



**WALLARAH 2 COAL PROJECT**

# **Amendment to DA SSD-4974 Response to DP&E**

for  
**Wyong Areas Coal Joint Venture**  
January 2017

**WALLARAH 2 COAL PROJECT  
AMENDMENT TO  
DEVELOPMENT APPLICATION SSD-4974**

**RESPONSE TO DEPARTMENT OF  
PLANNING & ENVIRONMENT**

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**WALLARAH 2 COAL PROJECT – AMENDMENT TO SSD-4974**  
**RESPONSE TO DEPARTMENT OF PLANNING & THE ENVIRONMENT**  
*for*  
**Wyong Areas Coal Joint Venture**

**1 INTRODUCTION**

This document responds to a letter dated 22 December 2016 from Department of Planning & Environment (DP&E) to Wyong Areas Coal Joint Venture (WACJV) in relation to the Wallarah 2 Coal Project (the Project). The letter noted that DP&E has reviewed the Amendment Response to Submissions (Amendment RTS) (Hansen Bailey, 2016a) and consulted with relevant government agencies.

In its letter, DP&E requested a consolidated response to the matters identified for additional information in its Attachment A.

This document provides a response to each issue in the DP&E's Attachment A. Inputs to the responses have been provided by technical specialists, where required.

**2 WATER**

**2.1 BASEFLOW**

*The Planning Assessment Commission (the Commission) made a recommendation during its merit review of the original project that "given the sensitivity of the CCWS to drought, both temporary and permanent potential losses of baseflow are to be treated as potential impacts on the CCWS". The Department has reviewed the information provided in response to this recommendation and considers that further evaluation to periods of low flow should be provided.*

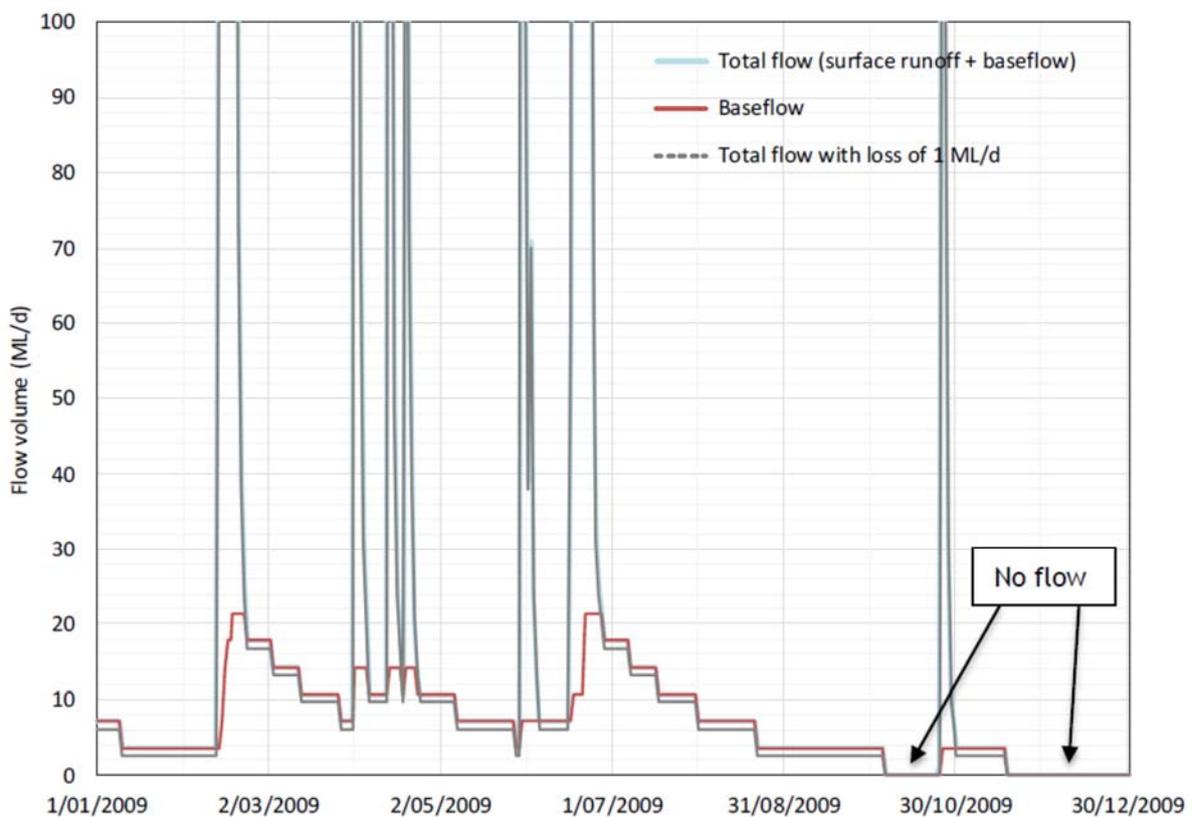
*It would be useful to gain an understanding of stream flows vs baseflows in periods of low flows and their respective quantitative amounts. In addition, the Department notes the predicted loss of 300 ML/Y of baseflow during average years. What consequence would this loss have on the CCWS during periods of low flow?*

WRM has undertaken a further analysis to illustrate the impact of potential "worst case" water loss on both surface runoff and baseflow in the Wyong River catchment. The model was used to simulate the runoff and baseflow components of the catchment drainage to the Lower Wyong River Weir for two scenarios (for each of a dry year and very day year) under:

- Existing conditions; and
- Existing conditions with an assumed total annual water loss of 300 ML/a due to impacts of the Project.

As shown in **Figure 1** in a dry year, the impact on flows is negligible during periods of surface runoff. The impact of flow loss during dry periods is apparent, but does not change the general character of flow which typically persists for an extended period after surface runoff, with some no-flow periods after extended dry weather. Within the resolution of the model, the impact on the number of no-flow days is **negligible**. In practical terms, it is unlikely that this flow volume loss could be detected.

Under a very dry year the total flow volume reduces by approximately 8%. Again, based on the model resolution, the impact on the number of no-flow days is **negligible**. In practical terms, it is unlikely that this flow volume loss (which represents an upper limit of potential impacts) could be detected.



**Figure 1 Time Series of Simulated Flow Lower Wyong River Weir**

A detailed response to this issue is provided by WRM Environment in **Appendix A**.

## 2.2 COMPENSATORY MEASURES

*The Commission also recommended that WACJV be required to "meet a no net performance outcome on catchment water resources during the life of the mine". The Department interprets this as WACJV being required to provide compensatory measures to compensate for its predicted 300ML/Y of baseflow loss to the CCWS. How does WACJV see this working in times of low flow?*

Wyong Coal currently holds a 185ML water licence in the Jilliby Jilliby Creek Water Source, which was incorporated into the existing *Central Coast Unregulated Water Sharing Plan* in 2016. Wyong Coal's predicted take from the former Jilliby Jilliby Water Sharing Plan area is 270ML (which is the conservatively modelled worst-case temporary retention in alluvial sediments associated with subsidence) and as such a further Water Allocation Licence (WAL) for the volume of 85ML will be secured prior to such take occurring.

From the Wyong River alluvials, a further 30ML is required from the Central Coast Unregulated Water Sharing Plan which will also be secured through the purchase of additional WALs prior to such take occurring. It should be noted that there are sufficient WAL allocations in the relevant Water Sharing Plans available for WACJV to secure to cover the above required allocations.

With respect to the Planning Assessment Commission's (PAC) comments regarding a "No Net Impact performance criteria on catchment water resources during the life of mine" it suggested (Wallarrah 2 Coal Project Review Report, page 37 (June 2014)) that:

*"consideration be given to augmentation of the CCW'S by return of sufficient mine water treated to the required standards for raw water supply to compensate for estimated losses during the life of mine".*

The PAC however also recognised a different approach prepared to be considered by (former) NSW Office of Water (NOW) (now DPI – Water) to compensate for the potential losses by bringing forward augmentation of future water supply scheme headworks.

The detail of this approach is outlined in NOW's *Response to the Commissions Questions (Undated Letter, Appendix 6, PAC Review Report June 2014)* and states;

*"If the water losses are not replaced the eventual outcome for the urban water supply could be early augmentation of the water supply scheme headworks. Monitoring of the surface flows and groundwater after the mine is established, as well as the amount of water produced by the mine, would allow for informed estimates of the loss of flow and subsequent impacts on the water supply. It would then be possible to estimate the number of years that augmentation would need to be brought forward as a result of these water losses. At that time the cost of bringing the augmentation forward (not the whole cost of augmentation) could be transferred to the mine."*

WACJV will establish a detailed water monitoring program capturing the data stipulated by NOW regardless of whether the compensatory mechanism is the return of treated mine water to the CCWS, the early augmentation of proposed future water supply scheme headworks, or the sole dependence on WALs..

As such, it is WACJV's opinion that flexibility in the development of the appropriate mechanism to achieve a "No Net Impact" outcome is achievable via either mechanism or a combination of mechanisms which also includes the utilisation of sufficient WAL shares which could potentially be provided to the Water Authority and banked to build credits to be applied during times of low flow. An appropriate consideration of water management options is best evaluated via a comprehensive options study. Taking account of feasibility and cost effectiveness of various opportunities, including possible provision of surplus water to nearby industrial users.

A properly constructed consent condition stipulating a flexible consultative approach would therefore promote development of a mechanism more likely to achieve a robust "No Net Impact" outcome.

A realistic timeframe is required to enable additional baseline monitoring and validation of subsidence modelling to be established and to continue during extraction to provide accurate data upon which any compensation is to be based.

### 3 DARKINJUNG LOCAL ABORIGINAL LAND COUNCIL

#### 3.1 DP&E INTRODUCTION

*On 9 December 2016, the Department received a further submission from Darkinjung LALC outlining its concerns following WACJV's submission of its amended project RTS. This submission largely reiterated the issues that were raised in the LALC's previous submissions, including not adequately addressing the Director-General's Requirements, bushfire risk, service connections, parking facilities, road closures, road access, water management, risk assessment, Negotiated Regional Planning Outcome, consultation with affected landowners and the Central Coast Regional Growth Plan 2036 (CCRGP).*

*Nevertheless, the Department notes that some new issues were raised that it considers require addressing. WACJV should carefully review the LALC's correspondence dated 9 December (as previously provided) and provide a detailed response to the matters raised, with a particular focus on any matters not previously addressed.*

WACJV is disappointed that Darkinjung Local Aboriginal Land Council (DLALC) rejects WACJV's offers to meet and explain the project yet makes submissions raising issues that could have been explained and alleging a failure to consult. Reference is made to the DLALC letter of 27 October 2016 (which was copied to DP&E) and WACJV's response of 31 October 2016 (see **Appendix B**). WACJV notes:

- DLALC advised it was withdrawing from further discussions with WACJV.
- Wyong Coal advised that it:
  - Would like to continue to engage with DLALC on the Amended Development Application and to consider other options proposed by DLALC;
  - Would contact DLALC when its response to DLALC submission has been prepared and offer to take DLALC through the response to show that DLALC's concerns have been well considered and addressed in detail;
  - Would consider reverting to the original rail alignment once DLALC provides the commercial terms it proposes as offered by DLALC on 7 September 2016 and indicated whether it actually needs a rail connection for its industrial use. We note that at the meetings of 22 September and 17 October, DLALC advised that this option, of reverting to the original proposal, was no longer available and would be not considered by DLALC under any circumstances – accordingly WACJV maintains the need for the Amended Application; and

- Was doubtful that the DLALC's Negotiated Regional Planning Outcome (NRPO) can be achieved and particularly, in a timeframe that does not further negatively impact the economic viability of the Project but will however consider this further if DLALC:
  - Confirms the area under consideration;
  - Provides further information to allay Wyong Coal's concerns; and
  - Provides proposed commercial terms.
- WACJV has contacted DLALC three times during November 2016 offering further talks. Such talks could have accurately informed DLALC of the matters raised in its submission of 9 December 2016, however DLALC declined all offers. A further offer to meet was made on 20 December 2016, however DLALC were unavailable to meet.

Numbering in the italicised paragraphs are those from the DLALC letter of 9 December 2016.

A response to each issue raised is provided below.

### **3.2 DGRS**

1. *In key respects the Amended DA still does not comply with the Director-General's Environmental Assessment Requirements – Section 78(8A) of the EP&A Act. The absence of an assessment complying with these requirements does to permit the Department or anyone else to undertake a proper assessment.*

WACJV has met the requirements of the DGRs for both the EIS and the Amendment Document (Hansen Bailey, 2016b).

Further comments in relation to bushfire are provided in **Section 3.6**.

### **3.3 RELEVANT DOCUMENTATION AVAILABILITY**

#### **3.3.1 DGRs**

2. *The DGR's required that the "The EIS must include all relevant plans, architectural drawings, diagrams and relevant document required under Schedule 1 of the Environmental Planning and assessment Regulation 2000." It added that "these documents should be included as part of the EIS rather than as separate documents".*

The EIS included detailed drawings in Appendix E. In relation to the Amended Project, the Amendment document included design drawings at Appendix B at a relevant level for a SSD project to enable the DGRs to be met and public consultation to occur on the project.

All of these documents need to be taken together to form the assessment documentation for the Project. This is demonstrated by the fact the term "EIS" would be defined in any development consent issued for the Project to include the original EIS developed for the Project, the Amended Document and any other subsequent documentation that the determining authority deemed necessary (including any additional detail requested on existing drawings provided).

### 3.3.2 Appropriateness of Drawings

3. *The submission suggests that the EIS and Amended DA does not comply with this requirement. There are no appropriate drawings showing how Darkinjung's existing access will be maintained in relation to the construction of the bridges in the vicinity of Spring Creek or how that access will be maintained with the proposed changes in levels of the land.*
  4. *It also suggests there is no site plan which shows "existing levels of the land in relation to buildings and roads" or "proposed finished levels of the land in relation to existing and proposed buildings and roads", "proposed methods of draining the land" or "proposed parking arrangement, entry and exit points for vehicles and provision for movement of vehicles within the site (including dimensions within the site)."*
- 5&6. *The submission suggests that plans are inconsistent between the Amended DA and in the "WACJV Response" which illustrates non-compliance with the DGRs and an inability for the Amended DA to be properly assessed.*

Clause 55(2) of the EP&A Regulation states that an application to amend a DA must be supported by "written particulars sufficient to indicate the nature of the changed development". The Amendment Document provides sufficient detail to enable a detailed assessment of Amended Project as required under clause 55(2).

The Amendment Document provides a detailed description of the Amended Project (as required by clause 55(2)) and is adequate to allow a proper assessment and the public to comment on the Amended Project. It is noted that the Amendment Document must be read together with all other documentation prepared for the Original Project.

Some additional project detail was provided in the Amendment RTS to respond to stakeholder queries, however none are inconsistent with the Amendment Document.

### 3.4 DESIGN DEFERRMENT

7. *In a number of respects, instead of undertaking an appropriate assessment as required by the DGRs', the Amended DA merely defers the assessment to a later date. The Amended DA advises that the WACJV will be required to enter into a Deed to allow use of land under the control of TfNSW. The WACV Response states that:*

*"In addition, prior to construction and then again prior to operation of the Amended Project, WACJV will conduct constructability and operational risks assessments and put in place all subsequently identified safety measures to ensure the safety of the wider community, its workforce and its equipment. This risk based process is a requirement involving construction within 25 m of a rail corridor, which can only be undertaken with TfNSW consent."*

8. *TfNSW is not the consent authority. The engineering issues and risk associated with constructing a coal loading facility in a narrow 20m corridor with no set-backs or asset protection zones are matters that were required to be identified and addressed in the EIS. They are significant and relevant to whether the project should proceed at all.*

WACJV has not stated that TfNSW is the consent authority. The use of “consent” in this context means consultation in the risk assessment process which will consider any relevant engineering constraints, with appropriate design, construction and access approval post-to be sought from TfNSW after the DA is approved.

This issue is the responsibility of TfNSW. In its submission to the Amended Document TfNSW stated *“TfNSW has reviewed the submitted information and has no further comment on the development application. TfNSW supports the continued engagement between the transport agencies and Wyong Areas Coal Joint Venture.”*

It should be noted that these requirements also pertained to the Original Project.

Finalisation of detailed infrastructure design necessarily occurs post approval and in detailed consultation with stakeholders, including relevant adjoining landowners. Similarly, detailed design of ancillary works will occur in concert with final infrastructure design.

Commercial-in-confidence work undertaken to date by accredited rail and civil construction providers promotes certainty regarding ability to construct and operate the facilities within the confines of Nikko Rd using the existing level of design.

A significant part of the design and construction process is the Constructability Risk Assessment. This risk assessment must address the hazards associated with all phases of the infrastructure’s life including design, construction, operation and decommissioning. The codes of practice related to the Safe Design of Structures clearly defines the requirements to be met for this type of infrastructure installation. The following are excerpts from the Work Cover - Safe Design of Structures Code of Practice.

Safe design means the integration of control measures early in the design process to eliminate or, if this is not reasonable practicable, minimise risks to health and safety throughout the life of the structure being designed.

The safe design of a structure will always be part of a wider set of design objectives, including practicability, aesthetics, cost and functionality. These sometimes competing objectives need to be balanced in a manner that does not compromise the health and safety of those who work on or use the structure over its life.

### **1.1 What is safe design?**

Safe design begins at the concept development phase of a structure when making decisions about:

- The design and its intended purpose materials to be used;
- Possible methods of construction, maintenance, operation, demolition or dismantling and disposal; and

- What legislation, codes of practice and standards need to be considered and complied with.

### 3.3 Design development phase

In this phase the design concepts for the structure are converted into detailed drawings and technical specifications.

