

Project Approval

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

I, the Minister for Planning, approve the project referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the project.

The Hon Kristina Keneally MP
Minister for Planning

Sydney

2009

File No: S08/00661

SCHEDULE 1

Application No:	07_0174
Proponent:	EnergyAustralia
Approval Authority:	Minister for Planning
Land:	Land required for the construction and operation of the project.
Project:	The Common Infrastructure Project comprising bulk earth works and vegetation clearing for the power station facilities (including the construction lay-down area) and the construction and operation of a single access road and transmission line at the Power Station Site and the construction and operation of a single gas supply pipeline from the existing Moomba to Sydney gas pipeline to the power station facilities along one of the routes identified in the Gas Pipeline Corridor and the Power Station Site.
Major Project:	The project is part of the Marulan Gas Fired Power Stations, which was declared a Major Project under section 75B(1)(a) of the <i>Environmental Planning and Assessment Act 1979</i> , because it is development of a kind described in clause 24 of Schedule 1 of <i>State Environmental Planning Policy (Major Development) 2005</i> .
Concept Approval:	The project is part of the approved concept plan for the Marulan Gas Fired Power Stations (07_0174).

Critical Infrastructure:

The project is part of the Marulan Gas Fired Power Stations.
On 20 November 2018, the project was transitioned to a critical State significant infrastructure (SSI) project by order under Clause 5 of Schedule 2 to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*.

Red type represents October 2020 modification – MOD 1

KEY TO CONDITIONS

1. ADMINISTRATIVE CONDITIONS	6
Terms of Approval	6
Limits of Approval	6
Statutory Requirements	6
2. SPECIFIC ENVIRONMENTAL CONDITIONS	7
Flora and Fauna	7
Heritage Impacts	9
Hazards and Risk	9
Traffic and Transport Impacts	9
Air Quality Impacts	11
Noise Impacts	11
Soil and Water Quality Impacts	11
Waste Generation and Management	12
Community Enhancement Contributions	12
3. COMPLIANCE MONITORING AND REPORTING	12
Incident Notification	12
Non-Compliance Notification	12
Compliance Reporting	12
Regular Reporting	13
Independent Audit	13
4. COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT	13
Complaints Procedure	13
Access to Information	14
5. ENVIRONMENTAL MANAGEMENT	14
Environmental Representative	14
Construction Environmental Management Plan	14
Operation Environmental Management Plan	16
Environmental Management Strategy	17
Revision of Strategies, Plans and Programs	17
Updating and Staging of Studies, Strategies and Plans	17

SCHEDULE 2

Act, the	<i>Environmental Planning and Assessment Act, 1979</i>
BCD	<i>The Biodiversity and Conservation Division within the Department</i>
CMA	Catchment Management Authority
Concept Plan	The approved concept plan for the Marulan Gas Fired Power Stations (07_0174)
Conditions of Approval	Conditions contained in Schedule 2
Construction	All physical works associated with the development, including but not limited to demolition and removal of buildings or works, erection or installation of buildings and infrastructure, road upgrades, and the carrying out of works, but excluding pre-construction minor works
Council	Upper Lachlan and/or Goulburn Mulwaree as relevant
Department, the	Department of Planning, Industry and Environment (DPIE)
DPI	Department of Primary Industries
DPIE Water	Water Group within the Department
EA	<i>Marulan Gas Turbine Facilities Environmental Assessment Joint Concept Plan Application, dated August 2008 and prepared by URS Pty Ltd, as amended by:</i> <i>• Marulan Gas Turbine Facilities Submissions Report and Preferred Project Report, dated May 2009, and prepared by URS Pty Ltd.</i> <i>• Modification application (MOD 1) - Marulan Gas Fired Power Stations Project - Modification of Project Approvals (MP 07_0174, MP 07_0175 and MP 7_0176), dated October 2019, prepared by EnergyAustralia and Marulan Gas Fired Power Stations Project - Submissions Report, dated February 2020, prepared by EnergyAustralia.</i>
EPA	Environment Protection Authority
Gunlake Quarry	Major Project 07_0074 granted project approval by the Minister on 24 September 2008.
Heritage NSW	Heritage NSW within the Department of Premier and Cabinet
Incident	An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be a non-compliance
Marulan Power Station 1	The approved project for the Marulan Gas Fired Power Station 1 Project (07_0175)
Marulan Power Station 2	The approved project for the Marulan Gas Fired Power Station 2 Project (07_0176)
Material harm	Is harm that: - involves actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial; or - results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000 (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
Minimise	Implement all reasonable and feasible mitigation measures to reduce the impacts of the development
Minister, the	Minister for Planning and Public Spaces
Mitigation	Activities associated with reducing the impacts of the project
Operation	When one or both power station facilities commence contributing electricity

