

## Project Approval

### Section 75J of the *Environmental Planning & Assessment Act 1979*

The Planning Assessment Commission of New South Wales (the Commission) approves the project referred to in schedule 1, subject to the conditions in schedules 2 to 6.

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.

Member of the Commission

Member of the Commission

Member of the Commission

Sydney

7 September 2010

#### SCHEDULE 1

Application No.:

08\_0211

Proponent:

Charbon Coal Pty Limited

Approval Authority:

The Planning Assessment Commission of New South Wales

Land:

See Appendix 1

Project:

Charbon Coal Project

Red type represents July 2019 modification (Mod 1)

Blue type represents August 2021 modification (Mod 2)

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

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

# CONSOLIDATED CONSENT

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## DEFINITIONS

Annual Review BCS	The review required by condition 3 of schedule 5 Biodiversity, Conservation and Science Directorate, within the Department
Council Day	Mid-Western Regional Council The period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays
Department DPIE Water EA	Department of Planning, Industry and Environment Water Group, within the Department Environmental Assessment titled <i>Environmental Assessment Continued Operations of the Charbon Colliery</i> (3 volumes), dated November 2009, including the Proponent's responses to issues raised in submissions, titled <i>Environmental Assessment Continued Operations of the Charbon Colliery – Response to Submissions</i> , dated 15 February 2010 and as updated 30 March 2010, as modified by: <ul style="list-style-type: none"> <li>MOD 1 - Modification Report titled '<i>Statement of Environmental Effects: Charbon Colliery – State Significant Development 08_0211 – Modification 1 – April 2019</i>' prepared by Charbon Coal Pty Ltd dated April 2019, including Submissions Report titled '<i>Response to Submissions – Charbon Colliery – State Significant Development 08_0211 - Modification 1 – June 2019</i>' prepared by Charbon Coal Pty Ltd dated 12 June 2019, and additional information provided by the Proponent on 24 June 2019 and 25 July 2019; and</li> <li>MOD 2 – Modification Report titled "<i>Clarence Colliery and Charbon Colliery Modification report for modifications to DA 504-00 and SSD 08_0211</i>", dated September 2020, including the Proponent's responses to issues raised in submissions titled "<i>Centennial Submissions Report Charbon Colliery MP08_0211 Mod 2 Clarence Colliery DA504-00 Mod 6</i>", dated January 2021, and additional information provided by the Proponent dated 1 March 2021, 15 March 2021 and 11 May 2021.</li> </ul>
EP&A Act EP&A Regulation EPA EPL	<i>Environmental Planning and Assessment Act 1979</i> Environmental Planning and Assessment Regulation 2000 Environment Protection Authority Environment Protection Licence issued by EPA under the <i>Protection of the Environment Operations Act 1997</i>
Evening Feasible	The period from 6 pm to 10 pm Feasible relates to engineering considerations and what is practical to build
Heritage NSW	Heritage NSW, within the NSW Department of Premier and Cabinet
Incident	A set of circumstances that causes or threatens to cause material harm to the environment, and/or breaches or exceeds the limits or performance measures/criteria in this approval
Land	Land means the whole of a lot, or contiguous lots owned by the same landowner, in a current plan registered at the Land Titles Office at the date of this approval
Mining operations	Includes all coal extraction, coal processing and coal transportation activities carried out on-site
ML Minister Night	megalitre Minister for Planning and Public Spaces, or delegate The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
Planning Secretary Privately-owned land	Planning Secretary under the EP&A Act, or nominee Land that is not owned by a public agency or a mining company (or its subsidiary)
Project Proponent	The development as described in the EA Charbon Coal Pty Limited, or its successors in title

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Public infrastructure	Linear and related infrastructure that provides services to the general public, such as roads, railways, water supply, gas supply, drainage, sewerage, telephony, telecommunications etc
Reasonable	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements
Rehabilitation	The treatment or management of land disturbed by the project for the purpose of establishing a safe, stable and non-polluting environment
Resources Regulator	NSW Resources Regulator, within the Department of Regional NSW
Site	The land listed in Appendix 1
Statement of Commitments	The Proponent's Statement of Commitments listed in Appendix 3.
Year	A period of 12 consecutive months.

FOR INFORMATION

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## SCHEDULE 2 ADMINISTRATIVE CONDITIONS

### OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

1. The Proponent **must** implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the construction, operation, or rehabilitation of the project.

### TERMS OF APPROVAL

2. The Proponent **must** carry out the project generally in accordance with the:
  - (a) EA;
  - (b) Statement of Commitments; and
  - (c) conditions of this approval.

*Note: The general layout of the project is shown in Appendix 2.*

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

### LIMITS ON APPROVAL

5. Mining operations may take place until 31 August 2025.

**Note:**

- Under this approval, the Proponent is required to rehabilitate the site and perform additional undertakings to the satisfaction of the **Planning Secretary** and **Resources Regulator**. Consequently this approval will continue to apply in all other respects other than the right to conduct mining operations until the site has been properly rehabilitated.

- 5A. Water transfers to Airly Coal Mine may take place until 31 January 2037.

*Note: Water transfer arrangements are outlined in condition 42A of Schedule 3.*

6. The Proponent **must** not extract or process more than 1.5 million tonnes of run-of-mine coal in a calendar year.
7. The Proponent **must** not transport more than 250,000 tonnes of product coal from the site by public roads in a calendar year.

### SURRENDER OF CONSENTS

8. Within 12 months of the date of this approval, or as otherwise agreed by the **Planning Secretary**, the Proponent **must** surrender all existing development consents for the project in accordance with sections 75YA and 104A of the EP&A Act and clause 97 of the EP&A Regulation, to the satisfaction of the **Planning Secretary**.

### KANDOS STATE FOREST

9. The Proponent **must** notify **Forestry Corporation of NSW** at least six months prior to clearing trees within each area of Kandos State Forest proposed to be mined by open cut methods or otherwise disturbed, to enable forestry operations to take place.

### STRUCTURAL ADEQUACY

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

**Notes:**

- Under Part 4A of the EP&A Act, the Proponent is required to obtain construction and occupation certificates for the proposed building works;

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- Part 8 of the EP&A Regulation sets out the requirements for the certification of the project.

## DEMOLITION

11. The Proponent **must** ensure that all demolition work is carried out in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version.

## PROTECTION OF PUBLIC INFRASTRUCTURE

12. The Proponent **must**:
  - (a) repair, or pay the full costs associated with repairing, any publicly-owned infrastructure that is damaged by the project; and
  - (b) relocate, or pay the full costs associated with relocating, any publicly-owned infrastructure that needs to be relocated as a result of the project.

## OPERATION OF PLANT AND EQUIPMENT

13. The Proponent **must** ensure that all plant and equipment used at the site is:
  - (a) maintained in a proper and efficient condition; and
  - (b) operated in a proper and efficient manner.

## PLANNING AGREEMENT

14. Within 12 months of the date of this approval, unless otherwise agreed by the **Planning Secretary**, the Proponent **must** enter into a planning agreement with the Council in accordance with Division 6 of Part 4 of the EP&A Act, that provides for contributions to the Council for general community enhancement to address social amenity and community infrastructure requirements arising from the project.

The agreement must provide for (at a minimum) those matters set out in general terms in Appendix 6.

If there is any dispute between the Proponent and Council relating to the preparation or implementation of the planning agreement, then either party may refer the matter to the **Planning Secretary** for resolution.

## STAGED SUBMISSION OF STRATEGIES, PLANS OR PROGRAMS

15. With the approval of the **Planning Secretary**, the Proponent may submit any management plan, strategy or monitoring program required by this approval on a progressive basis, or for a discrete component of the project.

*Note: The conditions of this approval require certain strategies, plans, and programs to be prepared for the project. They also require these documents to be reviewed and audited on a regular basis to ensure they remain effective. However, in some instances, it will not be necessary or practicable to prepare these documents for the whole project at any one time, particularly as these documents are intended to be dynamic and improved over time. Consequently, the documents may be prepared and implemented on a progressive basis, subject to the conditions of this approval. In so doing, the Proponent will need to demonstrate that it has suitable documents in place to manage the existing operations of the project.*

16. All approved management and monitoring strategies, plans and programs required under previous development consents continue to have effect until replaced by an equivalent approved strategy, plan or program prepared and approved under this approval.

## REVISION OF STRATEGIES, PLANS OR PROGRAMS

17. Within 3 months of any modification to this approval, the Proponent **must** review and if necessary revise all management and monitoring strategies, plans and programs required under the approval which are relevant to the modification to the satisfaction of the **Planning Secretary**.

## SCHEDULE 3 ENVIRONMENTAL PERFORMANCE CONDITIONS

### NOISE

#### Impact Assessment Criteria

- The Proponent **must** ensure that the noise generated by the project does not exceed the noise impact assessment criteria in Table 1 at any residence on privately-owned land or on more than 25 per cent of any privately-owned land.

Table 1: Noise Impact Assessment Criteria dB(A)  $L_{Aeq}$  (15min)

Location	Day	Evening	Night	Night ( $L_{A1}$ (1 min))
Residence P	35	39	39	45
All residences within 150 m of, and including, Residence Q	38	38	38	45
All remaining locations	35	35	35	45

Notes:

- Noise generated by the development must be monitored and measured in accordance with the relevant procedures and exemptions (including certain meteorological conditions) of the NSW Noise Policy for Industry (EPA, 2017).
- For the locations of residences/properties named in this approval, see Appendices 1 and 4.
- These limits do not apply if the Proponent has an agreement with the relevant owner/s of these residences to generate higher noise levels, and the Proponent has advised the Department in writing of the terms of this agreement.

#### Land Acquisition Criteria

- If the noise generated by the project exceeds the criteria in Table 2 at any residence on privately-owned land or on more than 25 per cent of any privately-owned land, the Proponent **must**, upon receiving a written request for acquisition from the landowner, acquire the land in accordance with the procedures in conditions 4-6 of schedule 6.

Table 2: Land Acquisition Criteria dB(A)  $L_{Aeq}$  (15min)

Location	Day	Evening	Night
All residences within 150 m of, and including, Residence Q	43	43	43
All other locations	40	40	40

Note: Noise generated by the project is to be measured in accordance with the notes below Table 1. For this condition to apply, the exceedances of the criteria must be systemic.

#### Operating Hours

- The Proponent **must** comply with the operating hours in Table 3.