Control measures are decided and construction documentation is prepared. The design is completed and handed to the client.

Control measures for common hazards may be chosen from known solutions. For other new or complex hazards a risk assessment may be necessary to assist in determining the most effective control measures. The design development phase should involve:

- Developing a set of design options in accordance with the hierarchy of control;
- Selecting the optimum solution. Balance the direct and indirect costs of implementing the design against the benefits derived;
- Testing, trialling or evaluating the design solution; and
- Redesigning to control any residual risks.

Finalising the design, preparing the safety report and other risk control information needed for the structure's lifecycle.

The construction and operation of the infrastructure for the project must comply with these codes, the Australian Standards and relevant regulations that will result in a safe designed for purpose structure for the life of the project.

Further discussion on asset protection zones are provided in **Section 3.5**.

## 3.5 BUSHFIRE ASSET PROTECTION ZONES

### 3.5.1 Setbacks for Conservation Zoning

9. *The submission states the response ignores setbacks. The close proximity of vegetation with conservation zoning requires that there be provisions for setbacks. On the current design, the canopy of the trees on the DLALC owned Lot 204 DP 1117900 will be in close proximity to the coal loader.*
10. *The submission further contends a project should not be constructed without appropriate setbacks and that DLALC is concerned that WACJV will subsequently require DLALC to clear the vegetation on its land to provide protection for the coal loader. If adjoining land is to be used by way of an asset protection zone, it is required to be the subject of an easement and it should have been the subject of the Amended DA.*
11. *The submission notes if an asset protection zone is required to the east of the coal loader and conveyor, the Amended DA fails to address ecological impacts.*

12. *Apart from having appropriate set-backs for bushfire protection, adjoining land owners are entitled to have an appropriate set-back from their own properties for coal loading and rail infrastructure.*

See also response Item 18 in **Section 3.6.3**.

Development Application (DA) for SSD-4974 is made as a SSD under Division 4.1 of EP&A Act.

Under section 79BA of the EP&A Act a SSD is not required to conform to the specifications and requirements of 'Planning for Bush Fire Protection' (*NSW Rural Fire Services, 2006*).

Further, under section 89J(1)(f) of EP&A Act, a bush fire safety authority under section 100B of the *Rural Fires Act 1997* is not required. These issues are addressed under the DGRs.

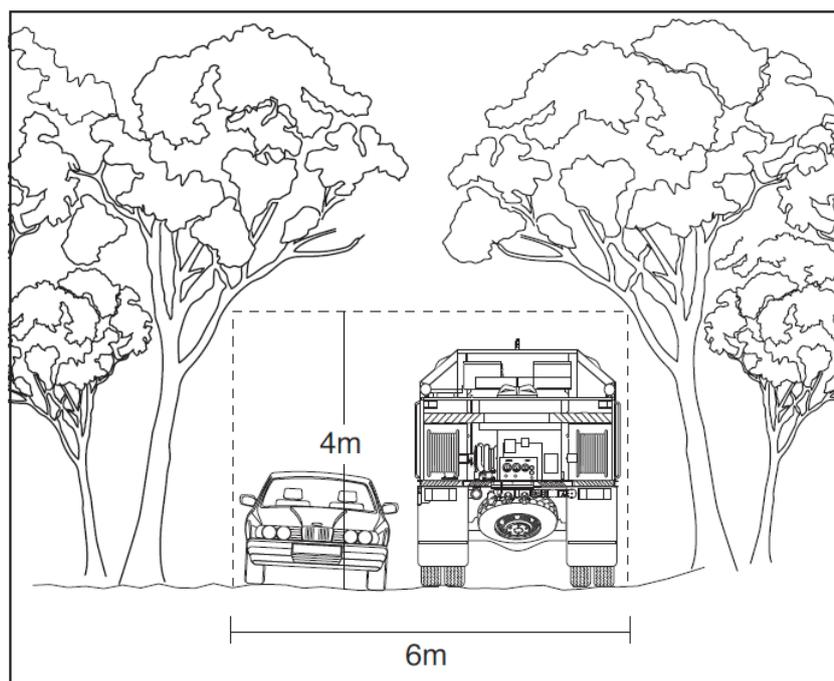
However, in accordance with the DGR's, consideration has been made to "*Hazards – paying particular attention to public safety, and including bushfires*". A detailed assessment was included as Appendix AB to the EIS and relevant consideration given to bushfire in the Revised Risk Assessment in Appendix F of the EIS with the methodology applied accepted by DP&E and the PAC.

## **3.6 BUSHFIRE RISK**

### **3.6.1 Property Access**

13. *The WACJV Response does not adequately address the issue of bushfire risk or the need of the project design to have regard to basic standards. The coal loading facility if proposed in bushfire prone land and immediately adjacent to Category 1 Vegetation without any setbacks or "Asset Protections Zones". The project will be contained in a 20m corridor with the eastern side of the coal loader immediately adjacent to the canopy of the adjoining bushland. The 6 m access road will in some sections be fenced on one side. There is no room for appropriate turn around bays for emergency vehicles. It is not a defensible space in the event of a fire and will be fire trap.*

The 6m wide road does not require additional passing bays and is consistent with '*Planning for Bush Fire Protection 2006*' Figure 4.5 (reproduced as **Plate 1**). The conveyor design has adequate space to have compliant fire-fighting infrastructure (i.e. reticulated water supply, hydrants and fire depots) providing a fire fighting capability for RFS well in excess of that currently provided by tanker trucks.



**Plate 1**  
**Property Access Road Requirements (Rural Areas)**

### 3.6.2 Loading Facility

14. *The submission suggests that as the loading facility will be remotely operated with no staff on site, a response to a fire would be at least 20 minutes away.*
16. *WACJV Response refers to Condition 26 of the recommended development consent which requires “bushfire management measures to be implemented”. However such a requirement cannot address fundamental design defects where infrastructure is built without setbacks or asset protections zones which do not exist.*
17. *This section restates that commitments to conduct a bushfire risk assessment prior to construction are inadequate and does not meet the DGRs.*
19. *Darkinjung maintains that it is irresponsible for a facility of this kind to be constructed without any attempt to address bushfire risk associated with it.*

For item 17 also see response in **Section 3.4**.

The structures along Nikko Road will be constructed of non-flammable material (i.e. steel structure and steel cladding with minimal internal flammable components) which when considered in concert with the removal of vegetation in the 20m wide corridor, demonstrably eliminates a significant volume of potential fuel load in comparison to the current fuel level along Nikko Road.

The system will include fire detection and suppression systems consistent with Coal Mining Health and Safety legislation, the appropriate Australian Standards and requirements determined via a detailed design risk assessment conducted in consultation with the RFS.

The design elements noted are already consistent with RFS guidelines. Similar local structures (photographed from Ruttley's Road in the former Wyong Shire and Ruttley's Road in Lake Macquarie City as **Plate 1**, **Plate 2** and **Plate 3** below) demonstrate current practice for conveyors in proximity to bush land. These measures also protect adjoining landholders by reducing risks associated with any potential fire within the Nikko Road infrastructure area. It should also be noted that the conveyors in **Plate 1**, **Plate 2** and **Plate 3** are actually classed as buffers in both the Lake Macquarie City Council and Wyong Shire LGA 'Bush Fire Prone Land maps' (NSW Rural Fire Service, 2017).

The coal loading facility has always been proposed to be remotely operated from the Tooheys Road site (refer 3.9), therefore this risk level remains unchanged from the original project.

DLALC asserts at Item 16 and Item 17 that "such a requirement cannot address fundamental design defects whereby infrastructure is built without setback or asset protection zones" and "an after the event consideration of bushfire risks cannot address the design flaws of a project of this kind in a 20m corridor with no set-backs or asset protection zones".

WACJV maintains that there are no fundamental design defects and the pre-construction risk assessment referred to by DLALC at Item 17 will ensure that the facility is constructed with satisfactory management of bushfire risk.



**Plate 2**  
**Conveyor in close to bush in a narrow corridor viewed from Ruttley's Road**



**Plate 3**  
**Conveyor gantry with enclosed conveyor close to bush from Ruttley's Road**



**Plate 4**  
**Transfer station in close proximity to bush viewed from Ruttley's Road**

### 3.6.3 Rail Line Surface Facility Fire Breaks and Mandalong Project

15. *The original risk assessment stated that bushfire would be addressed maintaining fire breaks around surface facilities. The 'Planning for Bush Fire Protection' has not been taken into account which is inconsistent with the DGRs.*
18. *The submission refers to the Mandalong Southern Extension SSD project where a separate bushfire risk assessment was undertaken for the project and the RFS Planning for Bushfire Protection was taken into account.*

Mandalong Southern Extension Project (Mandalong) did undertake a bushfire risk assessment which resulted in the establishment of asset protection zones. However, the DLALC fails to identify, discuss or demonstrate an understanding of the context of Mandalong's bushfire risk which is different to the Amended Project as follows:

- From Ecobiological (2013), one of the primary bushfire risks is "Stalling of mine production and/or damage to infrastructure assets, financially impacting Centennial Mandalong and local and regional commercial operations" (Section 10.15.2). This gives context to the establishment of asset protection zones for Mandalong:
  - The assessment focused on Mandalong's two surface infrastructure sites, being the existing Mandalong Mine Access Site and proposed Mandalong South Surface Site (Section 10.15). "A bushfire risk assessment addressing the Cooranbong Entry Site will be undertaken as part of the development application for the Northern Coal Logistics Project.";
  - For Mandalong Mine Access Site an APZ (10 – 20m) will be established around the gas drainage and ventilation management infrastructure (Section 10.15.3);
  - For Mandalong South Surface Site includes ventilation (upcast and downcast), storage and underground delivery of stone dust, hydrocarbon storage, electrical reticulation, water reticulation, water management and. The APZ will be 20 – 45m (Section 10.15.3); and
  - Difference in APZ size is based on terrain – Mandalong Mine Access Site is flat, Mandalong South Extension is on a hillock on Figure 2 of Ecobiological (2013).

WACJV regards the assets protected by these APZ's are clearly ones that are fundamental to an underground coal mine in the prevention of a catastrophic event (explosion), and essential for maintaining a safe underground working environment (ventilation, stone dust delivery, water reticulation and communications), maintaining environmental controls (water management) and sustain underground operations.

The bushfire threat to services and infrastructure identified for Mandalong Project risk assessment identifies matters directly applicable to mine safety and the continuity of safe underground operations. It does not address matters related to the protection of outside assets or those not considered to compromise safety within the mining context.

The referenced Bushfire Risk Assessment is therefore peculiar to the Mandalong site, but more importantly particularly peculiar to the protection of assets which if impacted by bushfire will directly affect the health and safety of people working in the underground environment and the continuity of underground operations.

Conversely, those safety-critical operational assets required by the Amended Project are located at the Tooheys Road and Buttonderry sites, and in later years at the proposed western ventilation shaft. Potential bushfire impact on those assets has been addressed within the risk assessment undertaken for the EIS and is considered to be of medium to low risk.

When considered in the context of safety and operational critical asset protection, WACJV advises that the infrastructure proposed within the Nikko Road site adjacent the Main Northern Rail Line (if it were to be impacted) may present disruption to raiing but does not prevent any overall safety issue for the Project as a whole. However, overall safety and mine production impacts do not occur due to the assets not affecting underground safety and production at the mine being able to continue due to the 50,000t ROM and 250,000t product stockpiles at Tooheys Road.

It is noted that the existing Main Northern Rail Line rail corridor is a buffer zone under Wyong Shire LGA – Bush Fire Prone Land Map. WACJV facilities to the north of the loading bin replace what is currently dense bush with a rail spur and a 6m wide all weather access road (refer to **Section 3.13**). This effectively increases the current buffer by 20m and provides a fire fighting access that currently does not exist.

From the Motorway Link Road Bridge to the loading bin the existing short section of dirt track of approximately 300m in length will be replaced by a 6m all weather road.

### **3.7 NOISE**

20. *The issue of noise was raised in the submission from the EPA dated 5 August 2016. The lack of assessment of the impact of noise on land owned by DLALC and proposed residential developments was raised in the original DLALC submission. The WACJV response does not adequately address this issue. The classification of the DLALC land as “urban” noise amenity is not justified. DLALC maintains that the proper classification is “suburban”.*
21. *DLALC estimates that on this basis there would be approximately 147 lots with a > 45 dB noise level which represents a significant impact on the proposed development. A copy of an acoustics assessment commissioned by DLALC is included as Attachment 2.*

The appropriate regulator responsible for noise impact assessment in NSW is the EPA. The EPA in its letter dated 20 December 2016, confirms that issues raised by the EPA in its letter (dated 5 September 2016) were adequately addressed in the WACJV Response. This includes acceptance of the “Urban” criteria as the most appropriate receiver classification.

VLAMP only applies to the existing residential properties identified in the Amendment to the Development Application.

It is clear from the amenity assessment undertaken that the amenity of the DLALC land is appropriately maintained.

A detailed response to noise including DLALC's Attachment 2 is provided in **Appendix C**.

### **3.8 SERVICES**

22. *The Amended DA does not properly identify how services will be connected to the part so the Project on Nikko Road (e.g. water connection for use at the loading facility for dust suppression).*
23. *The coal loading facility will be fitted with a water pipeline for fire-fighting which is able to be accessed by emergency services. The submission notes that the location of the pipeline is not identified and whether further easements are required. If from the town system, this has not been assessed.*

Services such as power and water for dust suppression (and fire fighting off-takes) will follow normal mining and industrial protocol of being fitted to the conveyor infrastructure. These services will originate from the Tooheys Road infrastructure site.

The volume of water required will be determined through a risk-based process during final design to ensure optimal volumes are available to meet operational and emergency requirements. Off take points allowing emergency services access to fire-fighting water will be developed in consultation with those services, and placed appropriately to meet Australian Standards. The reticulated system will utilise treated mine water as per general mining convention.

### **3.9 DISTURBANCE OUTSIDE PROJECT AREA**

24. *It is clear from the Amended DA the Project is premised on the WACJV to undertake activities outside of the Infrastructure Boundary. DLALC is concerned that in the vicinity of Nikko Road it may also be outside the project boundary and outside the footprint of the Amended DA. The Amended DA confirms:*  
  
*"Minor disturbance outside the Infrastructure Boundary may be required for ancillary works such as firebreaks, boreholes, water diversion structures, minor contour banks, pipelines (and associated tracks and other services), power supply, security fences, environmental monitoring, and erosion and sediment control."*
25. *The infrastructure Boundary is shown on Figure 19 and it is apparent that in the vicinity of Nikko Road, the Project Boundary is coextensive with the Infrastructure Boundary (i.e. there is no room for works described in Item 24.*
26. *As there are no proper sketches or descriptions of levels, drainage, bushfire management, ecology assessment, the Amended DA does not properly identify where the relevant works will be undertaken and the extent to which they will impact on adjoining land and as such cannot be properly assessed.*

The quotation provided above is taken from Section 2.1 'Overview of the Original Project' in the Amended DA. The reference to "*Minor disturbance outside the Infrastructure Boundary*

may be required for ancillary works such as firebreaks, boreholes, water diversion structures, minor contour banks, pipelines (and associated tracks and other services), power supply, security fences, environmental monitoring, and erosion and sediment control” does not refer to Nikko Rd, but rather areas previously identified within the EIS such as the Jilliby State Conservation Area to access and monitor the impacts associated with the underground aspects of the mining operation and to provide power to the western ventilation shaft.

All activities will occur generally accordance with the description within the EIS (and modifying documents) and within the Project Boundary. The majority of work will be undertaken within the EIS Disturbance Boundary and Amended DA Infrastructure Boundary.

Also, the EIS at Section 3.1 states “Outside the nominated Disturbance Area, additional minor disturbance associated with ancillary works may be required, including: firebreaks, water diversion structures, minor contour banks, pipelines and associated tracks and other services, power supply, powerlines, fences and sediment and erosion control structures. No such disturbance will occur prior to the completion of the Land Disturbance Protocol process as described in Section 7.9.” Assessment of impact was undertaken to the Project Boundary as part of this EIS will form part of any DA granted.

Further, WACJV’s accredited rail and civil construction advisors have indicated that it (and other contractors) regularly successfully complete rail infrastructure works in corridors tighter than the 20 m corridor at Nikko Road. Examples include Gosford passing Loops, Liverpool Turn-back, and Kingsgrove to Revesby Quadrupling). A brief discussion on each is provided below.

### **3.9.1 Gosford Passing Loops**

WACJV advises that **Figure 2** shows the construction of the new Up Passing Loop in a cutting. This work involved the following:

- Widening of the existing cutting by 8.5m;
- Construction of retaining wall, (Rock Bolting, Shotcrete) including channel drain to the base of the retaining wall;

Installation of Signalling Gentries;

- Installation of new Track and associated signalling infrastructure;
- Installation of fencing above the embankment; and
- Sedimentation and Environmental Controls as required.

Examples of restricted rail corridor works are described below.

### **3.9.2 Kingsgrove to Revesby**

Kingsgrove to Revesby Quadrupling involved 10 m widths, contiguous piled wall to existing rail track as shown in **Figure 3**. All were undertaken whilst trains were running.