	to the grid but excluding commissioning activities.
Proponent	EnergyAustralia, or any person carrying out any development to which this approval applies
Publicly Available	Available for inspection by a member of the general public (for example available on an internet site or at a display centre).
Reasonable / feasible	Consideration of best practice taking into account the benefit of proposed measures and their technological and associated operational application in the NSW and Australian context. Feasible relates to engineering considerations and what is practical to build. Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and nature and extent of potential improvements.
Secretary	Planning Secretary under the Act, or nominee
Secretary's Approval	A written approval from the Secretary and/or delegate
Site	Comprising: • “Power Station Site” – including land required for the power station facilities, construction lay-down area, transmission line and connection to the adjacent TransGrid switchyard, gas pipeline (purple dashed route or orange dashed route) and access road (including connection to and upgrade of the existing adjacent access road off Canyonleigh Road, as required) as generally identified in the concept plan; and • “Gas Pipeline Corridor” – the gas pipeline routes (red using purple dashed route or red using orange dashed route) as generally identified in the concept plan.
TfNSW	Transport for NSW

1. ADMINISTRATIVE CONDITIONS

Terms of Approval

- 1.1 The project may only be carried out:
 - a) in compliance with the conditions of this approval and the concept plan approval granted with respect to the Marulan Gas Fired Power Stations (07_0174);
 - b) in accordance with all written directions of the Secretary; and
 - c) generally in accordance with the EA.
- 1.2 The conditions of this approval and directions of the Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and the documents listed in condition 1.1(c). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition 1.1(c), the most recent document prevails to the extent of any inconsistency, ambiguity or conflict.
- 1.3 If there is any inconsistency between the concept plan approval granted with respect to the Marulan Gas Fired Power Stations (07_0174) and this project approval, the concept plan approval shall prevail to the extent of the inconsistency.
- 1.4 The Proponent shall comply with any reasonable requirement(s) of the Secretary arising from the Department's assessment of:
 - a) any documents that are submitted in accordance with this approval; and
 - b) the implementation of any actions or measures contained in these documents.

Limits of Approval

- 1.5 This approval will lapse if the Proponent does not physically commence the project by 26 October 2024.
- 1.6 The Proponent may elect to construct the project in discrete work packages or stages. In this case, these conditions of approval may be complied with separately for each discrete work package or stage, as relevant.

Statutory Requirements

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

2. SPECIFIC ENVIRONMENTAL CONDITIONS

Flora and Fauna

Detailed Design

- 2.1 Prior to the commencement of construction, the Proponent shall demonstrate to the satisfaction of the **Secretary** that the facilities within the Power Station Site (including the construction lay-down area) have been designed sited to minimise the extent of vegetation clearing required on site as far as reasonable and feasible.

Construction Management Measures

- 2.2 The Proponent shall ensure that clearing of native vegetation, in particular vegetation associated with the Box Gum Woodland Endangered Ecological Communities, is limited to the minimum extent practicable (where reasonable and feasible) during the construction of the project, including:
- a) nil clearance of canopy trees associated with the abovementioned Endangered Ecological Communities during gas pipeline construction unless demonstrated to the satisfaction of the **Secretary** that no reasonable and feasible alternative exists to avoiding the impact; and
 - b) reducing the construction corridor of the gas pipeline to 10 metres where sensitive vegetation areas are encountered.
- 2.3 The Proponent shall implement measures to minimise impacts to fauna species and their habitat as far as practicable (where reasonable and feasible) during the construction of the project, including:
- a) timing of construction outside of the breeding season of threatened species with the potential to occur on site;
 - b) avoiding impacts to habitat trees (>40 centimetre trunk width or any trees with hollows) unless demonstrated to the satisfaction of the **Secretary** that no reasonable and feasible alternative exists to avoiding the impact;
 - c) reinstating habitat features (such as hollow bearing logs, large woody debris, bush rock, leaf litter/mulch and topsoil etc) following disturbance;
 - d) measures for minimising the incidence of fauna being trapped in trenches during gas pipeline construction including minimising the length of time that trenches are left exposed and measures to encourage trapped fauna to escape from the trenches, and
 - e) monitoring and response measures to identify and deal with trapped or injured fauna.

