	a certificate referred to in Section 109C(1)(d) of the *Environmental Planning and Assessment Act 1979*.

SCHEDULE A
SCOPE OF DEVELOPMENT WORKS AND GENERAL PROVISIONS THAT RELATE TO ALL ASPECTS OF THE DEVELOPMENT

A1. GENERAL

Terms of Approval

A1.1 The Applicant shall carry out the development generally in accordance with the following documents:

(a) DA-308-12-2004-i;
(b) the SEE;
(c) additional information submitted by the Applicant, titled *Clarification / Additional Information as Requested,* dated 21 April 2005, addressing the issues raised by the Department, Blacktown Council and Fairfield Council;
(d) clarification of potential flora and fauna impacts submitted by the Applicant and dated 3 May 2005; and
(e) *M7Hub Precinct Plan Agreement* – Being Part of the M7Hub DEVELOPER AGREEMENT – dated 23 June 2005*;*
(f) drawings submitted by the Applicant titled and dated as follows:
  i) *Scope of Application* – CCA DA02, dated 6 December 2004;
  ii) *Site Plan / Ground Floor Plan* – CCA DA03(A) dated 21 April 2005;
  iii) *Roof Plan* – CCA DA04, dated 6 December 2004;
  iv) *Sections* – CCA DA05, dated 6 December 2005;
  v) *Elevations* – CCA DA06A and CCA DA07A, dated 21 April 2005;
  vi) *Landscape Masterplan* – L04572 Rev A, *Landscape Concept Plan* – L04572 Rev B, and *Reedy Creek Landscape Concept* – L04531-103 Rev A, all dated December 2004;
  vii) *Typical Streetscape Details* – L04531-102 dated November 2004;
  viii) *East Precinct – Stage 1 General Arrangement Plan* – 03320-CDA1-01 Rev 01 dated December 2004;
  ix) the area bound within the red line on the *Proposed Draft Plan of Subdivision* – 111055009 Rev 03, dated 23 June 2005; and
(g) the conditions of this consent.

If there is any inconsistency between the conditions of this consent and a document listed above the conditions of this consent shall prevail to the extent of the inconsistency. If there is any inconsistency between the documents listed above (other than the conditions of this consent) then the most recent document shall prevail to the extent of the inconsistency.

A1.2 In accordance with the draft Plan of Subdivision the lots permitted to be created by subdivision of the site are for:

(a) the riparian zone surrounding Reedy Creek;
(b) the construction and operation of the warehouse and distribution facility;
(c) the access road and service corridor; and
(d) the lot for the purposes of providing stormwater detention infrastructure for the warehouse and distribution facility.

Note: The subdivision permitted by this consent would result in the creation of two residual lots in the land east of the Reedy Creek riparian zone in the Eastern Creek Precinct. One to the north of the access road between the access road and the Reedy creek riparian zone, and the other to the south of the access road between the site for the distribution facility and Wallgrove Road. Subdivision of these residual lots, in accordance with the principles established in the *M7Hub Precinct Plan Agreement*, is subject to further assessment and approval under the *Environmental Planning and Assessment Act 1979* (at the time of determination subdivision of these residual lots was before the Minister under the development application DA-86-4-2005-i being a subdivision plan for the entire M7 Hub estate).

Developer Agreement

A1.3 [1] The Applicant will enter into a Planning Agreement with the Minister and RTA in accordance with the 'Terms of Offer' dated 23 June 2005.

A1.4 [2] The Applicant shall make all relevant contributions in accordance with the Developer Agreement dated 23 June 2005 between the Applicant and the Minister, and the 'Terms of Offer' (dated 23 June 2005) for the Planning Agreement specified in condition A1.3. Relevant contributions for this development shall be paid prior to the issue of a Subdivision Certificate, unless otherwise agreed in writing by the Director-General, in consultation with the RTA.

A1.5 If at any time during the life of this development consent a dispute or issue arises between the Applicant and/or Blacktown City Council or any other party in relation to Section 94 contributions, the dispute shall be referred to the Minister for consideration. The Minister's decision on the matter shall be final and binding on all parties.

A1.6 Within 1 month of the approval of the 'Stage 3 Release Area Precinct Plan' by Blacktown City Council, the Applicant must undertake a review of the precinct related matters referred to in the Developer Agreement with the 'Stage 3 Release Area Precinct Plan'. The review shall report on the consistency of the precinct related matters in the Developer Agreement with the 'Stage 3 Release Area Precinct Plan' and detail the amendments the Applicant will make to be consistent and compliment the 'Stage 3 Release Area Precinct Plan'. The review shall be undertaken in consultation with Blacktown City Council and to the satisfaction of the Director-General. The Applicant will make any other amendments considered necessary to the precinct matters in the Developer Agreement following the outcomes of the review and issues raised by Council to the satisfaction of the Director-General.

Dispute Resolution

A1.7 In the event that a dispute arises between the Applicant and Council or a public authority other than the Department, in relation to a specification or requirement applicable under this consent, the matter must be referred by either party to the Director-General, or if not resolved, to the Minister, whose determination of the dispute shall be final and binding on all parties. For the purpose of this condition, "public authority" has the same meaning as provided under Section 4 of the Act.

Note: Section 121 of the *Environmental Planning and Assessment Act 1979* provides mechanisms for resolution of disputes between the Department, the Director-General, councils and public authorities.