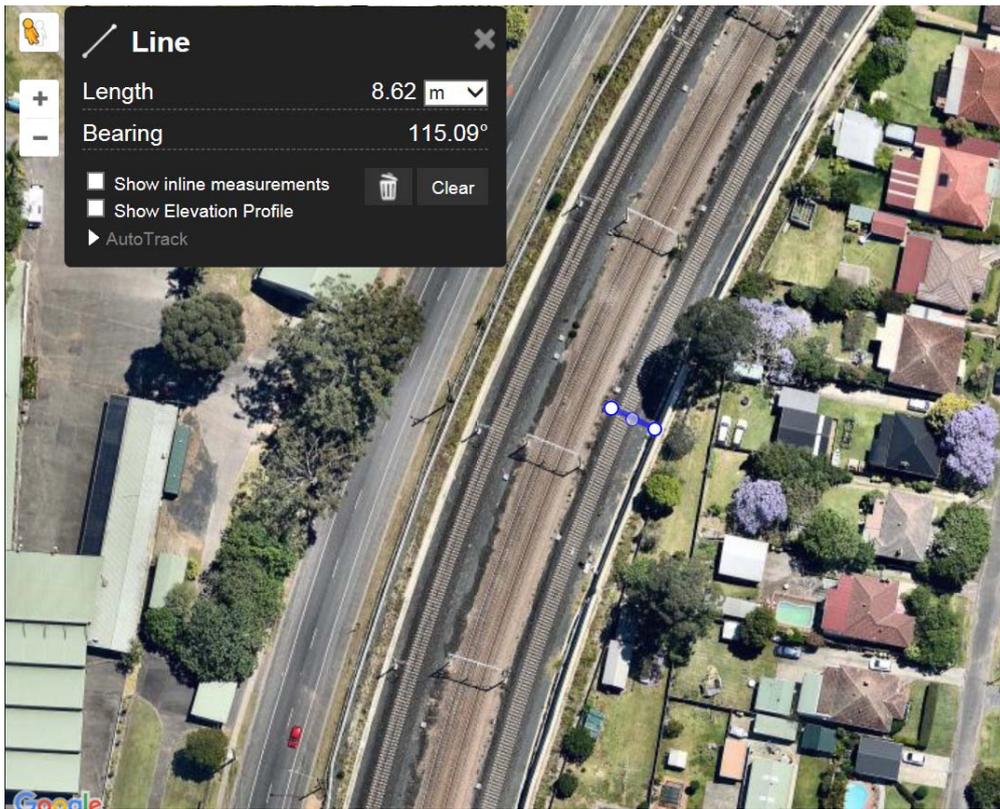


Figure 2 Constructability – Gosford Passing Loops

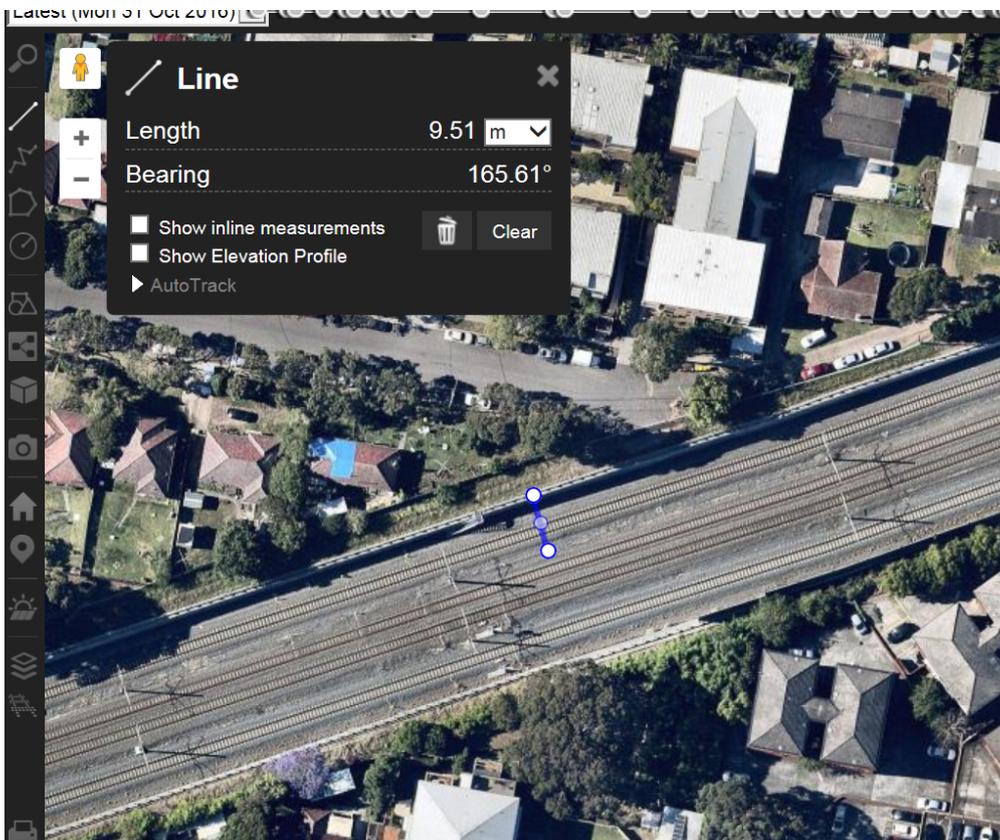
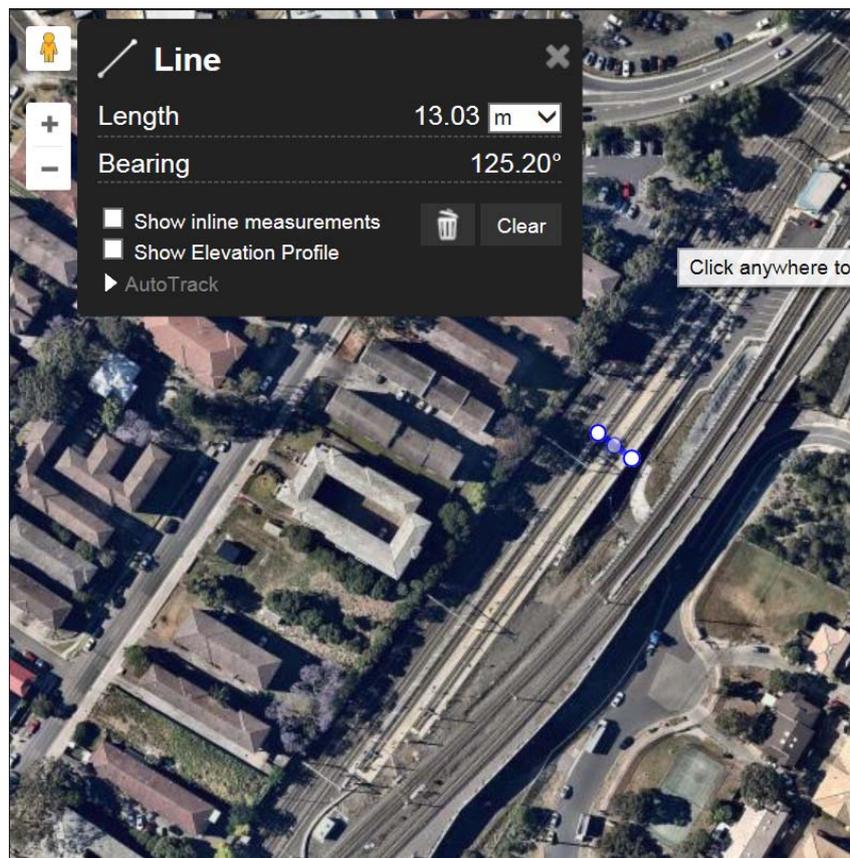


Figure 3 Constructability – Kingsgrove to Revesby Quadrupling

### 3.9.3 Liverpool Turn-back



**Figure 4 Constructability – Liverpool Turn-back**

Liverpool Turn-back was constructed in-between two live running lines with a 13m width as generally shown as **Figure 4**.

### 3.10 AUTOMATED COAL LOADING

27. *There is a substantive alteration the proposed operation of the coal loading facility on Nikko Road.*
28. *The Amendment DA indicated there would be a “control room” attached to the loading facility and also stated the loading system will be able to be controlled locally and remotely.*
29. *The control room is not referred to the WACJV response and the plan does not proposed a control room. WACJV now states “no personnel will be permanently stationed at the facilities along Nikko Road”.*
30. *This late alteration adds to the inappropriateness of the project. The risks associated wither remote operation of a full automated coal loading facility have not been assessed. Security, fire response and emergencies are impacted. In an emergency, to get to the loading facility, a person at the main facility would have to travel from Tooheys Road to Bushells Ridge Road, then Gosford Road through two locked gates. This is irresponsible due to proximity to the rail Line and bushfire prone land in a residential area.*

The facility is not “now operated remotely with no staff on site” (item 14), and a “substantive alteration in the WACJV Response” (item 27) or a “late alteration” (item 53).

The control room is a room where control systems are located rather than a room where the system is operated from. Local operation is possible for maintenance purposes. All underground belt conveyors are controlled and operated in a similar manner.

Automated rail coal loading is an established technology used within the Australian mining industry and applied to the original application in 2013. This is acknowledged in Item 53 (**Section 3.19**).

The control room was identified in DA Amendment Appendix B Drawing No 22-17704-C205. RTS Appendix C Drawing No. 22-17704-C323 shows a reconfigured loading facility to reduce its footprint to permit an increase in access road width from 3 m to 6 m following consultation with DLALC on 7 September 2016. These activities will continue to be undertaken within the Project Boundary.

The identification of hazards and the controls for the automated loading system will be developed during the infrastructure design process and will include compliance with all relevant Australian Standards, industry regulations and industry best practice. The automated control system will provide a reliable and repetitive arrangement to present a low risk solution for the rail loading process.

Consultation will continue with the relevant statutory authorities throughout the process of design, construction and operation to ensure the relevant standards have been achieved and are maintained.

### **3.11 GOSFORD ROAD ACCESS**

31. *Neither the EIS nor the Amended DA refers to the use of Gosford Road as an access point for the project. The first time it has been raised is in the WACJV response which highlights that this is a project which WACJV is “making up as it goes along”.*
32. *The DGRs require a detailed assessment of the project on the capacity, efficiency and safety of the local road network with particular regard to Wallarah Interchange, Motorway Link Road/Tooheys Road Intersection and Sparks Road/Hue Hue Road intersection. It also required a description of the measures that would be implemented to maintain or improve the capacity of the road and rail networks over the life of the project.*
33. *The DGRs do not refer to Gosford Road as it has never been part of the project. To the extent that Gosford Road is now the access point for the coal loading and rail facility, DLALC notes:*
  - a) *State rail land access gate is locked. Its current use is different to proposed. It is the only access point for the entire infrastructure to be placed on the land by heavy machinery and buses.*

- b) *Entry point for Gosford Road is narrow in close proximity to a narrow bridge across the railway. An existing concrete structure of the bridge would interfere with any redesign of the entry. Electricity poles on side of existing track restricting entry.*
- c) *Works will be required to ensure an entry which are not described or addressed. They are outside the project area and land subject of the Amended DA.*
- d) *Detailed assessments has not be undertaken to facilitate access from Gosford Road (particularly the local road network).*
- e) *No design plans for the entry on to Gosford Road.*
- f) *There has not been a proper public notification with the community or the relevant public authorities responsible for Gosford Road.*

Section 6.4.3 of the Amended DA states “To reduce potential road traffic noise during the construction phase, personnel will be transported to the site of the rail spur via bus, rather than commuting to the site individually.”

Section 6.1.7 of the Amendment RTS states “During the construction phase, all construction personnel undertaking works at the Tooheys Road Site will initially arrive via the main entry. The personnel that are allocated to the Nikko Road works will be transported to the Nikko Road site by bus, as described in Section 6.4.3 of the Amendment Document. This arrangement reduces the number of vehicle movements to and from Nikko Road. Preliminary constructability assessments by an accredited rail and civil constructor advise that access to the Nikko Road site will occur via Gosford Road and the adjoining rail corridor to the north of the proposed train load out loading facility.”

WACJV’s accredited rail and civil construction advisors also have indicated that it has previously accessed onto sites with much tighter access and restrictions (e.g. built up residential areas in Gosford and various Sydney Metropolitan Sites) through effective management such as:

- Traffic Control to control movements in/out of site;
- Implementation of temporary speed restrictions;
- Placing of concrete barriers;
- Construction of temporary deceleration / acceleration lanes (with removal if required at the end);
- Provision of Street Sweepers; and
- Delivery Drivers Inductions.

The above requirements and details discussed at Items 33 a) to f) will be determined through the Constructor’s Risk Assessment. Part of that Risk Assessment would include consultation with the Central Coast Council and Sydney Trains in relation to the use of the access road in their corridor. The constructor will obtain all licences, approvals and permits for construction.



### 3.13 ROAD CLOSURE APPLICATION

38. *A critical part of the Amended DA is the road closing application for Nikko Road (Closure Application W562973). WACJV has noted that the road closure application is not a relevant consideration in determining the DA for the Amended Project.*
39. *First, the entire project is premised on and assumes the closure of Nikko Road. If it is not closed, the project cannot proceed. Secondly, the DGRs require assessment of potential impacts of the project – the impacts from closing the road are relevant including the discriminatory nature of the road closure and impacts on adjacent landowners. Third, any approval of the application are matters for the Minister Administering the Roads Act. Neither DP&E nor the PAC can pre-empt the outcome of that decision. In those circumstances the assessment of the Amended DA is premature.*

The road closing application is not part of “Amended DA” as further described below. As WACJV has previously noted, the road closure application is not a relevant consideration in determining the development application for the amended Project.

In response to the three points raised in paragraph 39:

- As to the part after “First” - This statement is incorrect. Whilst it is WACJV’s preference to close Nikko Road via the process underway with DPI Lands, a decision not to grant closure does not block the project from proceeding or inhibit a decision by the PAC to grant approval to the DA. There are other alternatives available to secure the necessary tenure over the road should the road closure and purchase application not be successful.
- As to the part after “Secondly” - This statement is incorrect. As noted in DLALC’s submission, the road closure application and the planning assessment process are entirely separate. The potential impacts of closure of the road are a matter for assessment by DPI Lands in response to the closure application and not the consent authority for the development application.
- As to the part after “Third” - WACJV agrees that any approval of the road closure application and conditions of that approval are a matter for the Minister administering the Roads Act 1993 (Roads Act). This process is separate to and independent from the planning assessment process. As mentioned above, the carrying out of the Project does not depend on closure of the road.

The road closure application continues to be progressed with DPI Lands which is required to publicly advertise the application under the Roads Act and consult with adjoining landowners as part of the application assessment process.

WACJV advises that it is anticipated that these advertising and consultation processes by DPI Lands will occur during Q1 2017; however no confirmed timeframe has yet been advised by DPI Lands.

### 3.14 CLOSURE OF NIKKO ROAD

40. *DLALC sets out the discriminatory nature of the road closing in its previous response and maintains that position. DLALC maintains there is clear government practice of not closing roads and selling them to applications who are not the adjoining land owners. Reference is made to an email from the Department of Industry Lands to WACJV dated 28 June 2016.*
41. *This position is consistent with the Government's Fact Sheet in relation to road closures which assumes that the road closure application is made by the adjoining land owners. It further states that the first step for making an application is to discuss the proposal with adjoining neighbours.*
42. *WACJV represented in its Road Closure Application W562973 that it was applying to "close and purchase roads enclosed without or adjacent to my/our property".*

In response to the above paragraphs:

40. The email from DPI Lands dated 28 June 2016 is incorrect as a matter of law. The Roads Act allows a road closure application in respect of a road of the same type to be made by any person and does not prevent the sale of land within a closed road to other than an adjoining landowner. These issues are matters for due consideration by the relevant authority under the Roads Act.
41. WACJV has advised and consulted with directly adjoining land owners including DLALC and other nearby land owners both prior to and following the lodgement of the application with DPI Lands. Extensive consultation has been undertaken with DLALC as described in **Section 3.22**.
42. As mentioned above, the Roads Act does not prevent an application for closure and purchase from being made by other than an adjoining landowner. The application also includes a section of Tooheys Road which directly adjoins land owned by Wyong Coal Pty Limited.

### 3.15 ACCESS ON NIKKO ROAD

43. *DLALC's previous submission sets out a number of issues in relation to access that would arise in the event that Nikko Road is closed which are not satisfactorily addressed in the WACJV response. Additionally:*
  - a) *WACJV states it will create an easement but the terms are unknown and as such it is unknown whether the terms will ensure safe ongoing access.*
  - b) *WACJV states that the easement "is not intended to be used by the public" which highlights there is an intention to alter access which will impact adjoining DLALC.*
  - c) *There is no adequate plan showing the location of the easement and how it will connect with other access points and the existing access.*
  - d) *It is not clear whether the change in levels proposed will enable that access to be maintained.*

- e) *It is unclear what the proposal is. The Amended DA and attached plan shows a 3 m easement. The WACJV response shows a 6 m easement.*
- f) *Dust and noise impacts for people using the road are not addressed.*

In response to the above paragraphs:

- (a) The proposed creation of an easement upon closure of the road will be part of the assessment process of DPI Lands. It is likely that the easement would be in the standard terms of a right of carriageway under the Conveyancing Act 1919. However, as mentioned above the road closure application is separate and independent to the planning assessment process for the development application and the closure of the road and the terms of any easement are not relevant to the decision of the consent authority under the EP&A Act.
- (b) The section of Nikko Road to be used for the rail loading facility is largely dense bush for the most part. The 300m of existing dirt track is only accessible through DLALC's locked gates or via access from the rail corridor through locked gates. Therefore, there is no practical public access to the road. WACJV does not intend to remove the existing access, but improve it as described at (c) below and replace the relevant part of the Crown road with an easement to secure ongoing access for DLALC, other adjoining landowners, service providers and agencies (and their invitees, subject to the terms of the easement as addressed in (a) above).
- (c)(d) DLALC's current access points to Nikko Road will not be changed unless DLALC requests changes to access (e.g. the road constructed for the Amended Project will upgrade the current dirt track and extend a road through what is currently dense bush and potentially be accessed from DLALC's Lot 204 which is currently the subject of a rezoning application for residential development);
- (e) The width of the proposed easement was increased following direct consultation at a meeting with DLALC on 7 September 2016, where DLALC suggested an increase of what was then proposed to be a 3m wide access road. DLALC's minutes of that meeting note "Wyong Coal's designers have said that, in final design, it is likely that the rail line would relocate 3m to the west meaning there could be 6m available for the road". In response to this request, this was further investigated and Section 6.1.5 of RTS clearly says "Wyong Coal proposes to construct a 6m wide all weather access road for the full 1.5km length of Nikko Road to the north of the Motorway Link Road".
- (f) As mentioned above only a small section of the Crown road is currently used and there is no practical public access to the road. As such dust and noise impacts for users are not relevant.

