

<b>Item</b>	<b>Council Issue (Advice to the Environmental Impact Statement)</b>	<b>Applicant Response to Submissions (RTS)</b>	<b>Council Response to the RTS</b>
1	<p>Interactions with neighbouring mining operations, particularly in relation to water management, tailings management, overburden management and the phasing of neighbouring operations rehabilitation works and mine closure planning to accommodate the increased life of the Project</p>	<p>The Applicant has provided a response in section 5.2.1 and 5.2.2.</p> <p>The response provided is not clear as to the relationship between the transfers of water, tailings and overburden between the approved Liddell Coal Operations and the proposed Project. The response does not provide detail on how the proposed Project will integrate the closure planning of the Liddell Coal Mine.</p> <p>The response does not provide an assessment of the impact of surface water take on other water users within the Water Sharing Plan.</p> <p>The response identifies that existing dam structures are not consistent with current regulations.</p> <p>The response identifies that there will be significant mine</p>	<p>An assessment of the approved disposal of tailings at the Liddell Coal Operations is required to ensure adequate capacity, the environmental impacts are understood and mine closure is appropriately planned.</p> <p>A condition of consent should be imposed that requires the Applicant to undertake periodic (at least annually) review of the transfers of water, tailings and overburden within the proposed Project area and between Hunter Valley Operations North and South, as well as the approved Liddell Coal Operations and the proposed Project and include in this review the impact of these transfers on the mine closure planning for all operations.</p> <p>A condition of consent should be imposed that requires the Applicant to undertake periodic (at least every 3 years) review of the surface and groundwater take of the proposed Project and the impact this take has on other water users within the Water Sharing Plan. The results of this review should be made public and available to any user in the vicinity of the proposed Project.</p> <p>A condition of consent should be imposed that requires no additional surface water can be taken until the hydroline dataset has been updated and appropriate approvals obtained. Where this is not able to happen, appropriate licensing must be secured.</p> <p>A condition of consent should be imposed that requires the Applicant to undertaken periodic (at least annually) review of internal mine water transfers, water storage capacities and</p>

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		<p>water transfers undertaken as part of the proposed Project. These transfers are likely to have an impact on the HRSTS, particularly during high rainfall years. The response identifies a significant volume of tailings material is to be disposed of at the Liddell Coal Operation. It is not clear whether the Liddell Mine development consent provides for the disposal of this waste stream.</p> <p>The response refers to the outdated NSW Waste Avoidance and Resource Recovery Strategy 2014-2021 and should instead consider and reference the NSW Waste and Sustainable Materials Strategy 2041.</p> <p>The response identifies that hazardous waste streams (tyres, conveyor belt and drilling wastes) will be disposed of on site.</p>	<p>predicted demand for HRSTS credits. This data and demand for HRSTS should be made publicly available.</p> <p>A condition of consent should be imposed that requires the Applicant to undertake an assessment of all waste streams against the NSW Waste and Sustainable Materials Strategy 2041, particularly in relation to the revised waste hierarchy, and should include a requirement to source alternative uses for hazardous waste streams and not permit disposal of these waste streams on site.</p>

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2	<p>The impacts of the proposed Project, including proposed flood levees, on downstream flooding, in the context of Council’s draft Floodplain Management Study and Plan.</p>	<p>The Applicant has provided a response in section 5.2.4 of the RTS.</p> <p>The response acknowledges an assessment of flood impacts in response to climate change, however, does not include any controls or management actions to address climate related impacts.</p> <p>The response acknowledges the recently exhibited draft Floodplain Risk Management Study and Plan prepared by Singleton Council. However the RTS does not provide an assessment of the impact of flooding on the township of Singleton.</p>	<p>A condition of consent should be imposed that requires the Applicant to update its flood modelling to include potential downstream impacts on the township of Singleton following completion of detailed design of the new Lemington Road. This update should include the flooding impact on upstream properties given the proposed works could result in a damming affect.</p> <p>A condition of consent should be imposed requiring the Applicant to undertake a Climate Change Risk Assessment and develop and implement a Climate Change Adaptation Plan that takes into consideration, amongst other things, the impact of flooding both upstream and downstream under a Probable Maximum Flood scenario.</p>
3	<p>The proposed realignment of Lemington Road</p>	<p>The Applicant has provided a response in section 5.2.5 of the RTS and acknowledges that the Applicant and Council are continuing negotiations in relation to the closure of Lemington Road.</p>	<p>Council, at its ordinary meeting of 20<sup>th</sup> February 2024, agreed in principle to the closure of the old Lemington Road, including parts of old Lemington Road that had not previously been closed. It should be noted that this in principle agreement is subject to legal instruments being put in place, agreements finalised for compensation and closure undertaken in accordance with <i>Roads Act 1993</i> requirements.</p>