Provision of Information

A1.8 Where practicable, the Applicant shall provide all documents and reports required to be submitted to the Director-General under this consent in an appropriate electronic format. Provision of documents and reports to other parties, as required under this consent, shall be in a format acceptable to those parties.

Statutory Requirements

A1.9 The Applicant shall ensure that all necessary licences, permits and approvals are obtained and kept up-to-date as required throughout the life of the development. No

[1] Incorporates an RTA condition of concurrence under the *Roads Act 1993*
[2] Incorporates an RTA condition of concurrence under the *Roads Act 1993*

condition of this consent removes the obligation for the Applicant to obtain, renew or comply with such licences, permits or approvals.

Compliance

A1.10 The Applicant shall put in place a management system, and take reasonable steps, to ensure that employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent relevant to their respective activities.

A1.11 Prior to the commencement of each of the events listed from (a) to (b) below, or within such period as otherwise agreed by the Director-General, the Applicant shall certify in writing, to the satisfaction of the Director-General, that it has complied with all conditions of this consent applicable prior to the commencement of that event.

(a) construction of the development, including subdivision and infrastructure provision; and
(b) operation of the distribution facility.

The Applicant may undertake any of these events in stages, subject to the agreement of the Director-General. Where an event is to be undertaken in stages, the Applicant may, stage the submission of compliance certification consistent with the staging of activities relating to that event.

A1.12 Notwithstanding condition A1.11 of this consent, the Director-General may require an update on compliance with all, or any part, of the conditions of this consent. Any such update shall meet the reasonable requirements of the Director-General and be submitted within such period as the Director-General may agree.

A1.13 The Applicant shall, within such time as the Director-General may agree, comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:

(a) any reports, plans or correspondence that are submitted in accordance with this consent; and
(b) the implementation of any actions or measures contained in these reports, plans or correspondence.

Provision and Protection of Public Infrastructure

A1.14 The Applicant shall:

(a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
(b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

A1.15 Prior to construction activities commencing at the site, the Applicant shall submit an application for a Section 73 Compliance Certificate from Sydney Water. A Notice of Requirements must be obtained from Sydney Water prior to the commencement of construction at the development.

A2. ENVIRONMENTAL PERFORMANCE

Traffic and Access Impacts

A2.1 [3] In accordance with the 'Terms of Offer' (dated 23 June 2005) for the Planning Agreement specified in condition A1.3, the Applicant shall:

(a) prior to the commencement of operations of the distribution facility, construct, at full cost to the Applicant, a signalised intersection at the Wallgrove Road/ Eastern Creek (east) access road intersection with the following parameters:

[3] Incorporates conditions of the RTA's concurrence under the *Roads Act 1993*

i) On Wallgrove road:
- southbound approach: two through lanes, and two right turn lanes with 60 metres storage;
- southbound departure: two through lanes for 150 metres plus 100 metres of taper;
- northbound approach: two through lanes for 150 metres plus 100 metres of taper and a 50 metre long left turn slip lane; and
- northbound departure: two through lanes to the access road of the Waste Service

ii) On the Eastern Creek eastern access road two right turn lanes and a 30 metre long left turn slip lane.

(b) provide for road widening on the section of Wallgrove Road fronting the site to ensure that a continuous four lane arrangement exists along Wallgrove Road between Wallgrove Road/ Old Wallgrove Road intersection and the Wallgrove Road/ Eastern Creek (east) access road intersection, with any property that is provided to necessitate such road widening to be dedicated as road to the RTA at no cost to the RTA; and

(c) ensure that the proposed roundabout on the Eastern Creek (east) access road is approximately 120 metres away from Wallgrove Road.

These roadworks shall be designed in accordance with the RTA's Design Guidelines, to accommodate B-double turn paths and include provisions for cyclists.

A2.2 [4] Prior to the issue of a Construction Certificate for the distribution facility, the Applicant shall obtain the approval of the RTA for the conceptual design of the roadworks described in condition A2.1.

A2.3 [5] Prior to the commencement of any roadworks within the road reserve of Wallgrove Road, the Applicant shall seek the specific approval of those works from the RTA. No roadwork is to proceed within the Wallgrove Road reserve without the specific approval of the RTA for such works. Prior to such approval being granted, the Applicant will be required to enter into a Works Authorisation Deed for the road works/ traffic control facilities along Wallgrove Road, in accordance with the requirements of the RTA.

Air Quality Impacts

A2.4 The Applicant shall design, construct, operate and maintain the development in a manner that minimises dust emissions from the site.

A2.5 The Applicant shall take all practicable measures to ensure that all vehicles entering or leaving the site and carrying a load that may generate dust are covered at all times, except during loading and unloading, in a manner that will prevent emissions of dust from the vehicle at all times.

Noise Impacts

A2.6 Construction activities associated with the development may only be carried out between 7:00 am and 6:00 pm, Monday to Friday inclusive, and between 8:00 am and 1:00 pm on Saturdays. No works may be carried out on Sundays on Public Holidays, or otherwise outside the stated hours except where:

(a) noise from the construction activity is inaudible at the nearest affected residential receiver; or

(b) it is necessary for the delivery of materials as requested by Police or other authorities for safety reasons; or

(c) where it is necessary emergency work to avoid the loss of lives, property and/or to prevent environmental harm.