### 3.16 CONSTRUCTION PLAN

44. *The WACJV response does not address DLALC's concerns in relation to lack of a construction plan. DLALC does not believe the construction can occur without encroachment on, or interference with its adjoining land.*
45. *WACJV response does not address how adjoining land is to be maintained whilst construction is occurring or how safety of other users of the road is to be ensured with concurrent use of Nikko Road whilst construction is occurring or while the mine is operational.*

The Amended Project will not encroach upon adjoining land. It will remain within the Project Boundary.

Conditions of the draft development consent require various management plans to be developed in consultation with relevant stakeholders. These documents will be required to be approved by relevant regulators prior to the commencement of construction, in accordance with any final development consent conditions issued.

Condition 23 of the draft development consent requires the preparation of a traffic management plan in consultation with RMS, WSC and TNSW which will address interactions with Nikko Road.

### 3.17 ALTERATION OF LEVELS

46. *There will be significant cut and fill along Nikko Road. Final levels and location and extent of cut and fill has not been identified.*
47. *The effects on surface water, water tables and soils have similarly not been assessed. Location of the project in relation to Spring Creek in a sensitive coastal location under SEPP 71 and vicinity to acid sulphate soils.*
48. *The Amended DA does not allow for impacts from these matters and there is an absence of the appropriate plans as required by the DGRs.*

The final design of the system will be completed post development approval. It is not normal practice to complete detailed design at this stage of a project. The rail, road and conveyor gradients will be identified at the final design stage with all relevant controls identified in the design risk assessment incorporated into the plan to ensure a safe and optimised design for all stakeholders. Also see response in **Section 3.9**.

The crossings of Spring Creek (and its tributaries) will be designed so that the impacts on flood regimes are within the predictions of the flood modelling. WACJV will consult with the appropriate regulatory authorities during the detailed design phase.

Conditions of the draft development consent require various management plans to be developed in consultation with relevant stakeholders. These documents will be submitted to relevant regulators prior to the commencement of construction, in accordance with any final development consent conditions issued.

### 3.18 WATER MANAGEMENT

49. *Significant use of water at the coal loading facility at Nikko Road including dust suppression. This has a potential to cause pollutants to be mixed with water and its not clear where this water will come from. How will this be managed in proximity to Spring Creek?*
50. *The Amended DA does not properly address how this waste water will be managed. The original EIS stated that the flow of water through sedimentation dams would reduce concentrations of suspected sediment which is not being implemented in relation to the coal loader.*
51. *The proponent has stated it will implement appropriate sediment and control measures. Bunds and swales to direct runoff will be detailed in an Erosion and Sediment Control Plan as part of the Water Management Plan.*
52. *However, there is no sketch with shows “proposed methods of draining the land” as required in the EP&A Regulations. How the water will be managed in a narrow corridor is unclear which will be exacerbated by the absence of details of the alteration of the levels of the land.*

See response in **Section 3.17**.

### 3.19 RISK ASSESSMENT

53. *The risk assessment is manifestly inadequate. The entirely remote nature of the loading facility is a change. This creates risks which have not been assessed (e.g. fire incident).*
54. *As there is no construction plan, there is no plan by which a risk assessment could be made, nor is there any bushfire risk assessment at a fully automated facility.*

See response in **Section 3.4, 3.5 and 3.6**.

### 3.20 PHOTOMONTAGES

55. *The photomontages do not accurately represent the project, particularly the coal loader and conveyors. These inaccuracies are not appropriate for a project of this scale. High voltage electricity towers in proximity to the proposed infrastructure could have been reproduced as reference points.*

The conceptual photomontages were produced to provide an indicative representation of the visual impact on the existing environment and are fit for purpose having been produced by appropriate experts.

### 3.21 REGIONAL PLANNING

#### 3.21.1 North Wyong Shire Structure Plan Roads

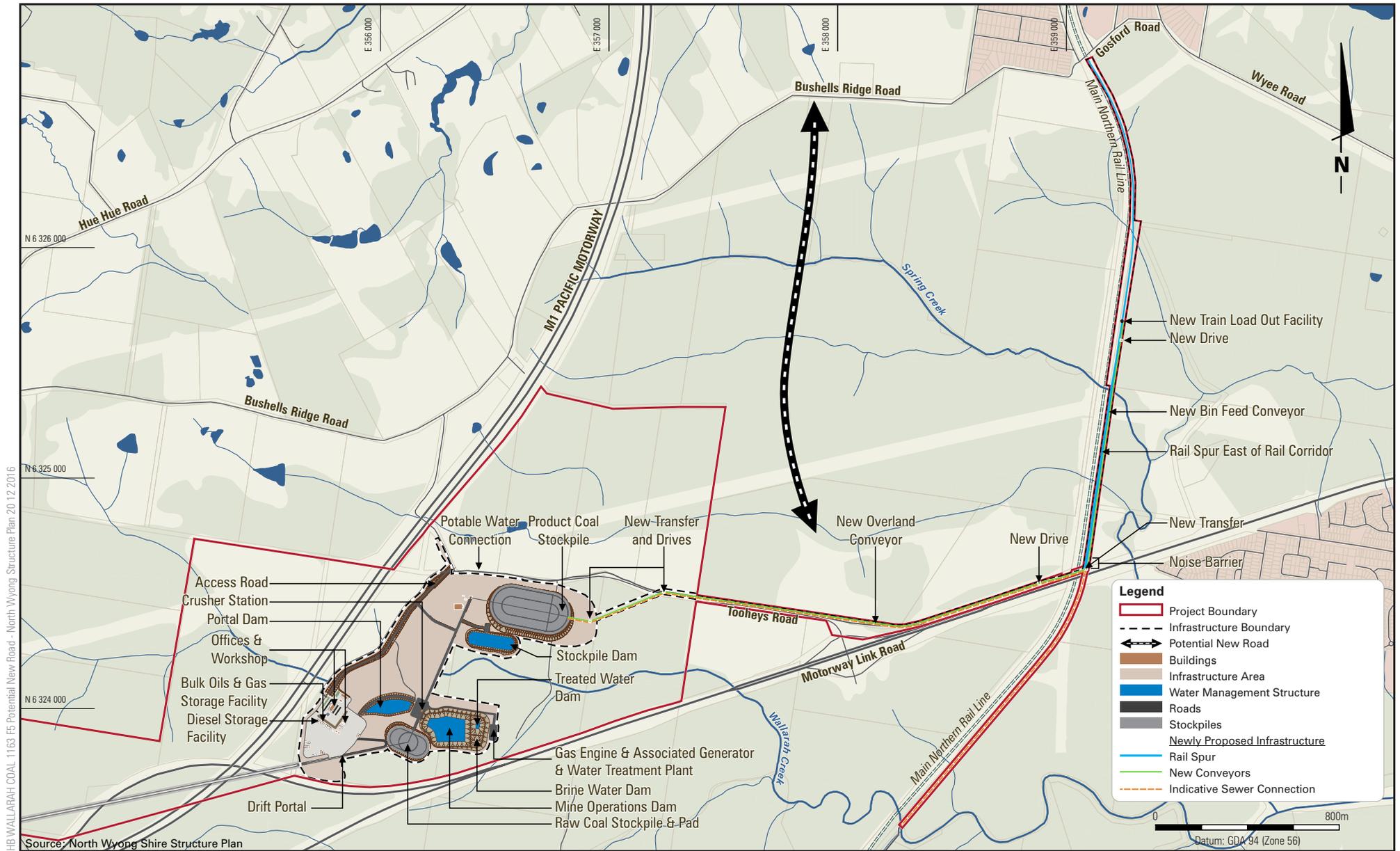
56. *The Amended Application, particularly the closure of Nikko Road reserve will deny the potential for a strategic road corridor linking the growing towns of Wyee and Warnervale. WACJV states the future need of this road reserve has not been identified in the Central Coast Regional Plan (CCRP) (2016). Closer examination of the North Wyong Shire Structure Plan 2012 (NWSP) reveals that potential new roads have been identified linking Wyee to the northern end of Wyong Shire (and also from Watanobbi towards the Warnervale Town Centre).*
57. *Prior actions of the CCRP including working with DLALC and Council to strategically assess its land holdings to identify priority sites and create a pipeline of potential projects and incorporate the assessment of DLALC landholdings into a revised North Wyong Shire Structure Plan. The Amended DA does not site comfortably with these priority actions.*

Figure 6 digitises the “Potential New Roads (subject to further planning and funding)” in the vicinity of the Amended Project from map 2 from the NWSP. It does not align with Nikko Road and is conceptually located running north-south approximately 1 km to the west of the Main Northern Rail Line. Nikko Road is not discussed in the NWSP.

The Amended DA is not contrary to the potential new road in the vicinity as shown on map 2.

The Amendment RTS at Section 5.1.6 ‘Central Coast Regional Plan 2036’ describes the CCRP in detail including land available on the urban fringe that are suitable for development and discusses the development of land owned by DLALC.

There are still substantial regulatory requirements that must be satisfied before DLALC’s proposed residential development can proceed.



WALLARAH 2 COAL PROJECT

Potential New Roads

FIGURE 5

### 3.21.2 Alternate Location

58. Only through the continuing and detailed planning investigations by DLALC that the opportunities for strategic growth, including green corridors, provision of services and future road connects, are being better understood. DLALC has highlighted to the local DP&E and Central Coast Council the benefit and opportunities in retaining the Nikko Road reserve for the express purpose of a local traffic corridor between two growth areas.

*DLALC has raised the possibility for an alternate location for the coal loader to the south west of the current location which is within an existing buffer to the Charmhaven treatment plant and adjacent to proposed industrial land. This would not require the closure and development within the Nikko road corridor.*

59. DLALC maintains that the current proposal fails to adequately assess all alternate options as required under the DGRs.

Point 98 of Darkinjung in its submission of 31 August 2016 states:

*“Darkinjung has been working in partnership with a local company, Waste Enterprises over the past 18 months to prepare a Business Plan for a resource recovery facility to be located on the southern portion of lot 195 DP 1032847. The facility will (potentially) take waste from areas within a radius of 150 kilometres, sort it and sell it to waste recycling enterprises. An essential part of the plan is rail access to the development. The amended development application will remove future rail access to all Darkinjung land within Bushells Ridge.”*

At a meeting on 7 September 2016, DLALC requested WACJV to consider reverting to the original application to facilitate this resource recovery centre and this would be on commercial terms significantly lesser than previously sought.

On 22 September 2016, DLALC advised WACJV:

- Rail access for the Waste Recycling Process was now not necessary and that the Waste Facility had now been moved to the south of the M1 link road;
- The industrial land at Bushells Ridge was the largest parcel of undeveloped industrial land north of Sydney and putting in a siding would reduce its development potential;
- DLALC now wished a Negotiated Regional Planning Outcome (NRPO) for the area south of the Motorway Link Road and would like WACJV to participate in that process with a conveyor and rail loading facility as part of the plan; and
- DLALC Board had determined that the original spur was no longer an option that it would agree to under any circumstances. This position was restated at the meeting of 17 October 2016.

It was subsequently reported in the Central Coast Express Advocate of 2 November 2016 that DLALC's partner in the development proposal, Waste Enterprises went into external administration on 12 September 2016.

Wyong Coal raised concerns about the suitability of the area proposed for the NRPO as a functional solution and also the ability to resolve all of the planning and approval issues without causing further material delay to the Project. These concerns included:

- Possible restriction on train length;
- Impacts from moving the coal loader closer to Blue Haven without the effective-considered topographical relief that the Amended DA provides;
- Possible additional rail movement impacts on Wongarra and Warnervale;
- Ecological challenges with crossings of Wallarah Creek;
- Potential difficulty in achieving appropriate zoning for DLALC and WACJV developments;
- Area is currently subject to Native Title Claim from Guringai and Awabakal traditional owner groups;
- The amount of parties that could be involved would most likely be significantly more than just WACJV, Darkinjung and NSW Government as suggested by Darkinjung.
- Substantial additional time required to resolve the issues before a further Amended DA could be lodged and the assessment timing thereafter.

It is also noted that like the original application, this option will also require a commercial resolution between Wyong Coal and Darkinjung and the written support of NSW ALC.

A further meeting of 17 October 2016 failed to remove WACJV's concerns however it advised that it remained willing to explore this further with DLALC whilst WACJV completed its Amendment RTS, and DP&E assessed the project for referral to PAC.

On 27 October 2016 Darkinjung wrote to WACJV (cc. Secretary of DP&E) to advise that "Unfortunately Darkinjung's efforts have not been able to deliver an outcome that satisfies Wallarah 2 and I therefore inform you that Darkinjung must now withdraw from these discussions and focus on ensuring that its member's interests in their lands are protected".

Wyong Coal replied to Darkinjung on 31 October 2016 (cc. Secretary of DP&E) concluding:

- WACJV was willing to further consider reverting to the original alignment once DLALC provides the commercial terms it proposes as offered by DLALC on 7 September 2016. DLALC must also advise if it actually needs a rail connection for its industrial use. At the meetings of 22 September and again on 17 October 2016 DLALC advised that this option was no longer on the table and would be not considered by DLALC under any circumstances; and

- WACJV is doubtful that the NRPO can be achieved and particularly, in a timeframe that does not further negatively impact the economic viability of the Walarah 2 Coal Project. Wyong Coal will however consider this further if:
  - DLALC confirms the area under consideration;
  - Provides further information to allay Wyong Coal's concerns;
  - Provides proposed commercial terms; and
  - Advised that it remains available to meet to further explore options.

WACJV has since offered to meet DLALC on three occasions during November and further in December 2016.

Darkinjung's withdrawal from discussion in its letter of 17 October 2016 (**Appendix B**) and WACJV's willingness to continue discussions (response of 31 October 2016 in **Appendix B**) is clearly at odds with Item 69 of DLALC submission of 9 December 2016:

*"69. Darkinjung has maintained a willingness to work with WACJV, the Department, and Stakeholders to achieve a negotiated regional planning outcome with greater net community benefit. Unfortunately WACJV has chosen not to enter into such discussions at this time."*

### 3.22 CONSULTATION

60. *The WACJV response listed communications with DLALC which confirms the lack of consultation. Between February 2016 and July 2016, DLALC was consulted with on only two instances. This was during a period when opportunity was available for the proponent to better understand the issues and concerns of DLALC. It is during this period that WACJV had the opportunity but failed to consider other alternate options that would yield greater regional outcomes.*

61. *A distinction must be made between consultation with DLALC cultural heritage section and land management and operations section. The list of communications in Table 12 is selective and omits additional communications between the parties (see Attachment 1). Many of the items in Table 12 are requests for information and not "consultation".*

*Consultation has been frustrating. If WACJV had fully, openly and appropriately consulted with DLALC in the first instance, the result of sub-optimal planning outcomes would not have occurred. Determination of the DA should not be subject to time pressures.*

See response to **Section 3.1**.

An updated consultation log with DLALC is included in **Appendix D**.

### 3.23 CENTRAL COAST REGIONAL PLAN

62. *DP&E recently released the CCRGP which sets down six goals for growth of which number 4 is to support the DLALC in the strategic assessment of its landholdings. DP&E would contradict its own planning document if it were to approve the Amended DA which places several of DLALC's economic development opportunities at risk (e.g. Wyee Road and Bushell's Ridge Road subdivisions and Resource Recovery hub).*
63. *The CCRGP includes goal 6 and action 6.2 that will ensure that all local plans issued by Council will be developed and implemented to align with the Growth Plan. This would result in DLALC's proposals for economic development across North Wybong being reflected in planning documents. The Amended DA is at odds with such planning.*
64. *The Amended DA works directly against DLALC realising the potential of their land in the region by restricting their capacity to utilise the land to its highest capacity. WACJV fails to address the suggested alternate location of the coal loader south of the Motorway Link Road.*

CCRGP is one of a number of planning instruments that apply to the site and the Amended Project. These have been taken into account in respect of the Amended Project and it is considered that the Amended Project meets the state's planning objectives for the region.

Section 5.1.6 of the Amendment RTS discusses this issue in detail. The Amended Project will not result in any exceedances of the regulatory air quality criteria over the proposed residential land (if it is approved and eventually developed). As described in Section 3.7 of the Amendment RTS, less than 1% of the DLALC land which is the subject of the proposed conceptual residential development is predicted to experience noise levels greater than the amenity criterion.

See detailed discussion on alternate coal loader locations and discussions between DLALC and WACJV in **Section 3.1**.

