

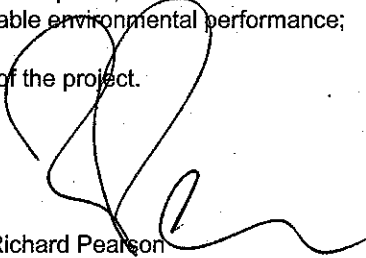
Project Approval

Section 75J of the *Environmental Planning and Assessment Act 1979*

Under the Minister for Planning's delegation of 25 January 2010, I approve the project referred to in Schedule 1, subject to the conditions in Schedules 2 to 4 inclusive.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the project.



Richard Pearson
Deputy Director-General
Development Assessment and Systems Performance
as delegate of the Minister for Planning

Sydney, 11th November 2010

SCHEDULE 1

Application Number:	08_0221
Proponent:	Incitec Fertilizers Limited
Approval Authority:	Minister for Planning
Land:	Lot 1 DP 225720, 13 Main Road, Boolaroo
Project:	IFL Cockle Creek Remediation Project - Stage 2

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DEFINITIONS

BCA	Building Code of Australia
Containment Cell	Component of the remediation project involving an engineered on-site cell structure designed to contain contaminated material in accordance with the document <i>Conceptual Remediation Action Plan</i> prepared by Soil & Groundwater Consulting and dated 23 October 2008 or as may be modified by detailed design. In this approval, the definition of the containment cell also includes environmental controls such as capping, drainage system and groundwater management system.
Council	Lake Macquarie City Council
CEMP	Document titled " <i>IFL Cockle Creek Stage 2 Construction Environmental Management Plan</i> ", dated August 2010 and prepared by Manidis Roberts
CQA	Construction and Quality Assurance
the DECCW	the Department of Environment, Climate Change and Water
the Department	the Department of Planning
Director-General	Director-General of the Department of Planning, or delegate
EA	Environmental Assessment titled " <i>Cockle Creek Stage 2 Environmental Assessment</i> ", dated October 2009
ENM	Excavated Natural Material
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPA	Environment Protection Authority, which is a part of the DECCW
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence
Land	Land means the whole of a lot, or contiguous lots owned by the same landowner, in a current plan registered at the Land Titles Office at the date of this approval
Minister	Minister for Planning, or delegate
Project	The development as described in the EA
Proponent	Incitec Fertilizers Limited
RAP	Remedial Action Plan titled " <i>Conceptual Remediation Action Plan, Incitec Fertilizers Limited, Cockle Creek Site Redevelopment, Boolaroo, New South Wales</i> ", dated July 2008
Reasonable and Feasible	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements. Feasible relates to engineering considerations and what is practical to build
Response to Submissions	The Proponent's response to issues raised in submissions
RTA	Roads and Traffic Authority
Stage 1	The first stage of the site remediation (MP 07_0014) approved August 2009 to address groundwater contamination 'hot-spots'
Stage 2	The second stage of the site remediation as described in the EA
Site	The land referred to in Schedule 1
Site audit report	As defined in the <i>Contaminated Land Management Act 1997</i>
Site audit statement	As defined in the <i>Contaminated Land Management Act 1997</i>
Site Auditor	As defined in the <i>Contaminated Land Management Act 1997</i>
Statement of Commitments	The Proponent's commitments in Appendix 1
VENM	Virgin Excavated Natural Material
VMP	Voluntary Management Proposal as agreed by the EPA on 12 April 2010

**SCHEDULE 2
ADMINISTRATIVE CONDITIONS**

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

1. The Proponent shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the construction, operation, or decommissioning of the project.