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		<p>The response identifies that no land is required to be rezoned as a result of the proposed Project.</p>	<p>As a result, Council requests that, should the proposed Project be recommended for approval, a condition of consent be applied to the development that requires the closure of Lemington Road (and all its parts) to be undertaken in accordance with the requirements set out in the <i>Road Act 1993</i>.</p> <p>In addition, a condition of consent should be imposed to include a plan that details the parts of Lemington Road that will be subject to closure under the consent (including all its parts). This plan should include the land zoning applicable as well as any new lots created because of subdivision.</p> <p>A condition of consent should be imposed requiring the Applicant to complete the necessary subdivision approvals for the road closure to take effect.</p>
4	<p>How the Applicant intends to provide for the long term (in perpetuity) maintenance of the New Lemington Road to meet the asset life requirements.</p>	<p>The Applicant has provided a response in section 5.2.6 of the RTS.</p> <p>The response identifies that road maintenance contributions will form part of the VPA between the Applicant and Council</p>	<p>Council does not support the inclusion of road maintenance requirements in a VPA.</p> <p>A condition of consent should be imposed that requires the Applicant to prepare a pre-dilapidation survey of the new Lemington Road, prepare a post-dilapidation survey of the new Lemington Road every five (5) years thereafter and where development related damage is identified and rectification works required, the Applicant is to notify the relevant roads authority and seek independent costing associated with repairs. Upon acceptance of the independent costings and receipt of invoice</p>

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			<p>from Council, the Applicant is to pay the amount required to undertake the repairs and Council is to complete the repairs.</p> <p>To provide for in perpetuity road maintenance, a condition of consent should be imposed that requires the Applicant to pay a bond to the amount of 1% of the capital value following final design for the new Lemington Road to be held by Council until the proposed Project achieves mine closure.</p>
5	<p>Consideration of all alternative options (including the Preferred Mine Plan) taking into consideration the whole of life costs and benefits to achieve the outcomes set out in the adopted Hunter Regional Plan</p>	<p>The Applicant has provided a response in section 5.2.8 of the RTS.</p> <p>The response identifies that the do nothing option was assessed as option 2 in the Mine Plan Options Report.</p> <p>The RTS does not include an assessment of the whole of life costs and benefits to achieve the outcomes set out in the Hunter Regional Plan 2041.</p>	<p>The RTS has not provided any confidence that adequate post mining land use planning has been undertaken to ensure the time needed to rehabilitation over 7,000ha of disturbed land is adequately considered. In addition, the lack of mine closure planning is not consistent with exiting conditions of consent.</p> <p>Council, in its submission on the EIS, raised concerns regarding the extent of detailed mine closure planning for the current operations.</p>
6	<p>An assessment of the current rehabilitation and closure under the existing approvals, within all options, but specifically the Do-Nothing Option</p>	<p>The RTS does not include an assessment of rehabilitation and closure (including how long these activities would take and cost post mining) under all options, including the do-nothing option.</p>	<p>Council raised the opportunity cost of backfilling voids in its submission. Since 2021, rehabilitation rates have declined (as per 2022 Annual Environmental Review). At this rate of rehabilitation versus disturbance, rehabilitation activities would result in an additional 44 years post cessation of mining to complete rehabilitation works. Even with rehabilitation rates double this, and no subsequent increase in disturbance footprint, at least 15 years of rehabilitation works would be required simply to address the current disturbance area. This does not include backfilling final voids.</p>
7	<p>The timing of detailed mine closure planning, consultation on mine closure planning and the consequences of closure planning in a 'do nothing' scenario</p>	<p>The RTS does not include an assessment of rehabilitation and closure (including how long these activities would take and cost post mining) under all options, including the do-nothing option.</p>	<p>Council raised the opportunity cost of backfilling voids in its submission. Since 2021, rehabilitation rates have declined (as per 2022 Annual Environmental Review). At this rate of rehabilitation versus disturbance, rehabilitation activities would result in an additional 44 years post cessation of mining to complete rehabilitation works. Even with rehabilitation rates double this, and no subsequent increase in disturbance footprint, at least 15 years of rehabilitation works would be required simply to address the current disturbance area. This does not include backfilling final voids.</p>