Biodiversity Offset and Rehabilitation

- 2.4 Unless otherwise agreed to by the **Secretary**, the Proponent shall ensure that the biodiversity values of the following areas are conserved in perpetuity to offset the biodiversity impacts of the project:
- a) 35.5 hectares of native vegetation within the Power Station Site comprising 13.8 hectares of the Box Gum Woodland Endangered Ecological Community and 21.7 hectares of Tableland Hills Grassy Woodland;
 - b) 9 hectares of riparian vegetation within the Power Station Site;
 - c) 13 hectares of native vegetation within Lot 153 DP750053 (to the southern side beyond the Transgrid overhead transmission line easement) comprising Stringybark/ Black Sheoak Forest, Box Gum Woodland Endangered Ecological Community and Candlebark Gully Forest; and
 - d) 2.75 hectares of native vegetation within Lot 31 DP750053 (now known as Lot 18 DP 750053) comprising Box Gum Woodland Endangered Ecological Community, native grassland, and Cabbage Gum/ Stringy Bark Forest.

The land referred to in condition **Error! Reference source not found.** shall only comprise part of the offset for the project should the gas supply pipeline be developed within Lot 153 DP750053.

Prior to the commencement of construction, the Proponent shall provide details to the **BCD and Secretary** of responsibilities for ongoing maintenance and monitoring of the offset measures including monitoring duration and frequency, performance criteria and what contingency measures will be undertaken should monitoring against performance criteria indicate that the offset measures have not achieved performance outcomes. The Proponent shall report on the performance of offset measures in accordance with the reporting requirements of condition 3.1**Error! Reference source not found.**

- 2.5 Unless otherwise agreed to by the **Secretary**, the Proponent shall ensure that any hollow bearing trees cleared as part of the project are offset on an at least 1:1 basis through the installation of one nest/roost box per hollow-bearing tree affected. Prior to the commencement of construction, the Proponent shall provide details to the **BCD and Secretary** of the number and location of nest/roost boxes to be installed (including justification for these) and responsibilities for ongoing maintenance and monitoring of the usage/performance of the nest/roost boxes including monitoring duration and frequency, performance criteria and what contingency measures will be undertaken should monitoring against performance criteria indicate that nest/roost boxes are not being used by the target species. The Proponent shall report on the performance of this offset measure in accordance with the reporting requirements of condition 3.1**Error! Reference source not found.** Unless otherwise agreed to by the **Secretary**, the Proponent shall install the nest/roost boxes within six months of the commencement of clearing associated with the project.
- 2.6 Unless otherwise agreed to by the **Secretary**, the Proponent shall implement the following rehabilitation measures within six months of the completion of construction for the project, to the satisfaction of the **Secretary**:
- a) subject to restrictions on the planting of deep-rooted vegetation across an approximately six metres width immediately above the buried gas pipeline, the Proponent shall rehabilitate the land corridor disturbed by the construction of the gas supply pipeline (outside of the Power Station Site) consistent with existing landuse and in consultation with affected landowners, **BCD** and Hawkesbury Nepean CMA. Rehabilitation of previously vegetated areas shall include measures for encouraging natural regeneration, replanting of native species, indigenous to the area consistent with surrounding vegetation communities, erosion and sediment control and weed control;
 - b) subject to bushfire asset protection requirements, the Proponent shall in consultation with **BCD** and Hawkesbury Nepean CMA rehabilitate any land used for construction lay-down (which is not also required for the ongoing siting of project components such as the power station facilities, gas supply pipeline, access road and transmission line) consistent with existing biodiversity values. Rehabilitation measures shall include measures for encouraging natural regeneration, replanting of native species, indigenous to the area consistent with surrounding vegetation communities, erosion and sediment control and weed control;
 - c) rehabilitation of nine hectares of riparian vegetation within the Power Station Site, in consultation with **BCD**, **DPI** (Fisheries) and Hawkesbury Nepean CMA including measures for controlling gully erosion, weed and pest control, stock exclusion and replanting of native species indigenous to the area consistent with surrounding vegetation communities with the aim of improving connectivity with surrounding vegetation; and
 - d) rehabilitation of all watercourses (including associated riparian and aquatic habitat) disturbed during the construction of the project to a standard equal to or better than the existing condition, in consultation with the **BCD**, **DPI** (Fisheries) and the Hawkesbury Nepean CMA including measures for encouraging natural regeneration, replanting of native species, indigenous to the area consistent with surrounding vegetation communities, erosion and sediment control and weed control.

