

M1 Pacific Motorway Extension to Raymond Terrace

Conditions of Approval

Infrastructure approval

Section 5.19 of the *Environmental Planning & Assessment Act 1979*

I grant approval to the carrying out of the Critical State Significant Infrastructure (CSSI) referred to in Schedule 1, subject to the conditions in Schedule 2.

The Hon. Anthony Roberts MP
Minister for Planning

Sydney

2022

SCHEDULE 1

Application no.:	SSI 7319
Proponent:	Transport for NSW
Approval Authority:	Minister for Planning
Land:	Land between the M1 Pacific Motorway at Black Hill and the A1 Pacific Highway at Raymond Terrace.
Description of State Significant Infrastructure:	<p>The construction and operation of a new divided motorway between the M1 Pacific Motorway at Black Hill to the Pacific Highway at Raymond Terrace, including:</p> <ul style="list-style-type: none">• four interchanges located at Black Hill, Tarro, Tomago and Raymond Terrace;• a viaduct about 2.6 kilometres long across the Hunter River and floodplain;• bridge structures over local waterways at Tarro and Raymond Terrace, and an overpass for Masonite Road in Heatherbrae;• connections and modifications to the adjoining local road network, including upgrading and realignment of the New England Highway between John Renshaw Drive and Tarro;• realignment of the existing Pacific Highway near the Hunter Region Botanic Gardens with a new signalised intersection connecting to a new access road to the gardens; and• adjustment of waterways, including Purgatory Creek at Tarro and a tributary of Viney Creek.
Declaration as State Significant Infrastructure	<p>The proposal is Critical State Significant Infrastructure by virtue of Schedule 5, clause 1 of <i>State Environmental Planning Policy (Planning Systems) 2021</i>.</p>

CONSOLIDATED APPROVAL

The Department has prepared a consolidated version of the approval which is intended to include all modifications to the original determination instrument.

The consolidated version of the approval has been prepared by the Department with all due care. This consolidated version is intended to aid the approval holder by combining all approvals relating to the original determination instrument but it does not relieve an approval holder of its obligation to be aware of and fully comply with all approval obligations as they are set out in the legal instruments, including the original determination instrument and all subsequent modification instruments.

SUMMARY OF MODIFICATIONS

Application Number	Determination Date	Decider	Modification Description
SSI-7319-MOD-1	18 November 2024	Director	<ul style="list-style-type: none">• The names of government authorities in Table 1 of Schedule 2• Condition A19 has been amended from having two separate timing triggers for rehabilitating ancillary facilities to one timing trigger.• Condition E8 has been amended to remove the requirement for endorsement by BCS and Australian Government DCCEEW for amendments to biodiversity credits.• Conditions E12 and E13 to include timeframes for delivering offsets for residual impacts to Key Fish Habitat.• Condition E15 has been replaced to assume presence of the Estuary Cod, and to require appropriate mitigation measures to be implemented;• Condition E113 has been amended to require a 12-monthly reporting timeframe.• Condition E128 has been amended to provide for Interim Audit Advice to be provided prior to any site remediation, as an alternative to a Section B Site Audit Statement.• Conditions C5, C12, E3, E6, E7(d), E8, E10, E11, E12, E17, E39, E102 and E154 have been amended to reflect current government authority names.

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TERMS AND DEFINITIONS

The definitions in **Table 1** apply to terms used in this approval, unless otherwise stated or the context indicates otherwise.

Table 1: Terms and Definitions

Term	Definition
Aboriginal object	The same meaning as in the <i>National Parks and Wildlife Act 1974</i> (NSW).
AG DCCEEW	Australian Government Department of Climate Change, Energy, the Environment and Water
Ancillary facility	A temporary facility for construction of the CSSI including an office and amenities compound, construction compound, material crushing and screening plant, materials storage compound, maintenance workshop, testing laboratory, a fixed material stockpile area and carparking facilities. <i>Note: Where an approved CEMP contains a stockpile management protocol, a material stockpile area located within the construction boundary is not considered to be an ancillary facility.</i>
AS6	Ancillary facility 6 – as shown in Figure 5-25 of Appendix A of the Submissions Report.
At-property acoustic treatment	Includes courtyard walls and building treatments. Building treatments may include but are not limited to ventilation, acoustic blinds / curtains, glazing, window and door seals, sealing of vents or underfloor areas, shutters and secondary glazing.
BCS	Biodiversity, Conservation and Science Group of the NSW Department of Climate Change, Energy, the Environment and Water
CALD	Culturally and Linguistically Diverse
CEMP	Construction Environmental Management Plan
CLM Act	<i>Contaminated Land Management Act 1997</i> (NSW)
Completion of construction	The date upon which construction is completed and all construction-related requirements of the Planning Secretary (if any) have been met. If construction is staged, completion of construction is the date upon which construction is completed and all construction-related requirements of the Planning Secretary (if any) have been met, in respect of all stages of construction.
Construction	Includes all activities required to construct the CSSI as defined in the Project Description described in the documents listed in Condition A1 , including commissioning trials of equipment and temporary use of any part of the CSSI, but excludes Low Impact Work which is carried out or completed prior to approval of the CEMP and works approved under a Site Establishment Management Plan .
Construction Boundary	The area physically affected by work as described in the Project Description as described in documents listed in Condition A1 .

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Term	Definition
Consultation	<p>To provide information and actively engage with and obtain and consider feedback from stakeholders during development of post approval documents. How the feedback has been considered and whether any changes have been made in response to this feedback is then documented and communicated back to stakeholders. Consultation should not be limited to one-way notification about the project.</p> <p>This definition must inform the Communication Strategy required under Condition B1.</p>
CSSI	The Critical State Significant Infrastructure, as described in Schedule 1, the carrying out of which is approved under the terms of this approval.
Department / DPHI	Department of Planning, Housing and Infrastructure
Disturbance of land	Any activity that disturbs the ground surface to expose underlying soils or fill materials.
DLP	Design and Landscape Plan
DPIRD Fisheries	NSW Department of Primary Industries and Regional Development, Fisheries Division.
Dredging	Removal of the Hunter River bed sediments for the purposes of changing the river bathymetry
EIS	The Environmental Impact Statement referred to in Condition A1 , submitted to the Planning Secretary seeking approval to carry out the development described in it, and including any additional information provided by the Proponent in support of the application for approval of the project.
EMS	Environmental Management System
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i> (NSW)
EPA	NSW Environment Protection Authority
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Commonwealth)
EPL	Environment Protection Licence under the POEO Act
ER	The Environmental Representative(s) for the CSSI approved by the Planning Secretary.
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings.
Environmental Representative Protocol	<i>Environmental Representative Protocol</i> (Department of Planning and Environment, October 2018)
Ground intrusive	This does not include non-ground intrusive surveys (e.g. ground penetrating radar) and, if required, archaeological test investigations in accordance with the research design and methodology as detailed in the documents listed in Condition A1 .

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Term	Definition
Habitable Room	As defined in the <i>Floodplain Development Manual</i> (DIPNR, 2005): In a residential situation: a living or working area, such as a lounge room, dining room, rumpus room, kitchen, bedroom or workroom. In an industrial and commercial situation: an area used for office or to store valuable possessions susceptible to flood damage in the event of a flood.
Heavy Vehicle	Has the same meaning as in the <i>Heavy Vehicle National Law</i> (NSW).
Heritage Council	Heritage Council of NSW or its delegate
Heritage item	A place, building, work, relic, archaeological site, tree, movable object or precinct of heritage significance, that is listed under one or more of the following registers: the State Heritage Register under the <i>Heritage Act 1977</i> (NSW), a state agency heritage and conservation register under section 170 of the <i>Heritage Act 1977</i> (NSW), a Local Environmental Plan under the EP&A Act, the World, National or Commonwealth Heritage lists under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth), and an “Aboriginal object” or “Aboriginal place” as defined in section 5 of the <i>National Parks and Wildlife Act 1974</i> (NSW).
Heritage NSW	Heritage NSW, NSW Department of Climate Change, Energy, the Environment and Water
Highly noise affected	As defined in the <i>Interim Construction Noise Guideline</i> (DECC, 2009).
Highly noise intensive work	Work which is defined as annoying under the ICNG including: (a) use of power saws, such as used for cutting timber, rail lines, masonry, road pavement or steel work; (b) grinding metal, concrete or masonry; (c) rock drilling; (d) line drilling; (e) vibratory rolling; (f) bitumen milling or profiling; (g) jackhammering, rock hammering or rock breaking; and (h) impact piling.
ICNG	<i>Interim Construction Noise Guideline</i> (DECC, 2009)
Incident	An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance. Note: “material harm” is defined in this approval
IFIAP	Independent Flood Impact Advisory Panel
LALC(s)	Local Aboriginal Land Council(s)
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act.
Landowner	Has the same meaning as “owner” in the <i>Local Government Act 1993</i> and in relation to a building means the owner of the building.
Local road	Any road that is not defined as a classified road under the <i>Roads Act 1993</i> .
LOTE	Language Other than English

<p>Low Impact Work</p>	<p>Includes:</p> <ul style="list-style-type: none"> (a) surveys including carrying out general alignment surveys, installing survey controls (including installation of global positioning systems (GPS)), installing repeater stations, carrying out surveys of existing and future utilities, and building and road dilapidation surveys; (b) investigations including investigative drilling, contamination investigations and excavation; (c) use of minor ancillary facilities established under Condition A20 or if the ER has determined the operational activities will have minimal impact on the environment and community; (d) minor clearing and relocation of native vegetation, as identified in the documents listed in Condition A1; (e) installation of mitigation measures including erosion and sediment controls, temporary exclusion fencing for sensitive areas and at-property treatments, but excluding noise barriers; (f) property acquisition adjustment work including installation of property fencing, (g) relocation and connection of utilities where the relocation or connection has been determined by the ER to have a minor impact to the environment and the community; (h) archaeological testing under the <i>Code of practice for archaeological investigation of Aboriginal objects in NSW (DECCW, 2010)</i> or archaeological monitoring undertaken in association with (a) - (g) above to ensure that there is no impact on heritage items; (i) archaeological and cultural salvage undertaken in accordance with a strategy or salvage operation as detailed in the documents listed in Condition A1; (j) maintenance of existing buildings and structures required to facilitate the carrying out of the CSSI; (k) installation of temporary project information signage; and (l) other activities determined by the ER to have minor impact on the environment and the community, which may include but not be limited to construction of minor access roads, temporary relocation of pedestrian and cycle paths and bus stops, and the provision of property access. <p>Notwithstanding the following works are not Low Impact Work:</p> <ol style="list-style-type: none"> 1. where heritage items (excluding those impacted by activities in (h) and (i) above), or threatened species or threatened ecological communities (within the meaning of the <i>Biodiversity Conservation Act 2016</i> or <i>Environment Protection and Biodiversity Conservation Act 1999</i>) are affected or potentially affected by any low impact work, that work is construction, unless otherwise determined by the Planning Secretary, following consultation by the Proponent with Heritage NSW, BCS or DPIRD Fisheries (in the case of impact upon fish, aquatic invertebrates or marine vegetation) as relevant; and 2. any Work undertaken outside the hours defined in Condition E64 that exceeds noise management and vibration levels as identified in Condition E66(b). <p>The low impact work described in this definition becomes construction when the Construction Environmental Management Plan is approved. This also applies to low impact work that has already commenced.</p> <p>Notes:</p> <ol style="list-style-type: none"> 1. <i>Early stages of Work are not necessarily low impact work.</i> 2. <i>Low Impact work is not construction as defined by this approval.</i>
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Term	Definition
Material harm	This is harm that: <ul style="list-style-type: none"> (a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial; or (b) 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	NSW Minister for Planning
Minor Ancillary Facility	Worker amenities and the like that are not part of an ancillary facility site.
NorBE	Neutral or Beneficial Effect. This applies to developments in drinking water catchments. A development is considered to demonstrate NorBE if the development: <ul style="list-style-type: none"> (a) has no identifiable potential impact on water quality; or (b) will contain any water quality impact on the development site and prevent it from reaching any watercourse, waterbody or drainage depression on the site; or (c) will transfer any water quality impact outside the site where it is treated and disposed of to standards approved by the consent authority.
Night-time	The hours of 10:00 pm to 7:00 am weekdays, 10:00 pm to 8:00 am Saturday and 6:00 pm to 7:00 am Sunday and public holiday.
NML	Noise Management Level as defined in the <i>Interim Construction Noise Guideline</i> (DECC, 2009).
Non-compliance	An occurrence, set of circumstances or development that is a breach of this approval.
NSW WQO	<i>NSW Water Quality Objectives</i>
NRAR	<i>Natural Resources Access Regulator</i>
OEMP	Operational Environmental Management Plan
ONCR	Operational Noise Compliance Report
ONR	Operational Noise Review
Operation	The carrying out of the CSSI (whether in full or in part) upon the completion of construction, unless otherwise agreed by the Planning Secretary. Note: <i>There may be overlap between the carrying out of construction and operation if the phases of the development are staged. Commissioning trials of equipment and temporary use of any part of the CSSI are within the definition of construction.</i>
POEO Act	<i>Protection of the Environment Operations Act 1997</i> (NSW)
Planning Secretary	Planning Secretary of the Department (or nominee, whether nominated before or after the date on which this approval was granted).

CONSOLIDATED APPROVAL

Term	Definition
Places of cultural significance	Heritage places are areas of cultural significance which protect and promote cultural heritage values. They may be an area of significance to Aboriginal culture, include areas associated with a person or event in history, or include areas containing a building, place, feature, or landscape of cultural significance.
Proponent	The person identified as such in Schedule 1 of this approval and any other person carrying out any part of the CSSI from time to time.
QDLs	Quantitative Design Limits
Relic	Has the same meaning as the definition of the term in section 4 of the <i>Heritage Act 1977</i> (NSW).
RAPs	Registered Aboriginal Parties
Relevant council(s)	City of Newcastle and/or Port Stephens Council and/or Maitland City Council
Relevant roads authority	The same meaning as the roads authority defined in the <i>Roads Act 1993</i> (NSW).
Sensitive land use(s)	<p>Includes residences, educational institutions (including preschools, schools, universities, TAFE colleges), health care facilities (including nursing homes, hospitals), religious facilities (including churches), child care centres and passive recreation areas (including outdoor grounds used for teaching). Receivers that may be considered to be sensitive include commercial premises (including film and television studios, research facilities, entertainment spaces, temporary accommodation such as caravan parks and camping grounds, restaurants, office premises, and retail spaces) and industrial premises as identified by the Planning Secretary.</p> <p>Note: For the purpose of determining appropriate mitigation, a multistorey residential flat building must not be counted as one sensitive land use(s).</p>
SES	NSW State Emergency Services
SMART	Specific, Measurable, Achievable, Realistic, and Timely
Submissions Report	The Proponent's response to issues raised in submissions received in relation to the application for approval for the CSSI under the EP&A Act.
Traffic control devices	As defined in section 1.2 of the Guide to Traffic Management Part 10: Traffic Control and Communication Devices.
Tree	<p>Long-lived woody perennial plant greater than (or usually greater than) three metres in height with one or relatively few main stems or trunks (AS4373-2007 Pruning of amenity trees).</p> <p>This definition does not include trees used for production purposes such as but not limited to pine plantation trees and shown in Appendix C of this approval.</p>
TSC Act	<i>Threatened Species Conservation Act 1995</i>
Unexpected heritage find(s)	An object or place that is discovered during the carrying out of the CSSI and which may be a heritage item but was not identified in the documents listed in Condition A1 or suspected to be present. An unexpected heritage find does not include human remains.
Water Group	Water Group of the NSW Department of Climate Change, Energy, the Environment and Water

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Term	Definition
Work	Any physical activity for the purpose of the CSSI including construction, Low Impact Work, enabling works, utility works and site establishment activities but not including operational maintenance works.

SUMMARY OF REPORTING, NOTIFICATION AND APPROVAL REQUIREMENTS

Reports and notifications that must be provided to the Planning Secretary under the terms of this approval are listed in **Table 2**. Any appointments of persons requiring the Planning Secretary's approval are also listed. Note that under **Condition A7** of this approval the Proponent may seek the Planning Secretary's agreement to a later timeframe for submission (other than in relation to the immediate written notification of an incident required under **Conditions A39** and **A41**).

Where there is an inconsistency with the requirements of **Table 2** and any condition of approval, the condition of approval prevails.

Table 2: Reports, notifications and approval requests that must be submitted to the Planning Secretary

Condition	Report / Notification	Timing ¹	Purpose
Part A – Administrative			
A9 & A13	Staging Report	One month before commencement of construction (or operation if only staged operation is proposed) or the first of the proposed stages	Information
A17	Site Establishment Management Plan	One month before the installation of any ancillary facilities	Approval
A25/A26	Environmental Representative	One month before the commencement of work	Approval
A29(k)	Environmental Representative Monthly report	Within seven days following the end of each month for the duration of the ER's engagement	Information
A31 & A32	Notification of commencement	One month before the commencement of construction and operation	Information
A33	Independent Auditors	Prior to the commencement of an Independent Audit	Approval
A37	Independent Audit Reports	Within two months of undertaking the independent audit site inspection	Information
A39	Notification of incident	Immediately or within 24 hours of the Proponent becoming aware of an incident	Information
A41	Non-Compliance Notification	Within seven days after the Proponent becomes aware of any non-compliance	Information
Part B - Communication Information and Reporting			
B3	Communication Strategy	One month before the commencement of work	Approval
B11	Complaints Register	Upon request from the Planning Secretary	Information
Part C - Construction Environmental Management			
C4	CEMP and relevant Sub-plans	One month before the commencement of construction	Approval
C15 \ C16	Construction Monitoring Programs	One month before the commencement of construction	Approval
C18	Construction Monitoring Report	As specified in Construction Monitoring Programs	Information
Part D - Operation Environmental Management			

¹ Where a project is staged, all required approvals must be obtained before the commencement of the relevant stage.

