

Development Consent

Section 4.38 of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, I approve the development application referred to in Schedule 1, subject to the conditions in Schedules 2 to 4.

These conditions are required to:

- prevent and/or minimise any adverse environmental impacts of the development;
- set standards and performance measures for acceptable environmental performance; and
- provide for the ongoing environmental management of the development.



David Kitto
Executive Director
Resource Assessments and Business Systems

Sydney **25 OCTOBER** 2018

SCHEDULE 1

Application Number:	SSD 8533
Applicant:	Sunset Power International Pty Ltd
Consent Authority:	Minister for Planning
Land:	See Appendix 2
Development:	Vales Point Solar

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DEFINITIONS

Aboriginal stakeholders	Aboriginal stakeholders registered for cultural heritage consultation for the development
Applicant	Sunset Power International Pty Ltd, or any person who seeks to carry out the development approved under this consent
Battery storage	Large scale energy storage system
Cessation of operations	Operation of the development has ceased for a continuous period of 6 months
Conditions of this consent	Conditions contained in Schedules 1 to 4 inclusive
Construction	The construction of the development, including but not limited to the carrying out of any earthworks on site and the construction of solar panels and any ancillary infrastructure (but excludes any upgrades to the public road network required under this consent, installation of fencing, artefact survey, overhead line safety marking, geotechnical drilling and/or surveying)
Councils	Lake Macquarie City Council and Central Coast Council
Decommissioning	The removal of solar panels and ancillary infrastructure and/or rehabilitation of the site
Department	Department of Planning and Environment
Development	The development as described in the EIS
Development footprint	The area within the project site on which the components of the project will be constructed
Dol – L&W	Department of Industry – Land and Water
EIS	The environmental impact statement for Vales Point Solar Project dated 31 January 2018, and associated response to submissions dated 25 May 2018
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence issued under the POEO Act
Feasible	Feasible relates to engineering considerations and what is practical to build or implement
Heavy vehicle	A vehicle that has a combined Gross Vehicle Mass or Aggregate Trailer Mass of more than 4.5 tonnes
Heritage item	An item as defined under the <i>Heritage Act 1977</i> and/or an Aboriginal Object or Aboriginal Place as defined under the <i>National Parks and Wildlife Act 1974</i>
Incident	A set of circumstances that causes or threatens to cause material harm to the environment
Material harm	Is harm that: <ul style="list-style-type: none"> • involves actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial; or • results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000 (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
Minister	Minister for Planning, or delegate
Minimise	Implement all reasonable and feasible mitigation measures to reduce the impacts of the development
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent but is not an incident
OEH	Office of Environment and Heritage
Operation	The operation of the development, but does not include commissioning, trials of equipment or the use of temporary facilities
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Project site	The land defined in the figure in Appendix 1 and the table in Appendix 2
Public infrastructure	Linear and related infrastructure that provides services to the general public, such as roads, railways, water supply, drainage, sewerage, gas supply, electricity, telephone, telecommunications, irrigation channels, drainage channels
Reasonable	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements
Rehabilitation	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting
RFS	Rural Fire Service
RMS	Roads and Maritime Services
Secretary	Secretary of the Department, or nominee

Temporary facilities	Temporary facilities used for the construction, upgrading and/or decommissioning of the development, including but not limited to temporary site offices and compounds, materials storage compounds, maintenance workshops, or material stockpiles
Upgrading	The augmentation and/or replacement of solar panels (excluding maintenance) and ancillary infrastructure on site
Vehicle Movement	One vehicle entering and leaving the site

SCHEDULE 2 ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

1. In meeting the specific environmental performance criteria established under this consent, the Applicant must implement all reasonable and feasible measures to prevent and/or minimise any material harm to the environment that may result from the construction, operation, upgrading or decommissioning of the development.

TERMS OF CONSENT

2. The Applicant must carry out the development:
 - (a) generally in accordance with the EIS; and
 - (b) in accordance with the conditions of this consent.

Note: The general layout of the development is shown in Appendix 1.

3. If there is any inconsistency between the above documents, the most recent document must prevail to the extent of the inconsistency. However, the conditions of this consent must prevail to the extent of any inconsistency.
4. The Applicant must comply with any requirement/s of the Secretary arising from the Department's assessment of:
 - (a) any strategies, plans or correspondence that are submitted in accordance with this consent;
 - (b) any reports, reviews or audits commissioned by the Department regarding compliance with this consent; and
 - (c) the implementation of any actions or measures contained in these documents.