Table 3: Operating Hours

Activity	Day	Time
Open cut mining	Monday – Friday	7.00 am to 8.00 pm <sup>1</sup>
	Saturday	7.00 am to 6.00 pm
	Sunday and Public Holidays	None
Underground mining, coal processing, run-of-mine coal management and maintenance	Any day	Any time
Blasting	Monday – Friday	9.00 am to 5.00 pm
Truck dispatch	Any day	7:00 am to 6:00 pm

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Activity	Day	Time
Train loading	Any day	Any time
Train movements on the rail loop	Monday - Saturday	7.00 am to 6.00pm
Construction activities	Monday - Saturday	7.00 am to 6.00 pm
Rehabilitation activities	Monday - Saturday	7.00 am to 6.00pm

Note: Open cut mining operations on Monday – Friday must cease at 6:00 pm during Autumn months.

## Noise Mitigation Measures

- The Proponent must achieve the modelled sound power levels for the equipment listed (or equivalent) in Table 4 below, within 6 months of the date of approval, or as otherwise agreed by the **Planning Secretary**.

Table 4: Modelled Plant Noise Sound Power Levels

Plant and Equipment	Make and Model	Modelled LA <sub>max</sub> sound power level (SWL)
Coal Processing Plant	N/A	107 dB(A)
Haul Truck	CAT 775	116 dB(A)
Dozer	CAT D11	122 dB(A)
Front-end Loader	CAT 992	121 dB(A)
Drill 10	N/A	116 dB(A)

- The Proponent **must** provide a verification report to ensure that the sound power levels in condition 4 are achieved to the satisfaction of the **Planning Secretary**. This report must be:
  - submitted to **EPA** and the Department within 8 months of this approval or as otherwise agreed by the **Planning Secretary**; and
  - prepared by a suitably qualified expert, whose appointment is approved by the **Planning Secretary**.
- Upon receiving a written request from:
  - the landowner of property P; or
  - the landowner of privately-owned land where noise monitoring shows the noise generated by the project exceeds the criteria in Table 5,
 then the Proponent **must** implement additional noise mitigation measures such as double glazing, insulation, and/or air conditioning at any residence on the property in consultation with the landowner.

These additional mitigation measures must be reasonable and feasible.

If within 3 months of receiving this request from the landowner, the Proponent and the landowner cannot agree on the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the **Planning Secretary** for resolution.

Table 5: Noise Mitigation Measures Criteria dB(A) L<sub>Aeq</sub> (15min)

Location	Day	Evening	Night
All residences within 150 m of, and including, Residence Q	40	40	40
All other locations, excluding Residence P	37	37	37

Note: Noise generated by the project is to be measured in accordance with the notes below Table 1. For this condition to apply at locations other than property P, the monitored exceedances of the criteria must be systemic.

- Within 3 months of the date of this approval the Proponent **must** notify the landowner of Property P that they are entitled to receive additional noise mitigation measures, to the satisfaction of the **Planning Secretary**.



## Continuous Improvement

8. The Proponent **must**:
- implement all reasonable and feasible noise mitigation measures;
  - investigate ways to reduce the noise generated by the project, including off-site road and rail noise and maximum noise levels which may result in sleep disturbance; and
  - report on these investigations and the implementation and effectiveness of these measures in the Annual Review, to the satisfaction of the **Planning Secretary**.

## Noise Management

9. The Proponent **must** prepare and implement a detailed Noise Management Plan for the project to the satisfaction of the **Planning Secretary**. This Plan must:
- be prepared in consultation with **EPA** by a suitably qualified expert whose appointment has been approved by the **Planning Secretary**;
  - be submitted to the **Planning Secretary** for approval within 6 months of this approval;
  - include a Noise Monitoring Program;
  - include detailed procedures for identifying noise-enhancing meteorological conditions using real-time meteorological data; and
  - include reactive noise control measures to manage noise impacts for sensitive receivers.

## BLASTING AND VIBRATION

### Blasting Impact Assessment Criteria

#### Airblast Overpressure Limits

10. The Proponent **must** ensure that the airblast overpressure level from blasting at the project does not exceed the criteria in Table 6 at any residence on privately-owned land.

Table 6: Airblast Overpressure Impact Assessment Criteria

Airblast overpressure level (dB(Lin Peak))	Allowable exceedance
115	5% of the total number of blasts in a 12 month period
120	0%

#### Notes:

- The overpressure values in Table 6 apply when the measurements are performed with equipment having a lower cut-off frequency of 2 Hz or less. If the instrumentation has a higher cut-off frequency a correction of 5 dB should be added to the measured value. Equipment with a lower cut-off frequency exceeding 10 Hz should not be used.
- The airblast overpressure noise limits do not apply if the Proponent has an agreement with the relevant owner/s of these residences/land to generate higher airblast overpressure noise levels, and the Proponent has advised the Department in writing of the terms of this agreement.

### Ground Vibration Impact Assessment Criteria

11. The Proponent **must** ensure that the ground vibration level from blasting, or any other activity at the project, does not exceed the levels in Table 7 at any residence on privately-owned land.

Table 7: Ground Vibration Impact Assessment Criteria

Peak particle velocity (mm/s)	Allowable exceedance
5	5% of the total number of blasts in a 12 month period
10	0%

Note: The ground vibration limits do not apply if the Proponent has an agreement with the relevant owner/s of these residences/land to generate higher ground vibration levels, and the Proponent has advised the Department in writing of the terms of this agreement.

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## Surface Blasting Location and Frequency

12. The Proponent may conduct surface blasting of coal or overburden only within the Southern Open Cut Pit and Southern Open Cut Extension Pit, and **must** not carry out more than 1 surface blast in a day or 2 surface blasts per week, unless otherwise directed by **Resources Regulator** to ensure the safety of the mine and its workers.

## Property Inspections

13. Unless previously notified under conditions of an existing consent, within 3 months of the date of this approval, the Proponent **must** advise all landowners within 2 km of proposed blasting activities, and any other landowner nominated by the **Planning Secretary**, that they are entitled to a property inspection to establish the baseline condition of the property.
14. If the Proponent receives a written request for a property inspection from a landowner within 2 km of proposed blasting activities, who has not previously been provided with an inspection under conditions of an existing consent, the Proponent **must**:
  - (a) commission a suitably qualified person within 21 days of the request, whose appointment has been approved by the **Planning Secretary**, to inspect and report on the condition of any building or structure on the land, and recommend measures to mitigate any potential blasting impacts; and
  - (b) give the landowner a copy of this property inspection report.

## Property Investigations

15. If any landowner within 2 km of proposed blasting activities, or any other landowner nominated by the **Planning Secretary**, claims that his/her property, including vibration-sensitive infrastructure such as water supply or underground irrigation mains, has been damaged as a result of blasting at the project, the Proponent **must**:
  - (a) commission a suitably qualified person whose appointment has been approved by the **Planning Secretary** to investigate the claim and prepare a property investigation report; and
  - (b) give the landowner a copy of the report within 6 weeks of initiating the investigation.

If the investigation confirms the landowner's claim, and both parties accept the findings, then the Proponent **must** repair the damage to the satisfaction of the **Planning Secretary**.

If the Proponent or landowner disagrees with the findings of the investigation, then either party may refer the matter to the **Planning Secretary** for resolution.

## Operating Conditions

16. During mining operations on-site, the Proponent **must** implement best blasting practice to:
  - (c) protect the safety of people, property, public infrastructure, and livestock;
  - (d) protect items of Aboriginal and non-indigenous cultural heritage significance; and
  - (e) minimise the dust and fume emissions from blasting at the project, to the satisfaction of the **Planning Secretary**.

## Public Notice

17. Within 3 months of the date of this approval, the Proponent **must**:
  - (a) notify the landowner/occupier of any residence within 2 kilometres of blasting operations who registers an interest in being notified about the blasting schedule at the mine, or any other landowner nominated by the **Planning Secretary**; and
  - (b) publish an up-to-date blasting schedule on its website, to the satisfaction of the **Planning Secretary**.

## Blast Monitoring Program

18. The Proponent **must** prepare and implement a Blast Monitoring Program for the project to the satisfaction of the **Planning Secretary**. This program must:
  - (a) be prepared in consultation with **EPA**, and be submitted to the **Planning Secretary** for approval within 3 months of the date of this approval; and
  - (b) include a protocol for evaluating blast-related impacts on, and demonstrating compliance with the blasting criteria in this approval for:
    - privately-owned residences and structures;
    - items of Aboriginal and non-indigenous cultural heritage significance; and
    - publicly-owned infrastructure.

## AIR QUALITY

### Impact Assessment Criteria

19. The Proponent **must** ensure that the dust emissions generated by the project do not cause additional exceedances of the air quality impact assessment criteria listed in Tables 8, 9, and 10 at any residence on privately owned land, or on more than 25 percent of any privately owned land.

Table 8: Long-term Impact Assessment Criteria for Particulate Matter

Pollutant	Averaging period	Criterion
Total suspended particulate (TSP) matter	Annual	90 µg/m <sup>3</sup>
Particulate matter < 10 µm (PM <sub>10</sub> )	Annual	25 µg/m <sup>3</sup>

Table 9: Short-term Impact Assessment Criterion for Particulate Matter

Pollutant	Averaging period	Criterion
Particulate matter < 10 µm (PM <sub>10</sub> )	24 hour	50 µg/m <sup>3</sup>

Table 10: Long-term Impact Assessment Criteria for Deposited Dust

Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level
Deposited dust	Annual	2 g/m <sup>2</sup> /month	4 g/m <sup>2</sup> /month

Note: Deposited dust is assessed as insoluble solids as defined by Standards Australia, AS/NZS 3580.10.1:2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulate Matter - Deposited Matter - Gravimetric Method.

### Land Acquisition Criteria

20. If the dust emissions generated by the project exceed the criteria in Tables 11, 12, and 13 at any residence on privately owned land, or on more than 25 percent of any privately owned land, the Proponent **must**, upon receiving a written request for acquisition from the landowner, acquire the land in accordance with the procedures in conditions 4-6 of schedule 6.

Table 11: Long-term Land Acquisition Criteria for Particulate Matter

Pollutant	Averaging period	Criterion
Total suspended particulate (TSP) matter	Annual	90 µg/m <sup>3</sup>
Particulate matter < 10 µm (PM <sub>10</sub> )	Annual	25 µg/m <sup>3</sup>

Table 12: Short-term Land Acquisition Criteria for Particulate Matter

Pollutant	Averaging period	Criterion	Percentile <sup>1</sup>	Basis
Particulate matter < 10 µm (PM <sub>10</sub> )	24 hour	150 µg/m <sup>3</sup>	99 <sup>2</sup>	Total <sup>3</sup>
Particulate matter < 10 µm (PM <sub>10</sub> )	24 hour	50 µg/m <sup>3</sup>	98.6	Increment <sup>4</sup>

<sup>1</sup>Based on the number of block 24 hour averages in an annual period.