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Condition	Report / Notification	Timing ¹	Purpose
D3	OEMP or EMS	One month before the commencement of operation	Information
Part E – Key Issues			
Biodiversity			
E2	Unexpected Finds Protocol for threatened species and threatened ecological communities	One month before the commencements of Work	Approval
E8	Amendments to ecosystem and species credits	Within six months of determining the final construction footprint, and where the CSSI is staged, within six months of each stage	Approval
E11	Credit Retirement Report	One month of receiving the report	Information
E11	Receipt confirming payment to Biodiversity Conservation Fund	Within one month of making the payment	Information
E11	Any correspondence from NPWS regarding credit retirements / payments	Within one month of receiving correspondence from NPWS	Information
E14	Receipt confirming payment to the DPI Fish Conservation Trust Fund	Within one month of making the payment	Information
E18	Record of trees removed and replaced	Made available to the Planning Secretary within one week of the request	Information
Design and Visual Amenity			
E24(c)	Design and Landscape Plan	One month before the commencement of permanent built work and/or landscaping	Approval
E29	Ongoing maintenance requirements	The date of transfer of the landscaped asset(s) to the relevant authority	Information
Flooding			
E38	Flood Design Report	One month before the commencement of construction	Information
E50	Ancillary Facility Flood Review Design	One month prior to establishing the ancillary facility	Information
E40	Flood Mitigation Report	Upon request, within two weeks of receiving the request	Information
E44	Independent Flood Impact Assessment Panel	Before the commencement of any works that have the potential to result in non-compliance with the QDLs	Approval
E45	Updated IFIAP Terms of Reference	Within two weeks of drafting the proposed changes to the Terms of Reference	Approval
E48	IFIAP recommendations / and evidence of the Proponent's implementation of this recommendation	Upon request from the Planning Secretary and within one week of receiving the request	Information

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Heritage			
E54	Aboriginal Cultural Heritage Excavation Report(s)	Within 12 months of the completion of the Aboriginal archaeological excavations (both test and salvage)	Information
E60	Heritage Report	12 months after the completion of archaeological excavation programs	Information
E61	Unexpected Heritage Finds and Humans Remains Procedure	One month before commencement of Work	Approval
Noise and Vibration			
E66(a)(ii)	Safety and Emergencies	On becoming aware of the need for emergency work	Information
E67	Out-of-Hours Work Protocol	Before the commencement of out-of-hours works	Approval
E71	Noise and Vibration Impact Statements	Upon request and within one week of the request	Information
E77	Out-of-Hours Works – Community Consultation on Respite	Prior to undertaking the work scheduled for the subject period	Information
E85	Blast Management Strategy	One month before the commencement of blasting	Information
E86	Independent and experienced noise specialist	One month before undertaking operational noise modelling	Approval
E86	Verification reports	Verification reports submitted as part of the relevant operational noise documentation	Information
E87	Traffic Noise Monitoring Program	Prior to undertaking noise monitoring and prior to commencing work in the vicinity of a noise monitoring location.	Approval
E89	Operational Noise Review	Prior to implementing at-property acoustic treatments mitigation	Information
E91	Report on non-implementation of operational noise mitigation measures	Before commencement of Work that would impact identified residences	Approval
E96	Operational Monitoring Report	One month prior to undertaking the monitoring	Approval
E98	Operational Noise Compliance Report	Within 90days of completing the operational monitoring	Information
E99	Updated Operational Noise Review	Within three months of completion of the 12 month operational noise validation required under Condition E95	Information

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Soils			
E118	Evidence of the EPA accredited Site Auditor review and interim audit advice or site audit statement	When the relevant plan or report is submitted to the Planning Secretary. Where the plan or report is not submitted, within two weeks of the advice/statement being received by the Proponent	Information
E123	Detailed Site Investigation Report	Upon request, within two weeks of receiving the request	Information
E129	Section A1 or A2 Site Audit Statement and accompanying Site Audit Report	After remediation and no later than prior to commencement of operation of the CSSI	Information
E131	Unexpected Finds Procedure for Contamination	One month before the commencement of Work	Approval
Sustainability			
E133	Evidence that 'Excellent' rating(s) has been achieved	Within 12 months of commencing of construction for the 'Design' rating;	Information
E133	Evidence that the 'Excellent' rating(s) has been achieved	Within 12 months of commencing of operation of the CSSI for the 'As built' rating	Information
E135	Justification where no water reuse options are available	Before the commencement of construction	Information
Traffic and Transport			
E136	Use of local roads for spoil haulage	Before the use of the local roads	Approval
E144	Road Safety Audits	Upon request of the Planning Secretary	Information

Note: *Table 2 is not a condition of this approval. If there is an inconsistency between a requirement in Table 2 and a requirement in a condition, the requirement of the condition prevails.*

SCHEDULE 2

PART A

ADMINISTRATIVE CONDITIONS

GENERAL

- A1 The Proponent must carry out the CSSI in accordance with the terms of this approval and generally in accordance with the:
- (a) *M1 Pacific Motorway extension to Raymond Terrace Environmental Impact Statement*, prepared by Transport for NSW and dated July 2021;
 - (b) *M1 Pacific Motorway extension to Raymond Terrace Submissions Report*, prepared by Transport for NSW and dated June 2022; and
 - (c) *Administrative modification of the Conditions of Approval for M1 Pacific Motorway extension to Raymond Terrace dated 29 August 2024*.
- A2 The CSSI must be carried out in accordance with all procedures, commitments, preventative actions, performance outcomes and mitigation measures set out in the documents listed in **Condition A1** unless otherwise specified in, or required under, this approval.
- A3 In the event of an inconsistency between:
- (a) the terms of this approval and any document listed in **Condition A1** inclusive, the terms of this approval will prevail to the extent of the inconsistency; and
 - (b) any document listed in **Condition A1** inclusive, the most recent document will prevail to the extent of the inconsistency.
- Note: For the purpose of this condition, there will be an inconsistency between a term of this approval and any document if it is not possible to comply with both the term and the document.*
- A4 The Proponent must comply with all written requirements or directions of the Planning Secretary, including in relation to:
- (a) the environmental performance of the CSSI;
 - (b) any document or correspondence in relation to the CSSI;
 - (c) any notification given to the Planning Secretary under the terms of this approval;
 - (d) any audit of the construction or operation of the CSSI;
 - (e) the terms of this approval and compliance with the terms of this approval (including anything required to be done under this approval);
 - (f) the carrying out of any additional monitoring or mitigation measures; and
 - (g) in respect of ongoing monitoring and management obligations, compliance with an updated or revised version of a guideline, protocol, Australian Standard or policy required to be complied with under this approval.
- A5 This approval lapses five years after the date on which it is granted, unless Work has physically commenced on or before that date.
- A6 References in the terms of this approval to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Australian Standards or policies in the form they are in as at the date of this approval, unless otherwise approved by the Planning Secretary.

TIMING

- A7 Any document that must be submitted or action taken within a timeframe specified in or under the terms of this approval may be submitted or undertaken within a later timeframe agreed in

writing with the Planning Secretary. This condition does not apply to the written notification required in respect of an incident or a non-compliance.

EVIDENCE OF CONSULTATION

A8 Where the terms of this approval require consultation to be undertaken, evidence of the consultation undertaken must be submitted to the Planning Secretary and **ER** (as relevant) with the corresponding documentation in accordance with the consultation procedures set out in the **Communication Strategy** required by **Condition B1**. The evidence must include:

- (a) documentation of the engagement with the identified party in the condition of approval that has occurred before submitting the document for approval;
- (b) a log of the dates of engagement or attempted engagement with the identified party;
- (c) documentation of the follow-up with the identified party where engagement has not occurred to confirm that they do not wish to engage or have not attempted to engage after repeated invitations;
- (d) outline of the issues raised by the identified party and how they have been addressed; and
- (e) a description of the outstanding issues raised by the identified party and the reasons why they have not been addressed.

Note: The **Communication Strategy** required by **Condition B1** should be used in conjunction with **Condition A8** to determine the level consultation and evidence required that is proportionate to the activity that will be undertaken.

STAGING

Staging the delivery of the CSSI

A9 The CSSI may be constructed and operated in stages (including but not limited to temporal, location or activity-based staging). Where staged construction and/or operation is proposed, a **Staging Report** (for either or both construction and operation as the case may be) must be prepared. The **Staging Report** must be endorsed by the **ER** and then submitted to the Planning Secretary for information no later than one month before the commencement of construction of the first of the proposed stages of construction (or if only staged operation is proposed, one month before the commencement of operation of the first of the proposed stages of operation).

Note: Unless otherwise specified in this approval, early works are a stage of construction unless considered to be Low Impact Work.

A10 The **Staging Report** must:

- (a) if staged construction is proposed, set out how the construction of the whole of the CSSI will be staged, including details of work and activities to be carried out in each stage and the general timing of when construction of each stage will commence and finish;
- (b) if staged operation is proposed, set out how the operation of the whole of the CSSI will be staged, including details of Work and other activities to be carried out in each stage and the general timing of when operation of each stage will commence and finish (if relevant);
- (c) specify how compliance with conditions will be achieved across and between each of the stages of the CSSI; and
- (d) set out mechanisms for managing any cumulative impacts arising from the proposed staging.

Note: A **Staging Report** may reflect the staged construction and operation of the project through geographical activities, temporal activities or activity-based contracting and staging.

A11 Where staging is proposed the CSSI must be staged in accordance with the **Staging Report**.

A12 Where staging is proposed, the terms of this approval that apply or are relevant to the Work or activities to be carried out in a specific stage must be complied with at the relevant time for that stage.

- A13 Where changes are proposed to the staging of construction or operation, a revised **Staging Report** must be prepared, endorsed by the **ER** and submitted to the Planning Secretary for information no later than one month before the proposed change in the staging.

Staging, Combining and Updating Strategies, Plans or Programs

- A14 Strategies, plans or programs required by this approval can be submitted on a progressive basis, with the agreement of the Planning Secretary.

With the agreement of the Planning Secretary, the Proponent may prepare the updated strategy, plan or program without undertaking all the consultation required under the applicable condition in this approval.

Notes:

1. While any strategy, plan or program may be submitted on a progressive basis, the Proponent must ensure that the existing operations on site are covered by suitable strategies, plans or programs at all times; and
2. If the submission of any strategy, plan or program is to be undertaken in a progressive manner, then the relevant strategy, plan or program must clearly describe the specific stage to which strategy, plan or program applies, the relationship of this stage to future stages, and the trigger for updating the strategy, plan or program.

ANCILLARY FACILITIES

Additional ancillary facilities

- A15 Ancillary facilities (excluding minor ancillary facilities established under **Condition A20**) that are not identified by description and location in the documents listed in **Condition A1** can only be established and used in each case if:

- (a) they are located within or immediately adjacent to the construction boundary; and
- (b) they are not located next to sensitive land use(s) (including where an access road is between the facility and the receiver), unless the landowner and occupier have given written acceptance to the carrying out of the relevant facility in the proposed location; and
- (c) they have no impacts on heritage items (including areas of archaeological sensitivity), threatened species, populations or ecological communities beyond the impacts approved under the terms of this approval; and
- (d) the establishment and use of the facility can be carried out and managed within the outcomes set out in the terms of this approval, including in relation to environmental, social and economic impacts.

Locations of Batch Plants

- A16 Asphalt and/or concrete batch plants must not be located within Ancillary Site 4 (AS4) as shown in Figure 5-25 of Appendix A of the Submissions Report as listed in **Condition A1(b)**.

SITE ESTABLISHMENT WORK

Ancillary Facility Site Establishment Management Plan

- A17 Before establishment of any ancillary facility that is required before the approval of a **CEMP** (excluding minor ancillary facilities established under **Condition A20**), the Proponent must prepare a **Ancillary Facility Site Establishment Management Plan** which outlines the environmental management practices and procedures to be implemented for the establishment of the ancillary facility(ies). The **Ancillary Facility Site Establishment Management Plan** must be prepared in consultation with the relevant council and government agencies. The Plan must be endorsed by the **ER** and then submitted to the Planning Secretary for approval one month before the establishment of any ancillary facility(ies). The **Ancillary Facility Site Establishment Management Plan** must detail the management of the ancillary facilities and include:

- (a) a description of activities to be undertaken during establishment of the ancillary facility (including scheduling and duration of work to be undertaken at the site);

- (b) figures illustrating the proposed operational site layout and the location of the closest sensitive land use(s);
- (c) a program for ongoing analysis of the key environmental risks arising from the site establishment activities described in subsection (a) of this condition, including an initial risk assessment undertaken before the commencement of site establishment work;
- (d) details of how the site establishment activities described in subsection (a) of this condition will be carried out to:
 - (i) meet the performance outcomes stated in the documents listed in **Condition A1**, and
 - (ii) manage the risks identified in the risk analysis undertaken in subsection (c) of this condition; and
- (e) a program for monitoring the performance outcomes, including a program for noise monitoring during site establishment works.

Nothing in this condition prevents the Proponent from preparing individual **Ancillary Facility Site Establishment Management Plans** for each ancillary facility.

Note: *This plan is only needed before a **CEMP** is approved. Once a **CEMP** is approved, an **Ancillary Facility Site Establishment Management Plan(s)** is not required and any ancillary facilities not approved under an **Ancillary Facility Site Establishment Management Plan** must be included in the **CEMP**.*

Use of and Decommissioning of an Ancillary Facility

- A18 An ancillary facility established under **Condition A17** must not be used for construction until either the **CEMP** required by **Condition C1**, relevant **CEMP Sub-plans** required by **Condition C5** and relevant **Construction Monitoring Programs** required by **Condition C12** have been approved by the Planning Secretary.
- A19 Once an ancillary facility is no longer required for the CSSI, the land must be returned to its pre-existing or better condition within two years of operation or unless otherwise agreed with the Planning Secretary.

Note: *Refer to **Condition A12** regarding the implementation of condition requirements where operation is staged.*

Minor Ancillary Facilities

- A20 Minor Ancillary Facilities can be established and used where they have been assessed in the documents listed in **Condition A1** or satisfy the following criteria:
- (a) are located within or immediately adjacent to the construction boundary; and
 - (b) have been assessed by the **ER** to have -
 - (i) minimal amenity impacts to surrounding residences and businesses, after consideration of matters such as compliance with the *Interim Construction Noise Guideline* (DECC, 2009) (ICNG), traffic and access impacts, dust and odour impacts, and visual (including light spill) impacts, and
 - (ii) minimal environmental impact with respect to waste management and flooding, and
 - (iii) no impacts on biodiversity, soil and water, and heritage items beyond those already approved under other terms of this approval.

Boundary screening

- A21 Boundary screening must be erected between ancillary facilities and adjacent to sensitive land use(s) for the duration of the time that the ancillary facility is in use unless otherwise agreed with owner(s) and occupier(s) of the adjacent sensitive land use(s).

Boundary screening should minimise visual impacts on adjacent sensitive land use(s).

INDEPENDENT APPOINTMENTS

- A22 All **Independent Appointments** required by the terms of this approval must have regard to *Seeking approval from the Department for the appointment of independent experts* (DPIE, 2020)

and hold current membership of a relevant professional body, unless otherwise agreed by the Planning Secretary.

- A23 The Planning Secretary may at any time commission an audit of how an **Independent Appointment** has exercised their functions. The Proponent must:
- (a) facilitate and assist the Planning Secretary in any such audit; and
 - (b) make it a term of their engagement of an **Independent Appointment** that the **Independent Appointment** facilitate and assist the Planning Secretary in any such audit.
- A24 The Planning Secretary may withdraw its approval of an **Independent Appointment** should they consider the **Independent Appointment** has not exercised their functions in accordance with this approval.

Note: *Conditions A23 and A24 apply to all Independent Appointments including the ER.*

ENVIRONMENTAL REPRESENTATIVE

- A25 Work must not commence until an **Environmental Representative (ER)** has been nominated by the Proponent and approved by the Planning Secretary.
- A26 The Planning Secretary's approval of an **ER** must be sought no later than one month before the commencement of Work.
- A27 The proposed **ER** must meet the requirements of the *Environmental Representative Protocol* (Department of Planning and Environment, October 2018) and must be a suitably qualified and experienced person(s) who was not involved in the preparation of the documents listed in **Condition A1**, and is independent from the design and construction personnel for the CSSI and those involved in the delivery of it.
- A28 More than one **ER** may be engaged for the CSSI, in which case the functions to be exercised by an **ER** under the terms of this approval may be carried out by any **ER** that is approved by the Planning Secretary for the purposes of the CSSI.
- A29 For the duration of the Work until the completion of construction, or as agreed with the Planning Secretary, the approved **ER** must:
- (a) receive and respond to communication from the Planning Secretary in relation to the environmental performance of the CSSI;
 - (b) consider and inform the Planning Secretary on matters specified in the terms of this approval;
 - (c) consider and recommend to the Proponent any improvements that may be made to work practices to avoid or minimise adverse impact to the environment and to the community;
 - (d) review documents identified in **Conditions A9, A17, C1, C5 and C12** and any other documents that are identified by the Planning Secretary, to ensure they are consistent with requirements in or under this approval and if so:
 - (i) make a written statement to this effect before submission of such documents to the Planning Secretary (if those documents are required to be approved by the Planning Secretary); or
 - (ii) make a written statement to this effect before the implementation of such documents (if those documents are required to be submitted to the Planning Secretary / Department for information or are not required to be submitted to the Planning Secretary/Department);
- Note:** *The written statement must be made via the Major Projects Portal.*
- (e) regularly monitor the implementation of the documents listed in **Conditions A9, A17, C1, C5 and C12** to ensure implementation is being carried out in accordance with the document and the terms of this approval;
 - (f) as may be requested by the Planning Secretary, help plan or attend audits of the development commissioned by the Department including scoping audits, programming

- audits, briefings and site visits, but not independent environmental audits required under **Condition A34** of this approval;
- (g) as may be requested by the Planning Secretary, assist in the resolution of community complaints;
 - (h) review the appropriateness of any activities reliant on the definition of **Low Impact Work**;
 - (i) consider or assess the impacts of minor ancillary facilities as required by **Condition A20**;
 - (j) consider any minor amendments to be made to the **Ancillary Facility Site Establishment Management Plan, CEMP, CEMP Sub-plans** and **Construction Monitoring Programs** that do not increase impacts to nearby sensitive land use(s) or that comprise updating or are of an administrative nature, and are consistent with the terms of this approval and the **Ancillary Facility Site Establishment Management Plan, CEMP, CEMP Sub-plans** and **Construction Monitoring Programs** approved by the Planning Secretary and, if satisfied such amendment is necessary, approve the amendment. This does not include any modifications to the terms of this approval; and
 - (k) prepare and submit to the Planning Secretary and other relevant regulatory agencies (where requested by those agencies), for information, an **Environmental Representative Monthly Report** providing the information set out in the Environmental Representative Protocol under the heading "Environmental Representative Monthly Reports." **The Environmental Representative Monthly Report** must be submitted within seven days following the end of each month for the duration of the ER's engagement for the CSSI, or as otherwise agreed by the Planning Secretary.
- A30 The Proponent must provide the **ER** with documentation requested in order for the **ER** to perform their functions specified in **Condition A29** (including preparation of the **ER** monthly report), as well as:
- (a) the complaints register (to be provided on a weekly basis or as requested where complaints have been received); and
 - (b) a copy of any assessment carried out by the Proponent of whether proposed Work is consistent with the approval (which must be provided to the **ER** before the commencement of the subject Work).