Prior to the commencement of construction, the Proponent shall provide details to the **Secretary** of responsibilities for ongoing maintenance and monitoring of the rehabilitation measures including monitoring duration and frequency, performance criteria and what

contingency measures will be undertaken should monitoring against performance criteria indicate that the rehabilitation measures have not achieved performance outcomes. The Proponent shall report on the performance of rehabilitation measures in accordance with the reporting requirements of condition 3.1 **Error! Reference source not found.**

Heritage Impacts

- 2.7 The Proponent shall design and construct the project so as to avoid disturbance of Aboriginal object(s) and potential archaeological deposit (PAD) sites identified in the documents listed in condition 1.1 as far as practicable (where reasonable and feasible), including the implementation of adequate buffer distances and construction practices to minimise the potential for indirect impacts.
- 2.8 Where disturbance of a PAD site is considered to be unavoidable, the Proponent shall undertake further archaeological investigations of the PAD site(s) prior the commencement of construction in consultation with registered Aboriginal stakeholders to determine the extent and significance (archaeological and cultural) of the site and of any objects uncovered, and appropriate management measures for the site/ objects. Where disturbance of identified Aboriginal object(s) is considered to be unavoidable (including those identified in the documents listed in condition 1.1 and those identified through subsequent archaeological investigations), the Proponent shall ensure that all reasonable and feasible measures are implemented to minimise the extent of physical disturbance and to manage and mitigate any residual impact, in consultation with registered Aboriginal stakeholders.
- 2.9 If during the course of construction or operation of the project the Proponent uncovers any Aboriginal cultural object(s), all works likely to affect the object(s) shall cease in the immediate area to prevent any further impact to the finds. A suitably qualified archaeologist, the **Heritage NSW** and Aboriginal community representatives shall be contacted to determine the significance of the find(s) and appropriate management measures. The Proponent shall register the site and management outcome in the **Aboriginal Heritage Information Management System (AHIMS)**, in accordance with the *National Parks and Wildlife Act 1974*.

Hazards and Risk

Safety Management System

- 2.10 The Proponent shall develop and implement a Safety Management System consistent with the Department's publication *Hazardous Industry Planning Advisory Paper No. 9 - Safety Management*, covering the operation of the gas supply pipeline and any transport activities associated with the project involving hazardous materials. The system shall clearly specify all safety-related procedures, responsibilities and policies, along with details of mechanisms for ensuring adherence to safety procedures. System records shall be kept on site and shall be available for inspection by the **Secretary** on request.

Bunding and Spill Management

- 2.11 The Proponent shall store and handle all dangerous goods, as defined by the Australian Dangerous Goods Code, strictly in accordance with:
- a) all relevant Australian Standards;
 - b) for liquids, a minimum bund volume requirement of 110% of the volume of the largest single stored volume within the bund; and
 - c) the ***Technical Guidelines: Bunding & Spill Management (EPA)***.

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

Traffic and Transport Impacts

- 2.12 Except as provided in condition 2.13, the Proponent shall ensure that (unless otherwise agreed to by the **TfNSW**) all vehicles associated with the project enter and exit the Hume Highway via the north Marulan interchange (Brayton Road/ George Street intersection).

- 2.13 At the completion of the upgrade of Redhills Road as part of Stage 2 of the Gunlake Quarry project, the Proponent shall ensure that Redhills Road is utilised to access the site during construction and operation as far as practicable (where reasonable and feasible), to minimise the incidence of traffic travelling along Brayton Road through the village of Marulan.
- 2.14 Prior to the commencement of construction, the Proponent shall level, grade and apply a single coat seal onto the portion of Canyonleigh Road between the Brayton Road intersection and the Power Station Site access, unless those works have previously been completed.
- 2.15 Unless otherwise agreed by the **Secretary**, the Proponent shall commission an independent, qualified person or team to undertake the following in consultation with Council and the **TfNSW**:
- a) review existing access provisions to the Power Station Site off Canyonleigh Road prior to the commencement of construction, to determine whether the existing provisions allow for safe access of construction and operational vehicles (including appropriate site distances and provisions for over-mass or over-dimensional transport). Where improvements are required, the Proponent shall implement these in consultation with Council and the **TfNSW**, prior to the commencement of construction;
 - b) assess all roads proposed to be used for over-mass and/ or over-dimensional transport (including intersections, bridges, culverts and other road features) prior to the commencement of construction, to determine whether the existing road condition can accommodate the proposed over-mass and/ or over-dimensional haulage. Where improvements are required, the Proponent shall implement these in consultation with Council and the **TfNSW**, prior to the commencement of construction; and
 - c) assess the pavement condition of all roads proposed to be used for construction haulage by heavy vehicles both prior to the commencement of construction and prior to the commencement of operation to determine any damage caused to the roads attributable to the project during construction and detail any works required to restore the roads to a standard equal to or better than the existing condition. The “existing” road condition shall be taken to be that following upgrade in accordance with conditions 2.15 a) and b) and in addition in the case of Canyonleigh Road (between the Brayton Road intersection and the Power Station Site access), following upgrade to the road as specified in condition 2.14. Where restoration works are required, the Proponent shall implement these in consultation with Council and the **TfNSW**, prior to the commencement of operation.