TERMS OF APPROVAL

2. The Proponent shall carry out the project generally in accordance with the:
 - (a) EA;
 - (b) RAP;
 - (c) response to submissions;
 - (d) statement of commitments;
 - (e) VMP;
 - (f) EPL 208, as amended to cover this project; and
 - (g) conditions of this approval.
3. If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this approval shall prevail to the extent of any inconsistency.
4. The Proponent shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
 - (a) any reports, plans, programs, strategies or correspondence that are submitted in accordance with this approval; and
 - (b) the implementation of any actions or measures contained in these reports, plans, programs, strategies or correspondence submitted by the Proponent.

LIMITS OF APPROVAL

5. This approval shall lapse if the Proponent does not physically commence the proposed development associated with this project within 5 years of the date of this approval.

STATUTORY REQUIREMENTS

6. The Proponent shall ensure that all licences, permits and approvals are obtained and maintained throughout the life of the project. No condition of this approval removes the obligation for the Proponent to obtain, renew or comply with such licenses, permits or approvals. The Proponent shall ensure that a copy of this approval and all relevant environmental approvals are available on the site at all times during the project.
7. Prior to commencement of works, the Proponent shall make application to the DECCW to amend EPL 208 to include *Waste Activities* and *Contaminated Soil Treatment* as Scheduled Activities.

OTHER

8. Subject to confidentiality, the Proponent shall, and acknowledges that the Department may make all documents and information relating to the remediation works available to the public free of charge.
9. The Director-General and the DECCW shall be informed in writing within 7 days of the Proponent becoming aware of information or data indicating a material change in conditions at the site or in its surrounding environment which could adversely affect the prospects of successful remediation of the site or result in harm to the environment.
10. The Director-General and the DECCW shall be informed in writing within 7 days of the Proponent becoming aware of any failure, either by the Proponent or any other person, to comply with any component or aspect of the proposed remediation works or the Project Approval conditions.

STRUCTURAL ADEQUACY

11. The Proponent shall ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the BCA.

Notes:

- Under Part 4A of the EP&A Act, the Proponent is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the project.

DEMOLITION

12. The Proponent shall ensure that all demolition work is carried out in accordance with *Australian Standard AS 2601-2001: The Demolition of Structures*, or its latest version.
13. All works involving the removal and disposal/management of asbestos must be undertaken by a contractor who holds a current WorkCover licence. Removal and/or disposal/management of asbestos must be carried out in accordance with the National Occupational Health and Safety Commissions *Code of Practice for the Safe Removal of Asbestos* and/or *Code of Practice for the Management and Control of Asbestos in Workplaces*.

PROTECTION OF PUBLIC INFRASTRUCTURE

14. The Proponent 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.

OPERATION OF PLANT AND EQUIPMENT

15. The Proponent shall ensure that all plant and equipment used on site is:
- (a) maintained in a proper and efficient condition; and
 - (b) operated in a proper and efficient manner.

SUBDIVISION

16. Prior to the issue of a Subdivision Certificate, the Proponent shall:
- (a) provide a copy of the final plan of subdivision to the Director-General;
 - (b) ensure that each lot is connected to services, drainage and utilities as appropriate; and
 - (c) create any easements for services, rights of carriageway and restrictions as to user that are applicable under Section 88B of the *Conveyancing Act 1919*.

MANAGEMENT PLANS OR MONITORING PROGRAMS

17. With the approval of the Director-General, the Proponent may submit any management plan or monitoring program required by this approval on a progressive basis.

**SCHEDULE 3
SITE REMEDIATION WORKS**

PLANS AND PROGRAMS

18. Prior to the commencement of remediation works, the Proponent shall prepare and implement a Staging Plan outlining how the remediation works would be staged and coordinated at the site. The Staging Plan shall be submitted firstly to the Site Auditor for review and approval and then the Director-General and to the DECCW for approval in writing, prior to the commencement of remediation works.

Any subsequent significant modifications to the Staging Plan shall be submitted to the Site Auditor for review and approval, with a copy to be submitted to the Director-General and to the DECCW for approval.