<sup>2</sup>Excludes extraordinary events such as bushfires, prescribed burning, dust storms, sea fog, fire incidents, illegal activities or any other activity agreed by the **Planning Secretary** in consultation with **EPA**.

<sup>3</sup>Background PM<sub>10</sub> concentrations due to all other sources plus the incremental increase in PM<sub>10</sub> concentrations due to the mine alone.

<sup>4</sup>Incremental increase in PM<sub>10</sub> concentrations due to the mine alone.

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Table 13: Long-term Land Acquisition Criteria for Deposited Dust

Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level
Deposited dust	Annual	2 g/m <sup>2</sup> /month	4 g/m <sup>2</sup> /month

Note: Deposited dust is assessed as insoluble solids as defined by Standards Australia, AS/NZS 3580.10.1:2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulate Matter - Deposited Matter - Gravimetric Method.

20A. The air quality criteria in Tables 8 to 13 do not apply if the Proponent has an agreement with the owner/s of the relevant residence or land to exceed the air quality criteria, and the Proponent has advised the Department in writing of the terms of this agreement.

## Air Quality Mitigation Measures

21. Twelve months prior to the commencement of mining activities associated with the Western Outlier, and provided that a written request is received from the landowner of property G (refer Appendix 1), or any other affected residence approved by the **Planning Secretary**, unless the landowner has requested acquisition under the terms of this approval, the Proponent **must** implement air quality mitigation measures, such as air conditioning, at any residence on the property, in consultation with the landowner. These additional mitigation measures must be reasonable and feasible.

## Air Quality Management

22. The Proponent **must** prepare and implement a detailed Air Quality Management Plan for the project to the satisfaction of the **Planning Secretary**. This Plan must:
  - (a) be prepared in consultation with EPA by a suitably qualified expert whose appointment has been approved by the **Planning Secretary**;
  - (b) be submitted to the **Planning Secretary** for approval within 6 months of this approval and prior any mining activities in either the Southern or Western Outlier Pits;
  - (c) include an Air Quality Monitoring Program that includes:
    - a combination of real-time monitors (to monitor the impacts during mining operations for the Western Outlier), high volume samplers and dust deposition gauges to monitor the dust emissions of the project; and
    - an air quality monitoring protocol for evaluating compliance with the relevant air quality impact assessment and land acquisition criteria in this approval;
  - (d) include protocols to ensure that the real-time air quality monitoring and meteorological monitoring data are assessed regularly, and that operations are relocated, modified and/or stopped as required to ensure compliance with the relevant air quality criteria; and
  - (e) all reasonable and feasible measures are implemented to minimise off-site dust, odour or fume emissions generated by the project.

## METEOROLOGICAL MONITORING

23. During the life of the project, the Proponent **must** ensure that there is a suitable meteorological station on the site that complies with the requirements in the *Approved Methods for Sampling of Air Pollutants in New South Wales* guideline.

## SUBSIDENCE

24. The Proponent **must** ensure that surface subsidence resulting from underground mining at the Western Underground is less than 20 mm.
25. The Proponent **must** prepare and implement a Subsidence Monitoring and Contingency Plan for the Western Underground to the satisfaction of the **Planning Secretary**. This plan must:
  - (a) be prepared in consultation with **Resources Regulator** and submitted to the **Planning Secretary** for approval 3 months prior to the commencement of mining operations at the Western underground;
  - (b) include a program for monitoring pillar stability in the Western Underground;
  - (c) include a program for baseline recording and later inspection of cliff faces and steep slopes and investigation of any occurrences or evidence of mass rock movements on the surface of the land which may be affected by mining the Western Underground;
  - (d) provide for regular reporting to **Resources Regulator** and the Department; and
  - (e) include contingency measures to address any significant subsidence-related impacts.

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26. The Proponent **must** ensure that underground mining operations within the “Existing / Approved Underground Mine Area” as shown in Figure 2 of Appendix 2 are only conducted in accordance with a Subsidence Management Plan approved by **Resources Regulator**.

### SOIL AND WATER

#### Water Supply

27. The Proponent **must** ensure that it has sufficient water for all stages of the project, and if necessary, adjust the scale of mining operations to match its licensed water entitlements, to the satisfaction of the **Planning Secretary**.

#### Discharge Limits

28. The Proponent **must** not discharge any water from the site or irrigate any waste water except as may be expressly provided by an EPL, or in accordance with section 120 of the *Protection of the Environment Operations Act 1997*.

#### Site Water Management Plan

29. The Proponent **must** prepare and implement a Water Management Plan for the project to the satisfaction of the **Planning Secretary**. This plan must:
- (a) be prepared in consultation with **DPIE Water** and **EPA**, and be submitted to the **Planning Secretary** for approval within 12 months of the date of this approval; and
  - (b) include:
    - a Site Water Balance;
    - an Erosion and Sediment Control Plan;
    - Surface Water and Groundwater Monitoring Programs; and
    - detailed performance criteria, including trigger levels for identifying and investigating any potentially adverse impacts (or trends) associated with the development for downstream surface water flows and quality, including post-mining water pollution from rehabilitated areas of the site.
30. The Site Water Balance must:
- (a) include details of:
    - sources and security of water supply;
    - water use on-site;
    - water management on-site;
    - any off-site water transfers;
    - a program for the ongoing verification and refinement of the site water balance model;
    - reporting procedures; and
  - (b) undertake the first model verification within 12 months of the granting of project approval; and
  - (c) investigate and implement all reasonable and feasible measures to minimise water use by the project.
31. The Erosion and Sediment Control Plan must:
- (a) be consistent with the requirements of *Managing Urban Stormwater: Soils and Construction, Volume 1 and 2E, 4<sup>th</sup> Edition, 2004* (Landcom);
  - (b) identify activities that could cause soil erosion and generate sediment;
  - (c) describe measures to minimise soil erosion and the potential for the transport of sediment to downstream waters;
  - (d) describe the location, function, and capacity of erosion and sediment control structures; and
  - (e) describe what measures would be implemented to maintain the structures over time.
32. The Surface Water Monitoring Program must include:
- (a) baseline data of surface water flows and quality in creeks and other waterbodies that could potentially be affected by the project;
  - (b) surface water and stream health impact assessment criteria;
  - (c) a program to monitor and assess:
    - impacts on surface water flows and quality;
    - impacts on the surface water supply of potentially affected landowners;
    - bank stability, riparian vegetation and macro-invertebrate populations along creek lines and ephemeral drainage lines downstream of all license discharge points;
    - potential acid mine drainage;
    - potential leakage or spillage from reject emplacement area and effluent irrigation;
  - (d) a program for the ongoing verification and refinement of the surface water model; and
  - (e) reporting procedures for the results of the monitoring program and model verification.

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33. The Groundwater Monitoring Program must include:
- (a) baseline data of the natural variation in groundwater levels, yield and quality;
  - (b) groundwater impact assessment criteria (including for monitoring bores and privately-owned bores);
  - (c) a program to monitor the impacts of underground or open cut mining on groundwater resources;
  - (d) [a program to monitor and assess potential acid mine drainage.](#)

## ABORIGINAL HERITAGE

### Aboriginal Cultural Heritage Management Plan

34. The Proponent **must** prepare and implement an Aboriginal Cultural Heritage Management Plan for the project to the satisfaction of the **Planning Secretary**. This plan must:
- (a) be prepared in consultation with **Heritage NSW** and the Aboriginal community, and be submitted to the **Planning Secretary** for approval within 12 months of the date of this approval and prior to any activities that would disturb either known Aboriginal sites or Sensitive Archaeological Landforms within the 8 Trunk Open Cut Pit area;
  - (b) include a:
    - detailed assessment of the Sensitive Archaeological Landform located within the 8 Trunk Open Cut pit area;
    - detailed salvage program and management plan for Aboriginal sites and potential archaeological deposits within the project disturbance area and measures to provide a keeping place for any salvaged objects;
    - detailed description of the measures that would be implemented to protect and monitor Aboriginal sites outside the project disturbance area;
    - description of the measures that would be implemented if any new Aboriginal objects or skeletal remains are discovered during the project; and
    - protocol for the ongoing consultation and involvement of the Aboriginal communities in the conservation and management of Aboriginal cultural heritage on the site.

## TRANSPORT

### Road Construction

35. Prior to 31 August 2011, the Proponent **must** seal Charbon Road:
- (a) to the north of its intersection with Standard Avenue for a distance 50 m; and
  - (b) for a distance of 100 m either side of any other residential driveways north of Standard Avenue, to the satisfaction of the **Planning Secretary**.

### Contributions for Road Infrastructure

36. The Proponent **must** pay Council:
- (a) an annual road maintenance contribution of \$0.05 per tonne per kilometre for coal hauled on public roads to Cement Australia's Kandos facility, to be paid by 31 July each year for coal hauled in the previous financial year;
  - (b) a road maintenance contribution fee at a rate of \$0.77 per tonne of coal transported from the mine to the Castlereagh Highway en route to Mount Piper or Wallerawang Power Stations; and
  - (c) a contribution of \$210,000 to the Carwell Creek Bridge upgrade, to be paid within 30 days of any commencement of upgrade works by Council, to the satisfaction of the **Planning Secretary**.

*Note: The contributions referenced in paragraphs (a) and (b) of this condition **must** be indexed in accordance with the Consumer Price Index.*

37. Within 30 days of this approval, the Proponent **must** pre-pay Council a road maintenance contribution bond of \$75,000. Once the progressive fee calculated on the basis of actual coal road haulage to the Castlereagh Highway reaches \$75,000, the Proponent **must** again pre-pay Council \$75,000, and so on, until the mine ceases production. Once mining ceases, the road contribution maintenance fee total, at that time, **must** be deducted from the bond and the outstanding amount **must** be refunded by Council to the Proponent.

### Road Haulage

38. From 1 September 2011, or as otherwise agreed by the **Planning Secretary**, the Proponent **must** ensure that mine-related coal haulage traffic accessing Cement Australia's Kandos facility, does so via Charbon Road only.



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39. Except with the prior approval of the **Planning Secretary**, the Proponent **must** not dispatch more than 20 laden coal trucks per day from the site to Cement Australia's Kandos facility.
40. The Proponent **must** not dispatch more than 100 laden coal trucks per day from the site to either or both Wallerawang or Mount Piper power stations.
41. The Proponent **must** not haul coal by public roads to destinations other than Cement Australia's Kandos facility and Mount Piper and Wallerawang Power Stations.
42. Prior to 1 March 2011, the Proponent **must**:
- (a) undertake a road safety audit of the public roads forming the coal haulage route from Charbon mine to the Castlereagh Highway, and provide a copy of this audit report to both Council and the Department; and
  - (b) provide an action plan for the implementation of reasonable and feasible recommendations of the study (if any), to the satisfaction of the **Planning Secretary**.