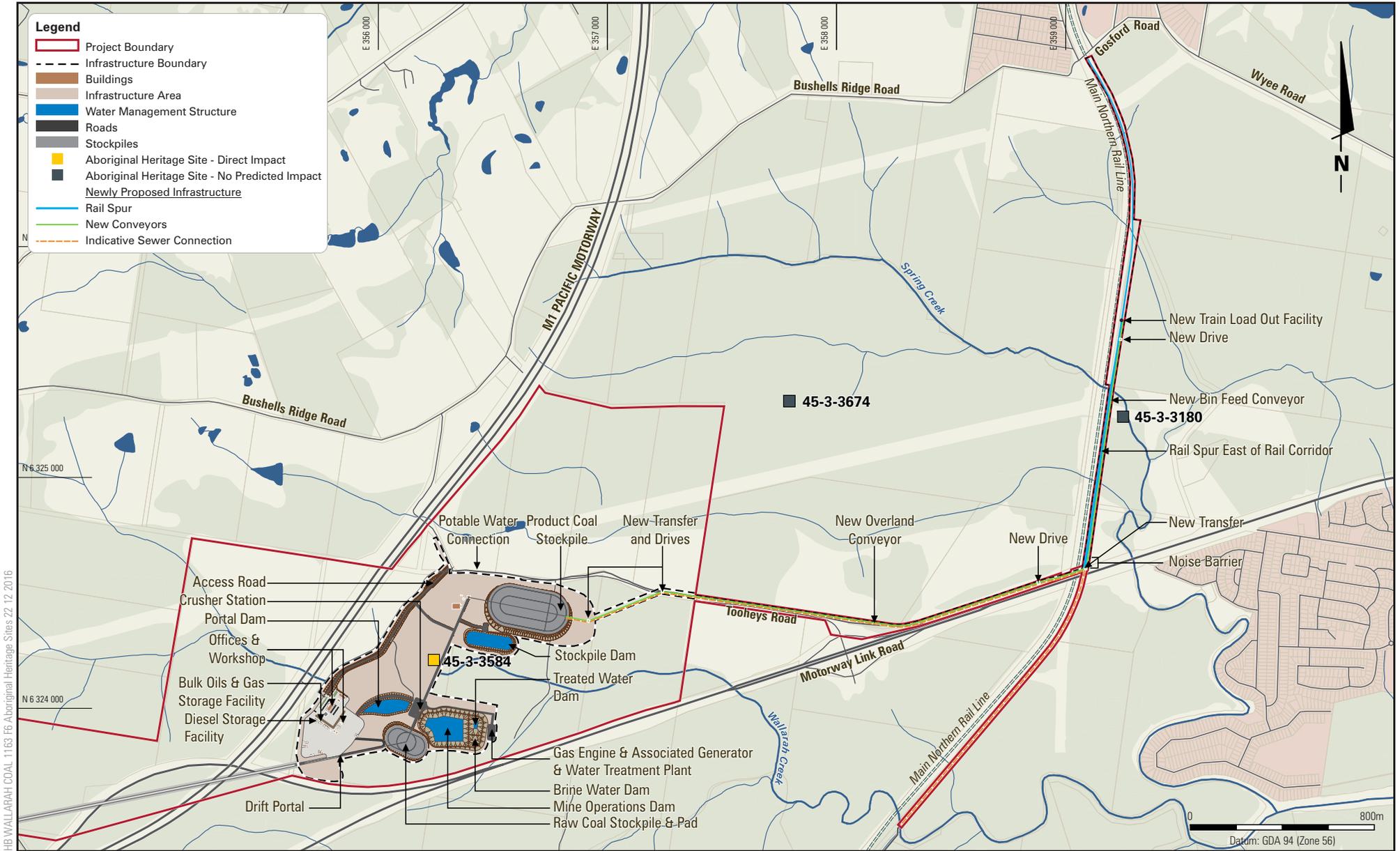
The CCRGP identifies the Bushells Ridge Employment Precinct (within which the Bushells Ridge Site is located) as a focus area to increase employment development over the medium to long term.

The approval of the Amended Project is consistent with surrounding land uses and the aims of the existing strategic plans.

## 4 HERITAGE

*The Department would like to include a map which shows Aboriginal heritage sites and their location in relation to the proposed Tooheys Road surface facilities. The map provided does not show the surface facilities, only an outline around the proposed Tooheys Road surface facilities location.*

See **Figure 7**.



HB WALLARAH COAL 1163 FB Aboriginal Heritage Sites Z2 12 2016

WALLARAH 2 COAL PROJECT

Aboriginal Heritage Sites

FIGURE 6

## 5 SOCIO-ECONOMIC

The Department notes that WACJV has undertaken extensive consultation with Council over a proposed Voluntary Planning Agreement (VPA) that would benefit the Wyong LGA to a total value that may exceed \$4 million. Is there any update on the status of these negotiations?

The VPA has been finalised with both parties signing the final document on 7 July 2014. The total value of the VPA (when taking into account its various components defined in some items as Works In Kind, Monetary Contributions or a combination of both) is \$17 million.

A summary is provided in **Table 1** below.

**Table 1**  
**Terms of the Signed VPA**

### SCHEDULE 1 (Contributions Schedule)

**Development Contribution and Timing of Payments**  
 Voluntary Planning Agreement  
 Wyong Shire Council and Wyong Coal Pty Limited

Item No.	Contributions	Intended Use / Public Purpose	Timing/Payment details
1	<p><b>Works In Kind</b> to complete the whole of the subject works OR,</p> <p><b>Monetary Contribution:</b> \$4,000,000 minus the value of any Works In Kind to partially complete the subject works.</p>	<p>Tooheys Road upgrade - to reconstruct the entire length to a sealed road standard (Commercial &amp; Industrial "Other" Table 7.2 and other related requirements of the Wyong Shire Council Civil Works Design Guide) including an access intersection layout as shown in Figure 7.1 on page 112, Wallarah 2 Coal Project EIS – Appendix Q Traffic &amp; Transport Impact Assessment.</p>	<p>In the case where a monetary contribution has been agreed by WSC, prior to the physical commencement of construction works for the development at the Tooheys Rd site.</p>
2	<p><b>Works In Kind</b> to complete the whole of the subject works OR,</p> <p><b>Monetary Contribution:</b> \$700,000 minus the value of any Works In Kind to partially complete the subject works.</p>	<p>Buttonderry access intersection upgrade as shown in Figure 7.2 on page 113, Wallarah 2 Coal Project EIS – Appendix Q Traffic &amp; Transport Impact Assessment.</p>	<p>In the case where a monetary contribution has been agreed by WSC, prior to the physical commencement of construction works for the development at the Buttonderry site.</p>
3	<p><b>Works In Kind</b> to complete the whole of the subject works OR,</p> <p><b>Monetary Contribution:</b> \$1,404,000 minus the value of any Works In Kind to partially complete the subject works.</p>	<p>Brothers Forest Road/Little Jilliby Road intersection upgrade and upgrade of Brother Forest Road from the Little Jilliby Road intersection to the Ventilation Shaft site access to sealed road standard (Commercial &amp; Industrial "Other" Table 7.2 and other related requirements of the Wyong Shire Council Civil Works Design Guide) as shown in Figure 7.3 on page 114, Wallarah 2 Coal Project EIS – Appendix Q Traffic &amp; Transport Impact Assessment.</p>	<p>In the case where a monetary contribution has been agreed by WSC, prior to the physical commencement of ventilation shaft construction works (Current projections Yr 10).</p>

Item No.	Contributions	Intended Use / Public Purpose	Timing/Payment details
4	<p><b>Monetary Contribution:</b>                      \$1,400,000 over the Life of the Project.</p>	<p>Contributions to ongoing road and public infrastructure affected by the proposed mine.</p>	<p>Payment on the following conditions:</p> <ul style="list-style-type: none"> <li>a. Payments would equate to \$50,000 per year for 28 years or for the life of the proposed project.</li> <li>b. Initial payment to be made on the 12 month anniversary of the road works, upgrades and infrastructure payment and thereafter on each anniversary of that date.</li> <li>c. Payments will not be required during any period in which operations at the proposed mine are suspended, discontinued or abandoned (including any period in which the operation is kept on a care and maintenance basis) in accordance with the provisions of the Coal Mines Health and Safety Act 2002 and associated regulations.</li> </ul>
5	<p><b>Works In Kind</b> to complete the whole of the subject works OR,</p> <p><b>Monetary Contributions:</b>                      \$3,170,000 minus the value of any Works In Kind to partially complete the subject works.</p>	<p>Provision of water infrastructure to the Buttonderry and Tooheys Road sites.</p>	<p>In the case where a monetary contribution has been agreed by WSC:</p> <ul style="list-style-type: none"> <li>a. \$1,000,000 for water supply to Buttonderry site</li> <li>b. \$2,170,000 for water supply to Tooheys Rd site</li> </ul> <p>Payment prior to completion of surface infrastructure as per accompanying plans "Water to Buttonderry" and "Water to Tooheys Rd" depicting proposed extent of works.</p>

Item No.	Contributions	Intended Use / Public Purpose	Timing/Payment details
6	<p><b>Works In Kind</b> to complete the whole of the subject works OR,</p> <p><b>Monetary Contributions:</b>                      \$2,300,000 minus the value of any Works In Kind to partially complete the subject works.</p>	Provision of sewerage infrastructure to the Buttonderry site.	In the case where a monetary contribution has been agreed by WSC, payment prior to completion of surface infrastructure as per accompanying plan "Sewer to Buttonderry" depicting proposed extent of works.
7	<p><b>Monetary Contribution Community and Environment:</b> \$4,000,000.</p>	<p>Community, social and cultural development infrastructure projects</p> <p>Environmental improvement projects being undertaken by Council</p> <p>Enhancement of water reuse, trade waste capacity and sustainability programs</p>	<p>Payment on the following conditions:</p> <p>a. \$600,000 upon WCPL making a decision to physically construct the Project.</p> <p>b. \$500,000 upon the physical commencement of construction.</p> <p>c. \$1,000,000 upon the raiing of first coal.</p> <p>d. \$1,900,000 upon the completion of Longwall 1</p>

## 6 CONCLUSION

We trust this addresses your queries and please do not hesitate to contact the undersigned should you require anything further.

\*

\*

\*

For  
**HANSEN BAILEY**



Dianne Munro  
 Principal Environmental Consultant

## REFERENCES

- Hansen Bailey (2016a). Wallarrah 2 Coal Project Amendment to Development Application SSD-4974 Response to Submissions.
- Hansen Bailey, 2016b. Wallarrah 2 Coal Project Amendment to Development Application SSD-4974.
- Ecological/Kleinfelder (2013). Centennial Mandalong – Bushfire Risk Assessment for Mandalong Mine - Mandalong Southern Extension Project. State Significant Development Application Number 5144.
- NSW Rural Fire Services (2006). Planning for Bush Fire Protection.
- NSW Rural Fire Service (accessed Jan 2017). Bushfire Prone Land <http://www.rfs.nsw.gov.au/plan-and-prepare/building-in-a-bush-fire-area/planning-for-bush-fire-protection/bush-fire-prone-land/check-bfpl>

***Appendix A***  
***Impact of Flow Losses***

## Memorandum

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Date 16 January 2017 Pages 4  
Attention Dianne Munro  
Company Hansen Bailey  
Job No. 0844-03-B3  
Subject Wallarah 2 Coal Project - Impact of low flow losses

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Dear Dianne,

As requested, we have undertaken further analysis to illustrate the impact of potential “worst case” water loss on both surface runoff and baseflow in the Wyong River catchment. Details of the methodology and results of the assessment are provided below.

### Methodology

An AWBM rainfall-runoff model, which was calibrated to recorded streamflow data for Jilliby Jilliby Creek, was used to estimate the relative components of surface runoff and baseflow for the catchments draining to the Central Coast Water Supply System (CCWSS). Details of the model calibration are provided in Section 4.6.1 of the Surface Water Impact Assessment (WRM, 2013).

The model was used to simulate the runoff and baseflow components of the catchment drainage to the Lower Wyong River Weir (355 km<sup>2</sup>) for two scenarios:

- Existing conditions;
- Existing conditions with an assumed total annual water loss of 300 ML/a due to impacts of the Project.

The catchment to the Lower Wyong River Weir represents about half of the total catchment of the CCWSS.

The analysis was undertaken for two historical years; a dry year and a very dry year. 2009 was selected as being representative of a dry year. Rainfall for 2009 (obtained from SILO Data Drill) was 834 mm, which is close to the 10<sup>th</sup> percentile annual rainfall (90% of years will have higher rainfall). 1944, which was the driest year on record, was selected as the very dry year (annual rainfall of 597 mm). Mean annual rainfall in the region is approximately 1,180 mm.

The loss was subtracted from the total flow at a uniform rate each day. Taking into account the number of no-flow days, a daily loss of 1 ML corresponded to a total annual flow loss of 300 ML for 2009. For 1944, which had more no-flow days, a daily loss of 1.5 ML was subtracted.

## Memorandum

### Results - Dry year

Figure 1 shows the simulated time series of daily total flow volume at Lower Wyong River Weir for the two modelled scenarios for 2009.

For existing conditions:

- Surface runoff = 8,848 ML (77%);
- Baseflow = 2,588 ML (23%);
- Total flow (surface runoff plus baseflow) = 11,436 ML;
- Volumetric runoff coefficient = 4% (compared to average of 17% for Wyong River and 24% for Jilliby Jilliby Creek).

Including the daily flow loss, the total flow volume reduces to 11,134 ML; a reduction of 2.6%.

The impact on flows is negligible during periods of surface runoff.

The impact of flow loss during dry periods (eg. January, March, May and July-September in 2009) is apparent, but does not change the general character of flow which typically persists for an extended period after surface runoff, with some no-flow periods after extended dry weather. Within the resolution of the model, the impact on the number of no-flow days is negligible. In practical terms, it is unlikely that this flow volume loss could be detected.

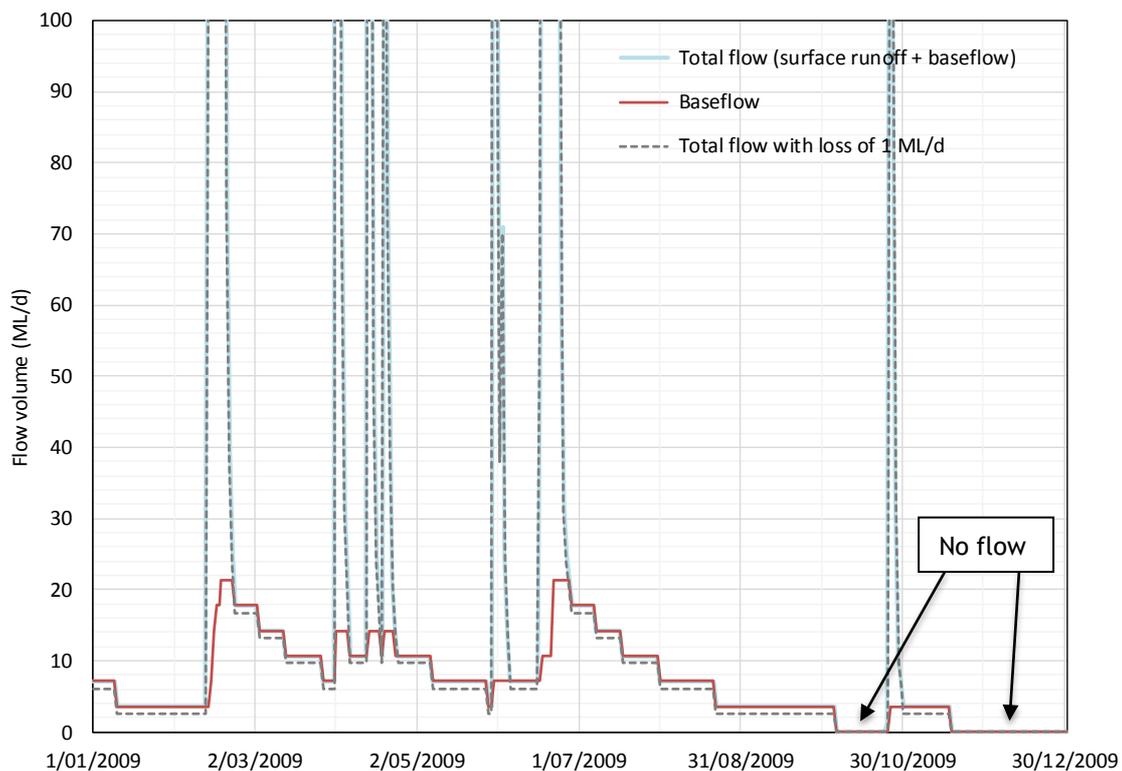


Figure 1 - Time series of simulated flow at Lower Wyong River Weir for 2009

## Memorandum

### Results - Very dry year

Figure 2 shows the results for 1944. For existing conditions:

- Surface runoff = 2,474 ML (66%);
- Baseflow = 1,260 ML (34%);
- Total flow (surface runoff plus baseflow) = 3,735 ML;
- Volumetric runoff coefficient = 2% (compared to average of 17% for Wyong River and 24% for Jilliby Jilliby Creek);
- There are two extended periods of no flow.

Including the daily flow loss, the total flow volume reduces to 3,433 ML; a reduction of 8%. Again, based on the model resolution, the impact on the number of no-flow days is negligible. In practical terms, it is unlikely that this flow volume loss (which represents an upper limit of potential impacts) could be detected.