FINAL LAYOUT PLANS

5. Prior to the commencement of construction, the Applicant must submit detailed plans of the final layout of the development to the Secretary, including details on the siting of solar panels and ancillary infrastructure.

Note: If the construction of the development is to be staged, then the provision of these plans may be staged.

UPGRADING OF SOLAR PANELS AND ANCILLARY INFRASTRUCTURE

6. Over time, the Applicant may upgrade the solar panels and ancillary infrastructure on site provided these upgrades remain within the approved development footprint of the site. Prior to carrying out any such upgrades, the Applicant must provide revised layout plans and project details of the development to the Secretary incorporating the proposed upgrades.

WORK AS EXECUTED PLANS

7. Prior to the commencement of operations, or following the upgrades of any solar panels or ancillary infrastructure, the Applicant must submit work as executed plans of the development to the Department.

NOTIFICATION OF DEPARTMENT

8. Prior to the commencement of construction, operations, upgrading or decommissioning of the development or the cessation of operations, the Applicant must notify the Department in writing of the date of commencement, or cessation, of the relevant phase.

If any of these phases of the development are to be staged, then the Applicant must notify the Department in writing prior to the commencement of the relevant stage, and clearly identify the development that would be carried out during the relevant stage.

STRUCTURAL ADEQUACY

9. The Applicant must ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the *Building Code of Australia*.

Notes:

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

DEMOLITION

10. The Applicant must ensure that all demolition work on site is carried out in accordance with *Australian Standard AS 2601-2001: The Demolition of Structures*, or its latest version.

PROTECTION OF PUBLIC INFRASTRUCTURE

11. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
 - (b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

This condition does not apply to the upgrade and maintenance of the road network, which is expressly provided for in the conditions of this consent.

OPERATION OF PLANT AND EQUIPMENT

12. The Applicant must ensure that all plant and equipment used on site, or in connection with the development, is:
- (a) maintained in a proper and efficient condition; and
 - (b) operated in a proper and efficient manner.

SCHEDULE 3 ENVIRONMENTAL CONDITIONS – GENERAL

BATTERIES

Battery Storage Restriction

1. Battery storage is not permitted on the project site.

Note: Nothing in this condition prevents the Applicant from seeking to modify the consent to permit battery storage in the future.

TRANSPORT

Heavy Vehicle Restrictions

2. The Applicant must ensure that the:
 - (a) development does not generate more than 20 heavy vehicle movements a day during construction, upgrading or decommissioning on the public road network; and
 - (b) length of any heavy vehicles used for the development does not exceed 26 metres, unless the Secretary agrees otherwise.
3. The Applicant must keep accurate records of the number of heavy vehicles entering and leaving the site each day.

Access Route

4. All vehicular traffic associated with the development must travel to and from the project site via Ruttleys Road and the approved site access point (shown in Appendix 1).

Site Access

5. Prior to the commencement of construction, the Applicant must upgrade the existing site access point intersection with Ruttleys Road with an auxiliary left-turn treatment (AUL) to cater for the largest vehicle entering the site, generally in accordance with the *Austroads Guide to Road Design* (as amended by RMS supplements), to satisfaction of Central Coast Council.

Note: To avoid any doubt, Central Coast Council's road standards require the pavement design at the site access point to cater for a design traffic loading minimum of 2 x 10⁷ Equivalent Standard Axles.

Operating Conditions

6. The Applicant must ensure:
 - (a) the internal project site roadways are constructed as all-weather roadways;
 - (b) there is sufficient parking on site for all vehicles, and no parking occurs on the public road network in the vicinity of the site;
 - (c) the capacity of the existing roadside drainage network is not reduced;
 - (d) all vehicles are loaded and unloaded on site, and enter and leave the site in a forward direction; and
 - (e) vehicles leaving the site are in a clean condition and do not result in dirt being tracked onto the public road network.

Unformed Crown Roads

7. The Applicant must ensure any unformed Crown road reserves affected by the development are maintained for future use, unless otherwise agreed with DoI – L&W.