*Note: The timing of the commencement of individual actions in the action plan may be influenced by the timing and extent of road haulage to power stations.*

## Water Transfer to Airly Coal Mine

- 42A. The Proponent **must not**:
- a) transfer more than 170 megalitres (ML) of water per year to the Airly Coal Mine by rail; and
  - b) use more than two rail movements per day to transfer water.

*Note: The rail transfer route is shown in Figure 5 of Appendix 8.*

## Coarse Coal Reject Imported from Clarence Colliery

- 42B. The Proponent **must not**:
- a) import more than 350,000 tonnes of coarse coal reject per year to the site from Clarence Colliery by rail; and
  - b) accept more than one laden train per day of coarse coal reject.

## VISUAL AMENITY AND LIGHTING

43. The Proponent **must**:
- (a) implement all reasonable and feasible measures to mitigate visual and off-site lighting impacts of the project;
  - (b) ensure no outdoor lights shine above the horizontal; and
  - (c) ensure that all external lighting associated with the project complies with *Australian Standard AS4282 (INT) 1997 – Control of Obtrusive Effects of Outdoor Lighting*, to the satisfaction of the **Planning Secretary**.

## GREENHOUSE GAS AND ENERGY EFFICIENCY

44. The Proponent **must** implement all reasonable and feasible measures to minimise:
- (a) energy use on site; and
  - (b) scope 1 and 2 greenhouse gas emissions produced by the project, to the satisfaction of the **Planning Secretary**.
45. The Proponent **must** prepare and implement a Greenhouse Gas and Energy Management Plan for the project, to the satisfaction of the **Planning Secretary**. This plan must be submitted to the **Planning Secretary** for approval within 12 months of the date of this approval.

## WASTE AND HAZARDS

### Waste Minimisation

46. The Proponent **must**:
- (a) minimise the waste generated by the project;
  - (b) ensure that the waste generated by the project is appropriately stored, handled and disposed of;
  - (c) manage on-site sewage treatment and disposal in accordance with the requirements of the applicable EPL; and
  - (d) report on waste management and minimisation in the Annual Review, to the satisfaction of the **Planning Secretary**.

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### Bushfire Management

47. The Proponent **must**:
- (a) ensure that the project is suitably equipped to respond to fires on site; and
  - (b) assist the Rural Fire Service and emergency services as much as possible if there is a fire on-site during the project.

FOR INFORMATION



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## SCHEDULE 4 LANDSCAPE MANAGEMENT

### OFFSETS

#### Biodiversity Offsets

1. Prior to 31 December 2012, or clearing of any EEC vegetation in the 8 Trunk Open Cut Pit area, or as otherwise approved by the **Planning Secretary**, the Proponent **must** implement a Biodiversity Offset Strategy, as summarised in Table 1, to the satisfaction of the **Planning Secretary**.

Table 1: Biodiversity Offset Strategy areas

Vegetation Community	(ha)
Grey Gum–Stringybark Forest	41
Mountain Grey Gum–Grey Gum–Mountain Hickory Sheltered Forest	13
Stringybark–Blakely's Red Gum–Yellow Box Woodland	13
Yellow Box – Blakely's Red Gum Woodland (EEC)	57
Cleared Land (to be revegetated)	47
<b>Total</b>	<b>171 ha</b>

Notes: The quality of the areas selected to be offset is a key consideration in the **Planning Secretary's** consideration.

2. Prior to 31 December 2012, the Proponent **must** make suitable arrangements to provide appropriate long-term security for the offset areas to the satisfaction of the **Planning Secretary**.
3. Within 6 months of the approval of the Landscape Management Plan (see condition 6 below), the Proponent **must** lodge a conservation and biodiversity bond with the Department to ensure that the Biodiversity Offset Strategy is implemented in accordance with the performance and completion criteria of the Landscape Management Plan. The sum of the bond **must** be determined by:
  - (a) calculating the full cost of implementing the offset strategy; and
  - (b) employing a suitably qualified quantity surveyor to verify the calculated costs, to the satisfaction of the **Planning Secretary**.

Notes:

- If the offset strategy is completed to the satisfaction of the **Planning Secretary**, the **Planning Secretary** will release the conservation bond.
- If the offset strategy is not completed to the satisfaction of the **Planning Secretary**, the **Planning Secretary** will call in all or part of the conservation bond, and arrange for the satisfactory completion of the relevant works.
- If amendments to the Mining Act 1992 allow the Minister for Mineral Resources to require rehabilitation securities under a mining lease which apply to the implementation of rehabilitation works outside the boundary of a mining lease, then the Proponent may transfer the conservation bond required under this approval to the Minister of Mineral Resources, provided the **Planning Secretary** and **Resources Regulator** agree.

#### MOD 2 Biodiversity Offsets

- 3A. Within 6 months of determination of MOD 2, or other timeframe agreed by the **Planning Secretary**, the Proponent must retire the biodiversity credits specified in Table 2. The retirement of credits must be carried out in consultation with BCS and in accordance with the Biodiversity Offsets Scheme of the *Biodiversity Conservation Act 2016*.

Table 2: Biodiversity credit requirements

Credit Type	Credits Required
<b>Ecosystem Credits</b>	
1088 - Red Box - Grey Gum - Stringybark Woodland	2
<b>Species Credits</b>	
Gang-gang Cockatoo ( <i>Callocephalon fimbriatum</i> )	2
Large-eared Pied Bat ( <i>Chalinolobus dwyeri</i> )	3

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*Note: The available credit retirement options for the development include purchase and retirement of open market available biodiversity credits, payment into the Biodiversity Conservation Fund or establishment of a Biodiversity Stewardship Site.*

## REHABILITATION

### Rehabilitation Objectives

4. The Proponent **must** rehabilitate the site in accordance with the conditions imposed on the mining lease(s) associated with the development under the *Mining Act 1992*. The rehabilitation must comply with the rehabilitation objectives in Table 3.

Table 3: Rehabilitation Objectives

Domain	Rehabilitation objective
Surface facilities and infrastructure areas	Revegetate cleared areas with forest woodland and grassland communities similar to those in surrounding areas and consistent with the final landform (as reproduced in Appendix 5).
Other land affected by the project, including open cut areas	Progressively rehabilitate disturbed areas to: <ul style="list-style-type: none"> <li>• create a <b>safe, stable and non-polluting</b> post-mining landform that is consistent with the final landform in the EA (as reproduced in Appendix 5) and surrounding areas;</li> <li>• restore ecosystem function, including maintaining or establishing self-sustaining native ecosystems;</li> <li>• maintain the diversity of local flora;</li> <li>• maintain and enhance habitat of native fauna;</li> <li>• minimise the risk of erosion; and</li> <li>• ensure that there is no safety hazard beyond that existing prior to mining.</li> </ul>
Open cut and reject emplacement areas	Design, install and maintain a suitable capping layer across areas subject to filling with potentially acid forming material to prevent migration of acid forming or potentially acid forming materials, and saline or sodic material.
Built features	Restore or repair public infrastructure and other built features to pre-mining condition or equivalent, except with: <ul style="list-style-type: none"> <li>• the written agreement of the owner; or</li> <li>• where the damage is fully restored, repaired or compensated under the <i>Mine Subsidence Compensation Act 1961</i>.</li> </ul>
Community	Minimise the adverse socio-economic effects associated with mine closure including the reduction in local and regional employment.
	Ensure public safety.

*Note: The Proponent may be required to define other rehabilitation objectives in management plans or strategy required under this schedule.*

### Progressive Rehabilitation

5. To the extent that mining operations permit, the Proponent **must** carry out rehabilitation progressively, that is, as soon as reasonably practicable following the disturbance.

### Imported Coarse Coal Reject Management

- 5A. Coarse coal reject material imported to the site from Clarence Colliery must be managed as potentially acid forming material in accordance with the Mining Operations Plan/ Rehabilitation Management Plan required under conditions imposed on the mining lease(s) associated with the development under the *Mining Act 1992*.

### Landscape Management Plan

6. The Proponent **must** prepare a Landscape Management Plan for the project to encompass all proposed mine activities and potential impacts associated with landscape management for the site and subsequently implement this Plan to the satisfaction of the **Planning Secretary**. This plan must:
  - (a) be submitted to the **Planning Secretary** for approval within 12 months of the date of this approval;

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- (b) be prepared by suitably qualified expert/s whose appointment/s have been endorsed by the **Planning Secretary**;
- (c) be prepared in consultation with **Resources Regulator**, **DPIE Water**, **BCS** and Council; and
- (d) include a:
  - Rehabilitation and Offsets Management Plan; and
  - Mine Closure Plan.

### Rehabilitation and Offsets Management Plan

7. The Rehabilitation and Offsets Management Plan must include:
- (a) the rehabilitation objectives for the site, including those listed in Table 3 above, and as otherwise proposed for offset areas;
  - (b) a strategic description of how the rehabilitation of the site would be integrated with surrounding land use;
  - (c) detailed performance and completion criteria for site rehabilitation and the implementation of the offset strategy;
  - (d) a detailed description of the short and long-term measures that would be implemented to:
    - rehabilitate the site in accordance with the rehabilitation objectives;
    - implement the offset strategy (see condition 1 above); and
    - manage the remnant vegetation and habitat on the site and in the offset areas, including the existing Compensatory Habitat Area (see Appendix 2);
  - (e) a detailed description of the measures that would be implemented over the next 3 years, including the procedures to be implemented for:
    - progressively rehabilitating disturbed areas;
    - implementing revegetation and regeneration within the disturbance areas and offset areas;
    - protecting vegetation and soils outside the disturbance areas;
    - undertaking pre-clearance surveys;
    - managing remnant vegetation and habitat on site;
    - minimising impacts on fauna;
    - minimising visual impacts;
    - conserving and reusing topsoil, timber, seed and habitat resources (rocks and logs);
    - controlling weeds, feral pests, and access;
    - rehabilitating creeks and drainage lines, both within and outside of disturbance areas on the site;
    - managing potentially acid-forming materials (including the design, installation and maintenance of a suitable capping layer across areas subject to emplacement or filling with potentially acid forming material);
    - managing bushfires; and
    - managing any potential conflicts between the rehabilitation works and Aboriginal cultural heritage;
  - (f) a detailed description of how the performance of the rehabilitation works and offsets would be monitored over time to achieve the stated objectives and against the relevant performance and completion criteria;
  - (g) a program to review this plan at least every 3 years; and
  - (h) details of who is responsible for monitoring, reviewing and implementing the plan.