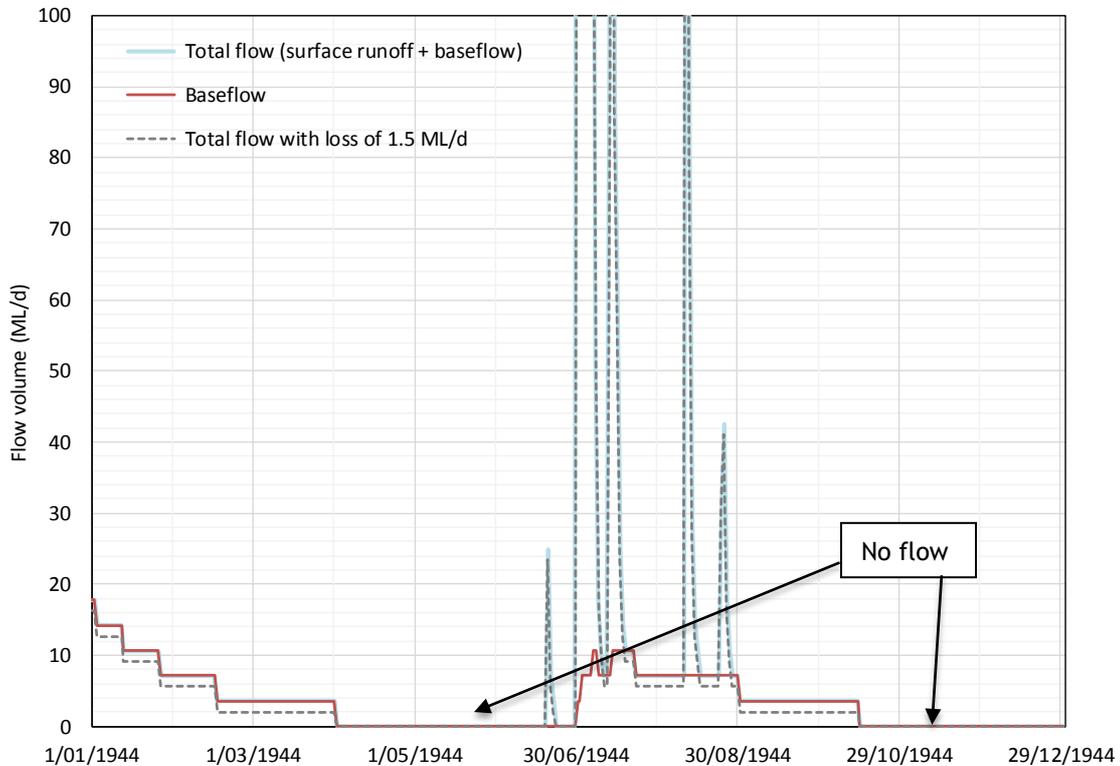


Figure 2 - Time series of simulated flow at Lower Wyong River Weir for 1944

Please do not hesitate to contact me if you require further information.

For and on behalf of

WRM Water & Environment Pty Ltd

David Newton

Director



## Memorandum

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### References:

WRM, 2013      *'Wallarrah 2 Coal Project Surface Water Impact Assessment'*  
Report prepared by WRM Water & Environment Pty Ltd, Ref.  
0844-01-K, March 2013.

***Appendix B***  
***Correspondence***

**From:** Allonby, Peter

**Sent:** Saturday, 29 October 2016 2:33 PM

**To:** 'Sean Gordon' <[SGordon@dlalc.org.au](mailto:SGordon@dlalc.org.au)>

**Cc:** [carolyn.mcnally@planning.nsw.gov.au](mailto:carolyn.mcnally@planning.nsw.gov.au); [marcus.ray@planning.nsw.gov.au](mailto:marcus.ray@planning.nsw.gov.au); Howard Reed <[howard.reed@planning.nsw.gov.au](mailto:howard.reed@planning.nsw.gov.au)>; 'Tina West Board' <[tina.west8@hotmail.com](mailto:tina.west8@hotmail.com)>

**Subject:** RE: Darkinjung's position to the W2 Amended DA

Dear Sean,

I thank you for your letter of 27 October 2016.

Wyong Coal acknowledges Darkinjung Local Aboriginal Land Council's (DLALC) efforts to deliver an outcome that satisfies both DLALC and Wyong Coal and comments as follows:

You raised "serious adverse impact" on DLALC lands:

1. Wyong Coal proposes to construct a 6m wide all weather access road for the full 1.5km length of Nikko Road to the north of the link road bridge. This replaces the current dirt track which is less than 300m in length. This road provides a connection between DLALC lands that does not currently exist. Access to the south of the Link Road Bridge will however remain restricted by the current envelop between the bridge supports.
2. Transport for NSW has advised that the construction of a rail loading facility to the east of the main north railway does not preclude further rail connections to DLALC industrial land to the west of the railway. DLALC has recently proposed a return to the original alignment through DLALC industrial land or through the industrial land to the south of the Link Road so it is difficult to see how DLALC regards the Amended DA as having an adverse impact on its proposed industrial developments. With regard to proposed residential developments at Wyee Road and Bushells Ridge Road:
  - a. Application of the Industrial Noise Policy shows only 1.1% of the DLALC land area proposed for residential development is impacted. This issue will be discussed in detail within the *Response to Submissions*;
  - b. Photomontages being prepared as part of the *Response to Submissions* show minimal line-of-site impacts from proposed residences to Wyong Coal infrastructure; and
  - c. There is no dust impact.
3. These observations will be detailed along with responses to other issues raised by DLALC in Wyong Coal *Response to Submissions*. Wyong Coal will contact DLALC when its response to DLALC submission has been prepared and offer to take DLALC through the response.

At our meeting of 7 September 2016:

1. You advised that DLALC requested Wyong Coal consider reverting to the original application (which consisted of the originally proposed rail spur across DLALC land), with the addition of a rail siding for a Waste Management Facility.
2. We talked about the difficulty of convincing Wyong Areas Coal Joint Venture (WACJV) to revert to the original arrangement and our inability to reach a satisfactory compensation agreement during previous negotiations, after which you spoke about a conceptual commercial arrangement based on an annual land rental

based upon land value. You further offered to provide details of that proposal in writing after discussing it with the DLALC Board. Tony Simpson then advised that Wyong Coal would have to write to DLALC first and then DLALC would reply. We did this on 8th of September, and have sent several further requests however that commercial proposal has not been forthcoming.

3. Discussions were had regarding the road closure application. Wyong Coal confirmed that it had challenged the release of documents under GIPA but only because some redactions were necessary for commercial-in-confidence and privacy reasons. This is recorded in the minutes of the meeting. Wyong Coal expects that information has now been released by Department of Primary Industries.

On 22 September 2016 we again met. In respect of this meeting:

1. Wyong Coal advised that it had considered reverting to the original alignment and that:
  - a. Legal advice was that Wyong Coal would have to submit a new amendment to re-instate the original rail spur;
  - b. It did not have any details of the proposed Waste Management Facility but if the DLALC siding could be moved south of Wyong Coal's original alignment it would have no interaction with Wyong Coal rail spur and would therefore pose no issue. Legally, for the amendment to revert to the original, it would have to be identical to that previously assessed, therefore any DALC rail connection would have to be subject to a separate arrangement and applied for post assessment of the Wallarah 2 Coal Project DA; and
  - c. Reverting to the original option therefore appeared feasible if commercial and logistics arrangements could be resolved.
2. DLALC then outlined that:
  - a. Rail access for the Waste Recycling Process was now not necessary and that the Waste Facility had now been moved to the south of the M1 link road;
  - b. The industrial land at Bushells Ridge was the largest parcel of undeveloped industrial land north of Sydney and putting in a siding would reduce its development potential;
  - c. DLALC now wished a Negotiated Regional Planning Outcome (NRPO) for the area south of the Motorway Link Road and would like Wyong Coal to participate in that process with a conveyor and rail loading facility as part of the plan. DLALC had discussed such a concept with the Department of Planning & Environment and Department of Premier and Cabinet. The area for the NRPO however was significantly expanded by DLALC at the meeting of 17 October 2016; and
  - d. DLALC Board had determined that the original spur was no longer an option that it would agree to under any circumstances. This position was restated at the meeting of 17 October 2016.

I also note that a commercial arrangement will also be required to access DLALC land under the NRPO.

Wyong Coal remains committed to engaging with DLALC in respect of our project and addressing DLALC's concerns regarding the planning merits of the proposal. Wyong Coal

remains willing to consider alternatives including reverting to the original alignment and considering the new option to the south of the Motorway Link Road, however Wyong Coal cannot delay the current DA amendment without the approval of Wyong Areas Coal Joint Venture.

Unfortunately time has beaten us with regard to holding our response to submissions for the amended DA, and this will be submitted at the end of October. We will however continue to consider other options in consultation with DLALC whilst the DP&E completes its assessment and the application proceeds in due course to the PAC. We note that DLALC has made it clear that does not intend to further discuss the amended DA with Wyong Coal (and will "fight it all the way"). Wyong Coal however would like to continue to engage with DLALC on these issues and to consider other options proposed by DLALC.

In summary:

1. Wyong Coal will contact DLALC when its response to DLALC submission has been prepared and offer to take DLALC through the response to show that DLALC's concerns have been well considered and addressed in detail.
2. Wyong Coal is willing to further consider reverting to the original alignment once DLALC provides the commercial terms it proposes as offered by DLALC on 7 September. DLALC must also advise if it actually needs a rail connection for its industrial use. I note at the meetings of 22 September and 17 October you advised that this option was no longer on the table and would be not considered by DLALC under any circumstances.
3. Wyong Coal is doubtful that the NRPO can be achieved and particularly, in a timeframe that does not further negatively impact the economic viability of the Wallarah 2 Coal Project. Wyong Coal will however consider this further if:
  - a. DLALC confirms the area under consideration;
  - b. Provides further information to allay Wyong Coal's concerns; and
  - c. Provides proposed commercial terms.

I remain available to meet to further explore options.

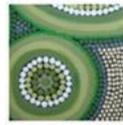
Regards

Peter

*Peter Allonby*

General Manager  
Walarah 2 Coal Project  
PO Box 3039 TUGGERAH NSW 2259  
M: 0417 737 657  
P: 02 4352 7500 | F: 02 4352 7599  
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Local Aboriginal Land Council  
**DARKINJUNG**

168 Pacific Highway Watanobbi NSW  
2259

PO Box 401 Wyong NSW 2259

Phone (02) 4351 2930

Fax (02) 4351 2946

ABN 99 583 297 167

Email [darkinjung@dlalc.org.au](mailto:darkinjung@dlalc.org.au)

27<sup>th</sup> October 2016

Mr Peter Allonby  
General Manager  
Wallarrah 2 Coal Project  
PO Box 3039  
TUGGERAH NSW 2259

Dear Peter,

I write to confirm that Darkinjung has attempted to work with Wallarah 2 on achieving an outcome in the North Wyong Region (Bushells Ridge) that would benefit both our organisations. Unfortunately Darkinjung's efforts have not been able to deliver an outcome that satisfies Wallarah 2 and I therefore inform you that Darkinjung must now withdraw from these discussions and focus on ensuring that its member's interests in their lands are protected.

We have since May 2016 been working diligently to understand the impact that proposed Wallarah 2 Coal Project's amended development application (amended DA) would have on our lands in the North Wyong region.

To date we have undertaken extensive work to assess the amended DA and, as outlined in our submission to the Department of Planning on the 31 August 2016, and have come to the conclusion that the path being proposed will have a serious adverse impact on the following lands;

1. Three of Darkinjung's land holdings on the eastern side of the rail line will be severely impacted and will have the potential to be land locked, preventing Darkinjung from having any proper access.
2. Darkinjung's proposed residential and industrial developments at Wyee Road and Bushells Ridge Road, which will be subject to environmental, social and commercial impacts.

Since April 2016 we have been requesting information from the Department of Planning and the Department of Industry on the proposed new path and have also undertaken a Government Information -Public Access (GIPA) request on correspondence between Wallarah 2 and the government to better understand the impact on Darkinjung's interests. Regrettably, to date, Wallarah 2 has obstructed the provision of that information.

Most importantly, in addition to the above requests Darkinjung has also reached out to Wallarah 2 by proposing the development of a Negotiated Regional Planning Outcome (NRPO) that considers all options available to support the co-existence of our respective development interests.

Darkinjung met with Wallarah 2 on the following dates to discuss a NRPO;

1. 7 September 2016 (Darkinjung Office)
2. 22 September 2016 (Tuggerah Business)
3. 17 October 2016 (Darkinjung Office)

Darkinjung notes that these meetings have not been able to deliver an outcome that allows for a NRPO and therefore confirm that Darkinjung must focus all its efforts on protecting its interest in its land at North Wyong.

In closing I reinforce our position on the following;

1. Darkinjung strongly object to the amended DA for a conveyor and rail siding which adversely impacts Darkinjung's interest in our lands.
2. Darkinjung are prepared to revisit the original DA, however this will be negotiated on commercial terms.
3. Darkinjung are open to developing a NRPO on our lands to the south of the Motorway Link Road to seek a balanced use of lands (see Central Coast Regional Plan 2036) in the immediate region of the mine and associated facilities.

Should you require any further information please do not hesitate to contact me.

Yours faithfully,



Sean Gordon, CEO

Cc; Carolyn McNally, Secretary - Department of Planning and Environment  
Cc; Marcus Ray, Deputy Secretary - Department of Planning and Environment  
Cc; Howard Reed, Director Resource Assessment - Department of Planning and Environment

Central Coast regional Plan 2036 - <http://www.planning.nsw.gov.au/~media/Files/DPE/Plans-and-policies/central-coast-regional-plan-2036-2016-10-18.ashx>

***Appendix C***  
***Acoustics - Response to DLALC Letter***

Hansen Bailey  
127-129 John Street  
**SINGLETON NSW 2330**

**Attention:** Andrew Wu

13 January 2017



**ATKINS  
ACOUSTICS**

Postal Address  
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A.B.N. 19 068 727 195  
Telephone: 02 9879 4544  
Fax: 02 9879 4810  
Email: [AtkinsAcoustics@bigpond.com.au](mailto:AtkinsAcoustics@bigpond.com.au)

**Atkins Acoustics and Associates Pty Ltd.**

Consulting Acoustical & Vibration Engineers

**ACOUSTICS**  
**WALLARAH 2 COAL MINE**  
**AMENDMENT to DEVELOPMENT APPLICATION SSD-4974**  
**RESPONSE TO DARKINJUNG LETTER dated 9 DECEMBER 2016**

This Response has been prepared to address noise issues raised by Darkinjung Local Aboriginal Land Council (Darkinjung) letter dated 9 December 2016 and its attached assessment by Spectrum Acoustics dated 28 November 2016.

Darkinjung claims that the WACJV Response dated November 2016 does not adequately address deficiencies in the Amended DA identified in their Submission dated 30 September 2016, including the following noise issues.

**Issue**

20. The issue of noise was raised in the submission from the Environmental Protection Agency dated 5 August 2016. The lack of assessment of the impact of noise on land owned by Darkinjung and the Wyee Road Residential Site and the Bushells Ridge Residential Site was raised in the Darkinjung Submission. The WACJV Response does not adequately address this issue. The WACJV Response premises its response on classifying Darkinjung's land as an "urban" noise amenity zone on the basis of "noise associated with heavy or continuous traffic". This classification is not justified. There is minimal traffic in this area. Table 1 of AA0716 describes the ambient noise environment in this location as "*Distant road traffic, rail traffic, localised domestic activities*". Table 1 in the Atkins Acoustics report, July 2016, gave ambient noise levels less than 40 dB(A), $L_{90}$  at all times and  $L_{Aeq}$  levels less than 50 dB(A) at all times, depicting a relatively quiet ambient environment. Darkinjung maintains that the proper classification is "*suburban*"

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## Response

- 1.0 WACJV Response (November 2016) (RTS) refers to Atkins Acoustics and Section 2.2.2 of the INP “*Areas near noise generators (for example roads, railways and industry) would normally be considered to be urban-receiver type for the purpose of the amenity criteria*”.
- 2.0 Section 2.2.1 of the INP explains that ‘Urban’ areas “*may be located in either a rural, rural-residential or residential zone as defined on an LEP or other planning instrument*”.
- 3.0 RTS concluded for the purposes of noise assessment under the INP, “Urban” is the most appropriate receiver type for P13, P14 including the subject Darkinjung land.
- 4.0 The appropriate regulator responsible for noise impact in NSW is the EPA. The EPA in its letter dated 20 December 2016, confirms that issues raised by the EPA (5 September 2016) were adequately addressed in the RTS. This includes acceptance of the “Urban” criteria as the most appropriate receiver classification for the area.

## Issue

21. **Darkinjung estimates that on that basis there would be approximately 147 lots with a >45dB Noise Level. This represents a significant impact on Wyee Road Residential Site and the Bushells Ridge Residential Site. A copy of an independent acoustic assessment commissioned by Darkinjung is attached to this submission as Attachment 2.**

## Response

- 5.0 It is important to note with respect to this response that the Darkinjung proposed developments at Bushells Ridge and Wyee Road discussed in the Darkinjung Response are proposed. The current zoning does not allow residential development, the subdivisions are not approved and there are no residences on the land.
- 6.0 Darkinjung claims that noise levels >45dB represent a significant impact on the conceptual Darkinjung residential subdivision land.
- 7.0 With respect to noise exposure for the Darkinjung land, the WACJV Amended Development Application and RTS confirmed that the ambient noise environment in the area is controlled by existing rail traffic on the Main Northern Rail Line (MNRL).
- 8.0 Infrastructure SEPP (2007) Clause 87 refers to the requirement of consent authorities to be satisfied that new buildings for residential use in proximity to rail

corridors have appropriate measures to ensure that the following internal  $L_{Aeq}$  noise levels are not exceeded:

- in any bedroom in the building: 35dBA at any time 10.00pm to 7.00am
- anywhere else in the building (other than a garage, kitchen, bathroom or hallway): 40dBA at any time.