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		<p>The RTS does not set out how detailed mine closure planning has been undertaken to meet existing compliance obligations (specifically condition 36(g) of 06_0261 and conditions 62C(g) and 63 of DA 450-10-2003).</p> <p>The RTS identifies that back filling the proposed final voids would be require approximately 730 Mm3 of material and result in approximately 21-year extension of site works post mining.</p>	<p>Council also raised concerns regarding the risks to rehabilitation success and mine closure outcomes should the project not gain approval and particularly in relation to mine voids. Safe, stable and non-polluting landforms are not expected for up to 1,000 years into the future. There is no assessment in the EIS or RTS on the consequences of this lag period on inter-generational equity.</p> <p>Post mining land uses are likely to require rezoning to be achieved. Rezoning cannot be undertaken as part of a development consent process and requires engagement with local Councils and the Hunter Regional Branch of the NSW Department of Planning, Housing and Infrastructure.</p> <p>Council's submission to the EIS raised significant concerns regarding the operational and strategic understanding of the mine closure consequences, particularly under the do-nothing option, and, should the proposed Project be recommended for approval, a condition of consent should be imposed that requires the Applicant to prepare, prior to the commencement of mining, a detailed Mine Closure Strategy that includes:</p> <ol style="list-style-type: none"> <li>1. The actions needed to be taken to achieve a post mining land use that is suitable and does not result in a negative socio-economic impact to the community. This analysis must include:</li> </ol>

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			<ol style="list-style-type: none"> <li>a. Potential areas of the mining lease (or mine owned land) where these land uses could be applied;</li> <li>b. Relationship between the proposed final land uses and the final landform;</li> <li>c. The integration of these uses with other existing and proposed land uses in the region, including the compatibility and viability of potentially competing uses;</li> <li>d. Whether any or all of these options will be safe, stable, non-polluting and sustainable in the context of the final landform; and</li> <li>e. A timeframe/timetable for investigation and implementation of one or more option(s) through to feasibility.</li> </ol> <ol style="list-style-type: none"> <li>2. Role of both council and the community in the post mining land use options assessment and analysis, including the extent to which such consultation has occurred and its outcomes;</li> <li>3. The relationship between post mining land use and the principles of strategic land use planning as set out in the adopted Hunter Regional Plan 2041, including engagement with council on the future strategic land use planning outcomes;</li> <li>4. Final void management actions that will be taken to ensure highwall stability during and post mining, including contingencies for final landform design and rehabilitation</li> </ol>

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			<p>outcomes should the highwall destabilise during and/or post mining;</p> <ol style="list-style-type: none"> <li>5. Final void land uses compatible with the expected timeframe to reach equilibrium and expected final depth;</li> <li>6. Assessment of the suitability, permissibility and sustainability of the final land use(s) proposed by area or domain, including actual feasibility and economic viability, as well as linkage between final landform and final land use(s) (that is, will be landform proposed actual provide for the uses identified);</li> <li>7. Analysis of the climate changing risks (temperature, rainfall, fire) on the success of rehabilitation, including the contingency measures that would be implemented in the event rehabilitation fails;</li> <li>8. Viability of the proposed final land uses, including where on the lease or buffer areas these uses could be applied, the relationship between the proposed final land uses and final landform, the integration of these uses with other existing and proposed land uses in the region, including the compatibility and viability of potentially competing uses;</li> <li>9. The consequences of the final land use options, including the final use of the void, on the principles of ecologically sustainable development, in particular, inter-generational equity; and</li> </ol>