Traffic Management Plan

8. Prior to the commencement of any road upgrades required under this consent, the Applicant must prepare a Traffic Management Plan for the development in consultation with the RMS and Councils, and to the satisfaction of the Secretary. This plan must include:
- (a) details of the transport route to be used for development-related traffic;
 - (b) a protocol for undertaking dilapidation surveys to assess the:
 - existing condition of Ruttleys Road prior to construction, upgrading or decommissioning activities; and
 - condition of Ruttleys Road following construction, upgrading or decommissioning activities;
 - (c) a protocol for the repair of Ruttleys Road identified in the dilapidation surveys to have been damaged during construction, upgrading or decommissioning works;
 - (d) details of the measures that would be implemented to minimise traffic safety issues and disruption to users of Ruttleys Road during construction, upgrading or decommissioning works, including:
 - temporary traffic controls, including detours and signage;
 - notifying the local community about project-related traffic impacts;
 - procedures for receiving and addressing complaints from the community about development-related traffic;
 - minimising potential for conflict with school buses, rail services and other motorists as far as practicable;
 - scheduling of haulage vehicle movements to minimise convoy length or platoons;
 - responding to local climate conditions that may affect road safety such as fog, dust, wet weather and flooding;
 - responding to any emergency repair or maintenance requirements; and
 - a traffic management system for managing over-dimensional vehicles; and
 - (e) a driver's code of conduct that addresses:
 - travelling speeds;
 - driver fatigue;
 - procedures to ensure that drivers adhere to the designated transport routes; and
 - procedures to ensure that drivers implement safe driving practices.

Following the Secretary's approval, the Applicant must implement the Traffic Management Plan.

LAND MANAGEMENT

9. Following any construction or upgrading on site, the Applicant must:
- (a) restore the ground cover of the site as soon as practicable, using appropriate perennial species;
 - (b) maintain the ground cover; and
 - (c) manage weeds within this ground cover.

BIODIVERSITY

Biodiversity Offset Strategy

10. At least 3 months prior to the commencement of construction, the Applicant must prepare a Biodiversity Offset Strategy to provide a suitable offset for:
- (a) the clearing of 9.9 ha of Saltmarsh Estuarine Complex;
 - (b) 0.17 ha of Scribbly Gum – Red Bloodwood – Angophora inopina healthy woodland on lowlands of the Central Coast; and
 - (c) 2.6 ha of Phragmites australis and Typha orientalis coastal freshwater wetlands of the Sydney Basin Bioregion;
- in consultation with OEH and Lake Macquarie City Council, and to the satisfaction of the Secretary.

The offset must give priority to like-for-like land based offsets, but may also consider payment into any NSW Offset Fund established by OEH, or funding or implementation of supplementary measures such as:

- actions outlined in threatened species recovery programs;
- actions that contribute to threat abatement programs;
- biodiversity research and survey programs; and/or
- rehabilitating degraded habitat.

Note: Any offset required under this condition must be proportionate with the significance of the impact or environmental consequence.

Biodiversity Management Plan

11. Prior to the commencement of construction, the Applicant must prepare a Biodiversity Management Plan for the development in consultation with OEH, Lake Macquarie City Council, DPI Fisheries and to the satisfaction of the Secretary. This plan must:
- (a) include measures for implementing the Biodiversity Offset Strategy referred to in condition 10 above;
 - (b) include a description of the measures that would be implemented for:
 - managing the remnant vegetation and fauna habitat on site;
 - minimising clearing and avoiding unnecessary disturbance of vegetation that is associated with the construction and operation of the development;
 - minimising the impacts to fauna on site (including fauna interaction with perimeter fencing) and implementing fauna management protocols;
 - avoiding the removal of hollow-bearing trees during spring to early summer to avoid the main breeding period for hollow-dependent fauna;
 - rehabilitating and revegetating temporary disturbance areas;
 - protecting vegetation and fauna habitat outside the approved disturbance areas;
 - maximising the salvage of vegetative and soil resources within the approved disturbance area for beneficial reuse in the enhancement or the rehabilitation of the site;
 - controlling weeds and feral pests;
 - (c) include details of who would be responsible for monitoring, reviewing and implementing the plan, and timeframes for completion of actions.

Following the Secretary's approval, the Applicant must implement the Biodiversity Management Plan.

Note: If the biodiversity offset area is conserved via a Biobanking Agreement, then the Biodiversity Management Plan does not need to include any of the matters that are covered under the Biobanking Agreement.

AMENITY

Construction, Upgrading and Decommissioning Hours

12. Unless the Secretary agrees otherwise, the Applicant may only undertake construction, upgrading or decommissioning activities on site between:
- (a) 7 am to 6 pm Monday to Friday;
 - (b) 8 am to 1 pm Saturdays; and
 - (c) at no time on Sundays and NSW public holidays.