19. Remediation and validation of the site shall be carried out in an orderly sequence, generally in accordance with the Staging Plan.
20. Detailed Remediation Action Plans (D-RAPS) shall be prepared and implemented for Phases 2, 3, and 4 of the remediation works, as defined in the EA.
- (a) Each D-RAP must:
- be consistent with the requirements of the NSW EPA (1997) Guidelines for Consultants Reporting on Contaminated Sites as they relate to remedial action plans and validation reports;
 - include measures to ensure that there is no recontamination of areas that have already been remediated, with specific attention to prevention of off site migration of dust, sedimentation and contaminated water; and
 - be reviewed by a Site Auditor to review its suitability to address the remediation objectives.
- (b) The Site Auditor shall provide an Interim Audit Advice Letter for each D-RAP. The Phase 2 D-RAP shall be approved in accordance with the terms of the VMP.
- (c) Any comments or recommendations of the Site Auditor shall be addressed by the Proponent, unless otherwise agreed by the Director-General and the DECCW.
- (d) The D-RAP and Interim Audit Advice Letter (or Site Audit Statement with Part B sign-off and Site Audit Report for the Phase 2 D-RAP) for each phase shall be submitted to and approved by the DECCW prior to commencement of the respective phase of works.

VALIDATION OF REMEDIATION WORKS

21. Prior to the commencement of any construction or remediation works, the Proponent shall engage a Site Auditor accredited by the EPA under Part 4 of the *Contaminated Land Management Act 1997* to provide advice and statutory site audits throughout the remediation project and on completion of the project as required by the Voluntary Management Proposal approved by the EPA or other requirements of the DECCW, and as required by conditions of the Project Approval.
22. The Interim Audit Advice Letter (or Site Audit Statement and Site Audit Report for Phase 2) for each Phase shall certify whether the remedial works within each phase (i.e. the cell area and the remediated portion of the site) were carried out in accordance with the D-RAPs, the Project Approval conditions and any recommendations made by the Site Auditor, and shall certify that the area is suitable for its intended use.
23. Validation reports and the Site Audit Statements and Site Audit Reports shall be submitted to the Director-General and the DECCW. Land within the site shall not be sold or released for development unless approval of the Validation reports has first been obtained from the Director-General and the DECCW.

CONTAINMENT CELL

Cell Design

24. Prior to the commencement of construction, the Proponent shall submit the final cell design drawings to the Mine Subsidence Board and shall contain a certification by a qualified geotechnical or civil engineer, to the effect that any improvements, constructed to meet the specifications of such final drawings, will not be damaged by the following predicted levels of mine subsidence:
- (a) Maximum vertical subsidence of 200mm;
- (b) Maximum ground strains of ± 2 mm/m; and
- (c) Maximum tilt of 2 mm/m.
25. Prior to the commencement of cell construction on the site, the Proponent shall prepare and implement a Containment Cell Design report, including the Technical Specification for Containment Cell report. This

report shall be reviewed and approved by the Site Auditor, and then submitted to the DECCW for approval. The Proponent must obtain the approval of DECCW, in writing, prior to the commencement of construction of the Containment Cell.

