# Project Approval

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

As delegate of the Minister for Planning and Infrastructure under delegation executed on 25 January 2010, I approve the project application referred to in schedule 1, subject to the conditions in schedule 2.

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.

**Deputy Director General**
**Development Assessment and Systems Performance**

Sydney 23rd September 2011 File No: 11/02756

## SCHEDULE 1

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| **Application No:** | 10_0094 |
| **Proponent:** | Australian Rail Track Corporation Limited (ARTC) |
| **Approval Authority:** | Minister for Planning & Infrastructure |
| **Land:** | Land generally located adjacent to the existing Main North Line between Chainage 243.00km and 252.00km within the Singleton Local Government Area. |
| **Project:** | The 'Nundah Bank Third Track Project', including the:<br>• construction and operation of a third rail track approximately 4km in length adjacent to the Main North Line;<br>• relocation of signalling infrastructure and new vehicle access tracks adjacent to new rail track;<br>• construction/upgrade to culverts, road and waterway crossings for the third track; and<br>• modification to the configuration of the Camberwell rail loop. |
| **Part 3A Project:** | The project is declared to be a Major Project under section 75B(1)(a) of the *Environmental Planning and Assessment Act 1979*, because it is development of a kind described in clause 23(1)(a) of Schedule 1 to *State Environmental Planning Policy (Major Development) 2005.* |

## KEY TO CONDITIONS

## SCHEDULE 2

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| **Act, the** | *Environmental Planning and Assessment Act 1979.* |
| **Ancillary Facility** | Temporary facility for construction, including for example an office and amenities compound, construction compound, materials storage compound, maintenance workshop, testing laboratory or material stockpile areas. |
| **Construction** | Includes all work in respect of the Project **other than** survey, acquisitions, fencing, investigative drilling or excavation, building/road condition surveys, minor clearing (except where threatened species, populations or ecological communities would be affected), establishing Ancillary Facilities/ Construction Work Sites (in locations meeting the criteria identified in the Conditions of Approval), enabling works, or other activities determined by the Environmental Representative to have minimal environmental impact (e.g. minor access roads, minor adjustments to services/utilities, etc.). |
| **OEH** | Office of Environment and Heritage (formally NSW Department of Environment, Climate Change and Water). |
| **Department, the** | NSW Department of Planning and Infrastructure. |
| **Director-General, the** | Director-General of the NSW Department of Planning and Infrastructure (or delegate). |
| **Director-General's Approval** | A written approval from the Director-General (or delegate). Where the Director-General's Approval is required under a condition, the Director-General will endeavour to provide a response within one month of receiving an approval request. The Director-General may require additional information if the approval request is considered incomplete. When further information is required the time taken for the Proponent to respond in writing will be added to the one month period. |
| **Enabling Works** | Works which allow isolation of the site so that access for construction can be provided, including service relocations (except where threatened species, populations or ecological communities would be affected). |
| **EPL** | Environment Protection Licence. |
| **DTIRIS** | NSW Department of Trade and Investment, Regional Infrastructure and Services (formally NSW Department of Industry and Investment) |
| **Operation** | Means the operation of the project, but **does not** include commissioning trials of equipment or temporary use of parts of the project during construction. |
| **Project** | The project the subject of Major Projects Application 10_0094. |
| **Proponent** | Australian Rail Track Corporation Limited (ARTC). |
| **Publicly Available** | Available for inspection in hard copy and/or electronic format by a member of the general public (for example, available on the project website). |
| **Reasonable and Feasible** | Consideration of best practice taking into account the benefit of proposed measures and their technological and associated operational application in the NSW and Australian context. **Feasible** relates to engineering considerations and what is practical to build. **Reasonable** relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided. |
| **RTA** | NSW Roads and Traffic Authority. |

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| **Sensitive Receiver** | Residence, education institution (e.g. school, TAFE, college), health care facility (e.g. nursing home, hospital), religious facility (e.g. church), and children's day care facility. |
| **Statement of Commitments** | Consolidated list of procedures, safeguards and mitigation measures to be undertaken as part of the project, identified in Section 6 of the Submissions Report. |

## PART A - ADMINISTRATIVE CONDITIONS

**Terms of Approval**

A1. The Proponent shall carry out the project in accordance with the:

a) Major Project Application 10_0094;

b) *Nundah Bank Third Track – Environmental Assessment (Volumes 1-3),* prepared by KMH Environmental on behalf of Australian Rail Track Corporation and dated March 2010;

c) *Nundah Bank Third Track – Environmental Assessment Submissions Report*, prepared by KMH Environmental on behalf of Australian Rail Track Corporation and dated May 2011; and

d) the conditions of this approval.