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			10. safety, stability, pollution potential and sustainability of the proposed final land uses in the context of the final landform.
8	The negotiation of a Voluntary Planning Agreement	The Applicant has provided a response in section 5.2.10 of the RTS and acknowledges that the Applicant and Council are continuing negotiations in relation to the VPA.	Council, at its ordinary meeting of 20 <sup>th</sup> February 2024, agreed in principle to enter into a Voluntary Planning Agreement with an amount of \$6.56M to be directed to the Singleton Community and Economic Development Fund.
9	The impact of a changing climate on air quality impacts for the life of the proposed Project, including post closure	The Applicant has provided a response in section 5.2.11 of the RTS. The response notes that accurate impact predictions are not possible with a high degree of confidence and acknowledges that the NARCLIM projects an increase in temperature, increased rainfall intensity.	Where there is a risk of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason to postpone measures to prevent environmental harm (the Precautionary Principle). A lack of certainty regarding climate change projections (which Council disputes) should require avoidance and risk weighted consequences of alternative options.  A condition of consent should be imposed that requires the Applicant to undertake a Climate Change Risk Assessment and develop and implement a Climate Change Adaptation Plan that takes into consideration the natural hazards expected to change (temperature, heatwave, humidity, bushfire, flooding, rainfall, drought and storm intensity) and the impact of these changes on the proposed Project, including the consequences of a changing climate on rehabilitation and mine closure objectives.

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10	Evidence to support the effectiveness of existing controls in reducing impacts of air quality, in particular PM10 and PM2.5	<p>The Applicant has provided a response in section 5.2.11 of the RTS.</p> <p>The response provides an assessment of the effectiveness of air quality controls and that compliance is achieved a majority of the time, noting that higher impacts are experienced in periods of lower rainfall.</p>	<p>Consistent with council’s comments regarding climate change, the impacts of drought and low rainfall periods has a significant impact on air quality in the Upper Hunter Valley. The exposure of unrehabilitated overburden dumps increases the likelihood of air quality impacts, particularly in a changing climate.</p> <p>With over 7,000ha of existing disturbance areas, a condition of consent should be imposed that requires the Applicant to develop and implement a Climate Change Adaptation Plan that considers the impacts of a changing climate on air quality and requires the Applicant to undertake progressive rehabilitation such that overburden dumps are not exposed for periods of time that exacerbate air quality impacts.</p>
11	The Project’s contribution towards achieving the NSW target of net-zero emissions by 2050, specifically actions that the Project has (or is proposing to) taken to support reductions in emissions and in particular Scope 1 emissions	<p>The Applicant has provided a response in section 5.2.12 of the RTS.</p> <p>The response provides updated Scope 1, 2 and 3 emissions for the proposed Project in response to submissions from other agencies. The response identifies the Safeguard Mechanism as the means through which emissions reductions will be achieved.</p> <p>The response does not include quantitative</p>	<p>The proposed Project is predicted to exceed the current Safeguard Mechanism threshold. The RTS does not provide measures to reduce these emissions, other than through the purchase and surrender of carbon credits. The cost of credits (in today’s dollars) is \$30 per tonne of CO<sub>2-e</sub>.</p> <p>With predicted emissions of 29.31MTCO<sub>2-e</sub> over the life of the proposed Project, the cost of credits will exceed \$18M per year or \$900M over the life of the proposed Project (at today’s costs). These costs were not factored into the Economic Impact Assessment for the proposed Project.</p> <p>A cost benefit analysis of the transition to less carbon intensive sourcing of electricity and fuel has not been undertaken in the context of the cost of compliance. Council considers that this</p>