Note: *Personal details of the complainant are not to be provided to the **ER** unless otherwise agreed to or requested by the complainant.*

NOTIFICATION OF COMMENCEMENT

- A31 The Planning Secretary must be notified in writing of the dates of commencement of construction and operation at least one month before those dates.
- A32 If the construction or operation of the CSSI is to be staged, the Planning Secretary must be notified in writing at least one month before the proposed commencement of each stage, of the date of the commencement of the relevant works, construction and operation.

AUDITING

- A33 Proposed independent auditors must be approved by the Planning Secretary before the commencement of an **Independent Audit**. This condition does not apply to the engagement of auditors required under **Condition E144**.
- A34 **Independent Audits** of the CSSI must be conducted and carried out in accordance with the *Independent Audit Post Approval Requirements* (DPIE, 2020).

- A35 The Planning Secretary may require the initial and subsequent **Independent Audits** to be undertaken at different times to those specified above, upon giving at least four weeks' notice (or timing as stipulated by the Planning Secretary) to the Proponent of the date upon which the audit must be commenced.
- A36 In accordance with the specific requirements in the *Independent Audit Post Approval Requirements* (DPIE, 2020), the Proponent must:
- (a) review and respond to each **Independent Audit Report** prepared under **Condition A34** or **Condition A35**;
 - (b) submit the response to the Planning Secretary; and
 - (c) make each **Independent Audit Report** and response to it publicly available two months after submission to the Planning Secretary, or as otherwise agreed by the Planning Secretary.
- A37 **Independent Audit Reports** and the Proponent's response to audit findings must be submitted to the Planning Secretary within two months of undertaking the independent audit site inspection as outlined in the *Independent Audit Post Approval Requirements* (DPIE, 2020).
- A38 Notwithstanding the requirements of the *Independent Audit Post Approval Requirements* (DPIE, 2020), the Planning Secretary may approve a request for ongoing independent operational audits to be ceased, where it has been demonstrated to the Planning Secretary's satisfaction that independent operational audits have demonstrated operational compliance.

INCIDENT AND NON-COMPLIANCE NOTIFICATION AND REPORTING

Incident Notification, Reporting and Response

- A39 The Planning Secretary must be notified via the Major Projects Website immediately or within 24 hours after the Proponent becomes aware of an incident. The notification must identify the CSSI (including the application number and the name of the CSSI if it has one) and set out the date, time, location and nature of the incident.
- A40 Subsequent written notification must be given and reports submitted in accordance with the requirements set out in **Appendix A** of this approval.

Non-Compliance Notification

- A41 The Planning Secretary must be notified via the Major Projects Website within seven days after the Proponent becomes aware of any non-compliance. The notification must identify the CSSI (including the application number and the name of the CSSI if it has one), set out the condition/s that is non-compliant, the nature of the breach, the reason for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.
- A42 A non-compliance which has been notified as an incident under **Condition A39** does not need to also be notified as a non-compliance.

IDENTIFICATION OF ANCILLARY FACILITIES

- A43 The CSSI name, application number, and telephone number, postal address and email address required under **Condition B8** of this approval must be made available on site-boundary fencing / hoarding at each ancillary facility before the commencement of construction. This information must also be provided on the website required under **Condition B12** of this approval.

PART B

COMMUNITY INFORMATION AND REPORTING

COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT

Communication Strategy

B1 A **Communication Strategy** must be prepared to provide mechanisms to facilitate communication about construction and operation of the CSSI with:

- (a) the community (including adjoining affected landowners and businesses, and others directly impacted by the CSSI);
- (b) Registered Aboriginal Parties (RAPs) and LALCs; and
- (c) the relevant councils and relevant government agencies.

B2 The **Communication Strategy** must:

- (a) identify people, organisations, relevant councils and government agencies to be consulted during the design and work phases of the CSSI;
- (b) address how the Proponent will engage with the people, organisations and relevant councils and government agencies;
- (c) address how the requirements of **Condition A8** will be met;
- (d) identify details of the community demographics;
- (e) identify timing of any consultation;
- (f) set out procedures and mechanisms for the regular distribution of accessible information including to LOTE and CALD and other vulnerable and marginalised groups or communities about or relevant to the CSSI;
- (g) identify opportunities for education within the community about construction sites;
- (h) detail the measures for advising the community in advance of upcoming construction including upcoming out-of-hours work as required by **Condition E77** and blasting activities (if proposed);
- (i) identify the mechanisms for engaging with the community to determine periods of respite, as required by **Condition E77**;
- (j) provide for the formation of issue or location-based community forums that focus on key environmental management issues of concern to the relevant community(ies) for the CSSI; and
- (k) set out procedures and mechanisms:
 - (i) through which the community can discuss or provide feedback to the Proponent;
 - (ii) through which the Proponent will respond to enquiries or feedback from the community; and
 - (iii) to resolve any issues and mediate any disputes that may arise in relation to the environmental management and delivery of the CSSI, including disputes regarding rectification or compensation.

B3 The **Communication Strategy** must be submitted to the Planning Secretary for approval no later than one month before the commencement of any Work.

B4 Work for the purposes of the CSSI must not commence until the **Communication Strategy** has been approved by the Planning Secretary.

B5 The **Communication Strategy**, as approved by the Planning Secretary, must be implemented for the duration of work and for 12 months following the completion of construction.

Public Liaison Officer

B6 A **Public Liaison Officer(s)** must be appointed to assist the public with questions and complaints they may have at any time during Work. The **Public Liaison Officer(s)** must be available at all times that Work is occurring.

COMPLAINTS MANAGEMENT SYSTEM

- B7 A **Complaints Management System** must be prepared and implemented before the commencement of any Work and maintained for the duration of Work and for a minimum for 12 months following completion of construction of the CSSI.

Note: *In the situation where there are different entities constructing and operating the CSSI, continuity of access to the Complaints Management System must be maintained.*

- B8 The following information must be available to facilitate community enquiries and manage complaints one month before the commencement of Work and for 12 months following the completion of construction:

- (a) a 24- hour telephone number for the registration of complaints and enquiries about the CSSI;
- (b) a postal address to which written complaints and enquires may be sent;
- (c) an email address to which electronic complaints and enquiries may be transmitted; and
- (d) a mediation system for complaints unable to be resolved.

This information must be accessible to all in the community regardless of age, ethnicity, disability or literacy level and must be provided on the website required under **Condition B12**.

- B9 A **Complaints Register** must be maintained and record information on all complaints received about the CSSI during the carrying out of any Work and for a minimum of 12 months following the completion of construction. The **Complaints Register** must record the:

- (a) number of complaints received;
- (b) the date and time of the complaint;
- (c) the method by which the complaint was made;
- (d) any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
- (e) nature of the complaint;
- (f) means by which the complaint was addressed and whether resolution was reached, with or without mediation; and
- (g) if no action was taken, the reason(s) why no action was taken.

Note: *Personal details of the complainant are not to be provided to the ER unless otherwise agreed to or requested by the complainant.*

- B10 Complainants must be advised of the following information before, or as soon as practicable after, providing personal information:

- (a) the Complaints Register may be forwarded to government agencies, including the Department (Department of Planning and Environment, 4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150), to allow them to undertake their regulatory duties;
- (b) by providing personal information, the complainant authorises the Proponent to provide that information to government agencies;
- (c) the supply of personal information by the complainant is voluntary; and
- (d) the complainant has the right to contact government agencies to access personal information held about them and to correct or amend that information (Collection Statement).

The **Collection Statement** must be included on the website required under **Condition B12** to make prospective complainants aware of their rights under the *Privacy and Personal Information Protection Act 1998* (NSW).

Note: *Should a complainant disagree with the Collection Statement, a note to that effect must be recorded in the Complaints Register.*

- B11 The **Complaints Register** must be provided to the Planning Secretary upon request, within the timeframe stated in the request.

PROVISION OF ELECTRONIC INFORMATION

B12 A website or webpage providing easily accessible information in relation to the CSSI must be established before commencement of Work and be maintained for the duration of Work, and for a minimum of 24 months following the completion of construction unless an alternative timeframe is agreed by the Planning Secretary. The following up-to-date information (excluding confidential, personal, commercial information or any other information that the Planning Secretary has approved to be excluded) must be published before the relevant Work commences and maintained on the website or dedicated pages including:

- (a) information on the current implementation status of the CSSI;
- (b) a copy of the documents listed in **Condition A1**, and any documentation relating to any modifications made to the CSSI or the terms of this approval;
- (c) a copy of this approval in its original form, a current consolidated copy of this approval (that is, including any approved modifications to its terms), and copies of any approval granted by the Minister to a modification of the terms of this approval;
- (d) a copy of each statutory approval, licence or permit required and obtained in relation to the CSSI;
- (e) a copy of the final version of each document required under the terms of this approval; and
- (f) a copy of the audit reports required under this approval.

Where the information / document relates to a particular Work or is required to be implemented, it must be published before the commencement of the relevant Work to which it relates or before its implementation.

All information required in this condition must be provided on the website, ordered in a logical sequence and easy to navigate.

Notes:

1. *The intention of this condition is to increase transparency and for information/documents required as part of the approval to be provided proactively and publicly in an easily accessible manner. Where information is excepted by this condition, it is intended that these documents are provided in their redacted form.*
2. *The Planning Secretary may instruct the Proponent to finalise and upload any report or documents to the Project's website in accordance with **Condition A4**.*

B13 Where the agreement of the Planning Secretary is sought to cease providing information via a website or webpage in accordance with **Condition B12**, the Proponent must demonstrate:

- (a) operational compliance through independent audits completed in accordance with **Condition A38**; and
- (b) how the public can request access to information that will no longer be available through a website or webpage.

PART C

CONSTRUCTION ENVIRONMENTAL MANAGEMENT

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

Construction Environmental Management Plan

- C1 A **Construction Environmental Management Plan (CEMP)** must be prepared having regard to the *Environmental Management Plan Guideline for Infrastructure Projects* (Department of Planning, Industry and Environment, 2020).
- C2 The **CEMP** must provide:
- (a) a description of activities to be undertaken during construction (including the scheduling of construction);
 - (b) details of environmental policies, guidelines and principles to be followed in the construction of the CSSI;
 - (c) a program for ongoing analysis of the key environmental risks arising from the activities described in subsection (a) of this condition, including an initial risk assessment undertaken before the commencement of construction of the CSSI;
 - (d) details of how the activities described in subsection (a) of this condition will be carried out to:
 - (i) meet the performance outcomes stated in the documents listed in **Condition A1**; and
 - (ii) manage the risks identified in the risk analysis undertaken in subsection (c) of this condition;
 - (e) an inspection program detailing the activities to be inspected and frequency of inspections;
 - (f) a protocol for managing and reporting any:
 - (i) incidents; and
 - (ii) non-compliances with this approval or statutory requirements;
 - (g) procedures for rectifying any non-compliance with this approval identified during compliance auditing, incident management or at any time during construction;
 - (h) a list of all the **CEMP Sub-plans** required in respect of construction, as set out in **Condition C5**. Where staged construction of the CSSI is proposed, the **CEMP** must also identify which **CEMP Sub-plan** applies to each of the proposed stages of construction;
 - (i) an organisational chart including description of the roles and environmental responsibilities for relevant employees and any independent appointments;
 - (j) include a Worker Code of Conduct for CSSI employees, contractors and subcontractors. The Code of Conduct will include behaviour towards local people and address the gendered impacts of the project personnel;
 - (k) for training and induction for employees, including contractors and sub-contractors, in relation to environmental and compliance obligations under the terms of this approval; and
 - (l) for periodic review and update of the **CEMP** and all associated plans and programs.

Note: *CEMP(s) may reflect the staged construction of the project through geographical activities, temporal activities or activity-based contracting and staging.*

- C3 **CEMP(s)** (and relevant **CEMP Sub-plans**) must be submitted to the Planning Secretary for approval.
- C4 Where a **CEMP** (and relevant **CEMP Sub-plans**) requires Planning Secretary's approval, the **CEMP** (and relevant **CEMP Sub-plans**) must be endorsed by the **ER**. The endorsed CEMP (and relevant sub-plans) must be submitted to the Planning Secretary for approval no later than one month before the commencement of construction, or where construction is staged, no later than one month before the commencement of each stage.

- C5 The following **CEMP Sub-plans** must be prepared in consultation with the relevant government agencies and councils identified for each **CEMP Sub-plan**. Details of all information requested by an agency during consultation must be provided to the Planning Secretary as part of any submission of the relevant **CEMP Sub-plan**, including copies of all correspondence from those agencies as required by **Condition A8**.

	Required CEMP Sub-plan	Relevant government agencies and councils to be consulted for each CEMP Sub-plan
(a)	Traffic, transport and access	Relevant council(s)
(b)	Noise and vibration	Relevant council(s)
(c)	Flora and Fauna	AG DCCEEW, DPIRD Fisheries, Water Group, BCS, and relevant council(s)
(d)	Flooding	BCS (flooding unit), relevant council(s)
(e)	Air quality (including odour)	Relevant council(s)
(f)	Soils and surface water (including contaminated lands and acid sulfate soils)	NSW DCCEEW Water, BCS, Hunter Water (if Hunter Water's assets are affected) and relevant council(s)
(g)	Groundwater	Water Group, BCS, Hunter Water (where it is proposed to discharge groundwater into Hunter Water's assets) and relevant council(s)
(h)	Aboriginal Heritage	Heritage NSW, RAPs, Local Aboriginal Land Council, relevant council(s)
(i)	Non-Aboriginal heritage	Relevant council(s)
(j)	Dredging and Disposal	DPIRD Fisheries, EPA

Notes:

- CEMP Sub-plan(s)** may reflect the staged construction of the project through geographical activities, temporal activities or activity-based contracting and staging.
- Nothing in this condition prevents the Proponent from combining any of the above **CEMP Sub-plans**.
- Where reviewed by an EPA accredited Site Auditor, the Planning Secretary will consider Interim Audit Advice or a Section B Site Audit Statement provided with CEMP sub-plans for approval.
- The Flora and Fauna CEMP Sub-Plan** must be consistent with goals and objectives, mitigation measures and monitoring requirements of the Commonwealth approved conservation advice and any Recovery Plans for all Matters of National Environmental Significance.

- C6 The **CEMP Sub-plans** must state how:

- the environmental performance outcomes identified in the documents listed in **Condition A1** will be achieved;
- the mitigation measures identified in the documents listed in **Condition A1** will be implemented;
- the relevant terms of this approval will be complied with; and
- issues requiring management during construction (including any trigger levels and cumulative impacts), as identified through ongoing environmental risk analysis, will be managed through SMART principles.

- C7 The **Dredging and Disposal CEMP Sub-Plan** must include, but not be limited to:

- dredging design;
- dredge soil information, including contaminated sediments and acid sulfate soils;
- anticipated dredging quantities according to material type;
- proposed dredging equipment;
- work methods for dredging and disposal;
- sequence of the works;
- dredge positioning, control and calibration;
- storage and disposal areas for dredged material;
- environmental control and mitigation measures to be implemented to reduce potential noise, water quality, odour and aquatic ecological impacts;

- (j) specific and measurable reporting triggers levels that once exceeded require investigative works and the implementation of reactive measures to be undertaken;
- (k) specific contingency mitigation measures that can be deployed rapidly and effectively in the event offensive odour is detected at sensitive receptors;
- (l) a trigger action response protocol setting out the monitoring methods, management action and mitigation measures to be implemented to ensure that suspended sediment concentrations do not extend beyond the immediate vicinity of dredging activities. The approach must specify when dredging will cease based on the results of real-time and visual monitoring;
- (m) unexpected find protocol(s);
- (n) methods for rehabilitation of subtidal and intertidal areas impacted in the Hunter River and surrounding areas; and
- (o) evidence that an EPA accredited Site Auditor has reviewed the contamination management component of the **Dredging and Disposal CEMP Sub-plan** and has issued an Interim Audit Advice or a Section B Site Audit Statement certifying that the contamination management component of the Sub-plan is appropriate to manage contaminated sediments, water and other material to complete dredging and disposal in an environmentally acceptable manner, including consideration of the potential for off-site impacts.

The **Dredging and Disposal CEMP Sub-plan** must be submitted to the Planning Secretary for approval as part of the **CEMP** once the Interim Audit Advice or a Section B Site Audit Statement has been issued. The Interim Audit Advice /Section B Audit Statement must be submitted to the Planning Secretary for information with the sub-plan.

Note: *If dredging is not proposed, the requirements of **Conditions C5(j), C6 and C7** do not apply.*

C8 The **Noise and Vibration CEMP Sub-plan** must include, but not be limited to:

- (a) details of all sensitive land use(s) (including noise and or vibration sensitive working areas such as operating theatres and precision laboratories) that are potentially exposed to construction noise and vibration;
- (b) Noise Catchment Areas (NCAs) identified in the EIS – these must be reviewed (and refined where required) to ensure that each catchment represents a similar acoustic environment. Additional noise monitoring must be carried out to confirm rating background levels, NMLs and existing traffic noise levels for the NCAs.
- (c) construction noise and vibration performance criteria for the CSSI;
- (d) details of mitigation and management measures and procedures that will be implemented to manage construction noise and vibration impacts;
- (e) construction timetabling, in particular construction activities outside of standard hours; and
- (f) measures to minimise cumulative construction impacts and the likelihood for construction fatigue from both concurrent activities and other projects in the area.