A2. In the event of an inconsistency between:

a) the conditions of this approval and any document listed from condition A1a) to A1c) inclusive, the conditions of this approval shall prevail to the extent of the inconsistency; and

b) any of the documents listed from condition A1a) to A1c) inclusive, the most recent document shall prevail to the extent of the inconsistency.

A3. The Proponent shall comply with the reasonable requirements of the Director-General arising from the Department's assessment of:

a) any reports, plans or correspondence that are submitted in accordance with this approval; and

b) the implementation of any actions or measures contained in these reports, plans or correspondence.

**Limits of Approval**

A4. This approval shall lapse ten years after the date on which it is granted, unless the works the subject of this approval are physically commenced on or before that date.

**Statutory Requirements**

A5. The Proponent shall ensure that all licences, permits and approvals are obtained as required by law and maintained as required with respect to the project. No condition of this approval removes the obligation for the Proponent to obtain, renew or comply with such licences, permits or approvals.

A6. Any changes to the scope of the project shall be subject to a consistency review. Should the review identify environmental impacts inconsistent with the assessed project, a modification to the project approval would be required.

**Compliance**

A7. The Proponent shall ensure that employees, contractors and sub-contractors are aware of, and comply with, the conditions of this approval relevant to their respective activities.

A8. The Proponent shall ensure that all practicable measures are taken to prevent and minimise harm to the environment as a result of the construction and operation of the project and shall ensure that all plant and equipment installed and/ or used in conjunction with the project is:

a) maintained in a proper and efficient condition; and

b) operated in a proper and efficient manner.

## PART B - GENERAL ENVIRONMENTAL CONDITIONS

### Soils, Water Quality and Hydrological Impacts

B1. Except as may be expressly provided by an Environment Protection Licence for the project, the Proponent shall comply with section 120 of the *Protection of the Environment Operations Act 1997,* which prohibits the pollution of waters.

B2. Measures shall be implemented to minimise soil erosion and the discharge of sediments and pollutants from the project during construction and operation, with consideration of the measures outlined in the Landcom manual *Managing Urban Stormwater - Soils and Construction* (Landcom, 2006).

B3. The project shall not significantly increase flooding characteristics or alter stormwater retention structures. Where flooding characteristics or structures are altered and affect access to a particular property, property and infrastructure, mitigation measures shall be identified and implemented in consultation with the property owner.

B4. Should detailed design identify works within the Station Creek channel (and associated riparian areas) are required for the upgrade of Station Creek Bridge, the Proponent shall undertake an assessment of Station Creek in consultation with NoW and DTIRIS, and shall take into account issues raised by those agencies in finalising detailed design of the upgrade works to mitigate impacts on the functionality of the creek.

### Transport and Access

B5. Access to all properties shall be maintained during construction and operation, where reasonable and feasible, unless otherwise agreed by the relevant property owner or occupier. Any access physically affected by the Project shall be reinstated to at least an equivalent standard, unless agreed with the property owner.

### Contamination and Waste Management

B6. A **Soil Contamination and Hazardous Materials Report** shall be prepared and approved by the Director-General for locations potentially contaminated from past uses prior to the commencement of construction in those locations. Potentially contaminated locations shall be identified and advised to the Director-General prior to construction.

The Report shall detail the outcomes of contamination investigations, whether or not the soil is suitable (for the intended land use) or can be made suitable for reuse through remediation (where reasonably practicable), the likely remediation strategy for addressing any contamination that has been encountered (if required), and how the environmental and health risks will be appropriately mitigated and managed during the disturbance, remediation (if applicable) and removal of contaminated soil and hazardous materials.

The recommendations of the Soil Contamination and Hazardous Materials Report shall be suitably incorporated into the Construction Environmental Management Plan prepared in accordance with condition C25 of this approval.

B7. All waste and fill materials, whether imported or generated on site, shall be assessed, classified, managed and disposed of in accordance with the *Waste Classification Guidelines* (DECC, 2008).

B8. All waste materials removed from the site shall only be directed to a place lawfully permitted to accept the materials.

**Mineral Resources**

B9. Detailed design of the project shall be undertaken in consultation with affected coal title holders, DTIRIS and the Mine Subsidence Board to minimise impacts to and from past, current and future mining activities in the vicinity of the project.

**Air Quality Impacts**

B10. The Project shall be constructed and operated with the objective of meeting air quality goals for PM10, CO, NO2 and ambient SO2 as prescribed in the *National Environment Protection (Ambient Air Quality) Measure*.

**Landscaping**

B11. Site rehabilitation and stabilisation measures shall be implemented and maintained to manage exposed and disturbed areas. Landscaping measures shall utilise endemic species and be consistent with the ecological protection and restoration requirements of this approval.