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[4] Incorporates conditions of the RTA's concurrence under the *Roads Act 1993*
[5] Incorporates conditions of the RTA's concurrence under the *Roads Act 1993*

Soil and Water Quality Impacts

Erosion and Sedimentation During Construction

A2.7 [6] Construction and earthworks, shall not commence at the development until a Part 3A Permit under the RFI Act has been obtained by the Applicant.

A2.8 [7] All works carried out by the Applicant in relation to the development shall be designed, constructed and operated so that they:
- (a) result in minimal harm to aquatic and riparian environments; and
- (b) do not cause erosion and scour of the banks or bed of the watercourse/ foreshore, sedimentation, or increase flood levels of protected waters.

A2.9 [8] Prior to the commencement of any earthworks or vegetation clearing at the site, vegetation and habitat to be protected is to be fenced off with clearly visible, durable, and appropriately signposted exclusion fencing.

A2.10 [9] All drainage, sediment and erosion control works and measures shall be implemented prior to commencement of any other works at the Site.

A2.11 [10] All erosion and sediment control measures at the site are to be inspected and maintained as required on a weekly basis, and immediately following any rainfall events, to ensure their efficient operation. This obligation remains until the site has been fully stabilised.

A2.12 [11] Decommissioning of erosion and sediment controls and any water diversion structures must meet the requirements outlined in the Landcom publication *Managing Urban Stormwater: Soils and Construction – Volume 1, 4th Edition (2004)*, and must not detrimentally affect the implementation of the Vegetation Management Plan.

Drainage System

A2.13 The drainage system for the site shall be designed and constructed to safely convey 1 in 100 year flood waters in accordance with any reasonable requirements or standards of Council, should there be any. Prior to the commencement of construction of the drainage system the Applicant shall consult with Council to obtain the requirements and standards of Council regarding the drainage system.

Discharge of Water

A2.14 Only clean and unpolluted stormwater is permitted to be discharged into the site-wide stormwater system.

Waste Impacts

A2.15 The Applicant shall not cause, permit or allow any waste generated outside the site to be received at the site for storage, treatment, processing, reprocessing or disposal, or any waste generated at the site to be disposed of at the site.

A2.16 Any waste or wastewater requiring off-site disposal shall be removed by a waste contractor to an appropriately licensed waste facility which can legally accept that waste.

A2.17 All waste materials generated by the development and stored at the site shall be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties.

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[6] Incorporates a General Term of Approval under the RFI Act
[7] Incorporates a General Term of Approval under the RFI Act
[8] Incorporates a General Term of Approval under the RFI Act
[9] Incorporates a General Term of Approval under the RFI Act
[10] Incorporates a General Term of Approval under the RFI Act
[11] Incorporates a General Term of Approval under the RFI Act

A2.18 All works and storage areas where spillages are likely to occur shall be bunded to comply with Australian Standard *AS 1940-2004 – The Storage and Handling of Flammable and Combustible Liquids*.

A3. CONSULTATION AND INVOLVEMENT

A3.1 Subject to confidentiality, the Applicant shall make all documents required under this consent available for public inspection upon request, including provision of all documents at the site for inspection by visitors.

A4. ENVIRONMENTAL MANAGEMENT

Construction Environmental Management Plan (CEMP)

A4.1 The Applicant shall prepare and implement a **Construction Environmental Management Plan** (CEMP) to outline environmental management practices and procedures to be followed during the construction of the development. The Plan shall be prepared by a suitably qualified person or team, and shall include, but not necessarily be limited to:

(a) a description of all activities to be undertaken on the site during construction, including an indication of stages of construction, where relevant;
(b) statutory and other obligations that the Applicant is required to fulfil during construction, including all approvals, consultations and agreements required from authorities and other stakeholders, and key legislation and policies;
(c) a description of the roles and responsibilities for all relevant employees involved in construction;
(d) details of how the proposed warehouse and distribution facility meets sustainable design principles in relation to energy efficiency and any relevant policies;
(e) a description of measures employed to ensure compliance with the conditions of this consent relevant to construction;
(f) details of how the environmental performance of the construction works will be monitored, and what actions will be taken to address identified potential adverse environmental impacts;
(g) the Management Plans listed under condition A4.2 of this consent.

The CEMP shall be submitted for the approval of the Director-General prior to the commencement of construction of the development. Notwithstanding, where construction work is to be undertaken in stages, the Applicant may, subject to the agreement of the Director-General, stage the submission of the CEMP consistent with the staging of activities relating to that work. Construction of each stage shall not commence until written approval has been received from the Director-General. Upon receipt of the Director-General's approval, the Applicant shall supply a copy of the CEMP to the Council upon request.

A4.2 As part of the CEMP for the development, required under condition A4.2 of this consent, the Applicant shall prepare and implement the following Management Plans:

(a) a **Construction Noise Management Plan** which shall include, but not be limited to:
 i) details of construction activities, including timing, duration and predicted noise levels;
 ii) management practices to minimise noise from construction activities;
 iii) compliance monitoring methods; and
 iv) a complaints handling and complaints monitoring program, including details of a contact person to follow up complaints.