The following construction, upgrading or decommissioning activities may be undertaken outside these hours without the approval of the Secretary:

- the delivery of materials as requested by the NSW Police Force or other authorities for safety reasons; or
- emergency work to avoid the loss of life, property and/or material harm to the environment.

Noise

13. The Applicant must minimise the noise generated by any construction, upgrading or decommissioning activities on site in accordance with the best practice requirements outlined in the *Interim Construction Noise Guideline* (DECC, 2009), or its latest version.

Dust

14. The Applicant must minimise the dust generated by the development.

Visual

15. The Applicant must:
- (a) minimise the off-site visual impacts of the development, including the potential for any glare or reflection from the solar panels;
 - (b) ensure the visual appearance of all ancillary infrastructure (including paint colours) blends in as far as possible with the surrounding landscape; and
 - (c) not mount any advertising signs or logos on site, except where this is required for identification or safety purposes.

Lighting

16. The Applicant must:
- (a) minimise the off-site lighting impacts of the development; and
 - (b) ensure that all external lighting associated with the development:
 - is installed as low intensity lighting (except where required for safety or emergency purposes);
 - does not shine above the horizontal; and
 - complies with *Australian Standard AS4282 (INT) 1997 – Control of Obtrusive Effects of Outdoor Lighting*, or its latest version.

HERITAGE

Discovery of Human Remains

17. If human remains are discovered on site, then all work surrounding the area must cease, and the area must be secured. The Applicant must notify the NSW Police and OEH as soon as possible following the discovery, and work must not recommence in the area until this is authorised by OEH.

Chance Finds Protocol

18. Prior to the commencement of construction, the Applicant must prepare a Chance Finds Protocol for the development in consultation with the Aboriginal stakeholders, and to the satisfaction of OEH.

Following OEH's approval, the Applicant must implement the Chance Finds Protocol.

SOIL & WATER

Water Pollution

19. The Applicant must ensure that the development does not cause any water pollution, as defined under Section 120 of the POEO Act.

Operating Conditions

20. The Applicant must:
- (a) minimise any soil erosion associated with the construction, upgrading or decommissioning of the development in accordance with the relevant requirements in the *Managing Urban Stormwater: Soils and Construction* (Landcom, 2004) manual, or its latest version;
 - (b) ensure the solar panels and associated infrastructure are designed, constructed and maintained to avoid causing any erosion on site; and
 - (c) ensure all works (including waterway crossings) are constructed in accordance with the following, unless otherwise agreed by DoI L&W:
 - *Guidelines for Controlled Activities on Waterfront Land (2012)*, or its latest version; and
 - *Why Do Fish Need to Cross the Road? Fish Passage Requirements for Waterway Crossings (2004)*, or its latest version.

HAZARDS

Storage and Handling of Dangerous Goods

21. The Applicant must:
- (a) store and handle all dangerous or hazardous materials on site in accordance with AS1940-2004: *The storage and handling of flammable and combustible liquids*, or its latest version; and
 - (b) minimise any spills of hazardous materials or hydrocarbons, and clean up any spills as soon as possible after they occur.

Operating Conditions

22. The Applicant must:
- minimise the fire risks of the development;
 - ensure that the development:
 - includes at least a 10 metre defensible space around the perimeter of the solar panel area that permits unobstructed vehicle access;
 - manages the defensible space and solar panel area as an Asset Protection Zone;
 - complies with the relevant asset protection requirements in the RFS's *Planning for Bushfire Protection 2006* (or equivalent) and *Standards for Asset Protection Zones*;
 - is suitably equipped to respond to any fires on site including provision of a 20,000 litre water supply tank fitted with a 65mm Storz fitting located adjacent to the internal access road;
 - assist the RFS and emergency services as much as practicable if there is a fire in the vicinity of the site; and
 - notify the relevant local emergency management committee following construction of the development, and prior to the commencement of operations.

Fire Management and Emergency Response Plan

23. Prior to the commencement of operations, the Applicant must prepare a Fire Management and Emergency Response Plan for the development in consultation with the RFS and Fire & Rescue NSW. This plan must identify the fire risks and controls of the development, and the procedures that would be implemented if there is a fire on site or in the vicinity of the site. Two copies of the plan must be kept on site in a prominent position adjacent to the site entry point at all times.

Asbestos Landfill Exclusion Area

24. The Applicant must maintain the signage and fencing around the asbestos landfill exclusion area located within Pond 3 shown in Appendix 1 and ensure no works associated with the construction, operation, upgrading or decommissioning of the development occur within the exclusion area.