**Community Information, Consultation and Involvement**

B12. A **Community Communication Strategy** shall be prepared and implemented to provide mechanisms to facilitate communication between the Proponent (and its contractors), the Environmental Representative and community stakeholders (particularly adjoining landowners) on construction progress and management. The Strategy shall include, but not be limited to:

a) identification of stakeholders to be consulted as part of the Strategy;
b) procedures and mechanisms for the regular dissemination of information to community stakeholders and users of the local and regional road network on construction progress and matters associated with environmental management;
c) the formation of community-based forums that focus on key environmental management issues for the project. The Strategy shall provide detail on the structure, scope, objectives and frequency of the community-based forums;
d) procedures and mechanisms through which the community stakeholders can discuss or provide feedback to the Proponent and/or Environmental Representative in relation to the environmental management and delivery of the project;
e) procedures and mechanisms through which the Proponent can respond to any enquires or feedback from the community stakeholders in relation to the environmental management and delivery of the projects;
f) procedures and mechanisms to be implemented to resolve any issues/disputes that arise between parties on the matters relating to environmental management and the project delivery.

Issues that shall be addressed through the Community Communication Strategy include (but are not necessarily limited to): traffic management (including access and construction vehicle management), noise and vibration mitigation and management including construction hours.

The Proponent shall maintain and implement the Strategy throughout construction. The Strategy shall be approved by the Director-General prior to the commencement of construction.

**Complaints and Enquiries**

B13. Prior to the commencement of construction, or as otherwise agreed by the Director-General, the Proponent shall ensure that the following are available for community enquiries and complaints for the duration of construction:

a) a 24 hour 1800 telephone number(s) on which complaints and enquiries about the project may be registered;
b) a postal address to which written complaints and enquires may be sent;
c) an email address to which electronic complaints and enquiries may be transmitted; and
d) a mediation system for complaints unable to be resolved.

The telephone number, the postal address and the email address must be published in newspaper(s) circulating in the local area prior to the commencement of construction and prior to the commencement of operation. This information must also be provided on the Proponent's website.

Prior to the commencement of construction, or as otherwise agreed by the Director-General, the Proponent must prepare and implement a Construction Complaints Management System consistent with *AS 4269: Complaints Handling* and maintain the System for the duration of construction and up to 12 months following completion of the project. Information on all complaints received, including the means by which they were addressed and whether resolution was reached with or without mediation, must be included in the construction compliance reports referred to under condition B15c) and made available to the Director-General on request.

**Provision of Electronic Information**

B14. Prior to the commencement of construction, or as otherwise agreed by the Director-General, the Proponent shall establish and maintain a new website, or dedicated pages within its existing website for the provision of electronic information associated with the development, for the duration of construction and for 12 months following completion of the project. The Proponent must publish and maintain up-to-date information on this website or dedicated pages including, but not necessarily limited to:

a) a copy of the documents referred to under condition A1 of this approval, and any documentation supporting modifications to this approval that may be granted;
b) a copy of this approval and each relevant environmental approval, licence or permit required and obtained in relation to the project;
c) subject to confidentiality requirements, a copy of each strategy, plan and program required under this approval;
d) the outcomes of compliance tracking in accordance with condition B15 of this approval; and
e) details of contact point(s) to which community complaints and inquiries may be directed, including a telephone number, a postal address and an email address.

**Compliance Monitoring and Tracking**

B15. The Proponent shall develop and implement a **Compliance Tracking Program** to track compliance with the requirements of this approval. The Program must be submitted to the Director-General for approval prior to the commencement of construction and operate for a minimum of one year following commencement of operation, subject to the Director-General's review of the outcomes of the Operational Performance Audit Report referred to in condition D1. The Program must include:

a) provisions for periodic review of the compliance status of the project against the requirements of this approval and the Statement of Commitments detailed in the document referred to in condition A1b) of this approval;
b) provisions for the notification of the Director-General prior to the commencement of construction and prior to the commencement of operation of the project;
c) provisions for periodic reporting of compliance status to the Director-General, including a Pre-Construction Compliance Report, during construction reporting, and a Pre-Operation Compliance Report;
d) a program for independent environmental auditing in accordance with *ISO 19011:2003 - Guidelines for Quality and/ or Environmental Management Systems Auditing*;
e) procedures for rectifying any non-compliance identified during environmental auditing or review of compliance;
f) mechanisms for recording environmental incidents during construction and actions taken in response to those incidents;
g) provisions for reporting environmental incidents to the Director-General during construction; and
h) provisions for ensuring all employees, contractors and sub-contractors are aware of, and comply with, the conditions of this approval relevant to their respective activities.