Construction and Quality Assurance

26. No structures shall be placed on the containment cell, unless the Proponent can demonstrate to the satisfaction of the Director-General that the risk from the biological generation of methane or other gases, fire and settlement associated with such a construction has been adequately addressed.
27. Only shallow rooted vegetation shall be planted on the containment cell capping to ensure that plant roots are not capable of penetrating the sealing layer of the capping.
28. The Proponent shall ensure that all materials placed in the containment cell do not contain any free liquids.
29. Prior to placing any material in the containment cell, the Proponent shall seek and obtain approval from the DECCW for filling of each part of the containment cell (unless otherwise agreed by the DECCW). The Proponent shall:
 - (a) provide a report to the DECCW confirming that the cell's infrastructure has been installed in accordance with the approved cell design and technical specifications. The report shall include "works-as-executed drawings", construction photos and quality control results; and
 - (b) provide written advice from a suitably qualified geotechnical engineer overseeing the works, who is independent of the cell construction contractor/s and the Proponent, advising whether or not the cell infrastructure was installed in accordance with the approved cell design and technical specifications.
30. The Proponent shall notify DECCW 7 days prior to the anticipated completion of a construction and quality assurance (CQA) item requiring inspection by DECCW. CQA items requiring inspection by DECCW for each part of the cell (i.e. for each "subcell") are, unless otherwise agreed in writing by DECCW:
 - (a) preparation of cell liner base, immediately prior to liner construction;
 - (b) placement of geocomposites (Units 12 and 4);
 - (c) completion of leachate collection system, immediately prior to contaminated soil placement;
 - (d) completion of permanent leachate sump;
 - (e) completion of seal bearing layer in cap, immediately prior to cap liner construction; and
 - (f) completion of cap construction
31. Work shall not progress beyond the CQA hold points nominated in Condition 30 until inspected by the DECCW, unless otherwise agreed in writing by the DECCW.
32. Upon completion of the containment cell, a certificate prepared by a suitably qualified geotechnical engineer or a compliance certificate issued by an accredited certifier, shall be submitted to the Site Auditor, the Mine Subsidence Board and the DECCW certifying that the cell has been constructed and filled in a manner consistent with the approved plans submitted to the Mine Subsidence Board, the *Containment Cell Design* report and the contained *Technical Specification for Containment Cell* report.

**SCHEDULE 4
ENVIRONMENTAL, MANAGEMENT, MONITORING AND AUDITING CONDITIONS**

PROJECT WORKS

34. Prior to the commencement of any remediation works on site, the Proponent shall submit the CEMP to the Site Auditor for review and approval and then to the DECCW for approval.
35. During the project, the Proponent shall implement and maintain all the measures and controls detailed in the approved CEMP including:
- demolition and asbestos management;
 - soil management;
 - surface and groundwater management;
 - noise management;
 - air quality management;
 - traffic management;
 - management of hazardous materials;
 - waste management;
 - archaeology and heritage management;
 - flora and fauna management; and
 - Complaints response and dispute resolution.

SOIL AND WATER

Discharge Limits

36. The Proponent shall comply with Section 120 of the *Protection of the Environment Operations Act 1997* and with the discharge limits set out in the EPL.

Bunding

37. All chemicals, fuels and oils shall be stored in appropriately bunded areas, with impervious flooring and sufficient capacity to contain 110% of the largest container stored within the bund. The bund(s) shall be designed and installed in accordance with the:
- (a) requirements of all relevant Australian Standards; and
 - (b) DECCW's *Storing and Handling Liquids: Environmental Protection* manual.

Fill

38. Any fill materials brought to the site must be Excavated Natural Materials (ENM) or Virgin Excavated Natural Materials (VENM) unless otherwise approved by the DECCW.

Surface and Groundwater Management

39. Within 3 months of the date of this approval, the Proponent shall revise the Surface Water Management Plan. The plan must:
- (a) be prepared in consultation with DECCW and to the satisfaction of the Director-General;
 - (b) detail the design, operation and performance indicators of the selected surface water treatment, and groundwater treatment plants, (if two separate plants are proposed);
 - (c) detail the location and size of all water storages;
 - (d) include:
 - a plan detailing the location of sediment and erosion control measures;
 - surface water and groundwater treatment criteria that are consistent with the EPL;
 - details of a surface water and groundwater monitoring program that is consistent with the EPL;
 - measures to investigate and analyse any observed ecological impacts in Cockle Creek, or Cockle Bay, if a wet weather event occurs that causes discharge of any untreated water from any of the storage dams on site;
 - procedures for reporting the monitoring results against the criteria;
 - contingency measures to address exceedances; and
 - a description of how the effectiveness of actions and measures would be monitored over time.
40. Installation and/or modification of the existing groundwater/surface water treatment plant(s) for the Stage 2 remediation works shall not commence until the DECCW's approval has been issued in a variation to EPL 208.