C9 The **Soil and Water CEMP Sub-Plan** must include and not be limited to:

- (a) monitoring requirements, management criteria and mitigation measures for managing water pollution risks associated with work in areas of potential and actual contamination, saline groundwaters, temporary construction dewatering and acid sulfate soils;
- (b) at source controls (e.g. covering of stockpiles, bunding, flow diversions);
- (c) options to avoid contaminated stormwater discharges (e.g. full capture and reuse where appropriate, tankering offsite, diverting contaminated stormwater to wastewater treatment plants);
- (d) additional or alternative treatment measures (e.g. increased sediment basin sizing);
- (e) predicted incidental groundwater take due to temporary construction dewatering activities, including any potential cumulative impacts; and
- (f) evidence that an EPA accredited Site Auditor has reviewed the contamination management component of the **Soil and Water CEMP Sub-plan** and has issued an interim audit advice or a Section B Site Audit Statement certifying that the contamination management component of the Sub-plan is appropriate to manage contaminated sediments, water and other material in an environmentally acceptable manner, including consideration of the potential for offsite impacts.

The **Soil and Water CEMP Sub-plan** must be submitted to the Planning Secretary for approval as part of the **CEMP**, once the Interim Audit Advice or a Section B Site Audit Statement has been issued. The Interim Audit Advice /Section B Audit Statement must be submitted for information to the Planning Secretary with the Sub-plan. A copy of the Sub-plan and Interim Audit Advice /Section B Audit Statement must be provided to the relevant council(s) for information.

- C10 Construction must not commence until the relevant **CEMP(s)** and **CEMP Sub-plans** applying to the construction activities to be undertaken have been approved by the Planning Secretary.
- C11 The **CEMP(s)** and **CEMP Sub-plans** as approved, including any minor amendments approved by the **ER**, must be implemented for the duration of construction.

CONSTRUCTION MONITORING PROGRAMS

- C12 The following **Construction Monitoring Programs (CMPs)** must be prepared in consultation with the relevant government agencies and council(s) identified for each to compare actual performance of construction of the CSSI against the performance predicted in the documents listed in **Condition A1** or in the **CEMP**:

	Required Construction Monitoring Programs	Relevant government agencies and councils to be consulted for each Construction Monitoring Program
(a)	Noise and Vibration	EPA and relevant council(s)
(b)	Surface Water	Water Group, EPA, (Hunter Water if any Hunter Water assets are impacted)
(c)	Dredging	DPIRD Fisheries, EPA
(d)	Fauna and Flora	BCS, AG DCCEEW and relevant council(s)

***Note:** The **Flora and Fauna Monitoring Program** must be consistent with goals and objectives, mitigation measures and monitoring requirements of the Commonwealth approved conservation advice and any Recovery Plans for all Matters of Environmental Significance.*

- C13 Each **CMP** must provide:
- (a) details of baseline data available;
 - (b) details of baseline data to be obtained and when;
 - (c) details of all monitoring of the project to be undertaken;
 - (d) the parameters of the project to be monitored;
 - (e) the frequency of monitoring to be undertaken;
 - (f) the location of monitoring;
 - (g) the reporting of monitoring results and analysis of results against relevant criteria;
 - (h) details of the methods that will be used to analyse the monitoring data;
 - (i) procedures to identify and implement additional mitigation measures where the results of the monitoring indicate unacceptable project impacts;
 - (j) a consideration of SMART principles; and
 - (k) any consultation to be undertaken in relation to the monitoring programs.
- C14 The **Dredging Monitoring Program** must include, but not be limited to:
- (a) the locations of sensitive aquatic habitats in the vicinity of dredging locations that are potentially sensitive to elevated suspended sediment concentrations (potential impact sites);
 - (b) proposed monitoring locations for impact sites and upstream and downstream of dredging operations;
 - (c) monitoring at a minimum of two locations 50 metres downstream and two locations 50 metres upstream of the dredging working area;
 - (d) proposed representative background monitoring locations;
 - (e) a protocol for developing a scientifically rigorous correlation between turbidity (Nephelometric Turbidity Units – NTU) and total suspended solids (mg/L) to allow for rapid

- and accurate confirmation of suspended sediment levels in the field to identify any differences between turbidity from dredging and local background turbidity levels;
- (f) a program for carrying out real-time turbidity monitoring (continuous logging) at the proposed monitoring locations to confirm contributions to total suspended sediment concentrations from dredging;
 - (g) a protocol for visual monitoring to ensure that visual surveillance for turbidity plumes occurs at all times during dredging by a person experienced in identifying turbidity plumes; and
 - (h) evidence that an EPA accredited Site Auditor has reviewed the contamination monitoring aspect of the **Dredging Monitoring Program** and has issued an Interim Audit Advice advising the Monitoring Program is appropriate should contaminated sediments potentially be extracted or disturbed.

Note: *If dredging is not proposed, the requirements of **Conditions C12(c), C13 and C14** do not apply.*

- C15 The **CMP** must be endorsed by the **ER**. The endorsed **CMP** must be submitted to the Planning Secretary for approval no later than one month before the commencement of construction, or where construction is staged, no later than one month before the commencement of each stage.
- C16 Construction must not commence until the relevant **CMPs** have been approved by the Planning Secretary and all relevant baseline data for the specific construction activity has been collected.
- C17 The **CMPs**, as approved, including any minor amendments approved by the **ER**, must be implemented for the duration of construction and for any longer period set out in the monitoring program or specified by the Planning Secretary, whichever is the greater.
- C18 The results of the **CMPs** must be submitted to the Planning Secretary, and relevant regulatory agencies, for information in the form of a **Construction Monitoring Report** at the frequency identified in the relevant **CMP**. The **Construction Monitoring Report(s)** must include an analysis of the results including, but not limited to, exceedances of relevant criteria/targets/goals, reasons for any exceedances, trends in the data, and maximum, minimum and average data results for all monitored parameters. The report must also detail any management and mitigation measures that were implemented to address exceedances during the reporting period.

Note: *Where a relevant **CEMP Sub-plan** exists, the relevant **Construction Monitoring Program** may be incorporated into that **CEMP Sub-plan**.*

PART D

OPERATIONAL ENVIRONMENTAL MANAGEMENT

OPERATIONAL ENVIRONMENTAL MANAGEMENT

- D1 An **Operational Environmental Management Plan (OEMP)** must be prepared having regard to the *Environmental Management Plan Guideline for Infrastructure Projects* (Department of Planning, Industry and Environment, 2020). The **OEMP** must detail how the performance outcomes, commitments and mitigation measures made and identified in the documents listed in **Condition A1** will be implemented and achieved during operation. **Condition D1** does not apply if **Condition D2** of this approval applies.
- D2 An **OEMP** is not required for the CSSI if the Proponent has a certified **Environmental Management System (EMS)** or equivalent as agreed with the Planning Secretary, and demonstrates, to the satisfaction of the Planning Secretary, that through the certified **EMS** or equivalent:
- (a) the performance outcomes, commitments and mitigation measures, made and identified in the documents listed in **Condition A1**, and specified relevant terms of this approval can be achieved;
 - (b) issues identified through ongoing risk analysis can be managed; and
 - (c) procedures are in place for rectifying any non-compliance with this approval identified during compliance auditing, incident management or any other time during operation.
- D3 The **OEMP** or evidence of ISO 14000 EMS certification or equivalent as agreed with the Planning Secretary, must be submitted to the Planning Secretary for information no later than one month before the commencement of operation.
- D4 The **OEMP** as submitted to the Planning Secretary and amended from time to time or certified **EMS** or equivalent as agreed with the Planning Secretary, must be implemented for the duration of operation and the **OEMP** or **EMS** certification or equivalent as agreed with the Planning Secretary must be made publicly available before the commencement of operation.

PART E

KEY ISSUE CONDITIONS

AIR QUALITY

- E1 In addition to the performance outcomes, commitments and mitigation measures specified in the documents listed in **Condition A1**, all reasonably practicable measures must be implemented to minimise the emission of dust and other air pollutants, including odours during the construction and operation of the CSSI.

BIODIVERSITY

Unexpected Finds Protocol

- E2 An **Unexpected Finds Protocol** must be developed for threatened species and threatened ecological communities before the commencement of Work. The **Unexpected Finds Protocol** must be submitted to the Planning Secretary for approval at least one month before the commencement of Work. Work cannot commence until the unexpected finds protocol is approved by the Planning Secretary. The **Unexpected Finds Protocol** must be implemented throughout the duration of Work.
- E3 On the discovery of potential or actual impacts to any threatened species or ecological communities not listed in **Condition E7**, all work in the associated location must stop to prevent further impact and the Planning Secretary and **BCS** notified. Work in the associated location is not to recommence until approval to recommence work in the associated location has been issued by the Planning Secretary in consultation with **BCS**.

Biodiversity Credits

- E4 Impacts to threatened species and threatened ecological communities exceeding those identified as impacted in the documents listed in **Condition A1** must not occur.
- E5 The clearing of native vegetation, in particular Koala habitat and mangroves, must be minimised with the objective of reducing impacts to threatened species and ecological communities and threatened species habitat.
- E6 A report on the final construction footprint demonstrating how clearing of native vegetation has been minimised, in particular Koala habitat and mangroves, must be provided to the Planning Secretary, **BCS** and **AG** DCCEEW for information, within 12 months of the commencement of construction.
- E7 The Proponent must meet the biodiversity offset obligations for ecosystem and species credits as set out in **Table 3** and **Table 4** within 12 months of the commencement of construction. The retirement of the biodiversity credits must be carried out in accordance with the *NSW Biodiversity Offsets Policy for Major Projects* and can be achieved by:
- (a) acquiring and retiring “biodiversity credits” within the meaning of the *Biodiversity Conservation Act 2016*; and/or
 - (b) properties secured with the NPWS, on the basis of a draft credit report to show what the property would provide and written confirmation from NPWS that the financial contributions for acquisition and management have been received; and/or
 - (c) making a payment into the Biodiversity Conservation Fund; and/or
 - (d) a Biodiversity Offset Strategy prepared in consultation with Biodiversity Conservation Trust, **BCS** and **AG** DCCEEW that provides supplementary measures or where the Proponent intends to utilise the biodiversity credit variation rules.

Notes:

1. Following repeal of the Threatened Species Conservation Act 1995 on 25 August 2017, "biodiversity credits" created under that Act are taken to be "biodiversity credits" under the Biodiversity Conservation Act 2016 by virtue of clause 19 of the Biodiversity Conservation (Savings and Transitional) Regulation 2017.
2. The determination of biodiversity credits under the Biodiversity Conservation Act 2016 that are reasonably equivalent to biodiversity credits created under the Threatened Species Conservation Act 1995 remaining to be retired must be carried out in accordance with clause 22 of the Biodiversity Conservation (Savings and Transitional) Regulation 2017.
3. The timing triggers of this condition does not apply should impacts occur to threatened species and ecological communities and threatened species habitat from Low Impact Work.

Table 3: Ecosystem Credits to be Retired

Ecosystem Credits		
Plant Community Type (PCT) ID and name	Amended construction footprint (hectares)	Number of Credits
1590: Spotted Gum – Broad-leaved Mahogany – Red Ironbark shrubby open forest	40.93	2274
1588: Grey Ironbark – Broad-leaved Mahogany – Forest Red Gum shrubby open forest on Coastal Lowlands of the Central Coast	7.74	497
1646: Smooth-barked Apple - Blackbutt – Old Man Banksia woodland on coastal sands of the Central and Lower North Coast	27.73	1383
1649: Smooth-barked Apple – Red Mahogany – Swamp Mahogany – <i>Melaleuca sieberi</i> heathy swamp woodlands of coastal lowlands	1.33	70
1598: Forest Red Gum grassy open forest on floodplains of the lower Hunter	0.51	31
1716: Prickly-leaved Paperbark Forest on coastal lowlands of the Central Coast and Lower North Coast	1.88	107
1717: Broad-leaved Paperbark - Swamp Mahogany – Swamp Oak – Saw Sedge swamp forest of the Central Coast and Lower North Coast	10.56	473
1724: Broad-leaved Paperbark - Swamp Oak – Saw Sedge swamp forest on coastal lowlands of the Central Coast and Lower North Coast	1.64	77
1727: Swamp Oak – Sea Rush – <i>Baumea juncea</i> swamp forest on coastal lowlands of the Central Coast and Lower North Coast	8.84	427
1736: Water Couch – Tall Spike Rush freshwater wetland of the Central Coast and lower Hunter	59.21	2311
1742: Jointed Twig-rush sedgeland	1.79	122
1071: <i>Phragmites australis</i> and <i>Typha orientalis</i> coastal freshwater wetlands of the Sydney Basin Bioregion	8.05	340
TOTAL ECOSYSTEM CREDITS	170.21	8111

Notes:

1. Credits have been calculated using the Framework for Biodiversity Assessment.
2. Includes credits required under the Environment Protection and Biodiversity Conservation Act 1999.

Table 4: Species Credits to be Retired

Species	Loss of habitat (ha) or individuals	Number of Credits
<i>Eucalyptus parramattensis</i> subsp. <i>decadens</i>	34 plants	476
<i>Diuris arenaria</i>	206 plants	15,862
<i>Callistemon linearifolius</i>	159 plants	2,226
<i>Persicaria elatior</i>	3 plants	39
Australasian Bittern	43.74 ha	569
Black Bittern	51.74 ha	673
Koala	89.1 ha	2,317
Wallum Froglet	3.1 ha	40
Mahony's Toadlet	3.1 ha	40
TOTAL SPECIES CREDITS		22,242

Notes:

- Credits have been calculated using the Framework for Biodiversity Assessment.
- Includes credits required under the Environment Protection and Biodiversity Conservation Act 1999.

- E8 The Proponent may review and update the ecosystem and species credit requirements in **Table 3** and **Table 4** to reflect the final construction footprint and resulting extent and type of plant community types to be cleared and the extent of threatened species habitat impacted by the construction of the CSSI. Amendments to the ecosystem and species credit requirements must be undertaken in consultation with **BCS** and **AG** DCCEEW and submitted to the Planning Secretary for approval within six months of determining the final construction footprint.

Note: Any changes or updates of the Biodiversity Assessment Report or credit calculator must be undertaken in accordance with the Framework for Biodiversity, the Biobanking Assessment Methodology and any guidelines pertaining to surveying threatened species, including the Threatened Biodiversity Data Collection database.

- E9 The review and update of credit requirements must be undertaken by:
- using the vegetation mapping in the *M1 Pacific Motorway extension to Raymond Terrace Submissions Report - Appendix E- Revised biodiversity assessment report June 2022*; and/or
 - completing verification surveys to confirm the extent, type and condition of threatened species and threatened ecological communities to be impacted.
- E10 Where verification surveys are required, they must be undertaken in consultation with **BCS**. Any additional surveys must be undertaken at the time of year when groundcover is most likely to be predominantly native. If verification surveys are not possible at a time when groundcover is most likely to be native, the assumed presence of any relevant species and ecosystems may be applied to conservatively evaluate impacts and associated credit requirements.

Note: Any changes or updates of the Biodiversity Assessment Report or credit calculator must be undertaken in accordance with the Framework for Biodiversity, the Biobanking Assessment Methodology and any guidelines pertaining to surveying threatened species, including the Threatened Biodiversity Data Collection database.

E11 The Proponent must submit to the Planning Secretary and AG DCCEEW for information:

- (a) a copy of the **Credit Retirement Report**; and/or
- (b) a receipt confirming payment to the Biodiversity Conservation Fund; and/or
- (c) correspondence from NPWS,

for the retirement of the ecosystem and species credits required by **Condition E7** within one month of receiving the report and/or making the payments and/or receiving correspondence from NPWS.

Key Fish Habitat

E12 The Proponent must minimise impacts to Key Fish Habitat (KFH) as defined in the *Policy and Guidelines for Fish Habitat Conservation and Management* (DPI, 2013 update). Residual impacts to KFH must be offset at a ratio of 2:1 habitat offset requirement in accordance with the *Policy and Guidelines for Fish Habitat Conservation and Management* (DPI, 2013 update) and in consultation with DPIRD Fisheries. **The habitat offsets must be provided by no later than 18 months following the commencement of operation.**

E13 **Impacts that cannot be offset under Condition E12, must be offset by making a payment to the DPI Fish Conservation Trust Fund for KFH. Payment into the fund must be made no later than 24 months following the commencement of operation.**

Note: The monetary offset (i.e. contribution to the Biodiversity Offset Fund for fish habitat) should be the last alternative and only be pursued if all on-ground offset opportunities have been investigated at length and determined to be unachievable.

E14 The Proponent must submit to the Planning Secretary a receipt confirming payment to the DPI Fish Conservation Trust Fund within one month of making the payment.

Protection of Estuary Cod in Hunter River

E15 **The Estuary Cod (*Epinephelus coioides*) must be assumed to be present in the Hunter River. Management measures must be developed to minimise impacts to the Estuary Cod (*Epinephelus coioides*) and documented in the **Flora and Fauna CEMP Sub-plan** required under **Condition C5**. The management measures must be implemented prior to and during works that have the potential to impact on Estuary Cod habitat.**

E16 Suitable methods must be used to protect Estuary Cod habitat and individuals (if detected) within the construction footprint and surrounding 100 metres at the proposed Hunter River bridge site in accordance with the Appendix E of the Submissions Report as listed in **Condition A1(b)** and the provisions of *Fisheries Management Act 1994*.