(b) [12] a **Soil and Water Management Plan** shall be prepared which details the measures to be implemented to prevent and/or minimise potential adverse impacts associated with soil erosion, sedimentation and pollution resulting from construction activities. The Plan shall meet the requirements of the Council should there be any, and must:

i) cover all works on protected land and in protected waters, including staging and maintenance requirements;

ii) meet the requirements outlined in the Landcom publication *Managing Urban Stormwater: Soils and Construction – Volume 1, 4th Edition (2004)*;

iii) document the decommissioning requirements of all erosion and sediment controls and water diversion structures, including the timeframes for decommissioning with reference to the implementation of riparian zone plantings.

(c) a **Traffic Management Plan (Construction)** shall be prepared that provides details of construction access to the site, with consideration of the construction works associated with the M7 and Wallgrove Road. The Plan shall be prepared in consultation with the RTA and Council. In addition to the Director-General's approval, the Plan will require the approval of the RTA prior to the commencement of construction.

A5. ENVIRONMENTAL REPORTING

Incident Reporting

A5.1 The Applicant shall notify the Director-General, by way of a report outlining the basic facts, of any incident or potential incident with actual or potential significant off-site impacts (or impacts to protected waters) on people or the biophysical environment within 24 hours of the occurrence of the incident. The Applicant shall provide a more detailed report of the incident to the Director-General following investigations of the causes and identification of necessary additional preventative measures, to be submitted no later than 14 days after the date on which the incident or potential incident occurred.

[12] Incorporates a General Term of Approval under the RFI Act

SCHEDULE B
CONDITIONS RELATING TO SUBDIVISION ASPECTS OF THE DEVELOPMENT

B1. TERMS OF APPROVAL FOR SUBDIVISION

B1.1 [13] Prior to the issue of a Subdivision Certificate, the Applicant shall, in addition to the other requirements of this consent, demonstrate to the satisfaction of the Director-General that the following areas are legally protected:
(a) local native plant species vegetation in the riparian zone; and
(b) the bed and banks of Reedy Creek.

Public Access, Sevices and Easements

B1.2 Prior to making an application for a Subdivision Certificate, the Applicant shall submit for the approval of the Director-General a survey plan clearly identifying the areas which are to be provided for public access. Easements, or other suitable legal instruments, to provide for 24 hour unrestricted public access shall be created, pursuant to Section 88B of the *Conveyancing Act, 1919,* over public access areas. The nature and terms of the instrument(s) shall be submitted with the survey plan for the approval of the Director-General. The approved instrument and its terms shall form part of an application for the subdivision certificate.

B1.3 Easements at least three metres wide over all sewer mains, stormwater mains and interlot drainage mains must be created, pursuant to section 88B of the *Conveyancing Act 1919*. Prior to the issue of a subdivision certificate, the Applicant must provide documentary evidence from the relevant service authorities demonstrating that satisfactory arrangements have been made for the supply (including any necessary easements) of reticulated electricity, telephone services and natural gas to each lot.

B1.4 No right of exclusive use and enjoyment of the whole or any specified part of the designated common area or similar in the approved plans will be conferred on any person/ persons. These requirements are to be made, at no cost to Council or the consent authority, and a restrictive covenant placed on title pursuant to Section 88E of the *Conveyancing Act, 1919*.

Public Roads

B1.5 Prior to the issue of a Subdivision Certificate for the site, the Applicant shall consult with Council with regards to the management of the roads internal to the subdivision.
(a) If Council agrees to take ownership and responsibility of these roads then the Applicant's shall:
    i) prior to making an application for as Subdivision Certificate submit to the Director-General evidence that Council is prepared to accept ownership and responsibility of the public roads;' and
    ii) ensure that the Plan of Subdivision, which is to be registered in the office of the Registrar-General in accordance with Section 88B of the *Conveyancing Act 1919,* dedicates as public roads, in accordance with Section 9 of the *Roads Act 1993*, the land specified as Lot 366 and bounded by the red line in the draft Plan of Subdivision (condition A1.1(f)(xi)).
(b) If Council refuses to take ownership and responsibility of these roads then the Applicant shall:
    iii) prior to making an application for a Subdivision Certificate, submit and have approved by the Director-General, the terms of a public positive covenant, to be created under Section 88E of the *Conveyancing Act 1919*, which enables all public roads to be dedicated to Council;

[13] Incorporates a General Term of Approval under the RFI Act

iv) register the public positive covenant with the Deposited Plan;
v) prepare and implement a Public Roads Maintenance and Management Plan in accordance with condition B3.2; and
vi) consult with Council regularly (at least once per year) to ascertain whether Council's position has changed in relation to the ongoing management and maintenance of the public roads.

B1.6 Easements, or other suitable legal instruments, to provide for 24 hour unrestricted public access, pursuant to Section 88B of the *Conveyancing Act, 1919,* over roads internal to the subdivision. The nature and terms of the instrument(s) shall be submitted for the approval of the Director-General prior to the making of an application for a Subdivision Certificate. The approved instrument and its terms shall form part of an application for the subdivision certificate.