Groundwater Use

41. There shall be no extraction of potentially contaminated shallow groundwater on the site, except for treatment or for use on unremediated areas during the remediation process.

AIR QUALITY

42. The Proponent shall carry out all reasonable and feasible measures to minimise dust generated by the project, in accordance with the requirements of EPL 208.

43. During construction, the Proponent shall ensure that:
- all trucks entering or leaving the site with loads have their loads covered;
 - trucks associated with the project do not track dirt onto the public road network; and
 - public roads used by these trucks are kept clean.

44. Except as may be expressly provided in an EPL for the project, the Proponent shall ensure that the project complies with Section 129 of the *Protection of the Environment Operations Act, 1997*.

Note: Section 129 of the Protection of the Environment Operations Act 1997, provides that the Proponent must not cause or permit the emission of any offensive odour from the site, but provides a defence if the emission is identified in the relevant environment protection licence as a potentially offensive odour.

45. Within 3 months of the date of this approval, the Proponent shall revise the Air Quality Management Plan contained within the CEMP, in consultation with DECCW and to the satisfaction of the Director-General, to include a monitoring program that details the air quality parameters to be monitored, monitoring point locations and frequency of monitoring. As far as possible, plan preparation, and data collection and sharing should be coordinated with the adjoining Pasmenco remediation project.

NOISE

46. The Proponent shall comply with the construction and operating hours restrictions in Table 1, unless otherwise agreed by the Director-General.

Table 1: Construction and Operation Hours for the Project

Activity	Day	Time
Construction	Monday – Friday	7:00am to 6:00pm
	Saturday	8:00am to 1:00pm
	Sunday and Public Holidays	Nil
Operation (Water Treatment)	All days	All times

Notes:

- Construction activities may be conducted outside the hours in Table 1 provided that the activities are not audible at any residence beyond the boundary of the site; and
- Truck movements to and from the site outside the hours in Table 1 are only permitted if agreed to in writing by the Director-General

47. The Proponent shall ensure that, as far as possible, noise generated from the project does not exceed 53 dBA at the nearest residence. Should this criterion be exceeded, or be predicted to be exceeded, during the relevant stage of work all reasonable and feasible mitigation measures shall be implemented to reduce noise levels

Noise Compliance Monitoring

48. Within 3 months of the commencement of the project works and then once annually during Stage 2 works, the Proponent shall conduct a Noise Audit of the project to the satisfaction of the Director-General. This audit shall:
- be undertaken by a suitably qualified acoustical expert and in accordance with the *NSW Industrial Noise Policy*;
 - validate the predictions made in the EA;
 - demonstrate compliance with the noise limits in condition 47; and

- (d) describe the contingencies that would be implemented, and the timing for implementation, should non compliances be detected.

CULTURAL HERITAGE

49. In the event that Aboriginal or historical objects are uncovered during the course of the project, then work in the immediate areas shall cease, the Director-General and appropriate authorities shall be notified and expert archaeological advice must be sought from an appropriately qualified professional. Works may only commence in this area with the written approval of the Director-General.

Note: The appropriate authorities are the DECCW (Aboriginal objects) and the Heritage Office of the Department (historical objects)

50. The Proponent shall use all feasible and reasonable measures to ensure that artefacts removed as part of the demolition process are used for future use in interpretive displays consistent with the Bunderra Master Plan and the Heritage Interpretation Plan (HIP). This includes liaising with Fitzwater Group Pty Ltd with respect to the retention and storage of artefacts, as well as the adaptive re-use of the artefacts.

WASTE MANAGEMENT

51. The Proponent shall ensure that any waste generated on the site during the project is:
- (a) classified in accordance with the DECCW's *Waste Classification Guidelines*;
 - (b) is stored on-site in a manner that minimises contaminated material from migrating off-site; and
 - (c) disposed of to a facility that may lawfully accept the waste.