Re-use of Timber

E17 The CSSI must maximise the reuse of native vegetation and other habitat features that have been approved for removal. Where reuse by the CSSI is not possible, relevant council(s), NPWS, Local Land Services, local Landcare groups, DPIRD Fisheries and any additional relevant government agencies must be consulted prior to the removal of vegetation and other habitat to determine if:

- (a) hollows, tree trunks (greater than 25-30 centimetres in diameter and 2-3 metres in length), mulch, bush rock and root balls salvaged from native vegetation impacted by the CSSI; and
- (b) collected plant material, seeds and/or propagated plants from native vegetation impacted by the CSSI,

could be used by others in habitat enhancement and rehabilitation work, before pursuing other disposal options. If the timber can be re-used by others, the Proponent must advise them and facilitate access for salvage.

Tree replacement

E18 Where trees are to be removed, the Proponent must provide a net increase in the number of replacement trees at a ratio of 2:1, except trees that are offset under **Condition E7**. Replacement trees must be located on public land and prioritised within and up to 500 meters from the construction footprint in consultation with the relevant authority.

Replacement tree pot size must be consistent with the relevant authority's plans / programs / strategies for vegetation management, street planting, or open space landscaping, or as agreed by the relevant authority(ies). The replacement trees must be planted prior to the commencement of operation unless otherwise agreed by the Planning Secretary.

The Proponent must retain a record of the number of trees removed and replaced in accordance with this condition including number, location, size and species. The record must be made available to the Planning Secretary upon request within one week of the request.

Note: For the purposes of this condition, the relevant authority is that State or local government authority that owns or manages the land on which the replacement trees will be planted.

DESIGN AND VISUAL AMENITY

Lighting and Security

E19 The CSSI must be constructed and operated with the objective of minimising light spillage to surrounding properties. All lighting associated with the construction and operation of the CSSI must be consistent with the requirements of AS/NZS 4282:2019 *Control of the obtrusive effects of outdoor lighting* and relevant Australian Standards in the series AS/NZ 1158 – *Lighting for Roads and Public Spaces*. Additionally, the Proponent must provide mitigation measures to manage any residual night lighting impacts to protect properties adjoining or adjacent to the CSSI, in consultation with affected landowners.

Visual Screening

E20 The Proponent must consult with residents along Eastern Avenue, Tarro that have a direct line of sight to the CSSI (including elements such as an interchange or on and off ramps) for the provision of visual measures to reduce the visual impact of the of the CSSI from the property.

Implementation of these measures must be delivered before operation.

Note: The outcomes of this condition must be demonstrated in the **Design and Landscape Plan**.

Design Outcomes

E21 The design and landscape outcomes of the CSSI must be:

- (a) informed by Appendix O of the Environmental Impact Statement as listed in **Condition A1(a)**, including but not limited to the objectives and design principles, requirements, and opportunities;
- (b) prepared in consultation with the community (including the landowners whose visual amenity is directly or indirectly impacted and businesses or a representative of the businesses), LALCs, RAPs and relevant council(s); and
- (c) reviewed by TfNSW's Centre for Urban Design, with a focus on maximising the aesthetics of the viaduct / bridge over the Hunter River and floodplain;

E22 Operational noise barriers must be designed to minimise visual and amenity impacts. Opportunities should be explored to incorporate aesthetics, wayfinding and public art into the design of the noise barriers.

Design and Landscape Plan

E23 A **Design and Landscape Plan (DLP)** must be prepared to document and illustrate the permanent built works and landscape design of the CSSI and how these works are to be maintained. The **DLP** must inform the final design of the CSSI and give effect to the outcomes and commitments documented in by **Condition A1**. The Plan does not apply to work which, for

technical, engineering, or ecological requirements, or other requirements as agreed by the Planning Secretary, does not allow for alternative design outcomes.

E24 The **DLP** must be:

- (a) prepared by a suitably qualified and experienced person(s) in urban and landscape design and (where required) bush regeneration;
- (b) prepared in consultation with relevant councils and the community, including affected landowners and businesses;
- (c) submitted to the Planning Secretary for approval no later than one month before the construction of permanent built surface works and/or landscaping in the area to which the **DLP** applies; and
- (d) implemented during construction and operation of the CSSI unless that asset has been transferred to the relevant authority, or equivalent and they have agreed that implementation of the **DLP** is not required for that asset.

***Note:** The **DLP** may be developed and considered in stages to facilitate design progression and construction. Any such staging and associated approval would need to facilitate a cohesive final design and not limit final design outcomes*

E25 The **DLP** must document how the following matters have been considered in the design and landscaping of the project:

- (a) the requirements of **Conditions E20 to E22**;
- (b) demonstrate compliance with *Bridge Aesthetics: Design Guidelines to improve appearance of bridges in NSW* (Transport for NSW, 2019);
- (c) demonstrated integration of Crime Prevention Through Environmental Design principles; and
- (d) Designing with Country and the principles and objectives of the draft Connecting with Country Framework.

E26 The **DLP** must include, but not be limited to:

- (a) the design of the permanent built elements of the CSSI including their form, materials and detail, with a focus on high quality bridge design (for the Hunter River viaduct), and integrated art;
- (b) the design of the project landform and landscaping elements (including visual screening requirements);
- (c) details of strategies to rehabilitate, regenerate or revegetate disturbed areas with priority given to the use of local native species;
- (d) landscaping outcomes agreed to under **Condition E20**;
- (e) details of how Aboriginal and non-Aboriginal heritage interpretation and public art are incorporated within the design of built features (such as noise barriers, viaduct), having regard to the results of any archaeological investigations;
- (f) developed visualisations, cross sections and plans showing the proposed design outcome; and
- (g) management and routine maintenance standards and regimes for design elements and landscaping work (including adequate watering of plants following planting depending on forecast weather conditions and including weed management) to ensure the success of the design and landscape outcomes.

E27 Unless otherwise agreed with the Planning Secretary, construction of permanent built work or landscaping that are the subject of the **DLP** must not be commenced (in the area to which the **DLP** applies) until the **DLP** has been approved by the Planning Secretary.

Operational Maintenance

E28 The ongoing maintenance and operation costs of urban design, open space, landscaping and recreational items and work implemented as part of this approval remain the Proponent's responsibility until satisfactory arrangements have been put in place for the transfer of the asset

to the relevant authority. Before the transfer of assets, the Proponent must maintain items and work to at least the design standards established in the **DLP** required by **Condition E26**.

- E29 The Planning Secretary must be advised in writing of the date of transfer of the asset(s) to the relevant authority.
- E30 Should plant loss occur during the maintenance period that impacts the capacity of the landscaping to achieve the design objectives (eg reduction in canopy species cover), the plants must be replaced by the same plant species and with similar growth form (i.e. a tree with an advanced juvenile tree) unless it is determined by a suitably qualified person that a different species is more suitable for that location. Any replacement plantings must use native species of local provenance from the relevant native vegetation community.

Active Transport Network

- E31 The CSSI must not preclude the delivery of the Hexham Junction (intersection of the Minmi to Hexham rail line corridor and the pipeline corridor) to Tarro active transport link.

Note: This is a council led active transport link and the Proponent must consult with the City of Newcastle to ensure the CSSI does not preclude the delivery of the cycleway.

FLOODING

- E32 Measures identified in the documents listed in **Condition A1** that are aimed at minimising the overall impact of the CSSI on flood behaviour must be incorporated into the design of the CSSI.

Quantitative Design Limits

- E33 The CSSI must be designed and operated to limit impacts on flooding characteristics in areas outside the project boundary during flood events up to and including the 1% AEP flood event, in accordance with the following Quantitative Design Limits (QDLs):

- (a) a maximum increase in inundation time of one hour or 10% which ever is greater;
- (b) a maximum increase of 10 mm in above-floor inundation to habitable rooms where floor levels are currently inundated;
- (c) no above-floor inundation of habitable rooms which are currently not inundated in the 1% AEP flood event;
- (d) a maximum increase of 50 mm in inundation of land zoned as residential, industrial or commercial;
- (e) a maximum increase of 100 mm in inundation of land zoned as rural, primary production, environment zone or public recreation;
- (f) no significant increase in the flood hazard or risk to life; and
- (g) maximum relative increase in velocity of 10%, where the resulting velocity is greater than 1.0 m/s, unless adequate scour protection measures are implemented and/or the velocity increases do not exacerbate erosion as demonstrated through site-specific risk of scour or geomorphological assessments.

- E34 Where the QDLs set out in **Condition E33 (a), (b), (c), (d) and (e)** cannot be practically achieved, alternative flood levels or mitigation measures may be agreed to with the affected landowner.

The Proponent must consult with and provide to the affected landowner full disclosure of the likely impacts resulting from not being able to meet the QDL(s). Where the exceedance of the QDL(s) results in a material impact, the Proponent must obtain their written agreement on the measures that will be implemented to manage the exceedance of the QDL(s). Such an agreement may involve works, maintenance activities, acquisitions, or other commitments by the Proponent to the landowner. All written agreements must be legally binding and set out the agreed measures. Where the measures include works on the land, the agreement must include a schedule of the works to be undertaken (including timing) and meet the requirements of relevant legislation.

Consultation with the affected landowners must take place within 6 months of the commencement of construction of the item or work that would result in the QDL(s) not being met, and the Proponent must aim to reach agreement with the affected landowner within no more than 12 months after the commencement of construction.

Each affected landowner must be provided with a copy of their agreement within one week of the agreement being finalised. Where the agreement includes a schedule of works, the Proponent must implement the agreement in accordance with the schedule and timing set out in the agreement.

Note(s):

1. *Proposed mitigation measures may require further assessment and approval under the EP&A Act.*
2. *The Proponent must consult with the affected landowners in determining if an exceedance of the QDL(s) results in a material impact. The consideration of material impacts must have regard to factors such as the existing depth of flooding, the original function of the building(s), whether the exceedance affects a habitable floor, impacts on primary production activities and public recreation facilities, the overall vulnerability to flooding impacts, and the feedback received from the affected landowner. Where an affected landowner disagrees to the materiality of the impact this matter can be referred to the IFIAP.*

Floor level surveys

- E35 Where floor level survey data is not available from Council(s), the Proponent must undertake floor level surveys of all potentially flood affected buildings where the QDLs set out in **Condition E33 (b), (c), (d) and (e)** are unlikely to be met, to confirm afflux limits. Where floor level survey data is not available or has not been surveyed, the existing ground level is to be adopted as the floor level.

Flood modelling

- E36 Updated flood modelling must be undertaken for a range of flood events (including the 20%, 10%, 5% AEP and 1% AEP) for the CSSI and include the upstream direction along the Hunter River, Paterson River and Williams River to define the full extent of afflux levels. The updated assessment must be consistent with the *Australian Rainfall and Runoff – A Guide to Flood Estimation* (GeoScience Australia, 2019).

Note: *The intent of this condition is to ensure the modelling and results of the CSSI are updated to include the Paterson River and Williams River to understand the full extent of the CSSI's afflux impacts.*

- E37 The results of the updated flood modelling must be detailed in a **Flood Design Report**. The Report must be reviewed and endorsed by a suitably qualified and experienced hydrologist, who is independent of the CSSI's design and construction and the persons/organisation who prepared the **Flood Design Report**.
- E38 The **Flood Design Report** must be submitted to the Planning Secretary for information within 6 months from the commencement of construction. The independent reviewer's endorsement must be submitted with the report.

Information Sharing

- E39 The relevant councils, **BCS**, **Water Group** and the SES must be notified in writing by the Proponent that flood information (including flood reports, models and geographic information system outputs, and work as executed information from a qualified surveyor certifying finished ground levels and the floor levels of all buildings surveyed in accordance with **Condition E35**) is available for their request. The notification must occur no later than one month following the commencement of operation. Information requested by a relevant council, **BCS**, **Water Group** or the SES must be provided within three months of the request.

Note: *Flood information must be shared at no cost and by way of a perpetual, irrevocable, non-exclusive license.*

Flood Mitigation Report

E40 A **Flood Mitigation Report** must be prepared which:

- (a) sets out the agreed mitigation measures at properties where the QDLs set out in **Condition E33 (a), (b), (c), (d) and (e)** cannot be met, including a schedule for implementing the agreed measures at each impacted property; and
- (b) addresses how the QDL(s) set out in **Condition E33 (f) and (g)** have been addressed.

The Report must be prepared within three months following agreement having been reached with all affected landowners or prior to operation of the CSSI, whichever is the earliest. The Report must be provided to the Planning Secretary and relevant council(s) upon request, and within two weeks of receiving the request.

Independent Flood Impact Advisory Panel

E41 Should an agreement not be reached in accordance with **Condition E34**, either the affected landowner or the Proponent may, at any time, refer unresolved matters on material property impacts resulting from flooding exceeding the QDLs in **Condition E33**, to an **Independent Flood Impact Advisory Panel (IFIAP)** for expert advice and recommendations to address the impacts.

E42 The Proponent must establish an **IFIAP** before undertaking work that has the potential to not meet the QDL(s) in **Condition E33**. The **IFIAP** must comprise of:

- (a) an independent chairperson who is experienced in facilitation or mediation and understands regulatory requirements for State significant projects; and
- (b) independent hydrological, engineering and agricultural experts as relevant.

In selecting the appointments of the **IFIAP** the Proponent must have regard to the *Post Approval Guidance for Infrastructure Projects: Seeking Approval from the Department for the Appointment of Independent Experts* (DPIE, 2020). The individuals on the **IFIAP** must be approved by the Planning Secretary in accordance with **Condition E44**.

All costs incurred in establishing and implementing the **IFIAP** must be borne by the Proponent regardless of which party makes a referral to the **IFIAP**.

E43 The Proponent must prepare Terms of Reference for the **IFIAP** which address the following:

- (a) details of the panel membership;
- (b) role of chair;
- (c) panel management;
- (d) frequency of meetings and timely provision of expert advice and recommendations; and
- (e) cessation arrangements.

E44 The members and Terms of Reference of the **IFIAP** must be approved by the Planning Secretary prior to the commencement of Work that has the potential to not meet the QDL(s). The approved Terms of Reference for the **IFIAP** must be endorsed by the **IFIAP** following the first meeting. The Terms of Reference must be made publicly available on the website required by **Condition B12** within one month of the establishment of the **IFIAP**.

E45 Any changes requested by the **IFIAP** to the approved Terms of Reference must be submitted to the Planning Secretary for approval within two weeks of drafting the changes.

E46 The **IFIAP** will be responsible for independently:

- (a) investigating landowner concerns;
- (b) considering supporting documentation / information provided by the Proponent and landowner;
- (c) considering the appropriateness of modelling used to estimate material impacts associated with the QDL(s) identified under **Condition E33** not being met and floor level survey(s) results;

- (d) considering whether reasonable and practical steps have been taken to mitigate flood impacts;
- (e) considering if agreed measures (between the Proponent and landowners) have been implemented to an appropriate standard;
- (f) making recommendations about the material impact from not meeting the QDLs identified under **Condition E33** on the use of affected land; and
- (g) preparing a report which contains reasonable recommendations about practicable design changes and/or mitigation and management measures to resolve material flooding impacts.

- E47 The Proponent must consider the **IFIAP** recommendations under **Condition E46** and document which recommendation(s) will be implemented. Where the Proponent does not implement a particular recommendation(s) and the landowner is not in agreement of the final mitigation measure(s), the Proponent must justify why the recommendation(s) is not being implemented. This justification must be made publicly available by the Proponent on the website required under **Condition B12**.
- E48 A copy of any recommendation provided by the **IFIAP** under **Condition E46** and evidence of the Proponent's implementation of this recommendation or other agreement reached with the landowner following the recommendations of the **IFIAP** must be provided to the Planning Secretary upon request and within one week of receiving the request.
- E49 The flood mitigation measures identified in **Condition E40** or as amended by **Conditions E46(g)** and **E47**, must be implemented.

Ancillary Facilities

- E50 The location, size and height of AS6 must be redesigned to minimise flood afflux impacts to the Main North Rail Line in consultation with the operator of the rail track.

***Note:** A change in the location of the ancillary facility may require further assessment and approval under the EP&A Act.*

HERITAGE

Aboriginal Cultural Heritage

- E51 Reasonable steps must be taken so as not to harm, modify or otherwise impact Aboriginal objects or places of cultural significance except as authorised by this approval.
- E52 Aboriginal Cultural Heritage Awareness Training/induction must be developed in conjunction with RAPs and an appropriately qualified archaeologist who is experienced in Aboriginal cultural heritage. The training must be implemented during site inductions.
- E53 RAPs must be kept regularly informed about the CSSI. The RAPs must continue to be provided with the opportunity to be consulted about the Aboriginal cultural heritage management requirements of the CSSI.

***Note:** Details regarding ongoing engagement with RAP's must be provided in the Communication Strategy required under **Condition B1**.*

- E54 At the completion of Aboriginal cultural heritage test and salvage excavations, an **Aboriginal Cultural Heritage Excavation Report(s)** must be prepared by a suitably qualified and experienced person. The **Aboriginal Cultural Heritage Excavation Report(s)**, must:
- (a) be prepared in accordance with the *Guide to Investigation, assessing and reporting on Aboriginal cultural heritage in NSW*, OEH 2011 and the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales*, DECCW 2010; and
 - (b) document the results of the archaeological test excavations and any subsequent salvage excavations (with artefact analysis and identification of a final repository for finds).

The RAPs must be provided with a copy of the report(s) and given a minimum of 60 days to consider the report(s) and provide comments before the report(s) is finalised. The final report(s) must be provided to the Planning Secretary, Heritage NSW, relevant councils, the RAPs and local libraries within 12 months of the completion of the Aboriginal archaeological excavations (both test and salvage).

Note: To ensure cultural knowledge is protected a redacted Aboriginal Cultural Heritage Excavation Report(s) may be provided subject to the agreement of RAPs to publicly share cultural knowledge.

- E55 Where previously unidentified Aboriginal objects or places of cultural significance are discovered, all work must immediately stop in the vicinity of the affected area.
- E56 Work potentially affecting the previously unidentified objects and places must not recommence until:
- (a) Heritage NSW and each of the RAPs have been consulted on the proposed management of the Aboriginal objects or places of cultural significance that are identified; and
 - (b) Heritage NSW has advised that works can resume.

As part of the consultation with the RAPs, the RAPs must be given the opportunity for further site investigations and cultural salvage.