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		<p>measures to reduce Scope 1 emissions, which is a requirement under the Safeguard Mechanism.</p>	<p>analysis would be beneficial to supporting potential actions to reduce emissions.</p> <p>The proposed Project has not quantifiably demonstrated how emissions will be reduced so as not to contribute to the current increasing trend in NSW of Scope 1 emissions.</p> <p>A condition of consent should be imposed that requires the Applicant to, on an annual basis:</p> <ol style="list-style-type: none"> <li>a. Identify quantifiable actions that can (or have been) taken to support the NSW target of net-zero emissions by 2050;</li> <li>b. Investigate and implement direct actions to reduce Scope 1 emissions in accordance with the Safeguard Mechanism, including a cost benefit analysis of actions against the cost of purchasing offsets;</li> <li>c. Investigate and implement direct actions to reduce Scope 2 emissions;</li> <li>d. Include in its Annual Environmental Review an assessment of the greenhouse gas emissions (Scope 1, 2 and 3), the controls undertaken to reduce Scope 1 emissions below the Safeguard Mechanism, the reductions achieved as a result of actions taken to reduce Scope 1, 2 and 3 emissions, the number and value of offset credits acquired by the Project, and the costs of compliance with the Safeguard Mechanism;</li> <li>e. Undertake an annual review of the cost of compliance with the Safeguard Mechanism and the NSW target of net zero by 2050; and</li> </ol>

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			f. Include the measures proposed and undertaken by the Applicant to ensure that the proposed Project will be resilient to changing climate.
12	The consequences of the Project on housing supply, affordability and availability	The Applicant has provided a response in section 5.2.12 of the RTS. The response recognises that there is a significant shortfall in accommodation across the region and that there would likely be an increased demand for short term rental accommodation within a one (1) hour commute from the proposed Project.	Council’s submission identified that the social consequences of mining and construction workforces on housing in the Singleton local government area have been identified in both the adopted Local Housing Strategy and the Community Development Plan. These documents set out actions required to address housing access and affordability. The RTS does not consider tangible actions to address the impacts of the Project on housing in the region.  A condition of consent should be imposed that requires the Applicant to, prior to the commencement of construction, prepare an Accommodation and Employment Strategy to the satisfaction of relevant Councils. The Strategy must: <ul style="list-style-type: none"> <li>a. Propose measures to ensure there is sufficient accommodation for the workforce associated with the development;</li> <li>b. Consider the cumulative impacts associated with other State significant development projects in the LGA;</li> <li>c. Investigate options for prioritising the employment of local workers for the construction and operation of the development, where feasible (where local is defined as within one (1) hour commute);</li> <li>d. Include a program to monitor and review the effectiveness of the strategy over the life of the development, including regular monitoring and review during construction; and</li> </ul>

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			e. Report on compliance with the Strategy annually.
13	The social and economic impacts and benefits associated with mine closure, and in particular, early closure and compliance with the current conditions of consent	<p>The Applicant has provided a response in section 5.2.12 of the RTS.</p> <p>The response does not consider the social and economic impacts and benefits associated with mine closure, in particular, how the operation would plan for early closure and how compliance with the current consent has been achieved.</p>	<p>Should the proposed Project be approved, rehabilitation and mine closure activities will continue long after operations have ceased. These activities will require works to be undertaken to meet a yet to be quantified post mining land use outcome. These activities will also result in social and economic impacts and benefits, which have not been identified or quantified in the RTS.</p> <p>The existing development consent for Hunter Valley Operations North, DA450-10-2003, requires the Applicant (condition 63) to, within 5 years of the date of the consent, collaborate with relevant councils to investigate the minimisation of adverse socio-economic effects from a reduction in employment as the operation heads towards the end of its life. This condition has not been satisfied.</p> <p>A condition of consent should be imposed that requires the Applicant to develop, prior to the commencement of mining, a post mining socio-economic impact strategy to:</p> <ol style="list-style-type: none"> <li>a. Quantify the timeframe for the completion of post mining rehabilitation and mine closure works;</li> <li>b. Identify and quantify the skills, human resources and equipment required to effectively complete rehabilitation and transition to an agreed post mining land use;</li> <li>c. Undertake an assessment of, and implement, actions that will be undertaken to minimise the adverse socio-economic effects associated with mine closure;</li> </ol>