TRAFFIC AND TRANSPORT

Access

52. Access to the subject site shall be via the existing access road. However, turning movements at the intersection of TC Frith Avenue and the access road shall be restricted to left in and left out only between 7:00-9:00 am and 3:00-5:00 pm.
53. The Proponent shall implement the following measures:
- (a) installation of road signs along Lake Road / T C Frith Avenue prior to the main site access to warn motorists of possible heavy vehicle movements entering and exiting the site;
 - (b) additional signage and traffic management measures as required by the RTA and Council;
 - (c) preparation of a concept plan detailing the proposed signage and traffic management measures in accordance with RTA requirements and relevant Australian Standards, and submission of the plan to the RTA for approval; and
 - (d) preparation of a Traffic Management Protocol (TMP) to detail management of heavy vehicle movements associated with the project during remediation works. The protocol shall specifically address the movement of heavy vehicles to and from the site, the management of traffic, transport of waste materials and restriction of heavy vehicle turning movements during morning and afternoon peak hours. The TMP shall be submitted to the RTA and Council for review prior to the commencement of remediation activities.
54. The work described in condition 53 shall be carried out to RTA and Council satisfaction, and the cost shall be borne by the Proponent.

Works Authorisation Deed

55. If required by the RTA, the Proponent shall enter into a Works Authorisation Deed (WAD) or other agreed arrangement with the RTA and shall submit all relevant design and other supporting documentation to the RTA for approval. The WAD or other agreed arrangement shall be executed and RTA approval obtained prior to any remediation works occurring on site.

Vehicle Queuing and Parking

56. The Proponent shall ensure that:
- (a) all parking generated by the project is accommodated on site, and that no vehicles associated with the project shall park on the public road system at any stage; and
 - (b) that the project does not result in any vehicles queuing on the public road network.

ANNUAL REPORT

57. Within 12 months of the commencement of the project works, and annually thereafter, the Proponent shall submit an Annual Environmental Management Report to the Director-General and relevant agencies. This report must:
- (a) identify the standards and performance measures that apply to the project;
 - (b) describe the works carried out in the last 12 months and the works that would be carried out in the next 12 months;
 - (c) include a comparison of the environmental impacts and performance of the project against the environmental impacts and performance predicted in those documents listed under condition 1 of schedule 2;
 - (d) detail results of all environmental monitoring required under this approval and other approvals including interpretations and discussion by a suitably qualified person;
 - (e) identify trends in monitoring data over the life of the project to date;
 - (f) detail whether the water treatment plant(s) are operating to specifications;
 - (g) detail the quality and quantity of any treated waters re-injected to ground waters;
 - (h) include a summary of the complaints received during the past year, and compare this to the complaints received in previous years;
 - (i) identify any non-compliance during the previous year;
 - (j) describe what actions were, or are being, taken to ensure compliance; and
 - (k) detail environmental management targets and strategies for the following twelve-month period, taking into account identified trends in monitoring results.

AUDITING

58. Within twelve months of the commencement of works on the site and every year thereafter for the duration of the remediation works, or as otherwise agreed or required by the Director-General, the Proponent shall commission and pay the full cost of an Independent Environmental Audit of the Project. The audit must:
- (a) be conducted by a suitably qualified, experienced and independent expert whose appointment has been endorsed by the Director-General;
 - (b) assess the environmental performance of the Project, and its effects on the surrounding environment;
 - (c) assess whether the Project is complying with the relevant standards, performance measures and statutory requirements;
 - (d) review the adequacy of any strategy/plan/program required under this approval; and if necessary;
 - (e) recommend measures or actions to improve the environmental performance of the Project, and/or any strategy/plan/program required under this approval.

The Director-General may require the Proponent to undertake works to address the findings or recommendations presented in the Audit. Any such works shall be completed within such time as the Director-General may require.