### Mine Closure Plan

8. The Mine Closure Plan must:
- (a) define the objectives and criteria for mine closure;
  - (b) investigate options for the future use of the site;
  - (c) investigate ways to minimise the adverse socio-economic effects associated with mine closure, including reduction in local and regional employment levels;
  - (d) describe the measures that would be implemented to minimise or manage the on-going environmental effects of the project; and
  - (e) describe how the performance of these measures would be monitored over time.

*Note: The plan should reflect the indicative Final Landform shown in Appendix 5.*

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## SCHEDULE 5 ENVIRONMENTAL MANAGEMENT, REPORTING AND AUDITING

### ENVIRONMENTAL MANAGEMENT

#### Environmental Management Strategy

1. The Proponent **must** prepare and implement an Environmental Management Strategy for the project to the satisfaction of the **Planning Secretary**. The strategy must:
  - (a) be submitted to the **Planning Secretary** for approval within 6 months of the date of this approval;
  - (b) provide the strategic framework for environmental management of the project;
  - (c) identify the statutory approvals that apply to the project;
  - (d) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the project;
  - (e) describe the procedures that would be implemented to:
    - keep the local community and relevant agencies informed about the operation and environmental performance of the project;
    - receive, handle, respond to, and record complaints;
    - resolve any disputes that may arise during the course of the project;
    - respond to any non-compliance; and
    - respond to emergencies; and
  - (f) include:
    - copies of the various strategies, plans and programs that are required under the conditions of this approval once they have been approved; and
    - a clear plan depicting all the monitoring currently being carried out within the project area.

#### Management Plan Requirements

2. The Proponent **must** ensure that the Management Plans required under this approval are prepared in accordance with any relevant guidelines by a suitably qualified expert/s whose appointment has been endorsed by the **Planning Secretary**. The Plans must include:
  - (a) detailed baseline data;
  - (b) a description of:
    - the relevant statutory requirements (including any relevant approval, licence or lease conditions);
    - any relevant limits or performance measures/criteria; and
    - the specific performance indicators that are proposed to be used to judge the performance of, or guide the implementation of, the project or any management measures;
  - (c) a description of the measures that would be implemented to comply with the relevant statutory requirements, limits, or performance measures/criteria;
  - (d) a program to monitor and report on the:
    - impacts and environmental performance of the project; and
    - effectiveness of any management measures (see (c) above);
  - (e) a contingency plan to manage any unpredicted impacts and their consequences;
  - (f) a program to investigate and implement ways to improve the environmental performance of the project over time;
  - (g) a protocol for managing and reporting any:
    - incidents;
    - complaints;
    - non-compliances with statutory requirements; and
    - exceedances of the impact assessment criteria and/or performance criteria; and
  - (h) a protocol for periodic review of the plan.

*Note: At the discretion of the **Planning Secretary**, some of these requirements may be waived where they are either not relevant or necessary.*

#### Annual Review

3. By 31 March 2011, and annually thereafter, the Proponent **must** submit a report to the **Planning Secretary** reviewing the annual environmental performance of the project to the satisfaction of the **Planning Secretary**. This review must:
  - (a) describe the works that were carried out in the previous calendar year, and the works that are proposed to be carried out over current calendar year;
  - (b) include a comprehensive review of the monitoring results and complaints records of the project over the previous calendar year, which includes a comparison of these results against:

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- the relevant statutory requirements, limits or performance measures/criteria;
  - the monitoring results of previous years; and
  - the relevant predictions in the EA;
- (c) identify any non-compliance over the previous calendar year, and describe what actions were (or are being) taken to ensure compliance;
- (d) identify any trends in the monitoring data over the life of the project;
- (e) identify any discrepancies between the predicted and actual impacts of the project, and analyse the potential cause of any significant discrepancies; and
- (f) describe what measure will be implemented over the current calendar year to improve the environmental performance of the project.

## Revision of Strategies, Plans & Programs

4. Within 3 months of [approval of any modification to the conditions of this approval \(unless the conditions require otherwise\)](#), or within 3 months of the submission of an:
- (a) audit report under condition 8 of schedule 5;
  - (b) incident report under condition 6 [or 6A](#) of schedule 5; [or](#)
  - (c) annual review under condition 3 of schedule 5,
- the Proponent must review, and if necessary revise, the strategies, plans, and programs required under this approval to the satisfaction of the [Planning 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 project.*

## Community Consultative Committee

5. The Proponent [must](#) establish a Community Consultative Committee (CCC) for the Charbon Coal Project to the satisfaction of the [Planning Secretary](#). This CCC must be operated in general accordance with the *Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects* (Department of Planning, 2007, or its latest version) to the satisfaction of the [Planning Secretary](#).

### Notes:

- *The CCC is an advisory committee. The Department and other relevant agencies are responsible for ensuring that the Proponent complies with this approval. In accordance with the Guideline, the Committee should comprise an independent chair and appropriate representation from the Proponent, affected councils, recognised environmental groups and the general community in the area of the project.*
- *In establishing the CCC, the Department will accept the continued representation from existing CCC members, however the Proponent should ensure that adequate representation is achieved for landowners within the area surrounding the Project.*

## REPORTING

### Incident Notification

6. 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 via the Department's Major Projects Website and identify the development (including the development application number and name) and set out the location and nature of the incident.

### Non-Compliance Notification

- 6A. 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 via the Department's Major Projects Website 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.*

7. [deleted](#)

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## Access to Information

8. From 31 August 2011, the Proponent **must** make the following information publicly available on its website to the satisfaction of the **Planning Secretary**:
- (a) all current statutory approvals;
  - (b) all approved strategies, plans and programs required under this approval;
  - (c) quarterly environmental reports, which include a comprehensive summary of all monitoring results required under any strategy, plan or program approved under this approval;
  - (d) a complaints register, updated on a quarterly basis;
  - (e) minutes of CCC meetings;
  - (f) Annual Reviews under this approval;
  - (g) any Independent Environmental Audit, and the Proponent's response to the recommendations in any audit; and
  - (h) any other matter required by the **Planning Secretary**.

The information on the website **must** be kept up to date to the satisfaction of the **Planning Secretary**. Information required to be placed on the website under (c)-(h) above must remain on the website for a period of not less than five years.

## INDEPENDENT ENVIRONMENTAL AUDIT

9. By 31 December 2011, and every 3 years thereafter, unless the **Planning Secretary** directs otherwise, the Proponent **must** commission at its own cost an Independent Environmental Audit of the project. This audit must:
- (a) be conducted by suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the **Planning Secretary**;
  - (b) include consultation with the relevant agencies;
  - (c) assess the environmental performance of the project and assess whether it is complying with the relevant requirements in this approval and any relevant EPL or Mining Lease (including any assessment, plan or program required under these approvals);
  - (d) review the adequacy of strategies, plans or programs required under these approvals; and, if appropriate;
  - (e) recommend measures or actions to improve the environmental performance of the project, and/or any assessment, plan or program required under these approvals; and
  - (f) be completed within 2 months of the approval of the audit team.
- Note: This audit team must be led by a suitably qualified auditor and include experts in any fields specified by the **Planning Secretary**.*
10. Within 6 weeks of the completing of this audit, or as otherwise agreed by the **Planning Secretary**, the Proponent **must** submit a copy of the audit report to the **Planning Secretary**, together with its response to any recommendations contained in the audit report.



## SCHEDULE 6 ADDITIONAL PROCEDURES FOR AIR QUALITY AND NOISE MANAGEMENT

### NOTIFICATION OF LANDOWNERS

1. If the results of monitoring required in schedule 3 identify that impacts generated by the project are greater than the relevant impact assessment criteria, except where a negotiated agreement has been entered into in relation to that impact, then the Proponent **must**, within 2 weeks of obtaining the monitoring results, notify the **Planning Secretary**, the affected landowners and tenants (including tenants of mine-owned properties) accordingly, and provide quarterly monitoring results to each of these parties until the results show that the project is complying with the criteria in schedule 3.

### INDEPENDENT REVIEW

2. If a landowner of privately-owned land considers the project to be exceeding the impact assessment criteria in schedule 3, then he/she may ask the **Planning Secretary** in writing for an independent review of the impacts of the project on his/her land.

If the **Planning Secretary** is satisfied that an independent review is warranted, the Proponent **must** within 3 months of the **Planning Secretary**'s decision:

- (a) consult with the landowner to determine his/her concerns;
  - (b) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the **Planning Secretary**, to conduct monitoring on the land, to:
    - determine whether the project is complying with the relevant impact assessment criteria in schedule 3; and
    - identify the source(s) and scale of any impact on the land, and the project's contribution to this impact; and
  - (c) give the **Planning Secretary** and landowner a copy of the independent review.
3. If the independent review determines that the project is complying with the relevant impact assessment criteria in schedule 3, then the Proponent may discontinue the independent review with the approval of the **Planning Secretary**.

If the independent review determines that the project is not complying with the relevant impact assessment criteria in schedule 3, then the Proponent **must**:

- (a) implement all reasonable and feasible measures, in consultation with the landowner, to ensure that the project complies with the relevant criteria, and conduct further monitoring to determine whether these measures ensure compliance; or
  - (b) secure a written agreement with the landowner to allow exceedances of the relevant impact assessment criteria,
- to the satisfaction of the **Planning Secretary**.

If the further monitoring referred to under paragraph (a) above determines that the project is complying with the relevant impact assessment criteria, then the Proponent may discontinue the independent review with the approval of the **Planning Secretary**.

### LAND ACQUISITION

4. Within 3 months of receiving a written request from a landowner with acquisition rights, the Proponent **must** make a binding written offer to the landowner based on:
  - (a) the current market value of the landowner's interest in the property at the date of this written request, as if the property was unaffected by the project, having regard to the:
    - existing and permissible use of the land, in accordance with the applicable planning instruments at the date of the written request; and
    - presence of improvements on the property and/or any approved building or structure which has been physically commenced at the date of the landowner's written request, and is due to be completed subsequent to that date, but excluding any improvements that have resulted from the implementation of the 'additional noise mitigation measures' in condition 6 of schedule 3 or additional 'air quality mitigation measures' in condition 21 of schedule 3;
  - (b) the reasonable costs associated with:
    - relocating within the same local government area, or to any other local government area determined by the **Planning Secretary**; and
    - obtaining legal advice and expert advice for determining the acquisition price of the land, and the terms upon which it is to be acquired; and
  - (c) reasonable compensation for any disturbance caused by the land acquisition process.

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However, if at the end of this period, the Proponent and landowner cannot agree on the acquisition price of the land and/or the terms upon which the land is to be acquired, then either party may refer the matter to the **Planning Secretary** for resolution.