B2. [14] RIPARIAN ZONE MANAGEMENT

Establishing the Riparian Zone

B2.1 The Applicant shall establish a riparian zone 40 metres as measured horizontally landward from the top of the bank and at right angles to the alignment of the bank, of both sides of protected waters, including beneath any crossings, for their entirety of Reedy Creek within the Site. Following the completion of bulk earthworks at the Site, a registered surveyor must undertake a "peg out survey". The survey must clearly show on the ground the location and extent of the riparian zones described in these conditions, via the use of pegs and clearly visible, durable and appropriately signposted exclusion fencing. The Department shall inspect and approve the "peg out survey" and fencing prior to the release of any cash bond or bank guarantee associated with the earthworks or structures at the Site.

Protection of the Riparian Zone

B2.2 The riparian zone shall be managed in a manner which does not compromise the function of the zone, including ecological systems within the zone. As such, all works, access routes, roads, recreational areas, service easements and any other non-ecologically functioning work or activity are to be located beyond the riparian zone, unless otherwise approved by the Director-General. No open space is to occur within riparian zones (including turfed areas and picnic areas).

B2.3 All accessways, being cycleways, pedestrian pathways or other non-vehicular form of accessway that may be proposed for the Site, are to be designed and constructed in accordance with the *Draft Guidelines for the Design and Construction of Paths and Cycleways in Riparian Areas- Version 2*. Where possible accessways are to be located outside of the riparian zone of protected waters, and the width of any accessway is to be kept to a minimum should it intrude into a riparian zone.

B2.4 Where practicable, the Applicant shall establish a vegetated buffer zone, 10 metres in width, immediately adjacent to the riparian zone where open space and recreation areas may be located provided these areas consist of grass/vegetation and not hard surfaces. No hardstand surfaces or open spaces shall be established within the buffer zone.

B2.5 No exotic plant species, other than temporary sterile cover crops, are to be planted within, or within 10 metres of, the riparian zone, unless otherwise approved by the Director-General.

B2.6 The surface of all excavated and fill areas within the riparian zone shall be progressively graded to a smooth and even slope free from holes or ridges. Slope

[14] Conditions B2.1 to B2.25 incorporate General Terms of Approval under the RFI Act

drainage and grades are to be as shown on the plans accompanying the Part 3A permit. Batter slopes are not to be steeper than a grade of 1V:3H, unless indicated otherwise on the plans accompanying the Part 3A permit. Slopes are not to be at grades steeper than those satisfactory to Council in relation to public safety.

B2.7 Any requirements for bushfire asset protection zones are not to compromise in any way the extent, form or function of the riparian zones. Fuel reduced areas or other Asset Protection Zones and fire access trails are to be located outside of riparian zone.

B2.8 Any flooding, drainage, stormwater detention and water quality structures (either temporary or permanent) must not compromise in any way the form and function of protected waters and riparian zones required by these conditions. Structures put in place to minimise the affects of flooding are to remain outside the riparian zone.

B2.9 A permanent physical barrier shall be placed at their landward extent of the riparian zone wherever mowing or slashing of adjacent areas is likely.

Stream Crossings

B2.10 The existing causeway (located on the north of the site) is not permitted to be developed or improved under any provisions of this consent.

B2.11 Any crossing design over protected waters and riparian zones must be sensitive to the ecology, wildlife corridor and geomorphic functions of protected waters and protected land. All crossings shall be designed and constructed in accordance with the principles in the Department's *Draft Guidelines – Watercourse Crossing Design & Construction – Version 3*.

Stream Stabilisation

B2.12 If the bed and banks of protected waters require stabilisation a Stream Works Plan shall be prepared. The Plan is to be based on an understanding of stream dynamics and environmentally sensitive stream rehabilitation practices. If a Stream Works Plan is necessary, a brief and concise report addressing the performance criteria as specified in the Plan and any problems implementing the plan as well as means to overcome these shall be forwarded after practical completion of the works.

B2.13 All works within protected waters are to be monitored after each major storm event. If there are signs of erosion or instability of protected waters, the Applicant shall consult with the Department, and with the permission of the Director-General undertake stabilisation works consisting of soft-engineered designs.

Stormwater Basins and Outlets

B2.14 All stormwater basins shall be:

(a) designed and constructed to ensure minimal impact on protected waters, identified riparian zones and natural flow regimes;

(b) designed to meet best practice standards, such that the residence time of stormwater is maximised and water quality is optimised;

(c) situated outside of the 40-metre riparian zone; and

(d) lined with an artificial non-permeable membrane to minimise any potential salinity problems that may negatively impact on the riparian zone.

B2.15 Stormwater outlets or scour protection works shall be designed, located and constructed to minimise any erosion or scour of riparian zones or the bed or banks of any protected waters. The construction methods adopted must ensure that disturbance to soil and vegetation in these areas is kept to an absolute minimum. Stormwater outlets shall be designed in accordance with the Department's guideline: *Stormwater Outlet Structures to Streams (For pipes, culverts, drains and spillways -*

Version 1). Wire mesh structures and concrete grouting are not permitted unless specifically approved by the Director-General.

Rehabilitation of Riparian Zones

B2.16 The Applicant shall rehabilitate and revegetate the riparian zone, including the area within protected waters and beneath crossings that are disturbed or otherwise affected by the development, to a state that is reasonably representative of the natural ecotone of the protected waters and their environment.