**Incident Reporting**

B16. The Proponent shall notify the Director-General of any incident with actual or potential significant off-site impacts on people or the biophysical environment within 24 hours of becoming aware of the incident. The Proponent shall provide full written details of the incident to the Director-General within seven days of the date on which the incident occurred.

B17. The Proponent shall meet the requirements of the Director-General to address the cause or impact of any incident, as it relates to this approval, reported in accordance with condition B16 of this approval, within such period as the Director-General may require.

## PART C- CONSTRUCTION

### Construction Hours

C1. The Proponent shall only undertake construction activities associated with the project that would generate an audible noise at any residential premises during the following hours:
  a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive;
  b) 8:00 am to 1:00 pm on Saturdays; and
  c) at no time on Sundays or public holidays.

  Activities resulting in impulsive or tonal noise emission (such as rock breaking, rock hammering, pile driving) which generate audible noise at residential premises shall be limited to 8:00 am to 12:00 pm, Monday to Saturday and 1:00 pm to 5:00 pm Monday to Friday. The Proponent shall not undertake such activities for more than three continuous hours and shall provide a minimum one-hour respite period between any two periods of such works.

C2. Construction outside the hours stipulated in condition C1 of this approval is permitted in the following circumstances:
  a) construction work that causes $L_{Aeq(15minute)}$ noise levels that are:
    i. no more than 5dB above rating background level at any residence in accordance with the *Interim Construction Noise Guideline* (DECC, 2009); and
    ii. no more than the noise management levels specified in Table 3 of the *Interim Construction Noise Guideline* (DECC, 2009) at other sensitive land; or
  b) for the delivery of materials required outside these hours by the Police or other authorities for safety reasons; or
  c) where it is required in an emergency to avoid the loss of lives, property and/or to prevent environmental harm; or
  d) works subject to an approved Environment Protection Licence (EPL); or
  e) works outside the EPL approved through the out of hours works protocol outlined in condition C26f).

### Construction Noise, and Vibration

C3. Wherever practical, piling activities shall be completed using bored piles.

C4. The Proponent shall implement reasonable and feasible noise mitigation measures during construction with the aim of achieving the construction noise management levels as described in the *Interim Construction Noise Guideline* (DECC, 2009).

C5. The Proponent shall implement reasonable and feasible mitigation measures with the aim of achieving the following construction vibration goals:
  a) for structural damage vibration, the vibration limits set out in the German Standard *DIN 4150 Part 3-1999 Structural Vibration in Buildings - Effects on Structures*; or
  b) for human exposure, the acceptable vibration values set out in the *Environmental Noise Management Assessing Vibration: A Technical Guideline* (DEC 2006).

### Ecological Impacts

C6. The Proponent shall implement the mitigation measure listed in Table 6.1, in the report titled *Proposed New Rail Track at Nundah Bank Ecological Assessment*, March 2011, prepared by Parsons Brinkerhoff, and as modified by these conditions of approval.

C7. The Proponent shall minimise the clearing of native vegetation with the objective of reducing impacts to threatened species and Endangered Ecological Communities to the greatest extent practicable.

C8. The Proponent shall undertake pre-clearing survey and recording to confirm the location of hollow-bearing trees and threatened flora species identified on land within and adjacent to the Project corridor, and shall suitably delineate and protect for the duration of construction, hollow-bearing trees, threatened flora species and Endangered Ecological Communities not subject to direct project impacts.

Pre clearing surveys, recording and the relocation of fauna shall be undertaken by a suitably qualified and experienced ecologist. The ecologist shall record details of displaced fauna, including species, gender, age, reproductive status, and number of individuals and provide details (habitat description, Eastings and Northings in World Geodetic System (WGS) 84, Zone 56) of where they were collected and where they are translocated to. A summary of what fauna were found, including where and when they were found shall be made publicly available in accordance with Condition B15.

C9. The Squirrel Glider crossing zone in the vicinity of the Integra Coal rail loop shall be established prior to works which affect identified Squirrel Glider habitat, unless otherwise agreed by the Director-General. The crossing zone shall consist of untreated hardwood power poles 30cm diameter and stand 12m above the ground (henceforth 'glider poles'). The spacing and location of the glider poles and the provision of artificial refuges and at least one horizontal crossbar for use as a launching site on each glider pole shall follow the methodology of Ball and Goldingay (2008). Any variation to this requirement shall be undertaken in consultation with the OEH and approved by the Director-General.