Upon receiving such a request, the **Planning Secretary must** request the President of the NSW Division of the Australian Property Institute to appoint a qualified independent valuer to:

- consider submissions from both parties;
- determine a fair and reasonable acquisition price for the land and/or the terms upon which the land is to be acquired, having regard to the matters referred to in paragraphs (a)-(c) above;
- prepare a detailed report setting out the reasons for any determination; and
- provide a copy of the report to both parties.

Within 14 days of receiving the independent valuer's report, the Proponent **must** make a binding written offer to the landowner to purchase the land at a price not less than the independent valuer's determination.

However, if either party disputes the independent valuer's determination, then within 14 days of receiving the independent valuer's report, they may refer the matter to the **Planning Secretary** for review. Any request for a review must be accompanied by a detailed report setting out the reasons why the party disputes the independent valuer's determination. Following consultation with the independent valuer and both parties, the **Planning Secretary must** determine a fair and reasonable acquisition price for the land, having regard to the matters referred to in paragraphs (a)-(c) above and the independent valuer's report. Within 14 days of this determination, the Proponent **must** make a binding written offer to the landowner to purchase the land at a price not less than the **Planning Secretary's** determination.

If the landowner refuses to accept the Proponent's binding written offer under this condition within 6 months of the offer being made, then the Proponent's obligations to acquire the land shall cease, unless the **Planning Secretary** determines otherwise.

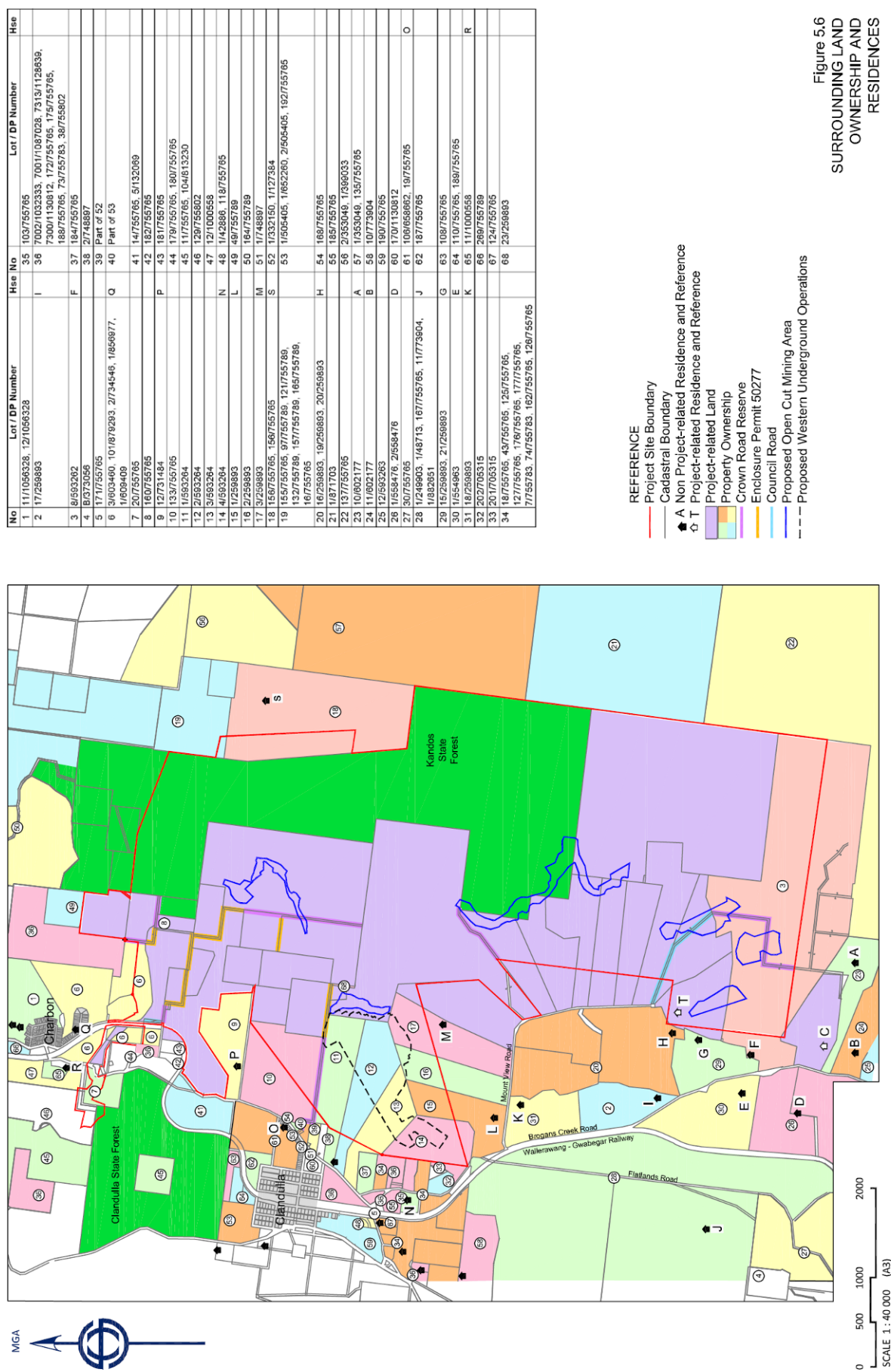
5. The Proponent **must** pay all reasonable costs associated with the land acquisition process described in condition 4 above.
6. If the Proponent and landowner agree that only part of the land **must** be acquired, then the Proponent **must** also pay all reasonable costs associated with obtaining Council approval for any plan of subdivision (where permissible), and registration of the plan at the Office of the Registrar-General.



# CONSOLIDATED CONSENT

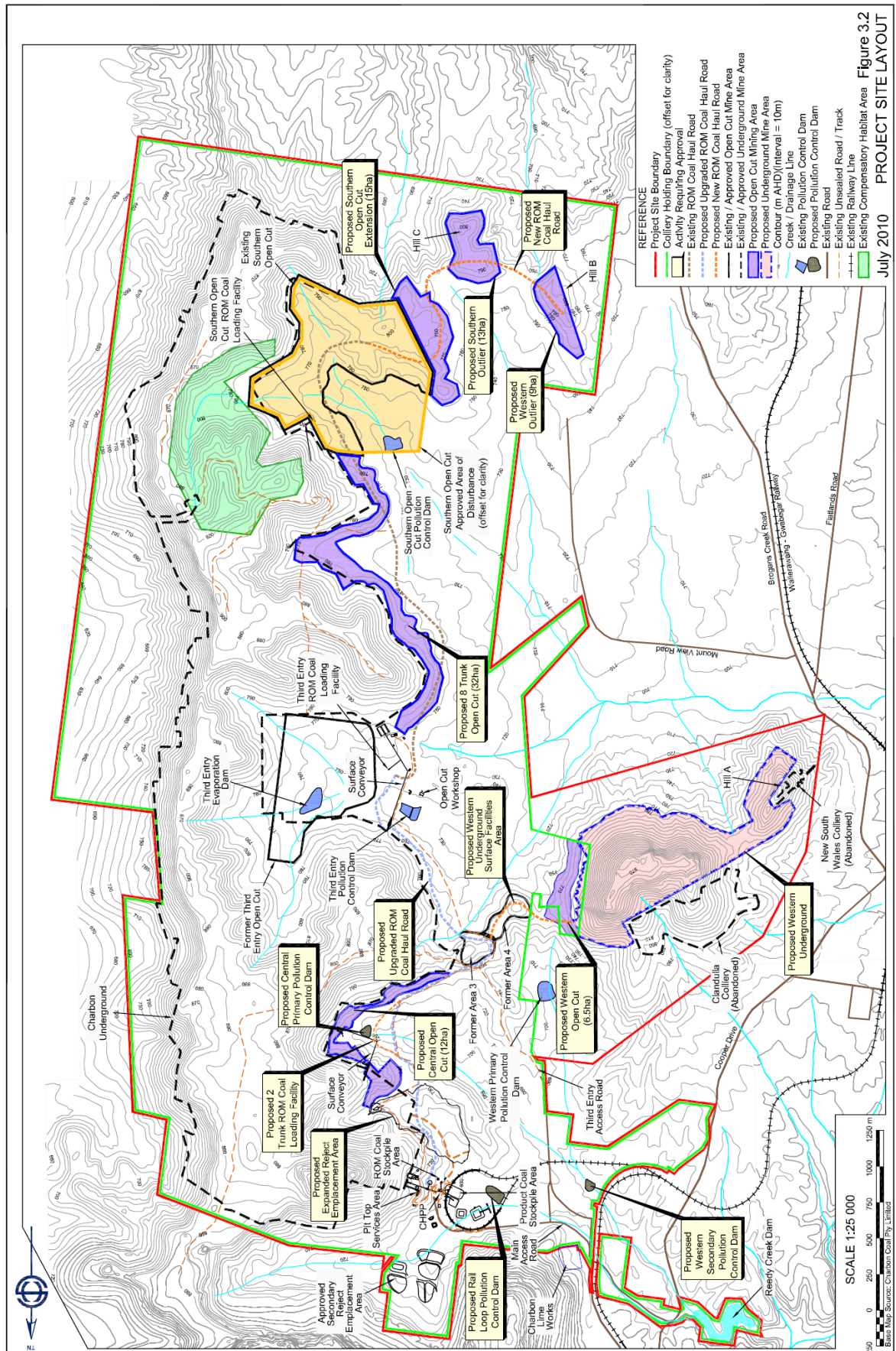
## APPENDIX 1 SCHEDULE OF LAND

FOR INFORMATION



## APPENDIX 2

### PROJECT LAYOUT PLAN



# THE UNIVERSITY OF CHICAGO

# CONSOLIDATED CONSENT

## APPENDIX 3 STATEMENT OF COMMITMENTS

### Continued Operations of Charbon Colliery February 2010

Desired Outcome	Action	Timing
1. General		
All operations are undertaken in a manner that will minimise the environmental impacts associated with the Project.	1.1 Operate generally in accordance with the Environmental Assessment and conditions of approvals, licences or consents.	Continuous.
	1.2 Develop management plans to manage and mitigation impacts of the Project.	
2. Hours of Operation		
All operations are undertaken within the approved operating hours.	2.1 Land Preparation – Daylight hours, Monday to Saturday.	On campaign basis.
	2.2 Underground Mining – 24 hours, 7 days per week.	Continuous.
	2.3 Open Cut Mining – Monday to Friday 7.00am to 10.00pm, Saturday 7.00am to 6.00pm.	Continuous – winter, spring, summer.
	2.4 Open Cut Mining – Monday to Saturday 7.00am to 6.00pm.	Continuous – autumn.
	2.5 ROM Coal Loading Operations – 24 hours, 7 days per week.	Continuous.
	2.6 Blasting Operations – 9.00am to 5.00pm, Monday to Saturday.	Continuous.
	2.7 Maintenance Operations – 24 hours, 7 days per week.	Continuous.
	2.8 CHPP – 24 hours, 7 days per week.	Continuous.
	2.9 Product Coal Loading Despatch (rail) – 24 hours, 7 days per week.	Continuous.
	2.10 Product Coal Loading and Dispatch (road) – 6.00am to 10.00pm, 7 days per week.	Continuous.
	2.11 Rehabilitation – Daylight hours, Monday to Saturday.	On campaign basis.