The measures to consider and manage this process must be specified in the **Unexpected Heritage Finds and Human Remains Procedure** required by **Condition E61** and include registration in the Aboriginal Heritage Information Management System (AHIMS).

Non-Aboriginal Heritage

- E57 Archival photographic digital recording must be undertaken for all listed heritage items and sites assessed to have heritage significance which will be affected by the CSSI. The recording must be undertaken prior to the commencement of Work which may impact the items and sites. The recording must be undertaken by a suitably qualified heritage specialist and prepared in accordance with *NSW Heritage Office's How to Prepare Archival Records of Heritage Items* (1998) and *Photographic Recording of Heritage Items Using Film or Digital Capture* (2006). The recordings must include buildings, structures and landscape features and detailed maps showing their location. A copy must be provided to Heritage NSW and the relevant council(s) and submitted as part of the **Heritage Report** required by **Condition E59**.
- E58 Prior to commencement of archaeological excavation, the Proponent must nominate a suitably qualified Excavation Director who complies with *Heritage NSW's Criteria for Assessment of Excavation Directors* (September 2019) to oversee and advise on matters associated with historical archaeology. The Excavation Director must be present to oversee excavation, advise on archaeological issues, advise on the duration and extent of oversight required during archaeological excavations.
- E59 Following completion of archaeological excavation program(s) a **Heritage Report** must be prepared that includes:
- (a) the details of any archival recordings;
 - (b) further historical research undertaken;
 - (c) the results of archaeological excavations (including artefact analysis and identification of a final repository for finds); and
 - (d) details of any significant artefacts recovered, where they were located, and details of their ongoing conservation and protection in perpetuity.

The report must be prepared in accordance with any guidelines and standards required by Heritage NSW.

- E60 Copies of the **Heritage Report** must be provided to the Planning Secretary, Heritage NSW, the relevant council(s), relevant local libraries and relevant local historical societies no later than 12 months after the completion of archaeological excavation programs.

Unexpected Heritage Finds and Human Remains

E61 An **Unexpected Heritage Finds and Human Remains Procedure** must be prepared to manage unexpected heritage finds (including maritime discoveries) in accordance with any guidelines and standards prepared by Heritage NSW and the Heritage Council of NSW. The **Unexpected Heritage and Human Remains Procedure** must be submitted to the Planning Secretary for approval at least one month before the commencements of Work. Work cannot commence until the unexpected finds procedure is approved by the Planning Secretary.

E62 The **Unexpected Heritage Finds and Human Remains Procedure** must be implemented for the duration of Work.

Note: Human remains that are found unexpectedly during the carrying out of work may be under the jurisdiction of the NSW State Coroner and must be reported to the NSW Police immediately.

E63 No ground intrusive activities are to be undertaken within the heritage curtilage of the Tarro Historic Site (as listed in the Newcastle Local Environmental Plan, item A18) and the site must not be destroyed, modified or otherwise adversely affected, unless otherwise approved by the Planning Secretary.

NOISE AND VIBRATION

Work Hours

E64 Work must only be undertaken during the following hours:

- (a) 7:00 am to 6:00 pm Mondays to Fridays, inclusive;
- (b) 8:00 am to 5:00 pm Saturdays; and
- (c) at no time on Sundays or public holidays.

Highly Noise Intensive Work

E65 Except as permitted by an EPL, highly noise intensive works that result in an exceedance of the applicable NML at the same receiver must only be undertaken:

- (a) between the hours of 8:00 am to 6:00 pm Monday to Friday;
- (b) between the hours of 8:00 am to 1:00 pm Saturday; and
- (c) if continuously, then not exceeding three hours, with a minimum cessation of Work of not less than one hour.

For the purposes of this condition, 'continuously' includes any period during which there is less than one hour between ceasing and recommencing any of the work.

Variation to Work Hours

E66 Notwithstanding **Conditions E64** and **E65**, Work may be undertaken outside the hours specified in any of the following circumstances:

- (a) **Safety and Emergencies**, including:
 - (i) for the delivery of materials required by the NSW Police Force or other authority for safety reasons; or
 - (ii) where it is required in an emergency to avoid injury or the loss of life, to avoid damage or loss of property or to prevent environmental harm.

On becoming aware of the need for emergency work in accordance with **Condition E66(a)(ii)**, the Proponent must notify, the **ER**, the Planning Secretary and the EPA of the reasons for such work. The Proponent must use best endeavours to notify all noise and/or vibration affected residents and owners/occupiers of properties identified as sensitive land use(s) of the likely impact and duration of the emergency works; or

(b) **Work that meets all of the following criteria:**

- (i) Work that causes $L_{Aeq(15 \text{ minute})}$ noise levels:
 - no more than 5 dB(A) above the rating background level at any residence in accordance with the ICNG, and
 - no more than the 'Noise affected' NMLs specified in Table 3 of the ICNG at other sensitive land use(s);
- (ii) Work that causes LAF max noise levels no more than 15 dBA above the RBL at any residence during the night-time;
- (iii) Work that causes:
 - continuous or impulsive vibration values, measured at the most affected residence no more than the preferred values for human exposure to vibration, specified in Table 2.2 of *Assessing Vibration: a technical guideline* (DEC, 2006), and
 - intermittent vibration values measured at the most affected residence which are no more than the preferred values for human exposure to vibration, specified in Table 2.4 of *Assessing Vibration: a technical guideline* (DEC, 2006).

(c) **By Approval**, including:

- (i) where different construction hours are permitted or required under an EPL in force in respect of the CSSI; or
- (ii) works which are not subject to an EPL that are approved under an **Out-of-Hours Work Protocol** as required by **Condition E67**; or
- (iii) negotiated agreements with directly affected residents and sensitive land use(s).

Out-Of-Hours Work Protocol – Works Not Subject to an EPL

E67 An **Out-of-Hours Work Protocol** must be prepared to identify a process for the consideration, management and approval of Work which is outside the hours defined in **Condition E64**, and is not subject to an EPL. The Protocol must be prepared in consultation with the **ER**. The Protocol must provide:

- (a) identification of low, medium and high risk activities and an approval process that considers the risk of activities, proposed mitigation, management, and coordination, including where:
 - (i) the **ER** reviews all proposed out-of-hours activities and confirms their risk levels,
 - (ii) low and medium risk activities can be approved by the **ER**, and
 - (iii) high risk activities are approved by the Planning Secretary;
- (b) a process for the consideration of out-of-hours work against the relevant NML and vibration criteria;
- (c) a process for selecting and implementing mitigation measures for residual impacts in consultation with the community at each affected location, including respite periods consistent with the requirements of **Condition E77**. The measures must take into account the predicted noise levels and the likely frequency and duration of the out-of-hours works that sensitive land use(s) would be exposed to, including the number of noise awakening events;
- (d) procedures to facilitate the coordination of out-of-hours work including those approved by an EPL or undertaken by a third party, to ensure appropriate respite is provided; and
- (e) notification arrangements for affected receivers for all approved out-of-hours work and notification to the Planning Secretary of approved low risk out-of-hours works.

The Protocol must be submitted to and approved by the Planning Secretary before commencement of the out-of-hours work and implemented during Work which is outside the hours defined in **Condition E64** and not subject to an EPL.

Adherence to the Protocol does not apply if the requirements of **Condition E66 (a) or (b)** are met.

Notes:

1. **Conditions E78 and E79** provide additional parameters to be considered.
2. If the Work is subject to an EPL and the EPA does not endorse extended hours as part of the EPL, the extended hours cannot be considered under this Protocol.

Noise Management Levels and Vibration Criteria

E68 Mitigation measures must be implemented with the aim of achieving the following noise management levels and vibration objectives:

- (a) construction 'Noise affected' NMLs established using the *Interim Construction Noise Guideline* (DECC, 2009);
- (b) vibration criteria established using the *Assessing vibration: a technical guideline* (DEC, 2006) (for human exposure);
- (c) Australian Standard AS 2187.2 - 2006 "*Explosives - Storage and Use - Use of Explosives*";
- (d) BS 7385 Part 2-1993 "*Evaluation and measurement for vibration in buildings Part 2*" as they are "applicable to Australian conditions"; and
- (e) the vibration limits set out in the *German Standard DIN 4150-3: Structural Vibration- effects of vibration on structures* (for structural damage).

Work that exceeds the noise management levels and/or vibration criteria must be managed in accordance with the **Ancillary Site Establishment Management Plan** required by **Condition A17** or **Noise and Vibration CEMP Sub-plan** required by **Condition C5**, as applicable.

Note: The ICNG identifies 'particularly annoying' activities that require the addition of 5 dB(A) to the predicted level before comparing to the construction NML.

E69 Mitigation measures must be applied when either of the following residential ground-borne noise levels are exceeded:

- (a) evening (6:00 pm to 10:00 pm) — internal $L_{Aeq(15 \text{ minute})}$: 40 dB(A); and
- (b) night (10:00 pm to 7:00 am) — internal $L_{Aeq(15 \text{ minute})}$: 35 dB(A).

The mitigation measures must be outlined in the **Noise and Vibration CEMP Sub-plan**, including in any **Out-of-Hours Work Protocol** as required by **Condition E67**.

E70 Work that results in noise levels above the NMLs at community, religious, educational institutions, noise and vibration-sensitive businesses and critical working areas (such as theatres, laboratories and operating theatres) must not be timetabled during sensitive periods, unless other reasonable arrangements with the affected institutions are made at no cost to the affected institution.

Noise and Vibration Mitigation and Management

E71 **Noise and Vibration Impact Statements (NVIS)** must be prepared for any Work:

- (a) that may exceed the noise management levels, vibration criteria and/or ground-borne noise levels specified in **Condition E68** and **Condition E69** at any residence outside work hours identified in **Condition E64**, or
- (b) where receivers will be highly noise affected.

The **NVIS** must include specific mitigation measures identified through consultation with affected receivers of the sensitive land use(s) and the mitigation measures must be implemented for the duration of the works. A copy of the **NVIS** must be provided to the **ER** prior to the commencement of the associated works. The Planning Secretary and the EPA may request a copy/ies of **NVIS**.

E72 Owners and occupiers of properties at risk of exceeding the screening criteria for cosmetic damage must be notified before work that generates vibration commences in the vicinity of those properties. If the potential exceedance is to occur more than once or extend over a period of 24 hours, owners and occupiers are to be provided a schedule of potential exceedances on a monthly basis for the duration of the potential exceedances, unless otherwise agreed by the owner and occupier. These properties must be identified and considered in the **Ancillary Site Establishment Management Plan** required by **Condition A17** and/or the **Noise and Vibration CEMP Sub-plan** required by **Condition C5**, and the owners and occupiers notified in accordance with the **Communication Strategy** required by **Condition B1**.

Vibration Mitigation - Heritage

E73 The Proponent must conduct vibration testing before and during vibration generating activities that have the potential to impact on heritage items to identify minimum working distances to prevent cosmetic damage. In the event that the vibration testing and attended monitoring shows that the preferred values for vibration are likely to be exceeded, the Proponent must review the construction methodology and, if necessary, implement additional mitigation measures.

E74 Advice from a heritage specialist must be sought on the methods and locations for installing equipment used for vibration, movement and noise monitoring at heritage-listed structures.

Note: *The installation of noise and vibration equipment must not impact on the heritage value of the heritage items.*

E75 Before conducting at-property architectural noise treatment at any heritage item identified in the documents listed in **Condition A1**, the advice of a suitably qualified and experienced built heritage expert must be obtained and implemented to ensure any such work does not have an adverse impact on the heritage significance of the item.

Utility Coordination and Respite

E76 All work undertaken for the delivery of the CSSI, including those undertaken by third parties (such as utility relocations), must be coordinated to ensure respite periods are provided. The Proponent must:

- (a) reschedule any work to provide respite to impacted noise sensitive land use(s) so that the respite is achieved in accordance with **Condition E77**; or
- (b) consider the provision of alternative respite or mitigation to impacted noise sensitive land use(s) where respite outlined in **Condition E77** cannot be achieved; and
- (c) provide documentary evidence to the **ER** in support of any decision made by the Proponent in relation to respite or mitigation.

The consideration of respite must also include all other CSSI, SSI and SSD projects which may cause cumulative and/or consecutive impacts at receivers affected by the delivery of the CSSI.

Out-of-Hours Works – Community Consultation on Respite

E77 In order to undertake out-of-hours work outside the hours specified under **Condition E64**, the Proponent must identify appropriate respite periods for the out-of-hours work in consultation with the community at each affected location on a regular basis.

This consultation must include (but not be limited to) providing the community with:

- (a) a progressive schedule for periods no less than three months, of likely out-of-hours work;
- (b) a description of the potential work, location and duration of the out-of-hours work;
- (c) the noise characteristics and likely noise levels of the work; and
- (d) likely mitigation and management measures which aim to achieve the relevant noise management levels and vibration criteria under **Condition E68** (including the circumstances of when respite or relocation offers will be available and details about how the affected community can access these offers).

The outcomes of the community consultation, the identified respite periods and the scheduling of the likely out-of-hours work must be provided to the **ER**, EPA and the Planning Secretary for information prior to undertaking the work scheduled for the subject period.

Notes:

1. *Respite periods can be any combination of days or hours where out-of-hours work would not be more than 5 dB(A) above the rating background noise level at any residence.*
2. *Respite, relocation and other offers must be provided unconditionally.*
3. *Refer to **Condition A8** in relation to consultation requirements and Table 1 - Terms and Definitions for the definition of 'consultation'.*

New England and Pacific Highway – Out-of-Hours Work periods

E78 Work outside the hours specified in **Condition E64** along the New England and Pacific Highway corridors which result in an exceedance of the relevant NML at the same sensitive land use(s) can only be undertaken in accordance with the following:

- (a) two consecutive evenings and/or nights per week; or
- (b) three non-consecutive evenings and/or nights per week; or
- (c) 10 evenings and/or nights per month; or
- (d) except as identified by an EPL; or
- (e) in accordance with an agreement with a potentially impacted receiver(s) as required by **Condition E66(c)(iii)**.

Out-of-Hours Works – Mitigation

E79 Mitigation measures such as temporary alternative accommodation or other agreed mitigation measures, must be offered/ made available to residents affected by out-of-hours work (including where utility works are being undertaken for the CSSI or under a road occupancy licence) where the construction noise levels between:

- (a) 10:00 pm and 7:00 am, Monday to Friday;
- (b) 10:00 pm Saturday to 8:00 am Sunday; and
- (c) 6:00 pm Sunday and public holidays to 7:00 am the following day unless that day is Saturday then to 8:00 am,

are predicted to exceed the NML by 25 dB(A) or are greater than 75 dBA ($L_{Aeq(15\text{ min})}$), whichever is the lesser and the impact is planned to occur for more than two (2) nights over a seven (7) day rolling period.

The NML must be reduced by 5 dB where the noise contains annoying characteristics and may be increased by 10 dB if the property has received at-property acoustic treatment. The noise levels and duration requirements identified in this condition may be changed through an EPL applying to the CSSI.

Crushing and Grinding Works

E80 Crushing and grinding works must only be undertaken during the hours specified in **Condition E64** unless otherwise approved by the Planning Secretary or through an EPL or if it meets the requirements of **Condition E66**.

Blasting

E81 Blasting associated with the CSSI must only be undertaken during the following hours:

- (a) 9:00 am to 5:00 pm, Monday to Friday, inclusive;
- (b) 9:00 am to 1:00 pm on Saturday; and
- (c) at no time on Sunday or public holidays; or
- (d) as authorised through an EPL.

This condition does not apply in the event of a direction from the NSW Police Force or other relevant authority for safety or emergency reasons to avoid loss of life, property loss and/or to prevent environmental harm.

Blasting Management Strategy

E82 A **Blast Management Strategy** must be prepared and must include:

- (a) sequencing and review of trial blasting to inform blasting;
- (b) regularity of blasting;
- (c) intensity of blasting;
- (d) periods of relief; and
- (e) blasting program.

E83 The **Blast Management Strategy** must be endorsed by a suitably qualified and experienced person.

- E84 The **Blast Management Strategy** must be prepared in accordance with relevant guidelines and in consultation with the EPA, to ensure that all blasting and associated activities are carried out so as not to generate unacceptable noise and vibration impacts or pose a significant risk to sensitive land use(s).
- E85 The **Blast Management Strategy** must be submitted to the Planning Secretary for information no later than one month before the commencement of blasting. The Strategy as submitted to the Planning Secretary, must be implemented for all blasting activities.

Appointment of independent and experienced noise specialist

- E86 An independent and experienced noise specialist must be approved by the Planning Secretary to verify the validity (including being accurate and consistent with the requirements of this approval and the traffic noise model used to address the change of noise created by the CSSI) of the:
- (a) **Traffic Noise Monitoring Program** required under **Condition E87**;
 - (b) **Operational Noise Review (ONR)** required under **Condition E89**;
 - (c) **Operational Noise Monitoring Program** required under **Condition E96**; and
 - (d) **Operational Noise Compliance Report (ONCR)** required under **Condition E98**.

The Planning Secretary's approval of the noise specialist must be sought no later than one month before undertaking traffic noise monitoring required under **Condition E87**. If **Condition E88**, applies, the approval of the noise specialist must be sought no later than one month before undertaking the **ONR**.

Each verification must be submitted to the Planning Secretary for information along with a report that summarises and provides evidence to support the verification. The verification and report must be submitted to the Planning Secretary with the relevant operational noise documentation.

Road Traffic Noise

- E87 Before the commencement of Work, a **Traffic Noise Monitoring Program** must be prepared to inform the calculation of operational road traffic noise impacts at sensitive land use(s). The program must:
- (a) include monitoring at the noise monitoring locations used to inform the EIS; and
 - (b) identify additional locations at which monitoring will be undertaken to determine the change in operational traffic noise as a result of the CSSI.

The additional monitoring locations must be located around elements of the CSSI that will create a change of noise (such as interchanges near residents and behind noise barriers) and be representative of the range of sound propagation conditions along the length of the CSSI corridor.