B2.17 Restored riparian zones are to consist of a diverse range of native plant species local to the area and are to be fully structured (i.e. trees, shrubs and groundcovers), unless otherwise approved by the Director-General. The plants used are to consist of species and communities that emulate the original natural situation. Planting densities are to be as follows:
(a) at least 1 tree or 1 shrub (in approximately equal numbers) alternately planted at 1 plant per square metre; and
(b) groundcover plants at 4 plants per square metre, unless otherwise specified in the Vegetation Management Plan.

The riparian zones may be rehabilitated using a combination of methods, such as natural bush regeneration, brush matting, hydro-seeding, direct seeding or tubestock planting, provided the required densities and clear evidence of the plants' ability to survive are achieved by the end of the maintenance period, which is 2 years after the date of planting.

B2.18 The Applicant shall advise the Department of the person responsible for any seed or vegetative propagation prior to the commencement of that propagation.

B2.19 Bush regeneration, for weed control and to promote natural regeneration, is to be undertaken for a minimum distance of 10 metres beyond any disturbed areas in the riparian zones. Revegetation, in accordance with the standards required by these conditions, is to be undertaken in this 10 metre wide area if it is significantly degraded or is likely to give rise to weed invasion due to lack of native vegetation cover before or after weed control.

B2.20 Only certified weed free and contaminant free mulch is to be used on the Site.

B2.21 Soils used as fill in the riparian zone shall be those naturally occurring at the site unless otherwise approved by the Director-General. If importation of soil into the riparian zone is unavoidable, such soil must be tested and certified by a NATA registered soils laboratory to be:
(a) similar to the characteristics, and capable of forming the profile of the naturally occurring local riparian zone soil;
(b) suitable for the establishment and on-going viability of riparian vegetation;
(c) free of any weed propagules; and
(d) free of any contaminants.

B2.22 The structure of the soils in the riparian zones must be suitable for the vegetative rehabilitation of the site and are therefore not to be proof rolled or subjected to other unsuitable compaction unless otherwise approved by the Director-General.

Maintenance of Rehabilitated Areas within Riparian Zones

B2.23 The rehabilitated riparian zones must be maintained and monitored for a period of at least two years after final planting and primary bush regeneration. Maintenance must include sediment and erosion control, watering, weed control, replacement of plant losses, disease and insect control, mulching and any other requirements necessary for achieving successful vegetation establishment.

B2.24 Site rehabilitation and maintenance is to be carried out in accordance with a Vegetation Management Plan. The Plan shall meet the following requirements:

(a) Be prepared in accordance with the *Department's guideline How to Prepare a Vegetation Management Plan – Version 4* prior to the commencement of works at the site.

(b) Address all matters relating to riparian zone protection, including specifying vegetation to be retained and vegetation to be removed, obtaining plant material for rehabilitation, establishment methods, sequencing of tasks, maintenance and performance monitoring relating to the rehabilitation of the riparian zones.

(c) Provide detailed drawings that clearly show the approved extent of the riparian zone, and specify the planting densities and the species mix for all areas to be rehabilitated.

The person responsible for implementing the Plan shall certify in writing to the Department that plantings have been carried out using stock propagated from seed or plant material collected only from native plants from the local botanical provenance. This certification is to be provided with the first monitoring report, and prior to the release of any cash bond or bank guarantee, and for any supplementary plantings with the next monitoring report thereafter. The local botanical provenance for this proposal can be up to 5km from this site.

B2.25 The Applicant shall prepare and submit a report addressing the performance criteria as specified in the Vegetation Management Plan, and provide details of any problems implementing the Plan, as well as means to overcome these problems. The report shall be forwarded to the Director-General after practical completion of initial planting/ seeding, bush regeneration and prior to the release of any security deposit, and practical completion of the maintenance period. The report must also comment on the stability and condition of any associated stream works.

B3. SITE MANAGEMENT

Construction of Public Roads

B3.1 The Applicant shall construct all roads that are intended to be dedicated as public roads in accordance with the Roads and Traffic Authority's specifications, Austroad Standards and any requirements of Blacktown City Council. Prior to the issue of a Construction Certificate, the Applicant shall demonstrate to the satisfaction of the Director-General that the specific requirements of Council and the Roads and Traffic Authority, should there be any, have been addressed.

Public Roads Maintenance and Management

B3.2 If required under condition B1.5, the Applicant shall prepare and implement a **Public Roads Maintenance and Management Plan** to establish the necessary environmental management framework, practices and procedures to be followed to ensure on-going management and maintenance of public roads. The plan shall be prepared by a suitably qualified person, in consultation with the RTA, and Council, to the satisfaction of the Director-General.

B3.3 Subject to the agreement of Council, the Applicant shall ensure that full time No Stopping restrictions are imposed along both sides of the proposed access road between Wallgrove Road and the proposed roundabout.

Stormwater

B3.4 Prior to the issue of the Subdivision Certificate, the Applicant shall prepare, and submit to the Director-General for approval, a **Stormwater Management Scheme** that establishes the framework, and provides details regarding the management of stormwater in the site-wide stormwater system. In particular, the Scheme shall detail the performance requirements and standards for the operation of the stormwater detention basins. The Scheme shall detail the measures proposed to ensure water discharged is of a suitable quality, including on-going monitoring of the quality and quantity of water discharged. The Scheme shall be prepared in consultation with Blacktown City Council and demonstrate how the reasonable requirements of Council have been addressed, should Council have any such requirements. The Scheme shall include details of how the possible maximum flood waters would be managed at the site to ensure that there would be no upstream off-site impact, in consultation with Fairfield City Council.