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Desired Outcome	Action	Timing
<b>3. Noise Management</b>		
Project-related noise impacts on surrounding residences minimised.	3.1 Prepare and implement a <b>Noise Monitoring and Management Plan</b> , including a noise monitoring protocol.	Within 6 months of receipt of Project approval.
	3.2 Prepare an updated noise model.	Within 12 months of receipt of Project approval.
	3.3 Limit the hours of open cut mining operations to 7:00am to 10:00pm to avoid noise impacts on surrounding residents during the night and thereby minimise sleep disturbance and intrusion during the quietest part of the day.	Continuous.
	3.4 Limit the hours of open cut mining operations during autumn to 7:00am to 6:00pm unless a real time noise monitoring program is developed as part of the Noise Monitoring and Management Plan.	Continuous.
<b>4. Ecology Management</b>		
Minimise Project-related impacts on flora and fauna within and surrounding the Project Site.	4.1 Prepare a <b>Fauna Handling and Management Plan</b> identifying procedures for inspection of vegetation prior to removal and management of any fauna identified during the inspection or clearing operations.	Prior to commencement of land preparation operations.
Implementation of an appropriate ecology monitoring program to monitor undisturbed sections of the Project Site and areas undergoing rehabilitation.	4.2 Modify and implement the existing <b>Ecology Monitoring Program</b> within the Compensatory Habitat Area to include other areas that would not be disturbed within the Project Site as well as areas of progressive rehabilitation.	Within 6 months of receipt of Project approval
	4.3 Prepare a detailed <b>Rehabilitation and Vegetation Management Plan</b> , including a detailed description of rehabilitation procedures to be implemented and tree, shrub and grass species to be used during rehabilitation.	Prior to the commencement of land preparation operations.
	4.4 Develop and implement an appropriate <b>Biodiversity Land Management Strategy</b> in consultation with the consent authority and other relevant Government agencies.	Within 12 months of receipt of Project approval.

## CONSOLIDATED CONSENT

Desired Outcome	Action	Timing
<b>5. Air Quality Management</b>		
Site activities are undertaken, as far as practicable, without exceeding DECCW air quality criteria or goals.	5.1 Complete and implement an <b>Air Quality Management Plan</b> which identifies dust management practices that effectively minimise dust emissions including when water is not available for dust suppression.	Within 6 months of receipt of Project approval.
	5.2 Prepare and implement an <b>Air Quality Monitoring Protocol</b> , including continued monitoring of deposited dust, PM <sub>10</sub> and TSP.	Within 6 months of receipt of Project approval.
	5.3 Prepare an updated air quality model.	Within 12 months of receipt of Project approval.
	5.4 Continue onsite existing meteorological monitoring.	Continuous.
Appropriate arrangement with impacted residents negotiated.	5.5 Negotiate an appropriate arrangement with the owner of Residence G to ensure that there is no potential for adverse health-related impacts associated with dust emissions.	Prior to commencing mining operations within the Western Outlier.
<b>6. Greenhouse Gas Management</b>		
Appropriately manage and minimise greenhouse gas emissions.	6.1 Prepare an <b>Energy Savings Action Plan</b> in accordance with the requirements of the DECCW.	Within 6 months of receipt of Project approval.
<b>7. Indigenous Heritage Management</b>		
Identified and unidentified Aboriginal sites are appropriately managed.	7.1 Prepare an <b>Indigenous Heritage Management Plan</b> in consultation with the registered Indigenous groups and individuals, including a procedure for managing identified sites of heritage significance or sensitivity and for limiting the potential for damage to unidentified sites.	Prior to commencing land preparation operations in the vicinity of identified sites of Indigenous heritage significance.

## CONSOLIDATED CONSENT

Desired Outcome	Action	Timing
	7.2 Complete further investigations in the vicinity of possible scar tree CH-ST5 and SAL 4.	Prior to commencing land preparation operations in the vicinity of CH-ST5 and SAL 4.
<b>8. Blasting Management</b>		
Project-related blasting impacts within relevant Guidelines.	8.1 Undertake blasting within the Southern Open Cut Extension only.	Continuous during blasting operations.
	8.2 Do not initiate blasting outside the hours of 9:00am and 5:00pm, Monday to Saturday, except for safety or emergency reasons.	Continuous during blasting operations.
	8.3 Prepare a <b>Blast Management and Monitoring Plan</b> that includes contingencies to address any community concerns about blasting impacts to residences.	Within 6 months of receipt of Project approval.
<b>9. Surface Water and Groundwater</b>		
All surface water and groundwater managed such that water-related impacts are minimised to the greatest extent practicable.	9.1 Prepare a <b>Sediment and Erosion Control Plan</b> .	Prior to land preparation operations in each area of proposed disturbance.
	9.2 Prepare updated site water balance.	Within 12 months of receipt of Project approval.
	9.3 Prepare a salinity balance.	
	9.4 Prepare a <b>Surface and Groundwater Water Management Plan</b> which will include detailed water monitoring and response protocols in consultation with the NSW Office of Water.	Within 12 months of receipt of Project approval.
	9.5 Complete an assessment of downstream impacts to drainage lines and creeks.	Within 6 months of the receipt of Project approval.
	9.6 Complete an assessment of onsite irrigation of effluent.	Within 6 months of the receipt of Project approval.

## CONSOLIDATED CONSENT

Desired Outcome	Action	Timing
<b>10. Traffic and Transportation Management</b>		
Project-related impacts on transportation and the road network surrounding the Project Site are limited.	10.1 Prepare a <b>Transportation Management Plan</b> including a Driver's Code of Conduct and fatigue management procedures.	Within 6 months of the receipt of Project approval.
	10.2 Ensure that all heavy vehicles transporting coal from the Project Site via public roads do so between the hours of 7:00am and 10:00pm.	Continuous.
	10.3 Develop a Voluntary Planning Agreement with Council in lieu of existing and future Section 94 contributions or revert to the Section 94 contributions process.	Within 12 months of the receipt of Project approval.
<b>11. Subsidence Management</b>		
No significant surface subsidence associated with the Western Underground.	11.1 Undertake first workings only.	Continuous during mining of the Western Underground.
	11.2 Restrict subsidence levels to < 20mm of subsidence.	Continuous during mining of the Western Underground.
	11.3 Prepare a Western Underground <b>Subsidence Monitoring Plan</b> as part of the Strata Control Management Plan in consultation with DII.	Prior to mining of the Western Underground.
<b>12. Visual Amenity Management</b>		
Day-time visibility of site activities limited.	12.1 Complete the proposed visual amenity plantings in the vicinity of Mount View Road.	As soon as practicable.
	12.2 Ensure that the western section of Hill B, located to the west of the Western Outlier, remains undisturbed.	During mining operations within the Western Outlier.
	12.3 Ensure, where practicable, that mining and waste rock placement operations are undertaken behind a 4m and 5m high barrier respectively, particularly during the evening, to limit visual impacts associated with moving mining equipment and lights.	Continuous during mining operations.



## CONSOLIDATED CONSENT

Desired Outcome	Action	Timing
	12.4 Ensure that all open cut mining-related lights are extinguished at the completion of each day's mining operations, with the exception of those required for activities that may be undertaken between 10:00pm and 7:00am or those that are required for safety or security-related purposes.	Continuous during evening mining operations.
<b>13. Soil Management</b>		
The Proponent's activities do not result in soil degradation or loss.	13.1 Prepare and implement a <b>Soil Management Plan</b> . This plan may be prepared as a component of the <b>Surface and Groundwater Management Plan</b> , or the <b>Sediment and Erosion Control Plan</b> or the <b>Rehabilitation and Vegetation Management Plan</b> .	Within 6 months of the receipt of Project approval.
<b>14. Environmental Monitoring</b>		
Implementation of an appropriate water monitoring program to ensure continuing compliance with relevant water quality criteria.	14.1 Expand the licensed discharge point water quality monitoring program to include the monitoring locations identified in Section 5.8.6	During discharge events.
	14.2 Monitor all accessible registered bores in the vicinity of the Project Site, subject to landholder approval, for standing water level, pH and electrical conductivity.	Monthly.
	14.3 Monitor all accessible registered bores in the vicinity of the Project Site, subject to landholder approval, for laboratory-based water quality analysis.	Annual.
	14.4 Monitor the volume and quality of water used or transferred around the Project Site.	Continuous.