The monitoring program must be submitted to the Planning Secretary for approval at least one month prior to undertaking any noise monitoring. Noise monitoring must not commence until the Planning Secretary has approved the Traffic Noise Monitoring Program. Noise monitoring must be undertaken prior to commencing Work in the vicinity of a noise monitoring location.

Note: The intent of this condition is to establish baseline noise levels for post construction compliance.

- E88 **Conditions E86(a)** and **E87** do not apply if it can be demonstrated to the satisfaction of the Planning Secretary that alternate monitoring addresses these condition requirements.

Operational Noise Review (ONR)

- E89 An **ONR** must be prepared to confirm noise control measures that would be implemented for the operation of the CSSI. The **ONR** must be prepared in consultation with relevant council(s) and the EPA and must:

- (a) include the data collected in **Condition E87** or **E88**;

- (b) confirm the appropriate operational noise objectives and levels for surrounding development, including existing sensitive land use(s);
- (c) confirm the operational noise predictions based on the final design. Confirmation must be based on an appropriately calibrated model(s) (which has incorporated noise monitoring, and concurrent traffic counting, where necessary for calibration purposes). The assessment must specifically include verification of noise levels, based on noise monitoring undertaken at appropriately identified noise catchment areas surrounding the facilities;
- (d) confirm traffic inputs, including consideration of current traffic forecasting model data (including data obtained from the relevant local councils on adjacent traffic-generating developments (such as the Black Hill development area));
- (e) confirm the operational noise impacts at sensitive land use(s) based on the final design of the CSSI. Confirmation must be based on an appropriately calibrated noise model and include operational daytime $L_{Aeq,15 \text{ hour}}$ and night-time $L_{Aeq, 9\text{-hour}}$ traffic noise contours and address the following -
 - (i) impacts arising from traffic control devices,
 - (ii) impacts arising from specific road design features such as but not limited to an interchange, ramps, horizontal and vertical alignment of the road, and
 - (iii) the ranking of maximum noise level impacts on sensitive land use(s) affected by (i) and (ii) above for the prioritisation of noise mitigation measures;
- (f) identify sensitive land use(s) where noise levels are predicted to exceed the requirements of the *NSW Road Noise Policy* (DECCW, 2011);
- (g) identify all operational noise mitigation measures to be implemented including location, type and timing of mitigation measures and how the final suite of mitigation measures will achieve the requirements of **E89(b)** with a focus on -
 - (i) road design and traffic management,
 - (ii) source control and design,
 - (iii) in-corridor noise barriers/mounds (contingency factors need to adopt safety factors),
 - (iv) at-property acoustic treatments or localised barriers/mounds (if relevant), and
 - (v) 'best practice' achievable noise and vibration outcomes;
- (h) include a consultation strategy to seek feedback from directly affected landowners on the noise measures; and
- (i) procedures for the management of operational noise complaints, including investigation and monitoring (subject to complainant agreement).

The **ONR** must be submitted to the Planning Secretary for information prior to implementing at-property acoustic treatments, unless an alternate timeframe is agreed with the Planning Secretary.

The identified noise control measures must be implemented and the **ONR** must be made publicly available following its submission to the Planning Secretary for information.

Note: *The design of noise barriers and the like must be undertaken in consultation with the community as part of the **DLP** required under **Conditions E23 to E27**.*

- E90 The **ONR** required by **Condition E89** must be prepared within 12 months of the commencement of construction, unless otherwise agreed with the Planning Secretary.
- E91 Where the noise management level in **Condition E68(a)** is likely to be exceeded at residences during construction, operational noise mitigation measures identified in **Condition E89**, or in the absence of the final **ONR** the EIS, that will not be physically affected by construction must be implemented within 12 months of the commencement of construction at the residences where the NML is exceeded, unless another timeframe is agreed to by the Planning Secretary.

All requests to the Planning Secretary for an extension to the timeframe must be accompanied by a report justifying why, along with details of temporary measures that would be implemented to reduce construction noise impacts, until such time that the operational noise mitigation measures are implemented. The report must be submitted to the Planning Secretary before the commencement of construction at the residences where the NML is exceeded. All temporary measures must be implemented within six months of the commencement of construction in the vicinity of the impacted residences.

Note: *Not having finalised detailed design is not sufficient justification for not implementing the proposed operational noise mitigation measures.*

- E92 The implementation of at-property acoustic treatment does not preclude the application of other noise and vibration mitigation and management measures, including temporary accommodation, to manage and mitigate construction noise.
- E93 Operational traffic noise mitigation measures must be prioritised to address source control measures, road design and then the application of additional mitigation measures (such as at-property acoustic treatment).
- E94 All operational noise mitigation measures identified in the **ONR** required by **Condition E89** must be implemented prior to operation of the CSSI, unless otherwise agreed with the Planning Secretary.

Operational Noise Validation

- E95 Within 12 months and at 5 years of the commencement of operation of the CSSI, monitoring of operational noise must be undertaken to compare actual noise performance of the CSSI against the noise performance predicted in the review of noise mitigation measures required by **Condition E89**.
- E96 The Proponent must prepare an **Operational Monitoring Report** which sets out how monitoring is to be undertaken for the comparison of noise performance required by **Condition E95**. The report must include:
- (a) proposed monitoring methodology;
 - (b) location of noise monitoring sites, with reference to specific impacts on receivers. Monitoring locations must be grouped by -
 - (i) pavement type,
 - (ii) topography,
 - (iii) line of sight from a monitoring location to the CSSI, and
 - (iv) road design elements e.g. interchange, on- and off-ramps;
 - (c) an assessment of the acoustic performance of different pavement types over their design life; and
 - (d) any required recalibrations of the noise model taking into consideration factors such as noise monitoring and actual traffic numbers and proportions.

The **Operational Monitoring Report** must be provided to the Planning Secretary for approval at least one month prior to undertaking the monitoring and must be reviewed and verified by the independent and experienced noise specialist engaged under **Condition E86**. The verification must be submitted to the Planning Secretary with the report.

- E97 Classified traffic counts must be undertaken simultaneously with noise measurements to confirm traffic volumes and traffic mix assumptions and must be included in the **Operational Monitoring Report**,

Operational Noise Compliance Report (ONCR)

- E98 An **ONCR** must be prepared to document the findings of the operational noise monitoring carried out under **Condition E96**. The **ONCR** must include the following:
- (a) an assessment of compliance with the operational noise levels predicted in the review of operational noise mitigation measures required under **Condition E89**;
 - (b) an assessment of compliance with the operational noise levels in terms of criteria, noise goals and trigger levels established in the *NSW Road Noise Policy (DECCW, 2011)*,
 - (c) details of any complaints (and the resolution of these complaints) and enquiries received in relation to operational noise generated by the CSSI between the date of commencement of operation and the date the report was prepared;

- (d) an assessment of noise mitigation trigger levels based on the measured change in noise between the without project and with project scenarios and if necessary, reassessment of the eligibility of impacted sensitive receivers for noise mitigation;
- (e) an assessment of the performance and effectiveness of applied noise mitigation measures together with a review and if necessary, reassessment of mitigation measures;
- (f) identification of additional measures to those identified in the review of noise mitigation measures required by **Condition E89**, that are to be implemented with the objective of meeting the operational noise levels in terms of noise assessment criteria set out in the *NSW Road Noise Policy (DECCW, 2011)*; and
- (g) identification of when these additional measures are to be implemented and how their effectiveness is to be measured and reported to the Planning Secretary and the EPA.

The **ONCR** must be prepared in accordance with the *Model Validation Guideline* (RMS, 16 May 2018 Version 1.1).

The **ONCR** must be submitted to the Planning Secretary and the EPA for information within 90 days of completing the operational noise monitoring and made publicly available in accordance with **Condition B12** upon submission to the Planning Secretary. The **ONCR** must be reviewed and verified by the independent and experienced noise specialist engaged under **Condition E86**. The verification must be submitted to the Planning Secretary and EPA with the report.

- E99 Where the actual or verified operational traffic data (including the average daily traffic volume, vehicle composition and speed) exceeds the predictions in the documents listed in **Condition A1** and triggers increases in operational traffic noise levels and the number of properties eligible for noise mitigation measures, the **ONR** required in **Condition E89** must be re-evaluated and revised.

The independent and experienced noise specialist must review and verify the updated **ONR**. The updated **ONR** must be provided to the Planning Secretary for information within three months of completion of the 12 month operational noise validation required under **Condition E95**. A copy of the noise specialist's verification must be submitted with the updated **ONR**.

Additional mitigation measures identified in the updated **ONR** must be implemented within 12 months of completion of the 12-month operational noise validation required under **Condition E95**, unless an alternative timeframe for implementation is agreed with the impacted residences.

Maintenance of Low Noise Road Pavements

- E100 Low noise road pavements must be maintained to ensure that they continue to contribute to the compliance of mitigated noise levels identified in the **ONR (Condition E89)** throughout the life of the project.

PROPERTY AND LANDUSE

- E101 The Proponent must identify the utilities and services (hereafter "services") potentially affected by Work to determine requirements for diversion, protection and/or support. Alterations to services must be determined by negotiation between the Proponent and the service providers. The Proponent in consultation with service providers must ensure that disruption to services resulting from the CSSI are avoided where practical and where unavoidable, customers are advised in accordance with the **Communication Strategy** required under **Condition B1**.

- E102 The Proponent must liaise with **DPIRD Fisheries**, Local Land Services and **Water Group** (Hunter Valley Flood Mitigation Scheme team) six months prior to the disposal of the surplus land identified in **Appendix B**, to ascertain whether these agencies have interest in purchasing the land.

Note: *DPIRD Fisheries, Local Land Services and Water Group (Hunter Valley Flood Mitigation Scheme team) have all demonstrated an interest in restoring tidal flows and rehabilitating floodplain land in this area resulting in rehabilitation of saltmarsh and the restoration of a gradational wetland.*

Condition Surveys

- E103 The Proponent must offer pre-construction surveys to the owners of surface and sub-surface structures and other relevant assets identified at risk from vibration, including all listed heritage items and buildings/structures of heritage significance as identified in the documents listed in **Condition A1**. Where the offer is accepted, the survey must be undertaken by a suitably qualified and experienced engineer and/or building surveyor prior to the commencement of vibration generating works that could impact on the structure/asset. The results of each survey must be documented in a **Pre-construction Condition Survey Report** and the report must be provided to the owner of the item(s) surveyed no later than one month before the commencement of all other potentially impacting works.
- E104 Where pre-construction surveys have been undertaken in accordance with **Condition E103**, subsequent post-construction surveys of the structure / asset must be undertaken by a suitably qualified and experienced engineer and/or building surveyor to assess damage that may have resulted from the vibration-generating works. The results of the post-construction surveys must be documented in a **Post-Construction Condition Survey Report** for each item surveyed. The Post-construction Condition Survey Reports must be provided to the owner of the structures/assets surveyed, and no later than four months following the completion of construction activities that have the potential to impact on the structure / asset.
- E105 Where damage has been determined to occur as a result of the CSSI, the Proponent must carry out rectification at its expense and to the reasonable requirements of the owner of the structure/asset within nine months of the completion of construction activities that have the potential to create damage unless another timeframe is agreed with the owner. Alternatively, the Proponent may pay compensation for the damage as agreed with the owner.

Property Access

- E106 Access to all utilities must be maintained during Work, unless otherwise agreed with the relevant utility owner.
- E107 The Proponent must maintain access to properties during the entirety of Work unless an alternative access is agreed in writing with the landowner(s) whose access is impacted by the CSSI works.
- E108 Where construction of the CSSI restricts a property's access to a public road, the Proponent must, until their primary access is reinstated, provide the property with temporary alternate access to an agreed road decided through consultation with the landowner, at no cost to the landowner, unless otherwise agreed with the landowner.
- E109 Any property access physically affected by the CSSI must be reinstated to at least an equivalent standard, unless otherwise agreed by the landowner. Property access must be reinstated within one month of the work that physically affected the access is completed or in any other timeframe agreed with the landowner.
- E110 During construction, all reasonably practicable measures must be implemented to maintain pedestrian, cyclist and vehicular access to, and parking in the vicinity of, businesses and affected properties. Disruptions are to be avoided, and where avoidance is not possible, minimised. Where disruption cannot be avoided, alternative pedestrian, cyclist and vehicular access, and parking arrangements must be developed in consultation with affected businesses and landowners and implemented before the disruption. Adequate signage and directions to businesses must be provided before, and for the duration of, any disruption.

Agricultural Operations

- E111 The CSSI must be delivered in a manner that minimises intrusion, as far as reasonably practicable, and disruption to agricultural operations/activities in surrounding properties (including the Evergreen Stud Farm), unless otherwise agreed by the landowner.
- E112 Where the viability of existing agricultural operations will be impacted by the CSSI and has not been redressed through the *Land Acquisition (Just Terms Compensation) Act 1991*, the Proponent must, at the request of the landowner, employ a suitably qualified and experienced

independent agricultural expert to assist in identifying management measures to address the identified impacts. Where the Proponent has commenced the requirements of this condition, prior to determination of the CSSI, the Proponent may rely on these activities to fulfil this requirement.

SOCIAL

E113 Commitments, programs, timings and the effectiveness for achieving the following matters must be publicly reported prior to commencing construction and updated and publicly reported on a 12-monthly basis consistent with the requirements of **Condition B12**:

- (a) the objectives for economic participation and capacity building of Aboriginal people through training, apprenticeships, employment, and business participation consistent with the *Aboriginal Procurement Policy* (NSW Treasury, 2021);
- (b) diversity and gender equity in the construction workforce, including consistency with the *NSW Women's Strategy 2018-2022 Advancing economic and social equality in NSW* (NSW Government, 2018); and
- (c) improvements in community wellbeing (e.g. sponsorships and donations programs).

E114 All reasonable measures must be taken to avoid impacts to the Giant Fig Tree on the western bank of the Hunter River near AHIMS ID: 38-4-1810 site (as shown in the documents listed in **Condition A1**. If impact to the tree cannot be avoided, the removal of the tree must be undertaken in accordance with the Transport Roadside Tribute Policy (Roads and Maritime, 2016).

SOILS

E115 Before the commencement of any Work, erosion and sediment controls must be installed and maintained. When implementing such controls, any relevant guidance in the *Managing Urban Stormwater, Soils and Construction Vol.1* (Landcom, 2004) and Vol. 2D *Main Road Construction* (DECC, 2008) must be considered.

E116 Scour protection must be provided around piers in close proximity to the Hunter River levee(s) to minimise erosion during flood events.

Contaminated sites

E117 A **NSW EPA accredited Site Auditor(s)** must be engaged before the commencement of contamination investigations until the completion of construction to ensure that any Work required in relation to contamination is appropriately managed. The Site Auditor is to be provided with all documentation relevant to the consideration of contamination risk and the management of contamination for the project, including previous site audits and site audit statements. The Site Auditor is to review all relevant documentation and provide a written opinion on the contamination risk and the appropriateness of the reports and any proposed management measures of the site, including (but not limited to):

- (a) the contamination aspects of management and monitoring plans in **Conditions C7, C9, C14** including any updates or amendments to those plans;
- (b) **Sampling and Analysis Quality Plan** in **Condition E119**;
- (c) **Detailed Site Investigation Report(s)** in **Condition E123**;
- (d) **Remedial Action Plans** in **Condition E127**;
- (e) **Unexpected Finds Procedure for Contamination** in **Condition E132**; and
- (f) **Post-remediation validation reports**.

E118 Evidence that an EPA accredited Site Auditor has reviewed:

- (a) each of the plans and reports listed in **Condition E117**, and has issued an Interim Audit Advice or a relevant Site Audit Statement regarding the appropriateness of those plans or reports. The Interim Audit Advice or relevant Site Audit Statement must be provided when the plan or report is submitted to the Planning Secretary for information. Where the report or plan is not required to be submitted, the Interim Audit Advice or Site Audit Statement must

- be submitted to the Planning Secretary within two weeks of being issued to the Proponent; and
- (b) the risk rating of areas of potential contamination in Table 4-1 of Appendix J of the Submissions Report and has issued an Interim Audit Advice confirming the risk rating has been done appropriately. A copy of the Interim Audit Advice must be provided to the Planning Secretary for information within two weeks of being issued to the Proponent.

Where the NSW EPA accredited Site Auditor confirms that no further investigations are warranted, **Conditions E119, E121 to E126** do not apply.

Note: The NSW EPA accredited Site Auditor may recommend as part of the required review to either upgrade or downgrade the risk rating(s) of areas of potential contamination in Table 4-1 of Appendix J of the Submissions Report.

E119 A **Sampling and Analysis Quality Plan** must be prepared in accordance with the relevant guidelines made or approved by the EPA under s105 of the *Contaminated Land Management Act 1997* (CLM Act), to ensure that field investigations and analyses will be undertaken in a way that enables the collection and reporting of reliable data to meet project objectives, including (where applicable) the relevant site characterisation requirements of the detailed or targeted site investigations.

The **Sampling and Analysis Quality Plan** must be completed before **Detailed Site Investigations** are undertaken.

E120 All documents identified in **Condition E117 to E119** inclusive must be made publicly available in accordance with **Condition B12**.

E121 **Detailed Site Investigations** must be undertaken before the commencement of Work that would result in any disturbance to land identified as a moderate to high risk areas of potential contamination in Table 4-1 of Appendix J of the Submissions Report listed in **Condition A1(b)** or as updated by **Condition E118(b)**.

This condition does not prevent disturbance to land that is required to complete the Detailed Site Investigations.

E122 The Detailed Site Investigations must:

- (a) be undertaken by a Contaminated Land Consultant certified under either the Environment Institute of Australia or New Zealand's "Certified Environmental Practitioner" (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia "Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme; and
- (b) determine the nature and extent of contamination and to assess whether the contamination has the potential to pose an unacceptable risk to human health or the environment on or off-site.

E123 A **Detailed Site Investigation Report** must be submitted to the Planning Secretary upon request following the completion of the **Detailed Site Investigations** required by **Condition E121**. The Report must be provided within two weeks of receiving the request.