B3.5 Stormwater run-off into the Wallgrove Road shall not exceed the existing level of runoff.

Landscaping

B3.6 Landscaping shall be carried out generally in accordance with the document listed in condition A1.1, except that:

(a) any lot with a frontage onto the riparian zone shall only use riparian zone species (i.e. SCRFF and CPW); and

(b) only native species shall be used.

B3.7 Landscaping shall be maintained in a healthy state in perpetuity, and in the event that any vegetation dies or is removed, that vegetation shall be replaced by vegetation of the same species and as much as practicable the same maturity as that which dies or was removed.

SCHEDULE C
CONDITIONS RELATING TO OPERATION OF THE DISTRIBUTION FACILITY

C1. TERMS OF APPROVAL FOR THE DISTRIBUTION FACILITY

C1.1 Prior to the commencement of any operations at the distribution facility, the Applicant:
- (a) shall have completed intersection treatments at the Wallgrove Road/ Eastern Creek (east) access road intersection to the satisfaction of the RTA,
- (b) shall have completed all other infrastructure works at the site including drainage, water treatment and services approved under this consent; and
- (c) shall be in receipt of a Subdivision Certificate issued legally for the site for the three lots described in condition A1.2.

C2. ENVIRONMENTAL PERFORMANCE

Visual Amenity Impacts

C2.1 The Applicant shall ensure that the façade building is generally consistent with the design drawings CCA DA06A and CCA DA07A dated 21 April 2005, except that the building elevations shall not include the Coca-Cola brand sign as depicted in the top right-hand side of the building elevation in the drawing. Prior to the commencement of construction of the building, the Applicant shall submit detailed designs of the final building elevations façade for the approval of the Director-General. The detailed design shall include, but not be limited to, demonstration of how the lantern box treatment will be designed to ensure that views from afar do not see the building protruding above the lantern box.

C2.2 To avoid any doubt, the scope of this development consent does not include the Coca-Cola pylon signage as presented on some of the drawings listed in condition A1.1.

C2.3 The Applicant shall ensure that the finish of all structures and buildings are maintained at all times, and that any graffiti or vandalism is removed immediately.

Noise Impacts

C2.4 Noise generated at the development must not exceed the noise limits specified in Table 1 below at the nearest affected residential receivers and must not exceed a night time sleep disturbance criteria also specified in Table 1 below at the nearest affected residential receivers.

Table 1 - Noise Limits

Day (7am to 6pm Monday to Saturday and 8am to 6pm Sundays/ Public Holidays)	**Evening** (6pm to 10pm)	**Night** (10pm to 7am Monday to Saturday and 10pm to 8am Sundays/ Public Holidays)	
$L_{Aeq\ (15\ minute)}$	$L_{Aeq(15\ minute)}$	$L_{Aeq(15\ minute)}$	$L_{A1(1\ minute)}$
42	44	38	48

For the purpose of assessment of noise impacts specified under condition 3.18 above of this consent, noise from the development shall be:
- (a) measured at the most affected point on or within the residential boundary for LAeq(15 minute) noise levels;
- (b) measured at 1m from the dwelling for LA1(1 minute) noise levels;
- (c) measured at wind speeds up to 3ms-1 at 10 metres above ground level;
- (d) measured at temperature inversion conditions up to 3oC per 100 metres; and
- (e) subject to the modification factors provided in Section 4 of the New South Wales Industrial Noise Policy (EPA, 2000).

C2.5 Noise from the development associated with reversing alarms, amplified telephones or external announcement or amplified pager systems or any other alarm or system likely to cause disturbance must not be audible at the nearest affected residential receivers within residential areas during the evening period (6:00pm until 10:00pm) and the night time period (10:00pm until 7:00am).

Traffic and Transport

C2.6 All driveways, manoeuvring areas and parking areas associated with the distribution facility shall be designed and constructed in accordance with Australian Standards *AS 2890.1:2004* and *AS 2890.2:2002*.

Flood Levels

C2.7 The building must maintain a freeboard of 500 mm above the 1% Annual Exceedance Probability (AEP) in accordance with Blacktown Council's *Eastern Creek and Tributaries Floodplain Management Plan*.

Water Harvesting

C2.8 Prior to the commencement of construction at the development the Applicant shall prepare and submit to the Director-General a **Water Efficiency and Harvesting Plan** which details water harvesting and efficiency measures proposed to be implemented at the development. The Plan shall demonstrate a commitment to maximise water efficiency (including water harvesting) and minimse dependence on main water where practicable (especially for landscape irrigation), including, but not be limited to:

(a) details of the proposed methods for capturing rain water or any other water source, including detailed design, location and capacity of water harvesting collection tanks;
(b) details of measures to reduce water consumption at the site, particularly the use of water saving devices such as AAA rated devices recommended by Sydney Water;
(c) methods for reducing, reusing and recycling water; and
(d) consideration of any requirements of Blacktown City Council.

Storage of Hazardous Substances

C2.9 The Applicant shall not store LPG at the site at or above the following quantity:

(a) 16 m^3 if stored above ground; and
(b) 64 m^3 if stored underground or mounded.