C10. Within 6 months following the commencement of construction or as otherwise agreed to by the Director-General, the Proponent shall develop and submit a **Biodiversity Offset Package** for the approval of the Director-General. The package shall detail how the ecological values lost as a result of the Project will be offset. The Biodiversity Offset Package shall be developed in consultation with the OEH and shall include, but not necessarily be limited to:

a) the identification of the extent and types of habitat that would be lost or degraded as a result of the final design of the project;
b) the objectives and biodiversity outcomes to be achieved;
c) details of land offsets and biodiversity offset measures that have been selected to provide compensatory habitat within the region to offset the habitat loss;
d) consideration of any strategic land use implications as a result of retiring land for offsets, undertaken in consultation with the relevant local councils;
e) the monitoring requirements for compensatory habitat works and other biodiversity offset measures proposed including:
    i) the monitoring of the condition of species and ecological communities at offset locations;
    ii) the methodology for the monitoring program(s), including the number and location of offset monitoring sites, and the sampling frequency at these sites;
    iii) provisions for the annual reporting of the monitoring results for a set period of time as determined in consultation with the OEH; and
f) timing and responsibilities for the implementation of the provisions of the Package.

Land offsets shall be consistent with the DECC's *Principles for the use of Biodiversity Offsets in NSW (2008)*. Any land offset shall be enduring and be secured by transfer to the OEH estate or an alternative conservation mechanism provided which protects and manages the land in perpetuity. Where land offsets cannot solely achieve compensation for the loss of habitat, additional measures must be provided to collectively deliver an improved or maintained biodiversity outcome for the region.

Where monitoring shows inadequate compensatory habitat results, remedial actions must be undertaken to ensure that the objectives of the Biodiversity Offset Package are achieved.

**Transport and Traffic Impacts**

C11. The project shall be constructed with the aim of ensuring that the performance of intersections during construction operates as close as practicable to existing levels of service.

**Road Condition Reports**

C12. Road condition reports shall be prepared prior to commencement of construction for roads identified in the Construction Traffic Management Plan which are likely to be used by construction traffic or as otherwise agreed by the relevant roads authority. A copy of the relevant report shall be provided to Singleton Council or the RTA as relevant. Any damage directly attributable to construction of the project, aside from that resulting from normal wear and tear, shall be repaired at the cost of the Proponent.

**Non Aboriginal Heritage**

C13. The mitigation measures identified in section 7, in the report titled *Nundah Bank Third Track: Non-Aboriginal Cultural Assessment FINAL*, February 2010, prepared by BIOSIS Research shall be implemented as modified by these conditions of approval.

C14. Should construction works unearth items of historical archaeological potential, works in that vicinity shall only continue following consultation with the OEH and the Department and the implementation of required actions and approvals.

**Aboriginal Heritage**

C15. The mitigation measures identified in section 7, in the report titled *Nundah Bank Third Track: Aboriginal Cultural Assessment*, February 2010, prepared by BIOSIS Research shall be implemented as modified by these conditions of approval, including ongoing and recorded consultation with Aboriginal stakeholders regarding the ongoing management of Aboriginal cultural heritage values.

C16. In areas where field investigations were not completed due to restricted access, further investigation and survey shall be undertaken prior to construction within these areas consistent with *Code of Practice for Archaeological Investigations of Aboriginal Objects in NSW* (DECCW, 2010). Should Aboriginal heritage items be discovered, they shall be managed and registered with OEH in accordance with sections 85A and 89A of the *National Parks and Wildlife Act* 1974. Impact to these sites should be avoided and if this is not possible, mitigation for impact shall occur in consultation with a suitably qualified archaeologist and Aboriginal Stakeholders, and managed in accordance with the Construction Aboriginal Heritage Management Plan.

C17. In undertaking the project, the Proponent shall to the greatest extent practicable, avoid and minimise impacts to identified sites of Aboriginal cultural heritage value. Where impacts are unavoidable, the Proponent is to ensure all archaeological works are undertaken in accordance with the strategy outlined in the Construction Aboriginal Heritage Management Plan.

**Property Impacts**

C18. The Proponent shall identify utilities and services potentially affected by construction to determine requirements for diversion, protection and/or support. Alterations to services shall be determined by negotiation with the service providers. The Proponent shall in consultation with service providers ensure that potential disruption to services resulting from the activity is minimised and advised to customers.

C19. The Proponent shall construct the project in a manner that mitigates indirect and direct impacts to properties and property infrastructure, including landscaping, fencing, walls, dams, bores and the like. The Proponent, in consultation with the property owner, shall arrange and fund the repair of damage to a standard comparable to that in existence prior to the damage. Should reinstatement of property not be achievable, the Proponent shall compensate the property owner for the value of the infrastructure and associated costs and losses.

**Air Quality Impacts**

C20. The Proponent shall construct the project in a manner that minimises dust emissions from the site, including wind-blown and traffic-generated dust, on the receiving environment, including adjacent receivers and road users. All activities on the site shall be undertaken with the objective of preventing visible emissions of dust from the site. Should such visible dust emissions occur at any time, the Proponent shall identify and implement all practicable dust mitigation measures.