The **Detailed Site Investigation Report** must be prepared in accordance with:

- (a) the land use criteria applicable to the final land use at the opening of the CSSI. Where the final land use is unknown the most stringent criteria for the land use assumed in the documents listed in **Condition A1** is to be applied; and
- (b) relevant guidelines made or approved by the EPA under section 105 of the CLM Act including *Consultants Reporting on Contaminated Land* (NSW EPA 2020).

The report must be prepared by a Contaminated Land Consultant certified under either the Environment Institute of Australia or New Zealand's "Certified Environmental Practitioner" (Site

Contamination) scheme (CEnvP(SC)) or the Soil Science Australia "Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme.

Note: *Nothing in this condition prevents the Proponent from preparing individual **Detailed Site Investigation Reports** for separate contaminated sites.*

E124 The **Detailed Site Investigation Report** must provide details on:

- (a) primary sources of contamination, for example potentially contaminating activities, infrastructure (such as underground storage tanks, fuel line, sumps or sewer lines) or site practices;
- (b) contaminant dispersal in air, hazardous ground gases, surface water, groundwater, soil vapour, separate phase contaminants, sediments, infrastructure (e.g. concrete), biota, soil and dust;
- (c) contaminant characterisation and behaviour (volatility, leachability, speciation, degradation products and physical and chemical conditions on-site which may affect how contaminants behave);
- (d) potential effects of contaminants on human health, including the health of occupants of built structures (for example arising from risks to service lines from hydrocarbons in groundwater, or risks to concrete from acid sulphate soils) and the environment;
- (e) potential and actual contaminant migration routes including potential preferential pathways;
- (f) the adequacy and completeness of all information available for use in the assessment of risk and for making decisions on management requirements, including an assessment of uncertainty;
- (g) the review and update of the conceptual site model from the preliminary and detailed site investigations;
- (h) nature and extent of any existing remediation (such as impervious surface capping(s)); and
- (i) whether the land is suitable (for the intended final land use) or can be made suitable through remediation.

E125 **Detailed Site Investigation Reports** must be reviewed by the Site Auditor in accordance with **Condition E117** and all recommendations made by the Site Auditor implemented before Work commencing that could result in any disturbance of any land identified as a moderate to high risk areas of potential contamination in Table 4-1 of Appendix J of the Submissions Report listed in **Condition A1(b)** or as updated by **Condition E118(b)**.

Notes:

- 1. *The intention of this condition is to require **Detailed Site Investigations** of locations identified as an area of potential contamination to be completed before any form of excavation, including the use of hand tools, exposes soil. This will minimise risks to human health and/or the environment.*
- 2. *This condition does not prevent disturbance required to complete the **Detailed Site Investigations**.*
- 3. *This condition does not prevent other activities that do not disturb the land where the **ER** has reviewed the appropriateness of those activities in accordance with **A29(h)**.*

E126 Any recommendations made in the **Detailed Site Investigation Report** for changes to management measures in the **CEMP sub-plan(s)** must be incorporated into the relevant subplan required by **Condition C5**, unless otherwise approved by the Planning Secretary.

E127 Where remediation is required to make land suitable for the final intended land use, a **Remedial Action Plan** must be prepared and/or reviewed and approved by consultants certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme.

The **Remedial Action Plan** must be prepared in accordance with relevant guidelines made or approved by the EPA under section 105 of the CLM Act and must include measures to remediate the contamination at the site to ensure the site will be made suitable for the final intended land use.

Nothing in this condition prevents the preparation of individual **Remediation Action Plans** for separate contaminated sites.

- E128 Before commencing remediation, **Interim Audit Advice** or a **Section B Site Audit Statement(s)** must be prepared by an NSW EPA-accredited Site Auditor that certifies that the **Remedial Action Plan** is appropriate and that the site can be made suitable for the proposed use. The **Remedial Action Plan** must be implemented and any changes to the **Remedial Action Plan** must be approved in writing by the NSW EPA accredited Site Auditor.

Nothing in this condition prevents the Proponent from engaging the Site Auditor to prepare **Interim Audit Advice** or Site Audit Statement(s) for separate contaminated sites.

- E129 For any land identified as a moderate to high risk area of potential contamination in table 4-1 of Appendix J of the Submissions Report listed in **Condition A1(b)** or as updated by **Condition E118(b)**, a **Section A1** or **A2 Site Audit Statement** (accompanied by an Environmental Management Plan) and its accompanying **Site Audit Report**, which state that the contaminated land disturbed by the Work has been made suitable for the intended land use, must be submitted to the Planning Secretary and relevant council after remediation and no later than before the commencement of operation of the CSSI.

Nothing in this condition prevents the Proponent from obtaining **Section A Site Audit Statements** for individual parcels of remediated land.

- E130 Contaminated land must not be used for the purpose approved under the terms of this approval until a **Section A1** or **A2 Site Audit Statement** is obtained which states that the land is suitable for that purpose and any conditions on the **Section A Site Audit Statement** have been complied with.
- E131 Any recommendations to minimise risk to human health or the environment or for the management or further investigation of contamination arising, as detailed in the EPA accredited Site Auditor reviews, advices or audit statements must be incorporated into the relevant **CEMP Sub-plan(s)** and implemented.
- E132 An **Unexpected Finds Procedure for Contamination** must be prepared before the commencement of Work and must be followed should unexpected contamination or asbestos (or suspected contamination) be excavated or otherwise discovered. The procedure must include details of who will be responsible for implementing the unexpected finds procedure and the roles and responsibilities of all parties involved. The Procedure must be reviewed by the Site Auditor and interim audit advice or a **Section B Site Audit Statement** provided certifying that the **Unexpected Finds Procedure** is appropriate. The **Unexpected Finds Procedure** must be submitted to the Planning Secretary for approval at least one month prior to the commencement of Work and a copy of the interim audit advice or Section B Site Audit Statement attached. The **Unexpected Finds Procedure for Contamination** must be implemented throughout Work.

SUSTAINABILITY

- E133 A **Sustainability Strategy** must be prepared to achieve a minimum "Excellent" 'Design' and 'As built' rating under the Infrastructure Sustainability Council infrastructure 1.2 rating tool.

Evidence that the 'Excellent' ratings has been achieved must be provided to the Planning Secretary for information:

- (a) within 12 months of commencing construction for the 'Design' rating; and
- (b) within 12 months of commencing of operation of the CSSI for the 'As built' rating.

- E134 The **Sustainability Strategy** must be implemented throughout construction and operation.

E135 A **Water Reuse Strategy** must be prepared, which sets out options for the reuse of collected stormwater and groundwater during construction and operation. The **Water Reuse Strategy** must include, but not be limited to:

- (a) evaluation of reuse options;
- (b) details of the preferred reuse option(s), including volumes of water to be reused, proposed reuse locations and/or activities, proposed treatment (if required), and any additional licences or approvals that may be required;
- (c) measures to avoid misuse of recycled water as potable water;
- (d) consideration of the public health risks from water recycling; and
- (e) a time frame for the implementation of the preferred reuse option(s).

The **Water Reuse Strategy** must be prepared based on best practice and advice sought from relevant agencies, as required. The Strategy must be applied during construction and operation.

Justification must be provided to the Planning Secretary if it is concluded that no reuse options prevail before the commencement of construction.

A copy of the **Water Reuse Strategy** must be made publicly available in accordance with **Condition B12** prior to the commencement of construction. If reuse is only proposed during operation, then the Strategy must be made publicly available prior to the commencement of operation.

***Note:** Nothing in this condition prevents the Proponent from preparing separate Water Reuse Strategies for the construction and operational phases of the CSSI.*

TRAFFIC AND TRANSPORT

Construction traffic management

E136 Local roads proposed to be used by heavy vehicles to directly access the construction boundary and ancillary facilities that are not shown in Figure 5-2 of Appendix G of the Environmental Impact Statement as listed in **Condition A1(a)** must be approved by the Planning Secretary and included in the **Traffic, Transport and Access Management CEMP Sub-plan**.

E137 Heavy vehicle movements proposed along Adelaide Street for haulage of quarry materials, plant and equipment must be modelled and included in the **Traffic, Transport and Access Management CEMP Sub-plan**.

E138 All requests to the Planning Secretary under **Condition E136** must include a traffic and pedestrian impact assessment and be prepared in consultation with the relevant council(s). The assessment must be undertaken by an appropriately qualified and experienced person and must include a swept path analysis if required by the Department. The traffic and pedestrian impact assessment must:

- (a) demonstrate that the use of local roads will not compromise the safety of the public and have no more than minimal amenity impacts;
- (b) provide details as to the date of completion of road dilapidation surveys for the subject local roads; and
- (c) describe the measures that will be implemented to avoid where practicable the use of local roads past schools, aged care facilities and childcare facilities during peak times for operation.

The outcomes and recommendations of the traffic and pedestrian impact assessment must be incorporated into the **Ancillary Facility Site Establishment Management Plan** or **Traffic Management CEMP Sub-plan** as relevant.

E139 Bus-stops / bus routes that may be altered as a result of the CSSI must not adversely impact any marginalised or vulnerable persons.

Road Dilapidation

E140 Before any local road is used by a heavy vehicle for the purposes of the CSSI, a **Road Dilapidation Report** must be prepared for the road unless otherwise agreed to by the relevant road authority. A copy of the **Road Dilapidation Report** must be provided to the relevant council within three weeks of completion of the survey and no later than two weeks before the road being used by heavy vehicles associated with the CSSI.

If damage to roads occurs as a result of the construction of the CSSI, the Proponent must rectify the damage to restore the road to at least the condition it was in pre-construction in consultation with the relevant road authority. Rectification works must be undertaken within three months of the subject road no longer being used for the construction of the CSSI unless an alternative timeframe is agreed to by the relevant road authority.

Pedestrian and Cyclist Access

E141 Safe pedestrian and cyclist access must be maintained around work sites during construction. In circumstances where pedestrian and cyclist access is restricted or removed due to construction activities, a proximate alternative route which complies with relevant standards, unless otherwise endorsed by an independent, appropriately qualified and experienced person, must be provided (including signposting) prior to the restriction or removal of the impacted access.

E142 The CSSI must maintain the existing roadway at and adjacent the access and egress points to the construction areas and ancillary facilities to ensure safe passage for cyclists, unless alternative arrangements are made in accordance with **Condition E141**.

***Note:** The intent of this condition is to enhance community safety (cyclist and vehicular) in the general vicinity of site access entrance and exits as the Proponent will be required to maintain roadways including road shoulders so that gravel and other debris is minimised.*

Road Safety

E143 The CSSI (including new or modified local roads, parking, pedestrian and cycle infrastructure) must be designed to meet relevant design, engineering and safety guidelines, including the *Austroads Guide to Traffic Management*.

E144 An independent **Road Safety Audit** must be undertaken to assess the safety performance of new or modified local road, parking, pedestrian and cycle infrastructure provided as part of the CSSI (including ancillary facilities) to ensure that they meet the requirements of relevant design, engineering and safety guidelines, including *Austroads Guide to Traffic Management*.

The audit(s) must be undertaken by an appropriately qualified and experienced person during detailed design development (audit of plans) and prior to opening (pre-opening audit).

The audit findings and recommendations of the detailed design plans (audit of the plans) must be actioned prior to construction of the relevant infrastructure. The pre-opening audit findings and recommendations must be actioned prior to the relevant infrastructure being made available for use. All audit findings must be made available to the Planning Secretary on request, within the timeframe stated in the request.

WASTE

E145 Waste generated during construction and operation must be dealt with in accordance with the following priorities:

- (a) waste generation must be avoided and where avoidance is not reasonably practicable, waste generation must be reduced;
- (b) where avoiding or reducing waste is not possible, waste must be re-used, recycled, or recovered; and
- (c) where re-using, recycling or recovering waste is not possible, waste must be treated or disposed of.

- E146 The importation of waste and the storage, treatment, processing, reprocessing or disposal of such waste must comply with the EPL in force for the CSSI, or be done in accordance with a Resource Recovery Exemption or Order issued under the *Protection of the Environment Operations (Waste) Regulation 2014*, as the case may be.
- E147 Waste must only be exported to a site licensed by the EPA for the storage, treatment, processing, reprocessing or disposal of the subject waste, or in accordance with a Resource Recovery Exemption or Order issued under the *Protection of the Environment Operations (Waste) Regulation 2014*, or to any other place that can lawfully accept such waste.
- E148 All waste must be classified in accordance with the EPA's Waste Classification Guidelines, with appropriate records and disposal dockets retained for audit purposes.

WATER

- E149 The CSSI must be designed, constructed and operated so as to maintain the *NSW Water Quality Objectives* where they are being achieved as at the date of this approval, and contribute towards achievement of the *NSW Water Quality Objectives* over time where they are not being achieved as at the date of this approval, unless an EPL in force in respect of the CSSI contains different requirements in relation to the *NSW Water Quality Objectives*, in which case those requirements must be complied with.

Note: *If it is proposed to discharge construction stormwater to waterways, a Water Pollution Impact Assessment will be required to inform licensing, consistent with section 45 of the POEO Act. Any such assessment must be prepared in consultation with the EPA and be consistent with the National Water Quality Guidelines, with the level of detail commensurate with the potential water pollution risk.*

Construction Requirements

- E150 Works on waterfront land and within watercourses must have regard to *Guidelines for controlled activities on waterfront land* (NRAR, 2018). This includes outlets and watercourse crossings.
- E151 Proposed revegetation within riparian zones should have regard to NRARs guidelines for Vegetation Management Plans and accommodate a fully structured vegetated riparian zone using indigenous species.

Note: *Revegetation must include a maintenance component identified in the DLP as required by Condition E26 and the operational maintenance requirements of Conditions E28 and E30.*

- E152 The realignment of Purgatory Creek must:
- (a) mimic natural stream design by incorporating natural hydrological function and not include 90 degree sharp meanders; and
 - (b) tie into upstream and downstream sections of the watercourse and not limit any connectivity in the area.
- E153 Make good provisions for groundwater users must be provided in the event of a material decline in water supply levels, quality or quantity from registered existing bores, associated with groundwater changes from either construction and/or ongoing operational dewatering caused by the CSSI.
- E154 Impacts to the Hunter Valley Flood Mitigation Scheme infrastructure should be avoided. Where impact is not avoidable, consultation with **Water Group** (Hunter Valley Flood Mitigation team) during the detailed design process must be undertaken to mitigate the impacts and any agreed measures implemented during construction.

Stormwater Drainage

- E155 The Proponent must undertake further hydrological and hydraulic modelling based on the detailed design of the CSSI to determine the ability of the receiving stormwater drainage systems to effectively convey pavement drainage from the CSSI. The modelling must be undertaken in

consultation with the relevant council(s) and Hunter Water where it is proposed to discharge these flows to their receiving stormwater drainage systems and the outcomes documented in the **Stormwater Drainage Report** required under **Condition E156**.

E156 The **Stormwater Drainage Report** must be prepared at least one month prior to the commencement of any new permanent drainage works, modifications or connections to existing drainage works, construction of hard surfaces that are associated with the operation of the project and would result in runoff to existing stormwater drainage systems. The **Stormwater Drainage Report** must:

- (a) assess the potential impacts of pavement drainage discharges from the CSSI drainage systems on the receiving environment and capacity of council or Hunter Water drainage infrastructure;
- (b) identify all mitigation measures to be implemented where pavement drainage from the CSSI drainage systems are predicted to adversely impact on the receiving environment or capacity of council or Hunter Water drainage infrastructure; and
- (c) set out a clear time frame for the implementation of mitigation measures.

Nothing in this condition prevents the Proponent from preparing separate **Stormwater Drainage Reports** for pavement discharges to the drainage system provided that each report is prepared at least one month prior to the subject works/discharges commencing.

E157 All new or modified drainage systems associated with the CSSI must be designed to:

- (a) meet the capacity constraints of any council's or Hunter Water drainage system to receive and convey the proposed flows from the CSSI, or otherwise upgrade council's drainage system at the Proponent's expense, in consultation with the relevant council(s);
- (b) minimise impacts on the receiving environment at the final outflow point resulting from any additional flow volume (including, but not limited to scour, flooding, water quality impacts, and impacts on riparian vegetation, aquatic ecology and property);
- (c) ensure mitigation measures are implemented where increased flows through cross drainage systems adversely impact on council or Hunter Water drainage infrastructure and the receiving environment; and
- (d) maintenance ease and accessibility of outlet.

E158 The drainage design for the section of CSSI that traverses the Tomago Sandbeds Catchment Area must comply with the Neutral or Beneficial Effect principles for construction and operation or as agreed with by Hunter Water Corporation to ensure that road pavement run-off will not impact on water quality in the aquifer.

Detention Basin

E159 Unless approved by an EPL, all sediments basins that intercept saline or groundwater or that are within the Tomago Sandbeds drinking water catchment must be lined.

Dredging within the Hunter River

E160 A floating boom and silt curtain system must be installed around dredging activities and any nearby sensitive aquatic environments prior to dredging in the Hunter River. The boom and curtain system must be retained after completion of dredging until the turbidity within the system returns to background levels.

Appendix A

WRITTEN INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

1. A written incident notification addressing the requirements set out below must be submitted to the Department via the Major Projects website within seven days after the Proponent becomes aware of an incident. Notification is required to be given even if the Proponent fails to give the notification required under **Condition A39** or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
 - (a) identify the CSSI and application number;
 - (b) provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
 - (c) identify how the incident was detected;
 - (d) identify when the Proponent became aware of the incident;
 - (e) identify any actual or potential non-compliance with terms of the approval;
 - (f) describe what immediate steps were taken in relation to the incident;
 - (g) identify further action that will be taken in relation to the incident; and
 - (h) identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Proponent must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
 - (a) a summary of the incident;
 - (b) outcomes of an incident investigation, including identification of the cause of the incident;
 - (c) details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
 - (d) details of any communication with other stakeholders regarding the incident.

Appendix B

Land identified for floodplain restoration opportunities

Lot 51 DP 739336

Lot 12 DP 32585

Lot 131 DP 1092779

Lot A DP 405828

Lot B DP 405828

Lot 10 DP 1150648

Lot 1 DP 119895

Appendix C

Pine Tree locations that do not form part of the Tree definition

Lot 1400 DP1272419

Lot 1401 DP1272419