POST-COMPLETION MANAGEMENT

59. The Proponent shall prepare and implement a Site Environmental Management Plan (SEMP) for ongoing management of the containment cell. The SEMP shall be submitted to the Director-General and DECCW at least twelve months prior to the completion of remediation activities for approval and include, but not necessarily be limited to:
- (a) plans for groundwater and surface water quality monitoring post remediation;
 - (b) identification of all statutory and other obligations that the proponent is required to fulfil in relation to operation of the cell, including all approvals, licences, approvals and consultations;
 - (c) a description of the roles and responsibilities of all relevant employees involved in the operation of the cell;
 - (d) requirements for the ongoing management of the SEMP and for funding the implementation of the SEMP;
 - (e) a Cell Operation and Maintenance Plan which details environmental controls and measures to be applied to the operation of the containment cell including details of leachate management and inspection and maintenance of the capping;
 - (f) means by which environmental performance can be periodically monitored, reviewed and improved, where appropriate; and
 - (g) operational requirements prescribed by the Site Auditor and the qualified geotechnical engineer overseeing the works.

60. Prior to the conclusion of construction of the containment cell, the Proponent shall demonstrate to the satisfaction of the Director-General and the DECCW that a public positive covenant under section 88E of the *Conveyancing Act 1919* in accordance with the provisions of section 29 of the *Contaminated Land Management Act 1997* has been applied to the containment cell. The covenant shall require the ongoing maintenance, funding and monitoring of the containment cell after completion of construction. The covenant shall address, but not necessarily be limited to, the following matters, as relevant:
- (a) requirements for long term management, operation, maintenance and monitoring the containment cell after the conclusion of remediation in accordance with the approved SEMP prepared under condition 59;
 - (b) the preparation and keeping of documentation that records the details of the contaminated materials under the cell;
 - (c) requirements to provide transparent and equitable notice of the future potential liabilities/legacies associated with the presence of contaminated material on the site to parties who may have an interest in the site, or relevant parts of the site, in future;
 - (d) requirements for future developments to consult the Mine Subsidence Board for the design of buildings and structures;
 - (e) arrangements for the funding by the Proponent of the ongoing maintenance and monitoring of the containment cell until the sale of the land;
 - (f) framework for funding the cost of ongoing maintenance of the containment cell either as the 'common property' of a strata scheme or the 'community property' of a community scheme;
 - (g) details of constructor's warranty and defects liability protection negotiated before the commencement of works;
 - (h) provisions for managing any long term potential liability of the cell, including appropriate level of insurance for failure of the containment cell supplemented with a security bond, or other financial surety;
 - (i) incorporation of terms agreed with the DECCW and the Director-General; and
 - (j) if required by the DECCW or the Director-General, execution of the covenant by the registered proprietor of the land and each person who has a registered estate or interest in the land and who is to be bound by it.

The Proponent shall commence consultation with the Director-General and the DEC as soon as practicable after the date of operation of this approval, or within such period otherwise agreed with the Director-General and the DECCW, with the aim of establishing the scope and content of any covenant that may be applied to the containment cell. Unless otherwise agreed or required by the Director-General and the DECCW, the scope and content of any such covenant shall be developed to the satisfaction of the Director-General and the DECCW prior to the commencement of remediation excavation.

INCIDENT REPORTING

61. Within 7 days of detecting an exceedance of the limits/performance criteria in this approval or an incident causing (or threatening to cause) material harm to the environment, the Proponent shall report the exceedance/incident to the Department, and any other relevant agency. This report must:
- (a) describe the date, time, and nature of the exceedance/incident;
 - (b) identify the cause (or likely cause) of the exceedance/incident;
 - (c) describe what action has been taken to date; and
 - (d) describe the proposed measures to address the exceedance/incident.

COMPLIANCE

62. The Director-General may require an update on compliance with all, or any part, of the conditions of this approval. Any such update shall meet the reasonable requirements of the Director-General and be submitted within such period as the Director-General may agree.