C21. The Proponent shall ensure, where feasible and reasonable, that:

a) trucks entering and leaving the construction site with potentially dust generating loads have their loads securely covered;
b) trucks do not track dirt onto public roads; and
c) that public roads used by these trucks are kept clean from construction activities associated with the project.

**Hazards and Risks**

C22. Chemicals, fuels and oils stored and handled during construction of the project shall be appropriately bunded in areas with impervious flooring and in accordance with:

a) relevant Australian Standards;
b) for liquids, a minimum bund volume requirement of 110% of the volume of the largest single stored volume within the bund; and
c) the EPA's Environment Protection Manual Technical Bulletin *Bunding and Spill Management.*

In the event of an inconsistency between the requirements listed from a) to c) above, the most stringent requirements shall prevail to the extent of the inconsistency.

**Ancillary Construction Facilities**

C23. The Proponent shall ensure that ancillary facilities are located so as to satisfy the following criteria, unless otherwise approved by the Director-General:

a) be located within or adjacent to the project;
b) have ready access to the road network;
c) be located to minimise the need for heavy vehicles to travel through residential areas;
d) be sited on relatively level land;
e) be separated from nearest residences by at least 200 metres;
f) not require vegetation clearing beyond that already required for the project;
g) not impact on heritage sites (including areas of archaeological sensitivity) beyond those already impacted by the project; and
h) not affect the land use of adjacent properties.

The location of the Ancillary Facilities must be identified in the Construction Environmental Management Plan required under condition C25 and include consideration against the above criteria. Where the above criteria cannot be met for any proposed Ancillary Facility, the Proponent must demonstrate to the Director-General that there will be no significant adverse impact from that facility's construction or operation.

**Environmental Representative**

C24. Prior to the commencement of construction, or as otherwise agreed by the Director-General, the Proponent shall nominate for the approval of the Director-General a suitably qualified and experienced Environment Representative(s) that is independent of the design and construction personnel. The Proponent shall employ the Environmental Representative(s) for the duration of construction, or as otherwise agreed by the Director-General. The Environment Representative(s) shall:

a) be the principal point of advice in relation to the environmental performance of the project;

b) oversee the implementation of all environmental management plans and monitoring programs required under this approval, and advise the Proponent upon the achievement of these plans/programs;

c) consider and advise the Proponent on its compliance obligations against all matters specified in the conditions of this approval and the Statement of Commitments as referred to under condition A1c) of this approval and all other licences and approvals related to the environmental performance and impacts of the project;

d) ensure that environmental auditing is undertaken in accordance with all relevant project Environmental Management Systems; and

e) be given the authority and independence to require reasonable steps be taken to avoid or minimise unintended or adverse environmental impacts, and failing the effectiveness of such steps, to direct that relevant actions be ceased immediately should an adverse impact on the environment be likely to occur.

**Construction Environmental Management Plan**

C25. Prior to the commencement of construction, or as otherwise agreed by the Director-General, the Proponent shall prepare and implement a Construction Environment Management Plan (CEMP). The CEMP shall outline the environmental management practices and procedures that are to be followed during construction, and shall be prepared in accordance with *Guideline for the Preparation of Environmental Management Plans* (DIPNR, 2004). The CEMP shall include, but not necessarily be limited to:

a) a description of relevant activities to be undertaken during construction of the project (including staging and scheduling);

b) statutory and other obligations that the Proponent is required to fulfil during construction including approvals, consultations and agreements required from authorities and other stakeholders under key legislation and policies;

c) a description of the roles and responsibilities of relevant employees involved in the construction of the project;

d) details of construction compounds and the management of these sites; and

e) details of how the environmental performance of the construction works will be managed and monitored, and what actions will be taken to address identified adverse environmental impacts.

In particular, the following environmental issues shall be addressed in the CEMP:

i. construction noise and vibration;
ii. construction traffic and access;
iii. soil and water quality and spoil management;
iv. air quality and dust management;
v. the management of Aboriginal and non-Aboriginal heritage;
vi. soil contamination, hazardous material and waste management;
vii. the management of ecological impacts; and
viii. hazards and risk management.

The Plan shall be submitted for the approval of the Director-General no later than one month prior to the commencement of construction, or within such period otherwise agreed by the Director-General. The Plan may be prepared in stages, however, construction works shall not commence until written approval has been received from the Director-General.