A report(s) detailing the results of the above assessments shall be submitted to the **Secretary** prior the commencement of construction in relation to a), b) and c) above and prior the commencement of operation in relation to c) above, including clear documentation of how any issues raised by Council and the **TfNSW** have been addressed.

In the event of a dispute between the Proponent, Council and/ or the **TfNSW** with respect to the extent of improvement/ restorative work that may be required under this condition, any party may refer the matter to the **Secretary** for resolution. The **Secretary**'s determination of any such dispute shall be final and binding to all parties.

- 2.16 The Proponent shall ensure that the gas supply pipeline crossing of Canyonleigh Road is designed and constructed to minimise disturbance of the road and disruptions to traffic, in consultation with Council and ensure that any damage caused to the road is restored to a standard equal to or better than the existing condition as part of the construction works for the gas supply pipeline crossing. The existing condition of the road shall be determined through the pavement assessment process specified in condition 2.15c). The requirements of condition 2.15 shall apply in the case of a dispute between the Proponent and Council in relation to any restoration works undertaken at Canyonleigh Road.

Air Quality Impacts

Dust Generation

- 2.17 The Proponent shall construct the project in a manner that minimises dust emissions from the site, including wind-blown and traffic-generated dust. All activities on the site shall be undertaken with the objective of preventing visible emissions of dust from the site. Should such visible dust emissions occur at any time, the Proponent shall identify and implement all practicable dust mitigation measures, including cessation of relevant works, as appropriate, such that emissions of visible dust cease.

Odour

- 2.18 The Proponent shall not permit any offensive odour, as defined under section 129 of the *Protection of the Environment Operations Act 1997*, to be emitted from the site which impacts on any sensitive surrounding receivers identified in the documents listed in condition 1.1.

Noise Impacts

Vibration Impacts

- 2.19 The Proponent shall ensure that the vibration resulting from construction and operation of the project does not exceed the preferred values vibration (for low probability of adverse comment) presented in *Assessing Vibration: A Technical Guideline* (DECC, February 2006), at any affected residential dwelling identified in the documents listed in condition 1.1.

Construction Noise

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

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

- 2.21 The hours of construction activities specified under condition 2.20 of this approval may be varied with the prior written approval of the **Secretary**. Any request to alter the hours of construction specified under condition 2.20 shall be:
- a) considered on a case-by-case basis;
 - b) accompanied by details of the nature and need for activities to be conducted during the varied construction hours; and
 - c) accompanied by written evidence demonstrating consultation with the **EPA** in relation to the proposed variation in construction times (including consideration of any comments made by the **EPA**).

Soil and Water Quality Impacts

- 2.22 Except as may be expressly provided by an Environment Protection Licence for the project, the Proponent shall comply with section 120 of the *Protection of the Environment Operations Act 1997* which prohibits the pollution of waters.
- 2.23 Soil and water management controls shall be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during construction activities, in accordance with Landcom's *Managing Urban Stormwater: Soils and Conservation*.

- 2.24 The Proponent shall not establish any new water storage structures or utilise any existing water storage structures on site for the purposes of stormwater capture during construction or operation unless granted exemption for this purpose under section 53 of the *Water Management Act 2000*.

Waste Generation and Management

- 2.25 The Proponent shall not cause, permit or allow any waste generated outside the site to be received at the site for storage, treatment, processing, reprocessing, or disposal on the site, except as expressly permitted by a licence under the *Protection of the Environment Operations Act 1997*, if such a licence is required in relation to that waste.
- 2.26 The Proponent shall maximise the reuse and/or recycling of waste materials generated on site, to minimise the need for treatment or disposal of those materials outside the site.
- 2.27 The Proponent shall ensure that all liquid and/or non-liquid waste generated on the site is assessed and classified in accordance with *Waste Classification Guidelines (EPA, 2014)*, or its latest version, or any future guideline that may supersede that document and where removed from the site is only directed to a waste management facility lawfully permitted to accept the materials.

Community Enhancement Contributions

- 2.28 Unless otherwise agreed to by the **Secretary**, prior to the commencement of construction of the project, the Proponent shall contribute \$30,000 (2009 dollars) to the Big Hill branch of the NSW Rural Fire Services (or an alternate branch within 30 kilometres of the Power Station Site) for the purpose of bushfire fighting equipment.
- 2.29 Unless otherwise agreed to by the **Secretary**, prior to the commencement of construction of the project, the Proponent shall contribute \$100,000 (2009 dollars) to Upper Lachlan Council to fund community enhancement works, as agreed to between Upper Lachlan Council and the Proponents, in the local area.

3. COMPLIANCE MONITORING AND REPORTING

Incident Notification

- 3.1 The Proponent must immediately notify the Department and any other relevant agencies immediately after it becomes aware of an incident. The notification must be in writing and identify the development (including the development application number and name) and set out the location and nature of the incident.