## APPENDIX 4 RECEIVER LOCATION PLANS

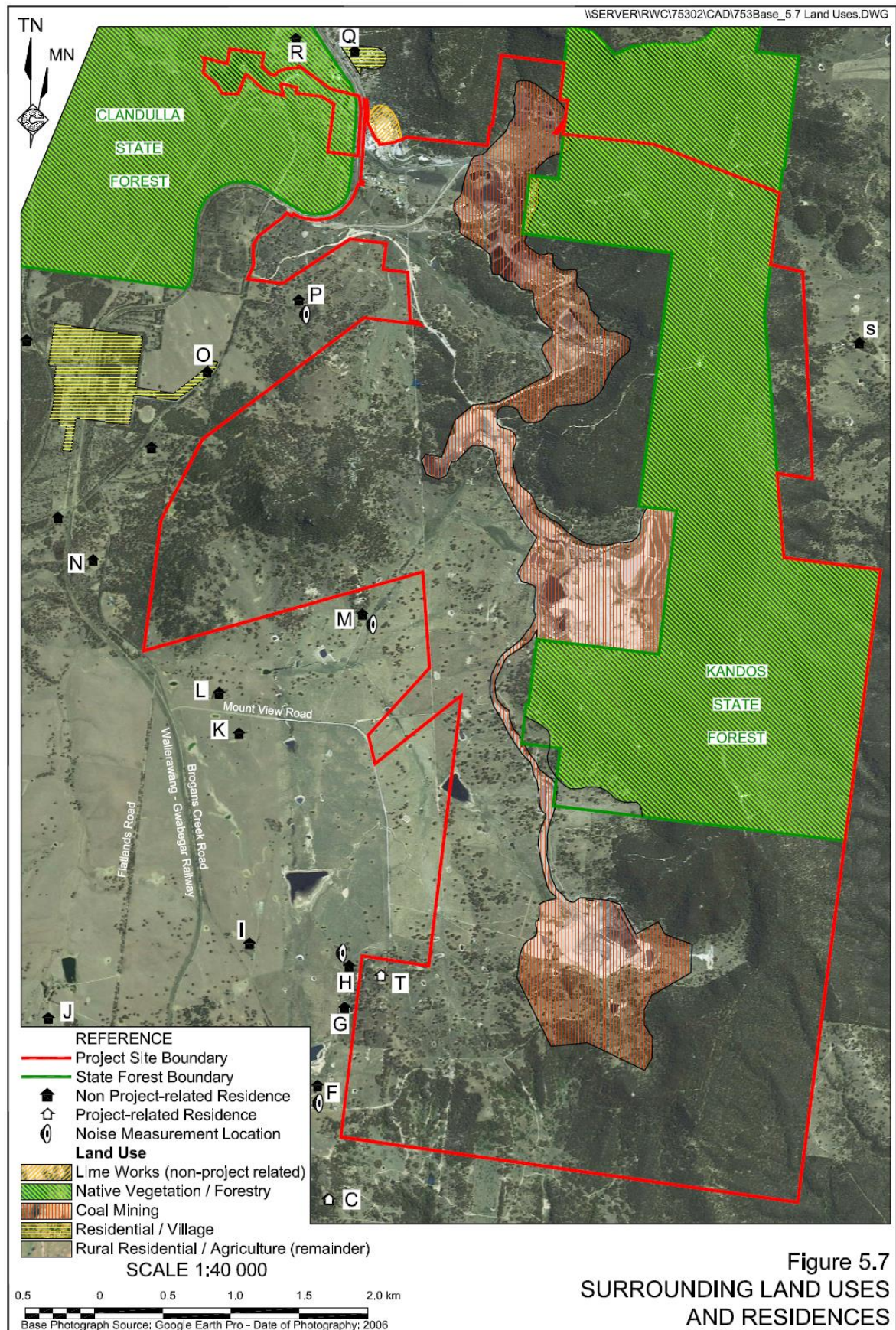


Figure 3: Receiver Locations



## APPENDIX 5 FINAL LANDFORM

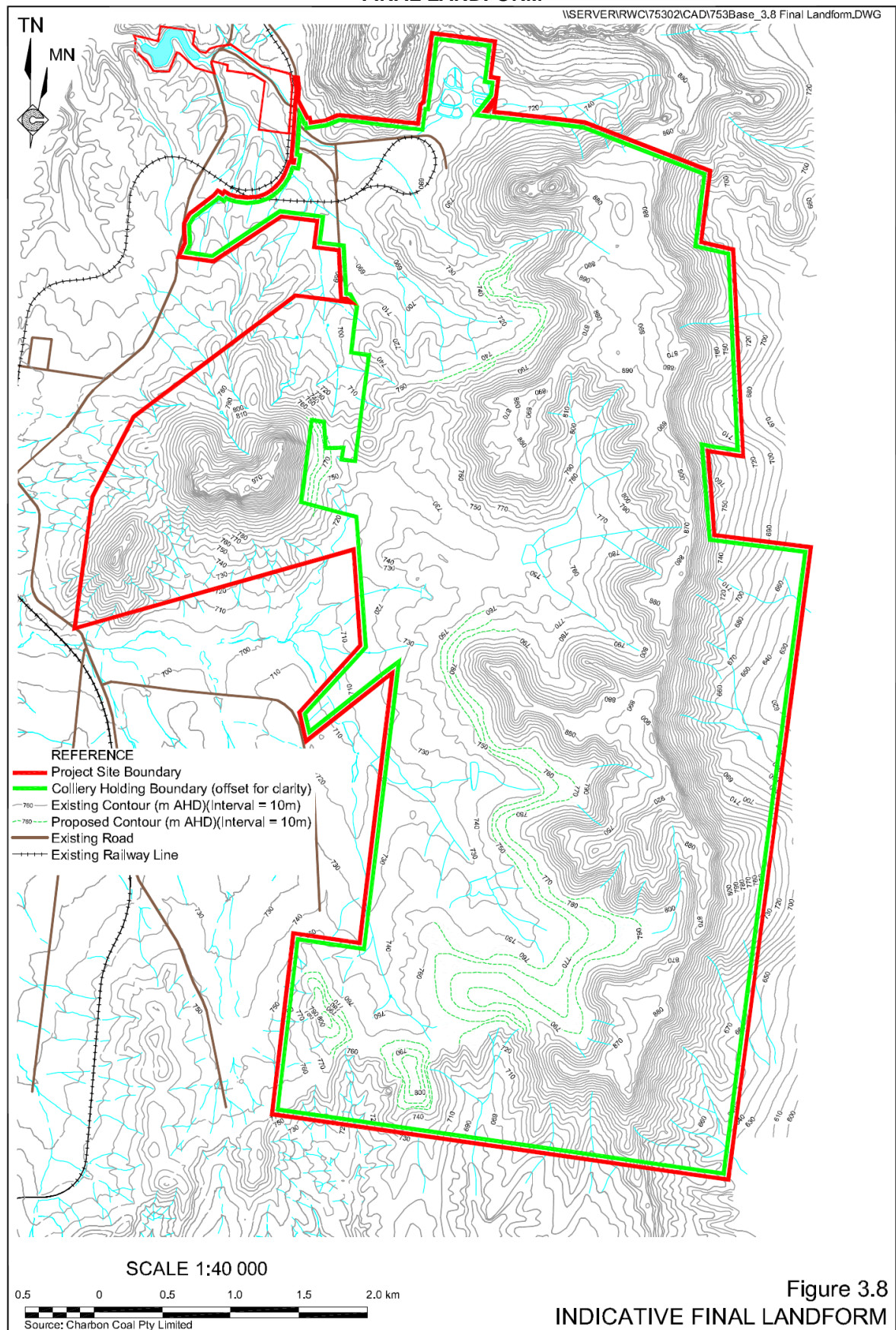


Figure 4: Indicative Final Landform

## **APPENDIX 6**

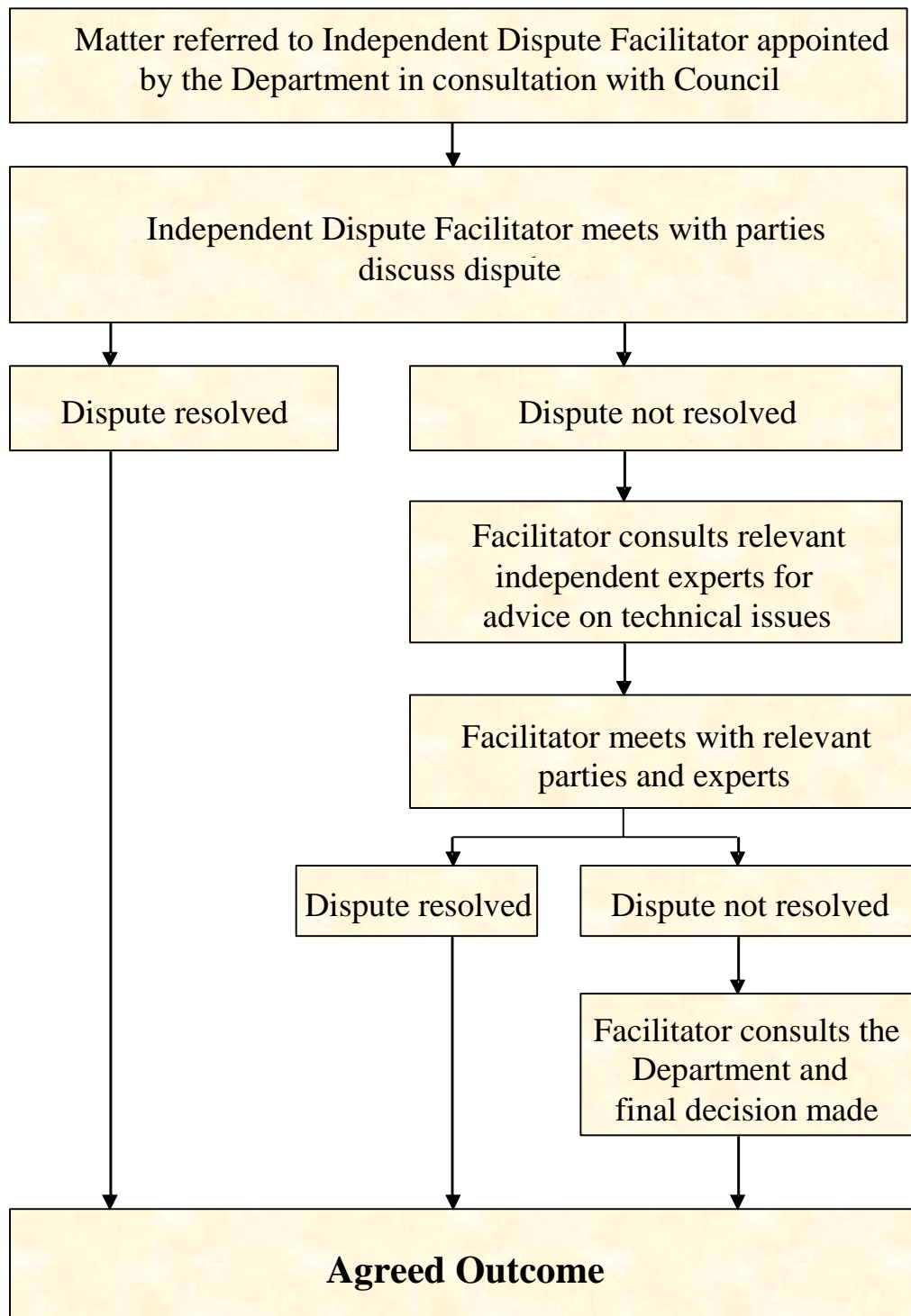
### **GENERAL TERMS FOR THE PLANNING AGREEMENT**

The Proponent **must** pay the following contributions to Council:

- Annual community facilities contribution of \$0.01 per Run of Mine (ROM) tonnes per annum for community projects in the local area (Rylstone, Kandos, Charbon and/or Clandulla) to be paid by 31 July each year for coal hauled in the previous financial year.
- Contribution to community facilities of a one off payment of \$50,000 within one month of receipt of project approval for a community project in the local area (Rylstone, Kandos, Charbon and/or Clandulla).

**APPENDIX 7  
INDEPENDENT DISPUTE RESOLUTION PROCESS**

**Independent Dispute Resolution Process  
(Indicative only)**



## APPENDIX 8 WATER TRANSFER ROUTE



Figure 5: Rail route for water transferred from Charbon Colliery to Airly Coal Mine