- 9.0 Assuming a 10dBA outside-to-inside noise reduction for non-acoustic treated residential building with doors/windows open (NSW Industrial Noise Policy (2.2.1)), this would suggest external screening noise limits of  $L_{Aeq}$  45dBA Bedrooms (35+10) and  $L_{Aeq}$  50dBA other rooms (40+10).
- 10.0 Rail studies reported for the MNRL at North Gosford (SLR June 2012) confirm predicted night time 2016 rail traffic noise levels of  $L_{Aeq}$  9 hour 55dBA at approximately 60m from the closest rail line and  $L_{Aeq}$  9 hour 52dBA at approximately 120m. Rail traffic volumes and noise exposure levels reported for the North Gosford section of the MNRL would be similar to those experienced at the subject Darkinjung land.

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## Attachment 2 – Spectrum Acoustics Letter (28 November 2016)

Spectrum Acoustics (SA) refers to Section 5.1.6 of the RTS and raises issues with respect to noise on Darkinjung lands.

### Issue

It is apparent from the noise monitoring and the features of the area that the Darkinjung site currently satisfies the "rural" amenity classification, does not satisfy the "urban" classification and would, if the land was developed as proposed, satisfy the "suburban" classification by virtue of the presence of the development. As I have experience in the past, particularly at an Independent Hearing and Assessment Panel (IHAP) in which I was an expert witness, the subjectivity of noise amenity classification was highly contentious and led to the following *NSW Industrial Noise Policy (INP)* application note being produced by the EPA.

### Response

11.0 See Response 4.0

12.0 The appropriate regulator responsible for noise impact in NSW is the EPA. The EPA in its letter dated 20 December 2016, confirms that issues raised by the EPA (5 September 2016) were adequately addressed in the WACJV Response. This includes acceptance of the "Urban" criterion as the most appropriate receiver classification for the area.

### Issue

Our own monitoring 100m north west of AA0716 monitoring location P16 in 2015 found similar low levels of noise with minimal contribution from industrial or transport sources (see NM1 in Figure 1). Rail noise monitoring conducted by Spectrum Acoustics south of the site in Howarth Street Wyong within 50m of the rail line did not find levels sufficiently high to warrant glazing upgrades in a residential development when assessed against the Infrastructure SEPP (2007) and associated DPE guideline.

### Response

13.0 With respect to building treatments referenced to rail traffic noise exposure and Infrastructure SEPP (2007), SA claims from their monitoring results within 50m of the MNRL, glazing upgrades for potential future residential development was not warranted. The noise monitoring results referenced by SA were requested by WACJV on 23 December 2016. At the time of preparing this response no data have been provided.

14.0 Infrastructure SEPP (2007) Clause 87 refers to the requirement of consent authorities to be satisfied that new buildings for residential use in proximity to rail corridors have appropriate measures to ensure that internal  $L_{Aeq}$  noise levels are not exceeded. See Response 8.0

- 15.0 Assuming nominal outside-to-inside noise reductions for non acoustic treated residential buildings a summary of equivalent external noise levels is presented in Table 1 for open and closed windows/doors.

**Table 1. Summary of Equivalent External Noise Levels**

Description	Noise Reduction dB	Recommended Internal Sound Pressure Levels		Equivalent External Sound Pressure Levels	
		L <sub>Aeq</sub> , 9 hours	L <sub>Aeq</sub> , 15 hours	L <sub>Aeq</sub> , 9 hours	L <sub>Aeq</sub> , 15 hours
Open windows/doors	10	35	40	45	50
Closed windows/doors	20	35	40	55	60

- 16.0 For assessing exposure of the Darkinjung land to rail traffic noise from the MNRL, the TfNSW Northern Sydney Freight Corridor Program, Gosford Passing Loops Project, Environmental Noise and Vibration Impact Assessment, date June 2012 (SLR) provides guidance in the absence of the Amended Project.

- 17.0 SLR (Appendix E) provides a summary of predicted operational rail traffic noise levels for various receptor locations adjacent to the MNRL. Of relevance for Darkinjung land, off-set distances referenced to SLR and Google Earth Pro have been established and summarised below (Table 2) with the predicted 2026 rail traffic noise levels. For the assessment of rail traffic noise it is normal practice to consider projected traffic growth over 10 years.

**Table 2. Summary Predicted Operational Rail Traffic Noise Levels**  
(Reference SLR June 2012. Appendix E)

NCA	Reference Address	Off-Set m	Predicted Sound Pressure Level			
			L <sub>Amax</sub> dBA	L <sub>Aeq</sub> 24 hr dBA	L <sub>Aeq</sub> 15hr dBA	L <sub>Aeq</sub> 9hr dBA
NCA02U	24 Campbell Street. North Gosford	18	92	62	62	63
NCA02I	4 Campbell Street. North Gosford	50	84	55	55	56
NCA04D	87 Showground Road Narara	120	79	54	53	54

- 18.0 The predicted night time L<sub>Aeq</sub> 9 hour levels in Table 1 show that the external trigger level of L<sub>Aeq</sub> 9 hour 45dBA (35+10) is exceeded at an offset distance of 120m.
- 19.0 Reference to Table 1 compliance with the internal SEPP bedroom criterion (L<sub>Aeq</sub> 9 hour 35dBA) at 120m would require the windows and doors to be closed, and air conditioning installed. This will be required whether W2CP proceeds or not.
- 20.0 Reference to Table 2 at 50m from the rail line with windows and doors closed assuming 20dB noise reduction across the composite building facade, the predicted internal noise level (L<sub>Aeq</sub> 9 hour 36dBA) marginally exceed the SEPP internal criterion (35dBA). Depending on the final detailed design of the

conceptual Darkinjung subdivision plans, should dwellings be constructed, they will be exposed to the MNRL corridor and may require building noise control treatment, in addition to air conditioning and windows/doors closed in the absence of the Amended Project.

- 21.0 Assuming standard distance attenuation for rail traffic noise of 3dB per doubling of distance and a source noise level of  $L_{Aeq\ 9\ hour}$  56dBA @ 50m, the external noise trigger level of  $L_{Aeq\ 9\ hour}$  45dBA (35+10) with windows/doors open would be satisfied at distances greater than 800m from the rail line.

### Issue

**Table 2** quantifies the relevant noise categories (3 – 5) in Table 1 based on a night time criterion (PSNL) of 38 dB(A),  $L_{eq(15minute)}$  established in AA0716 for their location P16 (see Figure 1) and the approximate number of affected lots within the re-zoning proposal. For Categories 3 and 4, residences were assumed to be at the centre of each Lot. Relevant noise contours for the SE wind scenario in AA0716 (Attachment 2-4) are approximated in **Figure 1**. Note that the AA0716 noise contours are in 5 dB increments, so the 41 dB(A) and 43 dB(A) contours have been estimated visually by interpolation. The final number of impacted Lots would require refining with the ENM model.

Noise Category	Project Noise Levels	Number of Lots (approximate)
3. Moderate	41-43 dB(A), $L_{eq(15minute)}$	36
4. Significant	>43 dB(A), $L_{eq(15minute)}$	240
5. Significant*	>45 dB(A), $L_{eq(night)}$ (suburban)	147

\* Noise contours may overestimate the  $L_{eq(night)}$  noise levels.

### Response

- 22.0 The Darkinjung vacant land does not have any residences, therefore the appropriate assessment approach is that presented in the RTS.
- 23.0 SA (Table 2) refers to noise contour plots referenced to prevailing south-east wind to attempt to identify the number of property lots located within alleged defined noise zones referenced to VLAMP categories.
- 24.0 The Project Noise Levels (SA Table 2) referenced in the third and fourth rows refer to  $L_{Aeq\ 15min}$  noise levels.
- 25.0 Referenced to the EPA response the Project Noise Level referenced in the fifth row (SA Table 2) 'Suburban' should be replaced with 'Urban' and the  $L_{Aeq\ 9\ hour}$  >45dBA changed to  $L_{Aeq\ 9\ hour}$  >50. This is the correct interpretation of the VLAMP and is consistent with the EPA's letter of 20 December 2016.

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## Issue

It is noted that the assessment of potential noise impacts in the RTS is based on its Figure 17 which shows worst case noise contours as  $dB(A), L_{Aeq}$ . It is evident from the assessment in AA0716 that these contours are for worst-case 15 minute periods when a train is being loaded and the loading facility is fully operational. The noise level averaged over a full night time period will include periods of little or no noise and will be significantly lower than the level considered in the assessment of impacts under VLAMP Category 5, resulting in a lesser degree of impact. Categories 3 and 4 are relative to intrusiveness ( $L_{Aeq,(15minute)}$ ) criteria, however, and the assessment of impacts in Table 2 remains valid, subject to model confirmation of the number of impacted Lots.

## Response

- 26.0 SA refers to the RTS (Figure 17) to reproduce SA Figure 1. Reviewing the SA noise contours it appears that the information was extracted from the Addendum Noise and Vibration Report (reproduced below at Addendum 2) not Figure 17 from the RTS (reproduced below at Addendum 1).
- 27.0 The RTS and SA noise contours are referenced  $L_{Aeq, 15min}$  levels and represent noise modelling for train loading and conveyors operating.
- 28.0 As per Addendum Noise and Vibration Report three (3) coal trains could be loaded during the nighttime period (10.00pm to 7.00am). The projected time for each loading cycle including train arrival and departure is approximately 90 minutes. On the understanding that the total operating time for three (3) trains to access, load and leave the rail loading facility is 270 minutes or 4.5 hours, the equivalent  $L_{Aeq, 9\text{ hour}}$  noise contours would be 3dB less than the predicted  $L_{Aeq, 15minute}$  levels.
- 29.0 For comparison and assuming one (1) coal train per night the equivalent  $L_{Aeq, 9\text{ hour}}$  noise contours would be 7-8dB less than the predicted  $L_{Aeq, 15minute}$  levels.
- 30.0 Reviewing the  $L_{Aeq, 15min}$  adjustment assuming three coal trains per night (-3dBA), the predicted  $L_{Aeq, 9\text{ hour}}$  50dBA contour would not occur on any Darkinjung land shown on RTS Figure 17 (Addendum 1). This further demonstrates the conservative approach to noise modelling applied to the Amended Project.

## Issue

Noise Category	Project Noise Levels	Recommended action
1. Negligible	0-2 dB(A) above PSNL	Not a discernible noise impact – no action required
2. Marginal	3-5 dB(A) above PSNL and project contributes less than 1 dB at residence	Mechanical ventilation and air conditioning
3. Moderate	3-5 dB(A) above PSNL and project contributes more than 1 dB at residence	Mechanical ventilation, air conditioning and facade upgrade
4. Significant	More than 5 dB(A) above PSNL at residence	Mechanical ventilation, air conditioning and facade upgrade, property acquisition
5. Significant	More than 5 dB(A) above amenity limit over 25% of land area	Property acquisition

**Table 2** quantifies the relevant noise categories (3 – 5) in Table 1 based on a night time criterion (PSNL) of 38 dB(A),  $L_{eq}(15\text{minute})$  established in AA0716 for their location P16 (see Figure 1) and the approximate number of affected lots within the re-zoning proposal. For Categories 3 and 4, residences were assumed to be at the centre of each Lot. Relevant noise contours for the SE wind scenario in AA0716 (Attachment 2-4) are approximated in **Figure 1**. Note that the AA0716 noise contours are in 5 dB increments, so the 41 dB(A) and 43 dB(A) contours have been estimated visually by interpolation. The final number of impacted Lots would require refining with the ENM model.

## Response

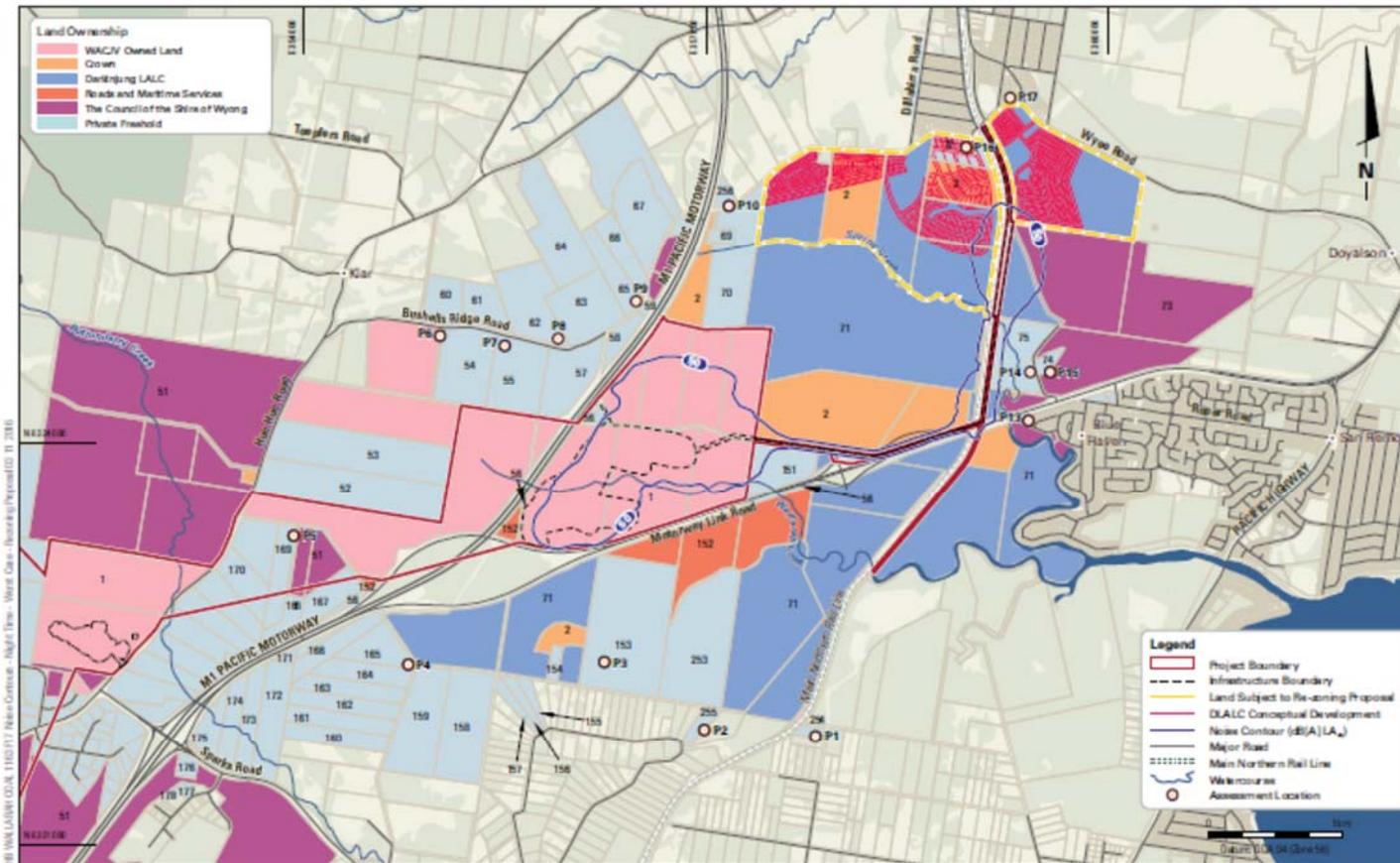
- 31.0 See Response 22.0.
- 32.0 The SA interpretation of this part of the VLAMP is incorrect. The following Table exactly reproduces the relevant VLAMP noise assessment criteria and potential treatments for an existing residence. As such, these are not relevant to the Darkinjung vacant land at the time of the assessment.

**Table 3 – Characteristics of noise impacts & potential treatments**

Residual noise exceeds INP criteria by	Characterisation of impacts	Potential treatments
0-2dB(A) above project specific noise level (PSNL).	Impacts are considered to be <b>negligible</b>	The exceedances would not be discernable by the average listener and therefore not warrant receiver based treatments or controls
3-5dB(A) above PSNL in the INP <u>but</u> the development would contribute less than 1dB to the total industrial noise level	Impacts are considered to be <b>marginal</b>	Provide mechanical ventilation/comfort condition systems to enable window to be closed without compromising internal air quality/amenity
3-5dB(A) above PSNL in the INP <u>and</u> the development would contribute less than 1dB to the total industrial noise level	Impacts are considered to be <b>moderate</b>	As a marginal impact but also upgrade facade elements like windows, doors, roof insulation etc, to further increase the ability of the building facade to reduce noise levels
>5dB(A) above the PSNL in the INP	Impacts are considered to be <b>significant</b>	Provide mitigation as for moderate impacts and see voluntary land acquisition provisions below.