Non-Compliance Notification

- 3.2 Within seven days of becoming aware of a non-compliance, the Proponent must notify the Department of the non-compliance. The notification must be in writing and identify the development (including the development application number and name), set out the condition of this consent that the development is non-compliant with, why it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

Note: A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

Compliance Reporting

- 3.3 The Proponent must provide regular compliance reporting to the Department on the development in accordance with the relevant requirements of the Department's *Compliance Reporting Post Approval Requirements (2020)*, or its most recent version.

Regular Reporting

- 3.4 The Proponent must provide regular reporting on the environmental performance of the development on its website in accordance with the reporting requirements in any strategies, plans or programs approved under the conditions of this approval.

Independent Audit

- 3.5 No later than 4 weeks before the commencement of construction, an Independent Audit Program prepared in accordance with the Department's *Independent Audit Post Approval Requirements (2018)* or latest version, must be submitted to the Department.
- 3.6 Independent audits of the development must be carried out in accordance with:
- a) the Independent Audit Program submitted to the Department under condition 3.5 of this approval; and
 - b) the requirements for an Independent Audit Methodology and Independent Audit Report in the Department's *Independent Audit Post Approval Requirements (2018)*, or latest version.
- 3.7 In accordance with the specific requirements in the Department's *Independent Audit Post Approval Requirements (2018)*, or latest version, the Proponent must review and respond to each Independent Audit Report prepared under condition 3.6 of this approval and submit the response to the Department.

4. COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT

- 4.1 Subject to confidentiality, the Proponent shall make all documents required under this approval available for public inspection on request.

Complaints Procedure

- 4.2 Prior to the commencement of construction of the project, the Proponent shall ensure that the following are available for community complaints for the life of the project (including construction and operation):
- a) a telephone number on which complaints about construction and operational activities at the site may be registered;
 - b) a postal address to which written complaints may be sent; and
 - c) an email address to which electronic complaints may be transmitted.

The telephone number, postal address and email address shall be published in a newspaper circulating in the local area prior to the commencement of construction of the project. The above details shall also be provided on the website required by condition **Error! Reference source not found.** of this approval.

- 4.3 The Proponent shall record details of all complaints received through the means listed under condition 4.2 of this approval in an up-to-date Complaints Register. The Register shall record, but not necessarily be limited to:
- a) the date and time, where relevant, of the complaint;
 - b) the means by which the complaint was made (telephone, mail or email);
 - c) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
 - d) the nature of the complaint;
 - e) any action(s) taken by the Proponent in relation to the complaint, including any follow-up contact with the complainant and the timing for implementing action; and
 - f) if no action was taken by the Proponent in relation to the complaint, the reason(s) why no action was taken.

The Complaints Register shall be made available for inspection by the **Secretary** upon request.

Access to Information

- 4.4 From the commencement of the construction of the project, the Proponent must:
- a) make copies of the following information publicly available on its website:
 - the EA;
 - current statutory approvals for the project;
 - approved studies, strategies, plans required for the project under the conditions of approval;
 - a comprehensive summary of the monitoring results on the project, reported in accordance with the requirements in the conditions of approval or any approved studies, strategies or plans for the project;
 - a complaints register, updated monthly;
 - the Compliance Reports of the project;
 - audit reports prepared as part of any Independent Audit of the project and the Proponent's response to the recommendations in any audit report;
 - any other matter required by the Secretary; and
 - b) keep such information up to date, to the satisfaction of the Secretary.

5. ENVIRONMENTAL MANAGEMENT

Environmental Representative

- 5.1 Prior to the commencement of any construction activities, or as otherwise agreed by the Secretary, the Proponent shall nominate for the approval of the Secretary a suitably qualified and experienced Environmental Representative(s) independent of the design, construction and operation personnel. The Proponent shall engage the Environmental Representative(s) during any construction activities. The Environmental Representative(s) shall:
- a) oversee the implementation of all environmental management plans and monitoring programs required under this approval, and advise the Proponent upon the achievement of these plans/programs;
 - b) consider and advise the Proponent on its compliance obligations against all matters specified in the conditions of this approval and the Statement of Commitments as referred to under condition 1.1c) of this approval, and any other relevant environmental approval, licence or permit required and obtained in relation to the project; and
 - c) have the authority and independence to recommend to the Proponent reasonable steps to be taken to avoid or minimise unintended or adverse environmental impacts, and, failing the effectiveness of such steps, to recommend to the Proponent that relevant activities are to be ceased as soon as reasonably practicable if there is a significant risk that an adverse impact on the environment will be likely to occur.