C26. Prior to the commencement of construction and as part of the Construction Environmental Management Plan for the project required under condition C25 of this approval, the Proponent must prepare and implement the following:

a) a **Construction Traffic and Access Management Plan** to manage construction traffic and access impacts of the project. The Plan shall be prepared in consultation with the RTA, Singleton Council and emergency services and include, but not necessarily limited to:

i) identifying construction vehicle, including heavy vehicle volumes, heavy vehicle routes and access points from construction sites;
ii) the identification and rectification of road safety deficiencies and the inclusion of truck warning signs at New England Highway intersections, and signage and speed limits in areas of potential risk, in accordance with RTA requirements;
iii) identifying construction activities that could result in disruption of traffic including details of oversize load movements; and
iv) management measures to minimise traffic impacts, including temporary road work traffic control measures, onsite vehicle queuing and parking areas and management measures to minimise peak time congestion.

b) a **Construction Flora and Fauna Management Plan** to detail how construction impacts on ecology will be minimised and managed. The Plan shall include, but not necessarily be limited to:
i) pre-clearing surveys to confirm the location of threatened flora and fauna species and associated habitat features;
ii) details of work practices (such as fencing, clearing procedures, and construction worker education) to minimise the potential for damage to native vegetation and native fauna during construction;
iii) weed management measures focusing on early identification of invasive weeds and determining effectiveness of management controls;
iv) details of how riparian zones affected by the project will be rehabilitated in order to restore a natural functioning watercourse; and
v) details of the mitigation measures that would be implemented and the associated procedures for the installation and monitoring of these measures; and if any non-compliance is detected, how any non-compliance would be rectified.

c) a **Construction Aboriginal Heritage Management Plan** to detail measures to monitor and manage Aboriginal heritage impacts. The Plan shall be developed in consultation with the OEH and Aboriginal stakeholders and shall include, but not necessarily be limited to:
i) procedures for ongoing Aboriginal stakeholder consultation, involvement and monitoring;
ii) details of further investigation and identification of Aboriginal cultural heritage sites within the project area;
iii) details of management measures to be carried out in relation to Aboriginal heritage, including a detailed methodology and strategies for protection, monitoring, salvage, and conservation, of sites and items associated with the project;
iv) procedures for dealing with previously unidentified Aboriginal objects excluding human remains (including halting of works in the vicinity, assessment of the significance of the item(s) and determination of appropriate mitigation measures including when works can re-commence by a qualified archaeologist in consultation with Aboriginal stakeholders and the Department, and an assessment of the consistency of any new Aboriginal heritage impacts against the approved impacts of the project, and registering of the new site in the OEH AHIMS register);
v) procedures for dealing with human remains (including halting of works in the vicinity and notification of the NSW Police, the Director-General, the OEH and Aboriginal stakeholders and not-recommencing works in the area unless authorised by the Director-General and/ or the NSW Police);
vi) outline the roles and responsibilities for managing Aboriginal cultural heritage matters for the duration of the project; and
vii) training and induction requirements for contractors and subcontractors on obligations under the *National Parks and Wildlife Act* including site identification, protection and conservation of Aboriginal cultural heritage.

Note: Should the Proponent wish to commence Aboriginal Heritage management actions prior to the commencement of construction, a staged Construction Environmental Management Plan and Construction Aboriginal Heritage Management Plan shall be approved by the Director-General prior to such actions being undertaken.

d) a **Construction Non-Aboriginal Heritage Management Plan** to detail how non-Aboriginal heritage impacts will be managed and avoided and shall include, but not be limited to:
   i) identification of heritage items and archaeological sites within the vicinity of the project;
   ii) detail of management measures to be implemented to prevent and minimise impact on heritage items and sites including the restriction of construction traffic from Middle Falbrook Road Bridge and other management measures required by this approval;
   iii) protocols for archival recording of items to be impacted and or modified;
   iv) details of monitoring and reporting requirements for impacts on heritage items;
   v) procedures and protocols for engaging the Department, OEH and specialists to provide heritage and conservation advice and approvals for unexpected finds and the like; and
   vi) training and induction requirements for contractors and subcontractors on obligations under the *Heritage Act* including site identification, protection and conservation of non-Aboriginal cultural heritage.

e) a **Construction Soil and Water Quality Management Plan** to detail how excavated and imported materials will be managed, and water courses protected throughout construction. The Plan shall be prepared in consultation with NoW, and shall include but not necessarily be limited to:
   i) details of construction activities and their locations, which have the potential to impact on water courses, storage facilities, water quality, and stormwater flows,
   ii) details of how spoil and fill material required by the project will be sourced, handled, stockpiled, and reused and managed, including the implementation of erosion and sediment control and consideration of flood events;
   iii) surface water impact assessment criteria consistent with Australian and New Zealand Environment Conservation Council (ANZECC) guidelines;
   iv) a program to monitor surface water flows and quality in watercourses and storage facilities potentially affected by the project during construction and the use of water and its suitability from adjoining mine water management systems;
   v) the results of the **Soil Contamination and Hazardous Materials Report** and a contingency plan to be implemented in the case of unanticipated discovery of contaminated material during construction;
   vi) a contingency plan to detail how construction impacts on existing groundwater resources will be minimised and managed, should construction works require excavation below the water table; and
   vii) a description of how the effectiveness of these actions and measures would be monitored during the proposed works, clearly indicating how often this monitoring would be undertaken, the locations where monitoring would take place, how the results of the monitoring would be recorded and reported, and, if any exceedance of the criteria is detected how any non-compliance can be rectified.