WASTE

25. The Applicant must:
- minimise the waste generated by the development;
 - classify all waste generated on site in accordance with the EPA's *Waste Classification Guidelines 2014* (or its latest version);
 - store and handle all waste on site in accordance with its classification;
 - not receive or dispose of any waste on site, unless an EPL authorises otherwise; and
 - remove all waste from the site as soon as practicable, and ensure it is sent to an appropriately licensed waste facility for disposal.

DECOMMISSIONING AND REHABILITATION

26. Within 18 months of the cessation of operations, unless the Secretary agrees otherwise, the Applicant shall rehabilitate the site to the satisfaction of the Secretary. This rehabilitation must comply with the objectives in Table 2.

Table 2: Rehabilitation Objectives

Feature	Objective
Project site	<ul style="list-style-type: none">Safe, stable and non-pollutingMinimise the visual impact of any above ground ancillary infrastructure agreed to be retained for an alternative use
Solar farm infrastructure	<ul style="list-style-type: none">To be decommissioned and removed, unless the Secretary agrees otherwise
Land use	<ul style="list-style-type: none">Stable and sustain the intended land use
Community	<ul style="list-style-type: none">Ensure public safety

SCHEDULE 4 ENVIRONMENTAL MANAGEMENT AND REPORTING

ENVIRONMENTAL MANAGEMENT

Environmental Management Strategy

1. Prior to the commencement of construction, the Applicant must prepare an Environmental Management Strategy for the development to the satisfaction of the Secretary. This strategy must:
 - (a) provide the strategic framework for environmental management of the development;
 - (b) identify the statutory approvals that apply to the development;
 - (c) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
 - (d) describe the procedures that would be implemented to:
 - keep the local community and relevant agencies informed about the operation and environmental performance of the development;
 - receive, handle, respond to, and record complaints;
 - resolve any disputes that may arise;
 - respond to any non-compliance;
 - respond to emergencies; and
 - (e) include:
 - copies of any plans approved under the conditions of this consent; and
 - a clear plan depicting all the monitoring to be carried out in relation to the development.

Following the Secretary's approval, the Applicant must implement the Environmental Management Strategy.

Revision of Strategies and Plans

2. The Applicant must:
 - (a) update the strategies and plans required under this consent to the satisfaction of the Secretary prior to carrying out any upgrading or decommissioning activities on site; and
 - (b) review and, if necessary, revise the strategies and plans required under this consent to the satisfaction of the Secretary within 1 month of the:
 - submission of an incident report under condition 3 of Schedule 4;
 - submission of an audit report under condition 5 of Schedule 4; or
 - any modification to the conditions of this consent.

INCIDENT NOTIFICATION

3. The Department must be notified in writing to compliance@planning.nsw.gov.au immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one), and set out the location and nature of the incident.

NON-COMPLIANCE NOTIFICATION

4. The Department must be notified in writing to compliance@planning.nsw.gov.au within 7 days after the Applicant becomes aware of any non-compliance with the conditions of this consent. The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been done, or will be, undertaken to address the non-compliance.

INDEPENDENT ENVIRONMENTAL AUDIT

5. Within 6 months of the commencement of construction, or as directed by the Secretary, the Applicant must commission and pay the full cost of an Independent Environmental Audit (Audit) of the development. The audit must:
- (a) be led and conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Secretary;
 - (b) be carried out in consultation with the relevant agencies;
 - (c) assess whether the development complies with the relevant requirements in this consent, and any strategy, plan or program required under this consent; and
 - (d) recommend appropriate measures or actions appropriate to improve the environmental performance of the development and any strategy, plan or program required under the consent.