Construction Environmental Management Plan

- 5.2 The Proponent shall prepare a **Construction Environmental Management Plan** (CEMP) to outline environmental management practices and procedures to be followed during construction of the project. The CEMP shall be prepared consistent with *Guideline for the Preparation of Environmental Management Plans* (DIPNR, 2004) and shall include, but not necessarily be limited to:
- a) a description of key activities to be undertaken during construction including details of staging, where relevant;
 - b) a description of the statutory obligations that the Proponent is required to fulfil prior to and during construction including all relevant approvals, licences and permits required and applicable key legislation and policies;
 - c) a description of the roles and responsibilities for all relevant employees involved in the construction of the project;

- d) an environmental risk analysis to identify the key environmental performance issues associated with the construction phase and details of how environmental performance would be monitored and managed to meet acceptable outcomes including what actions will be taken to address identified potential adverse environmental impacts. In particular, the following environmental performance issues shall be addressed in the Plan:
 - i) measures to monitor and manage dust emissions;
 - ii) measures to monitor and manage soil and water impacts in consultation with **DPIE Water and EPA** including site-specific controls for waterways crossings (detailing rehabilitation, completion criteria and monitoring requirements), procedures that would be undertaken should groundwater be intercepted during construction and measures that would be implemented to maintain landform stability and erosion and sediment control should there be a lag period between the completion of earthworks at the Power Station Site and the commencement of construction of the Marulan Power Station 1 Project and/ or Marulan Power Station 2 Project;
 - iii) measures to monitor and manage construction traffic and access including details of road restoration works to be undertaken prior to the commencement of construction, identification of construction traffic volumes on all roads proposed to be used during construction, an analysis of potential road capacity and safety impacts associated with construction traffic on these roads and measures to minimise traffic volumes along Brayton Road through the village of Marulan, with consideration to cumulative impacts from traffic generated by surrounding development such as quarry operations;
 - iv) measures to manage bushfire risk;
 - v) emergency management; and
- e) complaints handling procedures during construction consistent with condition 4.2 of this approval.

The CEMP shall be submitted for the approval of the **Secretary** no later than one month prior to the commencement of any construction works associated with the project, or within such period otherwise agreed by the **Secretary**. Construction works shall not commence until written approval has been received from the **Secretary**

The Proponent must implement the approved CEMP for the project.

- 5.3 As part of the Construction Environmental Management Plan for the project, required under condition 5.2 of this approval, the Proponent shall prepare and implement the following:
- a) **Flora and Fauna Management Plan** to manage the construction impacts of the project on flora and fauna (in particular endangered ecological communities, threatened species and their habitat). The Plan shall be prepared in consultation with the **BCD** and shall include, but not necessarily be limited to:
 - i) detailed constraint mapping of the final project clearly identifying sensitive vegetation/habitat areas;
 - ii) measures for minimising impacts to native vegetation and important habitat features;
 - iii) measures to minimise impacts to aquatic and/or riparian ecology during waterway crossings;
 - iv) construction practices to avoid direct interaction/ injury to fauna;
 - v) measures for progressive rehabilitation during construction; and
 - vi) measures for weed management;
 - b) **Aboriginal Cultural Heritage Management Plan** for the project area shall be developed and implemented in consultation with the registered Aboriginal stakeholders and the **Heritage NSW**. The Plan shall include, but not be limited to:
 - i) details of further archaeological investigations and/or salvage measures to be carried out prior to impact;
 - ii) procedures for the management of previously identified objects within the project site;

- iii) procedures for the management of previously unrecorded sites;
 - iv) management measures in the event that human remains are found;
 - v) Aboriginal cultural induction processes for construction personnel;
 - vi) procedures for ongoing Aboriginal consultation and involvement; and
- c) **Construction Noise and Vibration Management Plan** to manage noise and vibration impacts during construction with specific consideration to traffic noise impacts along Brayton Road through the village of Marulan with consideration to cumulative impacts from surrounding development such as quarry operations. The Plan shall be prepared with consideration to the *Interim Construction Noise Guideline* (DECC, July 2009) and include, but not necessarily be limited to:
- i) details of all potentially affected sensitive receivers;
 - ii) details of construction activities (including construction traffic and haulage) that have the potential to generate noise and vibration impacts on sensitive receivers;
 - iii) identification of applicable construction noise and vibration goals (including road traffic noise goals) and all reasonable and feasible noise and vibration mitigation measures that will be implemented achieve the goals;
 - iv) monitoring measures to be implemented to determine compliance with applicable construction noise and vibration goals;
 - v) procedures for notifying sensitive receivers of construction activities that are likely to affect their noise and vibration amenity; and
 - vi) procedures for investigating and responding to noise and vibration complaints (including any additional monitoring requirements).