**ATKINS ACOUSTICS & ASSOCIATES PTY LTD.**

**ADDENDUM 1: RTS (FIGURE 17)**

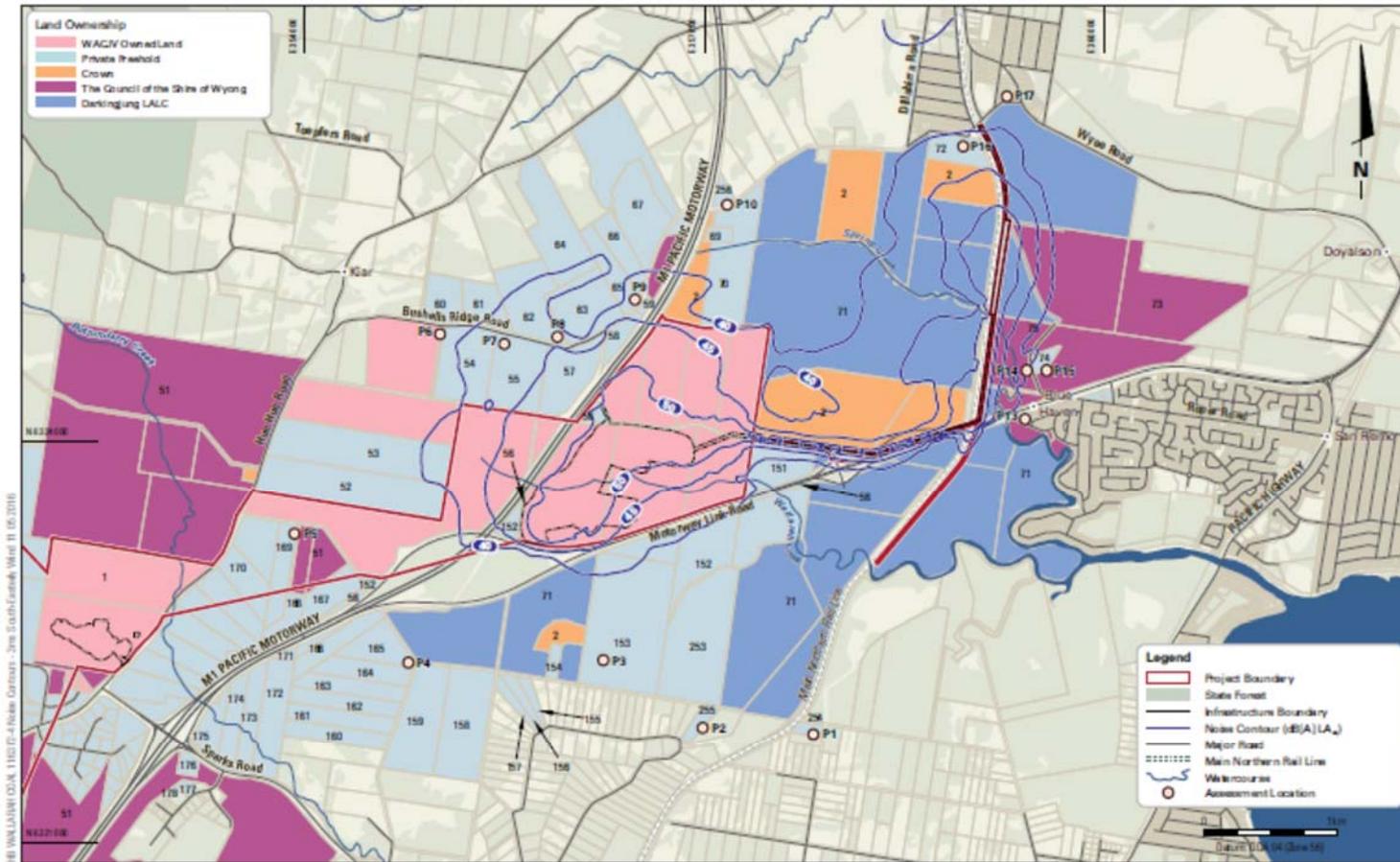


WALLARAH 2 COAL PROJECT

Predicted Night Time Noise Contours (Worst Case)

**FIGURE 17**

**ADDENDUM 2: ADDENDUM NOISE and VIBRATION REPORT** (Reference: 46.6729.R2 dated 8 July 2016)



***Appendix D***  
***Updated DLALC***  
***Consultation Log***

Date	Contact	Issue	Response and comments
1 August 2016	Letter from: DLALC Planning Manager	Letter received requesting further information/plans for W2CP DA amendment to be provided by 14 August 2016	Provided by Wyong Coal 14 August 2016
14 August 2016	Email to: DLALC Planning Manager	Provision of information as requested	Plans SK200/SK201 showing infrastructure layout, proposed access easement and elevations. Provision of Crown Road Application (explaining text redactions due to privacy issues) and detailed marked up attachments. Email response acknowledging receipt from DLALC Planning Manager
15 August 2016	Email from: DLALC Planning Manager	Acknowledge receipt of information	Information provided as per written request of 1 August 2016
17 August 2016	Email from: DLALC via DPE	Wyong Coal advised of request made by DLALC to DP&E on Monday 15 August 2016 for further information.	Information not requested direct from Wyong Coal despite DLALC open invitation on 22 February 2016 DA amendment briefing.
17 August 2016	Telephone messages to: DLALC CEO and Planning Manager	Request from Wyong Coal to meet DLALC	DLALC CEO responded 17 August 2016
17 August 2016	Telephone message from: DLALC CEO	Response to meeting request from Wyong Coal	DLALC CEO unavailable for meeting
17 August 2016	Email to: DLALC	Request for meeting as per unavailability of CEO	No response
18 August 2016	Telephone message and emails to: DLALC Planning Manager	Further request for meeting with DLALC as per request for additional information via DPE for 19 or 20 August 2016.	DLALC Planning Manager returned call. Meeting offer rejected.
19 August 2016	Email from: DLALC	Advice from DLALC that they would contact to arrange meeting after 24 August 2016	No contact received from DLALC at COB 24 August 2016.
25 August 2016	Telephone message to: DLALC	Message left reiterated outstanding meeting request from Wyong Coal	No response
26 August 2016	Telephone contact from: DLALC	Meeting proposed for 7 September 2016	Wyong Coal accepts meeting date but requests DLALC reconsider an earlier meeting
29 August 2016	Email to: DLALC CEO	Email outlined that Wyong Coal had provided DLALC the information requested via DP&E	Information provided by Wyong Coal, however no opportunity provided by DLALC to meet to clarify and take questions. Wyong Coal again strongly urged DLALC to meet and discuss issues earlier than 7 September 2016. Email response from DLALC CEO 29 August 2016

Date	Contact	Issue	Response and comments
29 August 2016	Email from: DLALC CEO	Acknowledging receipt of information from Wyong Coal	Response failed to acknowledge request for earlier meeting
30 August 2016	Telephone and email to: DLALC	Follow-up on earlier meeting request	No response
31 August 2016	Telephone messages to: DLALC	Wyong Coal following up on request to arrange meeting	Further request to meet earlier than 7 September 2016. Requested DLALC for outlook invite. Response email 31 August 2016
31 August 2016	Email from: DLALC	Response to earlier meeting request.	Rejected earlier meeting, failed to forward outlook invite to Wyong Coal as requested
7 September 2016	Meeting: DLALC and Wyong Coal	Consultation and detailed discussions regarding information provided to DLALC, including plans showing improved access to Nikko Rd, design of infrastructure, access to site and ability to construct and operate without impinging on neighbouring allotments. Discussions regarding possible impacts on possible future residential areas which don't have current zoning approval, but which are proposed through a gateway and rezoning application. Noise and dust modelling methodology, requirements and outcomes regarding DLALC and surrounding land discussed. <b>DLALC proposed reverting to original rail spur route on their land and offered to provide commercial terms upon written request from Wyong Coal.</b>	Wyong Coal agreed to further consider DLALC request upon receipt of detailed information on proposal from DLALC
8 September 2016	Email to: DLALC CEO	Thank you for meeting	Wyong Coal written request as for commercial terms as offered by DLALC at meeting of 7 September 2016. Requested a written letter outlining DLALC's consideration on process steps and timing. No response to email
12 September 2016	Email to: DLALC CEO and Planning Manager	Reminder email	Repeated request by Wyong Coal for information and meeting request regarding DLALC rail requirements for Bushells Ridge as it had offered at 7 September 2016 meeting. Email response from DLALC CEO
12 September 2016	Email from: DLALC CEO	Response to email of reminder regarding repeated request by Wyong Coal for information and meeting request regarding DLALC rail requirements as per offer of 7 September 2016 meeting.	Email failed to respond to earlier requests sent by Wyong Coal. DLALC advised that it was waiting for minutes to be finalised (not a condition of 7 September 2016 meeting).
12 September 2016	Email to: DLALC CEO	Acknowledge reply to email from DLALC CEO	Waiting for minute completion
12 September 2016	Email from: DLALC Planning Manager	Response to tentative meeting request	Will respond when minutes accepted

Date	Contact	Issue	Response and comments
12 September 2016	Email to: DLALC Planning Manager and CEO	Request from Wyong Coal to set a tentative meeting date whilst finalising meeting minutes	No response from DLALC
13 September 2016	Email from: DLALC Planning Manager	Meeting minutes of 7 September 2016 attached	Receipt acknowledged by Wyong Coal and review timing advice provided
13 September 2016	Email to: DLALC Planning Manager	Minutes and audio	Acknowledge minutes receipt, request meeting audio
13 September 2016	Email from: DLALC Planning Manager	Audio request from Wyong Coal	Response, confidentiality agreement (CA)
14 September 2016	Telephone (TXT) to: DLALC Planning Manager	Meeting minutes matters	
14 September 2016	Email to: DLALC Planning Manager	Meeting minutes mark up	Email recalled
14 September 2016	Email to: DLALC Planning Manager	Meeting minutes mark up	Final minutes mark-up
15 September 2016	Email to: DLALC Planning Manager	Notation regarding marked up minutes of meeting 7 September 2016 returned to DLALC by Wyong Coal	Clarification of minutes version 1 - disregard
15 September 2016	Email to: DLALC CEO	Wyong Coal requested meeting for 21 September 2016	No response received.
15 September 2016	Email from: DLALC Planning Manager	Advice minutes accepted with minor changes	
15 September 2016	Email to: DLALC Planning Manager	Advice minute changes acceptable to Wyong Coal	
15 September 2016	Email to: DLALC Planning Manager	Wyong Coal request timing for meeting	Response from DLALC Planning Manager
15 September 2016	Email from: DLALC Planning Manager	Unable to meet until after 19 September 2016	
16 September 2016	Email from: DLALC Planning Manager	Final minutes of 7 September 2016 meeting distribution	Disseminated to Wyong Coal attendees

Date	Contact	Issue	Response and comments
16 September 2016	Email from: DLALC Planning Manager	Advice DLALC will contact Wyong Coal after Board Meeting of 19 September 2016	
16 September 2016	Email to: DLALC Planning Manager	Minutes of meeting 7 September 2016	Acceptance by Wyong Coal
19 September 2016	Email to: DLALC Planning Manager	Notification of signed minutes of meeting from Wyong Coal	Additional request for audio CA
19 September 2016	Telephone message from: DLALC CEO	Message from DLALC regarding media attention.	Wyong Coal responded to message 19 September 2016.
19 September 2016	Email and phone call to: DLALC CEO	Response to previous message from DLALC CEO and meeting request	Discussed media and request for meeting on 21 September 2016. DLALC CEO not available 21 September 2016, advised will contact Wyong Coal 22 September 2016 to make arrangements.
19 September 2016	Email from: DLALC Planning Manager	CA regarding audio	Response from DLALC Planning Manager to request for CA
22 September 2016	Telephone call from: DLALC CEO	DLALC CEO contacted Wyong Coal by telephone. Advised: <ol style="list-style-type: none"> <li>1. DLALC had a meeting with Marcus Ray, DP&amp;E the previous afternoon</li> <li>2. DLALC on the way to talk to Alan Blackman, Department of Minister and Cabinet about Wyong Coal/DLALC proposal (DPC)</li> <li>3. Arranged to meet at 12:30pm</li> </ol>	Wyong Coal agreed to meeting
22 September 2016	Email to: DLALC Planning Manager	CA regarding audio	Returning signed CA
22 September 2016	Meeting: DLALC and Wyong Coal	Issues: <ol style="list-style-type: none"> <li>1. Reversion to rail spur on DLALC land</li> <li>2. Original route offer now removed by DLALC, replaced with another option on their land</li> <li>3. DLALC regional planning aspirations</li> </ol>	DLALC requested Wyong Coal consider its latest plan to use their land
26 September 2016	Email to: DLALC CEO	Wyong Coal seeks clarification from DLALC on changed position	Wyong Coal sought proposal in writing from DLALC for WACJV consideration. Reaffirmed timing constraints and amendment continuation. Response 27 September 2016
27 September 2016	Email from: DLALC CEO	Response to email of 26 September 2016	Response from DLALC confirming its preferred option location but without providing further detail as requested.

Date	Contact	Issue	Response and comments
28 September 2016	Email to: DLALC CEO	Wyong Coal responded to email from DLALC CEO of 27 September 2016	Request from Wyong Coal for DLALC to provide a written letter outlining their offer and thoughts on process steps and timing
28 September 2016	Email from: DLALC CEO	DLALC CEO response to email of 28 September 2016	Response failed to provide the requested information for WACJV consideration
28 September 2016	Email to: DLALC CEO	Wyong Coal response to DLALC CEO email	Further request for written proposal from DLALC as indicated at meeting 7 September 2016. No acknowledgement of this email was received.
4 October 2016	Email to: DLALC Planning Manager	Hansen Bailey (on behalf of Wyong Coal) requested access to DLALC Bushells Ridge land	Request to take photographs (for photomontages requested by DP&E to address matters raised by DLALC). Response from DLALC Planning Manager 5 October 2016
5 October 2016	Email from: DLALC Planning Manager	Hansen Bailey advised request forwarded to office for attention	Arrangements made to pick up key from DLALC administration
5 October 2016	Attend DLALC Office	Access to DLALC Land	Key picked up from DLALC offices on 5 October 2016 by Hansen Bailey and returned the same day
6 October 2016	Letter to: DLALC Planning Manager	Hansen Bailey (on behalf of Wyong Coal) requested DLALC to provide further information additional to that publicly available on its proposed Wyee Road Residential Site and the Bushells Ridge Residential site	Information requested to assist Wyong Coal in consultation with DLALC and to address a response to DLALC's submission to DA amendment. No response until letter from DLALC CEO 11 October 2016
6 October 2016	Unscheduled meeting/discussion: DLALC and Wyong Coal	Office of Central Coast Parliamentary Secretary – DLALC CEO requested for meeting by Wyong Coal	DLALC CEO indicated Wyong Coal would be contacted for meeting on the 10 October 2016
7 October 2016	Wyong Coal attend DLALC Office	Access to DLALC land	Key picked up from DLALC offices on 7 October 2016 by Wyong Coal and returned same day
11 October 2016	Letter from : DLALC CEO to Hansen Bailey (dated 10 October 2016)	Letter dated 10 October	DLALC CEO acknowledged information request for further information from Hansen Bailey of 6 October 2016. The provision of further information on its development plans is declined by DLALC. Letter provided by Hansen Bailey to Wyong Coal
11 October 2016	Email from: DLALC CEO	Letter regarding access to DLALC land	DLALC advised that access had been undertaken as facilitated by their Planning Manager and was now complete

Date	Contact	Issue	Response and comments
11 October 2016	Email to: DLALC CEO	No contact from DLALC on 10 October 2016 as offered at meeting of 6 October 2016.	Wyong Coal again request written detail of offer and request meeting with DLALC and its planners to consider proposal. DLALC response 13 October 2016
12 October 2016	Email to: DLALC CEO	Unavailable dates for meetings	
13 October 2016	Email from: DLALC CEO	Letter invite to meeting	Meeting planned for 17 October 2016
17 October 2016	Meeting: DLALC and Wyong Coal	Wyong Coal, DLALC and DLALC planners (ADW Johnson) meeting. Address Wyong Coal concerns regarding achievability of latest DLALC proposal	Wyong Coal advised that it has insufficient information for the WACJV to consider. Wyong Coal willing to continue to consider alternatives. Wyong Coal tabled DLALC issues as raised in submission to DPE. DLALC made it clear that it does not intend to further discuss the amended DA with Wyong Coal and will "fight it all the way". DLALC would only discuss matters associated with re-routing the Wallarah rail spur onto their land south of the Motorway link road
20 October 2016	Email to: DLALC CEO	Confirming Wyong Coal position and preferred option	Wyong Coal expresses willingness to further consult. Requested confirmation from DLALC of their latest plan. No response from DLALC
26 October 2016	Email to: DLALC CEO	Follow-up on email of 20 October 2016	Repeated request for information from DLALC. No response
27 October 2016	Letter from: DLALC CEO	Withdrawal of discussions	Letter informs Wyong Coal that DLALC now withdrawing from discussions, however open to commercial negotiations of original proposal. Response failed to answer Wyong Coal previous email questions
29 October 2016	Email to: DLALC CEO	Wyong Coal response to DLAC email of 27 October 2016.	No response received
5 November 2016	Email to: DLALC CEO	Advise to DLALC.	Wyong Coal advised that Response to Submissions complete, and offering meeting to guide DLALC through responses. No response received
15 November 2016	Email to: DLALC CEO	Email following DLALC media	Repeating offer to meet and guide DLALC through Wyong Coals Response to Submissions. Response from DLALC CEO 15 November 2016
15 November 2016	Email from: DLALC CEO	Acknowledge email offer from Wyong Coal	Advised DLALC will respond in due course. No request for meeting received by Wyong Coal
29 November 2016	Email to: DLALC CEO	Email again offering opportunity to consult	Further request from Wyong Coals to consult regarding Response to Submissions before 9 December 2016, or if unable, anytime thereafter with Project Manager.

Date	Contact	Issue	Response and comments
			Email acknowledged 29 November 2016
29 November 2016	Email from: DLALC CEO	Acknowledged email offer of further consultation	No request for meeting received by Wyong Coal
20 December 2016	Email to: DLALC CEO	Further offer to meet and discuss Wyong Coal response to Submissions, and further discuss matters raised by DLALC during recent correspondence with DPE	DLALC CEO responded 20 December 2016
20 December 2016	Email from: DLALC CEO	Response to meeting request from Wyong Coal	Unable to meet before Christmas, will be away until 16 January 2017
23 December 2016	Email to: DLALC CEO	Request for access to information by Wyong Coal Wyong Coal seeking to provide a considered response to the noise report by Spectrum Acoustics contained DLALC correspondence to Department of Planning and Environment. Wyong Coal seeks Darkinjung's permission to obtain the required data from Spectrum Acoustics. Alternatively the request could be facilitated via a written request through the Department of Planning and Environment DLALC CEO requested to provide some guidance on the matter before close of business today (23 December 2016)	No response received