f) a **Construction Noise and Vibration Management Plan** to detail how construction noise and vibration impacts would be minimised and managed. The Plan shall include, but not necessarily be limited to:
   i) details of construction activities and an indicative schedule for construction works;
   ii) identification of construction activities that have the potential to generate noise and/ or vibration impacts on surrounding land uses, particularly residential areas;
   iii) details of reasonable and feasible actions and measures which would be implemented to minimise noise and vibration impacts;

iv) procedures for notifying sensitive receivers of construction activities that are likely to affect their noise and vibration amenity, as well as procedures for dealing with and responding to noise and vibration complaints;

v) a description of how the effectiveness of these actions and measures would be monitored during the proposed works, clearly indicating how often this monitoring would be conducted, the locations where monitoring would take place, how the results of this monitoring would be recorded and reported, and, if any exceedance is detected, how any non-compliance would be rectified; and

vi) preparation of an out-of-hours work protocol for works not otherwise subject to an Environment Protection Licence, for the assessment, management and approval of works outside of the standard construction hours as defined in condition C1 of this approval, to be approved by the nominated Environmental Representative for the project.

## PART D- OPERATIONS

### Operational Performance Audit Report

D1. Within fifteen months of the completion of construction, or as otherwise agreed by the Director-General, the Proponent shall commission an independent qualified person or team to undertake an Operational Performance Audit of the project. The independent person or team shall be approved by the Director-General prior to the commencement of the Audit. The Operational Performance Audit Report shall be submitted to the Director-General within one month of the completion of the Audit, unless otherwise agreed by the Director-General. The Audit shall:

- a) assess compliance with the requirements of this approval, and other licences and approvals that apply to the project;
- b) assess the operational performance of the project against the aims and objectives for the project specified in the documents referred to under condition A1 of this approval;
- c) assess the environmental performance of the project against the predictions made and conclusions drawn in the documents referred to under condition A1 of this approval; and
- d) review the effectiveness of the environmental management of the project, including any environmental impact mitigation works.

### Operational Noise and Vibration

D2. The Proponent shall design and operate the project with the objective of not exceeding the airborne and ground-borne noise trigger levels associated with the project at sensitive receivers as presented in the *Interim Guideline for the Assessment of Noise from Rail Infrastructure Projects* (DECC and DoP, 2007).

> Note: Environment Protection Licence No. 3142 has identified as an objective of the Licence, to progressively reduce noise levels to the following goals through the implementation of Pollution Reduction Programs:
> a) 65dB(A) Leq – 7am to 10pm,
> b) 60dB(A) Leq – 10pm to 7am, and
> c) 85dB (A) (24 hr) max.

D3. The Proponent shall design and operate the project with the objective of not exceeding, at receivers, the vibration goals for human exposure as presented in *Assessing Vibration: A Technical Guideline* (DECC, 2006) and German Standard DIN 4150 for structural vibration impacts.

D4. The Proponent shall undertake noise and vibration compliance monitoring and assessment to confirm compliance with the goals and limits identified in condition D2 and D3. The monitoring and assessment shall be undertaken in consultation with the OEH and the Department and will:

- a) identify sensitive receivers within the immediate proximity of the project,
- b) identify noise and vibration goals at sensitive receivers consistent with the requirements of condition D2 and D3;
- c) identify a monitoring and assessment methodology, including representative monitoring locations; and
- d) consider complaints received relating to operational noise and vibration impacts.

The noise and vibration monitoring and assessment shall be undertaken prior to the commencement of operations, 1 and 5 years from the commencement of operations.

A report on the noise and vibration monitoring and assessment shall be made publicly available within 3 months of the relevant monitoring period, unless otherwise agreed by the Director-General.

If the monitoring and assessment indicates an exceedance of the identified noise and vibration goals, the Proponent shall implement reasonable and feasible measures to mitigate these exceedances, in consultation with affected receivers.

D5. The results of the noise and vibration monitoring and assessment associated with this project approval shall be made available for consideration in future project assessments associated with the ongoing review and development of the Hunter Valley Corridor Capacity Strategy.

**Operational Environmental Management**

D6. Prior to the commencement of operation, the Proponent shall incorporate the project into existing environmental management systems administered by the Proponent.