Operation Environmental Management Plan

- 5.4 The Proponent shall prepare an **Operation Environmental Management Plan** (OEMP) to detail an environmental management framework, practices and procedures to be followed during operation of the project. The Plan shall be consistent with *Guideline for the Preparation of Environmental Management Plans* (DIPNR 2004) and shall include, but not necessarily be limited to:
- a) a description of key operational and maintenance activities associated with the project;
 - b) identification of all statutory and other obligations that the Proponent is required to fulfil prior to and during operation of the project, including all approvals, licences, approvals and consultations;
 - c) a description of the roles and responsibilities for all relevant employees involved in the operation of the project;
 - d) an environmental risk analysis to identify the key environmental performance issues associated with the construction phase and details of how environmental performance would be monitored and managed to meet acceptable outcomes including what actions will be taken to address identified potential adverse environmental impacts. In particular, the following environmental performance issues shall be addressed in the Plan:
 - i) procedures to monitor, manage and maintain implemented offset and rehabilitation measures including details of periodic reporting on the performance of the measures consistent with condition 3.1 **Error! Reference source not found.**;
 - ii) measures to monitor and manage operational traffic and access including details of road restoration works to be undertaken prior to the commencement of operation, measures to monitor and minimise operational traffic noise and measures to minimise traffic volumes along Brayton Road through the village of Marulan, with consideration to cumulative impacts from traffic generated by surrounding development such as quarry operations;
 - iii) measures to monitor and manage hazard and risk (including bushfire);
 - iv) emergency management; and
 - e) complaints handling procedures during operation consistent with condition 4.2 of this approval.

The Plan shall be submitted for the approval of the **Secretary** no later than one month prior to the commencement of operation of the project, or within such period otherwise agreed by the

Secretary. Operation shall not commence until written approval has been received from the Secretary.

The Proponent must implement the approved OEMP for the project.

Environmental Management Strategy

5.5 Prior to the commencement of the construction of the project, the Proponent shall prepare an Environmental Management Strategy for the project to the satisfaction of the Secretary. This strategy must:

- a) provide the strategic framework for the environmental management of the project;
- b) identify the statutory approvals that apply to the project;
- c) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the project; and
- d) describe the procedures that would be implemented to:
 - keep the local community and relevant agencies informed about the progress of the project;
 - receive, handle, respond to, record and report complaints;
 - resolve any disputes that may arise during the project;
 - respond to any non-compliance; and
 - respond to any incidents or emergencies.

Revision of Strategies, Plans and Programs

5.6 Within 3 months, unless the Secretary agrees otherwise, of:

- a) the submission of an incident notification under condition 3.1 of this approval;
- b) the submission of an Independent Audit under condition 3.6 of this approval;
- c) the approval of any modification to the conditions of approval; or
- d) a direction from the Secretary under condition 1.4 of this approval;

the Proponent must review and, if necessary, revise the studies, strategies or plans required under the conditions of approval to the satisfaction of the Secretary.

Where this review leads to revisions in any such document, then within 4 weeks of the review the revised document must be submitted to the Secretary for approval, unless otherwise agreed with the Secretary.

Note: This is to ensure the strategies, plans and programs are updated on a regular basis, and incorporate any recommended measures to improve the environmental performance of the development.

Updating and Staging of Studies, Strategies and Plans

5.7 To ensure the studies, strategies and plans for the project are updated on a regular basis and incorporate any required measures to improve the environmental performance of the project, the Proponent may submit revised studies, strategies or plans required for the project under the conditions of approval at any time. With the agreement of the Secretary, the Proponent may also submit any study, strategy or plan required under the conditions of this approval on a staged basis.

The Secretary may approve a revised strategy or plan required under the conditions of approval, or the stage submission of these documents, at any time. With the approval of the Secretary, the Proponent may prepare the revised or staged strategy or plan without undertaking consultation with all parties nominated under the applicable condition in this approval.

Notes:

- *While any study, strategy or plan may be submitted on a progressive basis, the Proponent will need to ensure that the existing operations on site are covered by suitable studies, strategies or plans at all times.*

- *If the submission of any study, strategy or plan is to be staged, then the relevant study, strategy or plan must clearly describe the specific stage to which the study, strategy or plan applies, the relationship of this stage to any future stages, and the trigger for updating the study, strategy or plan.*

Note: Nothing in this approval removes the Proponent's obligation under Section 148 of the *Protection of the Environment Operations Act 1997* to notify the appropriate regulatory authority (as defined under Section 6 of the *Protection of the Environment Operations Act 1997*) where a pollution incident occurs in the course of the development so that material harm to the environment is caused or threatened.