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			<ul style="list-style-type: none"> <li>d. Create and implement employment and community development pathways for the completion of rehabilitation works and post mining transition;</li> <li>e. Develop reportable measures to minimise the adverse socio-economic effects associated with mine closure and report on these annually;</li> <li>f. Quantify and publicly report on the reduction in local employment levels leading into the rehabilitation and closure planning phase of operations;</li> <li>g. Collaborate with Singleton Council and Muswellbrook Shire Council on the post mining adverse socio-economic effects leading into the rehabilitation and closure planning phase of operations; and</li> <li>h. Periodically (at frequency no greater than 3 years), review the strategy.</li> </ul>
14	<p>The preferred option(s) for securing biodiversity offsets, where land based offsets would be located, the area and location of ecological rehabilitation, the tenure of ecological rehabilitation and whether the required credits are available to purchase</p>	<p>The Applicant has provided a response in section 5.2.12 of the RTS.          The response does not identify the preferred option for securing offsets, where land based offsets will be located, the area and location of ecological rehabilitation, the tenure of ecological rehabilitation and whether there are sufficient</p>	<p>Council acknowledges the limitations of the Biodiversity Conservation Act as they apply to State significant development projects.</p> <p>In its submission, council noted that the proposed clearing of existing rehabilitation equates to 57% of previously rehabilitated lands, much of which includes areas of regrowth over 20 years old. The loss of this rehabilitation has not been considered in the offset strategy proposed.</p> <p>Any conditions of consent should require the Applicant to provide for in perpetuity security of any ecological rehabilitation such that future disturbance cannot be undertaken and that the existing</p>

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		<p>credits in the market to secure offsets.</p> <p>The response acknowledges a significant amount of existing surface disturbance (7,155ha) and 1,580ha of existing rehabilitation will be disturbed by the proposed Project.</p> <p>The response refers to a Forward Works Program that projects to 2025, whilst the Rehabilitation Management Plan has no dates or planned review date. Neither document consider the risks of a changing climate on rehabilitation success, which has the potential to significantly impact the viability of rehabilitation as a biodiversity offset.</p>	<p>rehabilitation that is proposed to be disturbed be assessed for its offset liability.</p>
15	<p>The relationship between the proposed final and use and the planning principles set out in the Hunter Regional Plan 2041</p>	<p>Refer to items 5, 6 and 7 above.</p>	

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16	The requirement to subdivide land for elements of the Project to take effect and the need to rezone land under Division 3.2 of the EP&A Act	<p>The Applicant has provided a response in section 5.2.5 of the RTS.</p> <p>The response identifies that no land is required to be rezoned as part of the proposed Project and subdivision of land will be required to take effect elements of the proposed Project.</p>	<p>Council acknowledges that the RTS satisfies the issue raised. A condition of consent should be imposed requiring the Applicant to undertaken subdivision to create the road corridor and take effect elements of the proposed Project in accordance with the requirements of the EP&amp;A Act.</p>
	That the disposal of waste on site, including potentially contaminated materials such as tyres, conveyor belts and drilling wastes, will result in environmental impacts that have not been assessed, and is not consistent with the NSW EPA Waste Strategy	<p>The Applicant has provided a response in section 5.2.2.</p> <p>The response refers to the outdated NSW Waste Avoidance and Resource Recovery Strategy 2014-2021 and should instead consider and reference the NSW Waste and Sustainable Materials Strategy 2041.</p> <p>The response identifies that hazardous waste streams (tyres, conveyor belt and drilling wastes) will be disposed of on site.</p>	<p>A condition of consent should be imposed that requires the Applicant to:</p> <ol style="list-style-type: none"> <li>a. Dispose of all waste at an appropriately licenced waste facility or facility otherwise permitted to receive the waste;</li> <li>b. Undertake an assessment of all waste streams against the NSW Waste and Sustainable Materials Strategy 2041, particularly in relation to the revised waste hierarchy; and</li> <li>c. Ensure that waste tyres, conveyor belt generated on site are appropriately stored, handled and disposed of, and beneficial reuse/recycling options implemented in accordance with any EPL.</li> </ol>

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	A lack of detail on the design of buildings proposed by the development	The Applicant has provided a response in section 5.2.5. The response identified the need for upgrading existing and construction of new buildings to support the proposed Project.	A condition of consent (as opposed to a note) should be imposed that requires the Applicant to obtain construction and occupation certificates for proposed building works in accordance with the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 and the Local Government Act 1993.