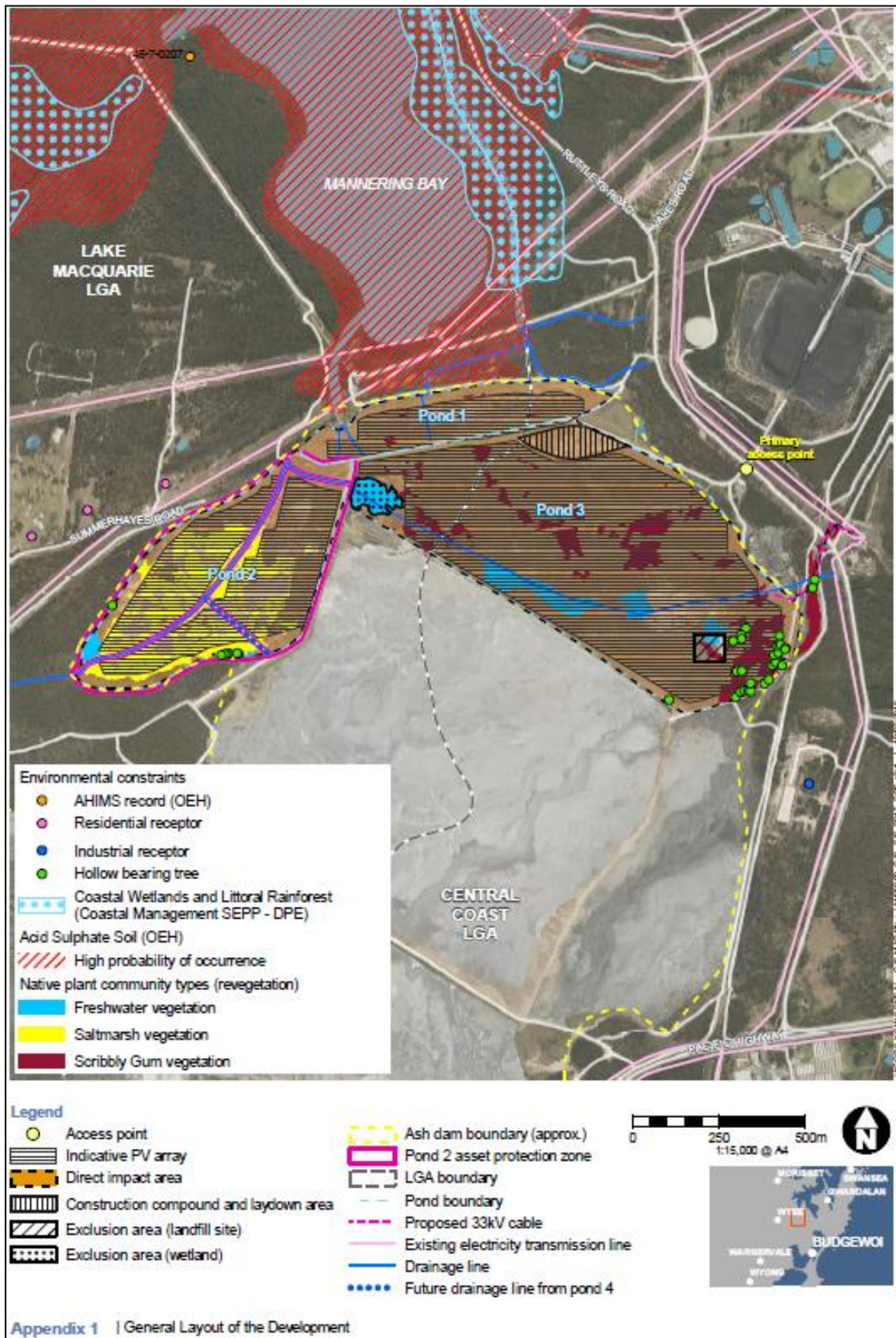
Within 3 months of commencing an Independent Environmental Audit, or unless otherwise agreed by the Secretary, a copy of the audit report must be submitted to the Secretary, and any other NSW agency that requests it, together with a response to any recommendations contained in the audit report, and a timetable for the implementation of the recommendations.

The recommendations must be implemented to the satisfaction of the Secretary.

ACCESS TO INFORMATION

6. The Applicant must:
- (a) make the following information publicly available on its website as relevant to the stage of the development:
 - the EIS;
 - the final layout plans for the development;
 - current statutory approvals for the development;
 - approved strategies, plans or programs required under the conditions of this consent;
 - the proposed staging plans for the development if the construction, operation or decommissioning of the development is to be staged;
 - how complaints about the development can be made;
 - a complaints register;
 - any independent environmental audit, and the Applicant's response to the recommendations in any audit; and
 - any other matter required by the Secretary; and
 - (b) keep this information up to date.

APPENDIX 1: GENERAL LAYOUT OF DEVELOPMENT



**APPENDIX 2:
SCHEDULE OF LAND**

Lot Number	Deposit Plan (DP)
150	755266
102	1170291
7077	1056107
1	1195160
7497	1165634
4	911564
7	915257
1	1166358
102	1196330
29A	755242
22	755242
12	1091396

Note: The project site will also be taken to include any crown land, including road reserves, contained within the project site.