LPG shall be stored at the site strictly in accordance with Australian Standard *AS 1940-2004: The storage and handling of flammable and combustible liquids*.

Landscaping

C2.10 Landscaping shall be carried out generally in accordance with the Landscape Concept Plan, described in condition A1.1, except that:

(a) any planting along the edge of the site, with direct frontage onto the riparian zone, or public space zone, shall be planted only with species naturally occurring in the riparian zone, being SCRFF and/ or CPW (where relevant).
(b) only native species shall be used.

C2.11 Landscaping shall be maintained in a healthy state in perpetuity, and in the event that any vegetation dies or is removed, that vegetation shall be replaced by vegetation of the same species and as much as practicable the same maturity as that which dies or was removed.

C3. ENVIRONMENTAL MONITORING AND AUDITING

Noise Compliance Monitoring

C3.1 Unless otherwise agreed with the Director-General, within six months of the commencement of operation of the development, the Applicant shall commission a suitably qualified and experienced acoustic consultant to undertake a noise compliance assessment in accordance with the EPA's NSW *Industrial Noise Policy*, and submit a **Noise Compliance Report** to the Director-General. The noise compliance assessment shall demonstrate compliance with condition C2.3 and C2.4 of this consent. If the report demonstrates non-compliance the report shall list all mitigation options to ensure compliance with the noise limits, select the preferred option(s) giving reasoning and provide a schedule for the implementation of the preferred option(s).

C4. ENVIRONMENTAL MANAGEMENT

C4.1 The Applicant shall prepare and implement an **Operation Environmental Management Plan** to detail the environmental management framework, practices and procedures to be followed during the operation of the distribution facility. The plan shall be prepared by a suitably qualified person, and shall include, but not necessarily be limited to:

(a) identification of all statutory and other obligations that the Applicant is required to fulfil in relation to operation of the development, including all consents, licences, approvals and consultations;
(b) a description of the roles and responsibilities for all relevant employees involved in the operation of the development;
(c) overall environmental policies and principles to be applied to the operation of the development;
(d) standards and performance measures to be applied to the development, and a means by which environmental performance can be periodically reviewed and improved;
(e) management policies to ensure that environmental performance goals are met and to comply with the conditions of this consent; and
(f) the Management Plans listed under condition C4.2 of this consent.

The Operation Environmental Management Plan shall be submitted for the approval of the Director-General no later than one month prior to the commencement of operation of the development, or within such period otherwise agreed by the Director-General.

C4.2 As part of the Operation Environmental Management Plan for the distribution facility, required under condition C4.1 of this consent, the Applicant shall prepare and implement the following Management Plans:

(a) a **Noise Management Plan** to outline measures to minimise the impacts from the operation of the development on noise levels at nearby residences. The Plan shall include, but not necessarily be limited to:
   i) identification of all major sources of noise that may be emitted as a result of the operation of the development;
   ii) specification of the noise criteria as it applies to the particular activity;
   iii) procedures for the monitoring of noise emissions from the development;
   iv) protocols for the minimisation of noise emissions; and
   v) description of procedures to be undertaken if any non-compliance is detected.
(b) a **Stormwater Management Plan** to provide details regarding the collection and management and of stormwater at the site. In particular, the Plan shall detail how the stormwater management systems and controls for the warehouse and distribution facility site would interconnect with the site-wide stormwater management systems detailed in the Stormwater Management Scheme (condition B3.3). The Plan shall be prepared in consultation with Council.

(c) a **Transport Code of Conduct** to establish minimum performance standards for heavy vehicles and their operators, to ensure vehicles are maintained and operated in a manner which minimises noise and air pollutants.

C4.3 Every three years after the commencement of operation of the development the Applicant shall undertake a formal review of the OEMP required under condition C4.2 of this consent. The review shall ensure that the OEMP is up-to-date and all changes to procedures and practices prior to the review have been fully incorporated into the OEMP. The Applicant shall notify the Director-General of the completion of the review, and shall supply a copy of the updated OEMP to the Director-General and any other parties upon request.

C5. COMMUNITY CONSULTATION AND INVOLVEMENT

Complaints Procedure

C5.1 Prior to the commencement of construction of the development, the Applicant shall ensure that the following are available for community complaints for the life of the development (including construction and operation):

(a) a telephone number on which complaints about operations on the site may be registered;
(b) a postal address to which written complaints may be sent; and
(c) an email address to which electronic complaints may be transmitted.

The telephone number, the postal address and the email address shall be displayed on a sign near the entrance to the site, in a position that is clearly visible to the public, and which clearly indicates the purposes of the sign.

C5.2 The Applicant shall record details of all complaints received through the means listed under condition C5.1 of this consent in an up-to-date **Complaints Register**. The Register shall record, but not necessarily be limited to:

(a) the date and time, where relevant, of the complaint;
(b) the means by which the complaint was made (telephone, mail or email);
(c) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
(d) the nature of the complaint;
(e) any action(s) taken by the Applicant in relation to the complaint, including any follow-up contact with the complainant; and
(f) if no action was taken by the Applicant in relation to the complaint, the reason(s) why no action was taken.

The Complaints Register shall be provided to the Director-General upon request.

SCHEDULE D
FIGURE ILLUSTRATING THE SCOPE OF DEVELOPMENT CONSENT