Modification of Development Consent

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, I **approve** the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.

Steve O'Donoghue
Director - Resource Assessments
NSW Department of Planning, Industry and Environment

Sydney   30 July   2019

SCHEDULE 1

The development consent (SSD 5581) for the Airly Mine Extension Project, granted by the Planning Assessment Commission, as delegate of the Minister for Planning, on 15 December 2016.

SCHEDULE 2

1. In the list of DEFINITIONS, delete the following terms and their definitions: "Department", "DI L&W", "DRG", "DoE", "Minister" and "OEH" and insert the following in alphabetical order:

BCD	Biodiversity and Conservation Division, within the Department
Department	Department of Planning, Industry and Environment
DoEE	The Australian Government Department of the Environment and Energy, which administers the EPBC Act
Heritage Division	Heritage Division, within the NSW Department of Premier and Cabinet
Minister	Minister for Planning and Public Spaces, or delegate
Resources Regulator	NSW Resources Regulator, within the Department
Water Division	Water Division, within the Department

2. In the definition for "EIS", delete "*Airly Mine SSD_5581 – Statement of Environmental Effects* including the associated Response to Submissions (dated 21 June 2018)" and replace with:

   , as modified by:
   - MOD 1 - *Airly Mine SSD_5581 MOD 1 – Statement of Environmental Effects* including the associated Response to Submissions (dated 21 June 2018); and
   - MOD 2 - *Statement of Environmental Effects - Airly Mine Extension Project State Significant Development 5581 - Modification 2* (dated April 2019) including the associated Response to Submissions (dated 13 June 2019), and additional information provided by the Applicant on 24 June 2019.

3. Delete all references to "DoE" and replace with "DoEE".

4. Delete all references to "DRG" and "DRE" and replace with "Resources Regulator".

5. Delete all references to "DPI Water" and replace with "the Water Division".

6. In condition 15(c)(iii) of Schedule 4, delete "DI L&W's" and replace with "the NSW Government".

7. Delete all references to "DI L&W" and replace with "the Water Division".

8. In conditions 7(i)(v) of Schedule 3 and 19(b) of Schedule 4, delete "OEH" and replace with "Heritage Division".

9. Delete all references to "OEH" and replace with "BCD".

10. Delete the heading "Coal Transport" above condition 8 of Schedule 2 and replace with "Rail Movements".

11. Delete conditions 8(b) and 8(c) in Schedule 2 and replace with:

> (b)   movement of laden coal trains and water trains is restricted to:
>   (i.)   no more than an average of 2 trains leaving the site per day over any calendar year; and
>   (ii.) no more than 5 trains leaving the site on any day; and
> (c)   no more than one water train is received from Charbon Colliery on any day.
>
> *Note: The rail transfer route for the water train is shown in Figure 13 in Appendix 12.*

12. In condition 3 of Schedule 3, within the "Note", delete "condition 5" and replace with "condition 7".

13. In condition 5 of Schedule 2, within the "Note", after "Secretary", insert "and the Resources Regulator".

14. In condition 7(h) of Schedule 3, delete "condition 31" and replace with "condition 27".

15. In condition 7(i)(vi) of Schedule 3, delete "condition 23" and replace with "condition 19".

16. In condition 7(i)(x) of Schedule 3, delete "condition 33" and replace with "condition 27".

17. In condition 5 of Schedule 4, within '*Table 5: Air quality criteria',* delete "30 µg/m^3", and replace with "25 µg/m^3".

18. In Schedule 4, correct the condition numbers 10 to 29, in sequential order, starting with renumbering condition "10" as condition "8".

19. In condition 13(c)(ii) of Schedule 4, delete "condition 13" and replace with "condition 11".

20. In condition 3(a) of Schedule 6, delete "condition 10" and replace with "condition 9".

21. In condition 3(b) of Schedule 6, delete "condition 12" and replace with "condition 11".

22. In condition 3(c) of Schedule 6, delete "condition 13" and replace with "condition 12".

23. In condition 5 of Schedule 6, delete "15, 16 and 20" and replace with "13, 15 and 19".

24. In condition 5 of Schedule 6, delete "condition 5" and replace with "condition 7".

25. In condition 6 of Schedule 6, delete "condition 5" and replace with "condition 7".

26. Renumber the figures contained in Appendix 4 onwards, in sequential order; starting with "Figure 5" in Appendix 4 and ending with "Figure 11" in Appendix 10.

27. Insert a centred caption under the figure in Appendix 11: "**Figure 12:** *Trial mining area"*

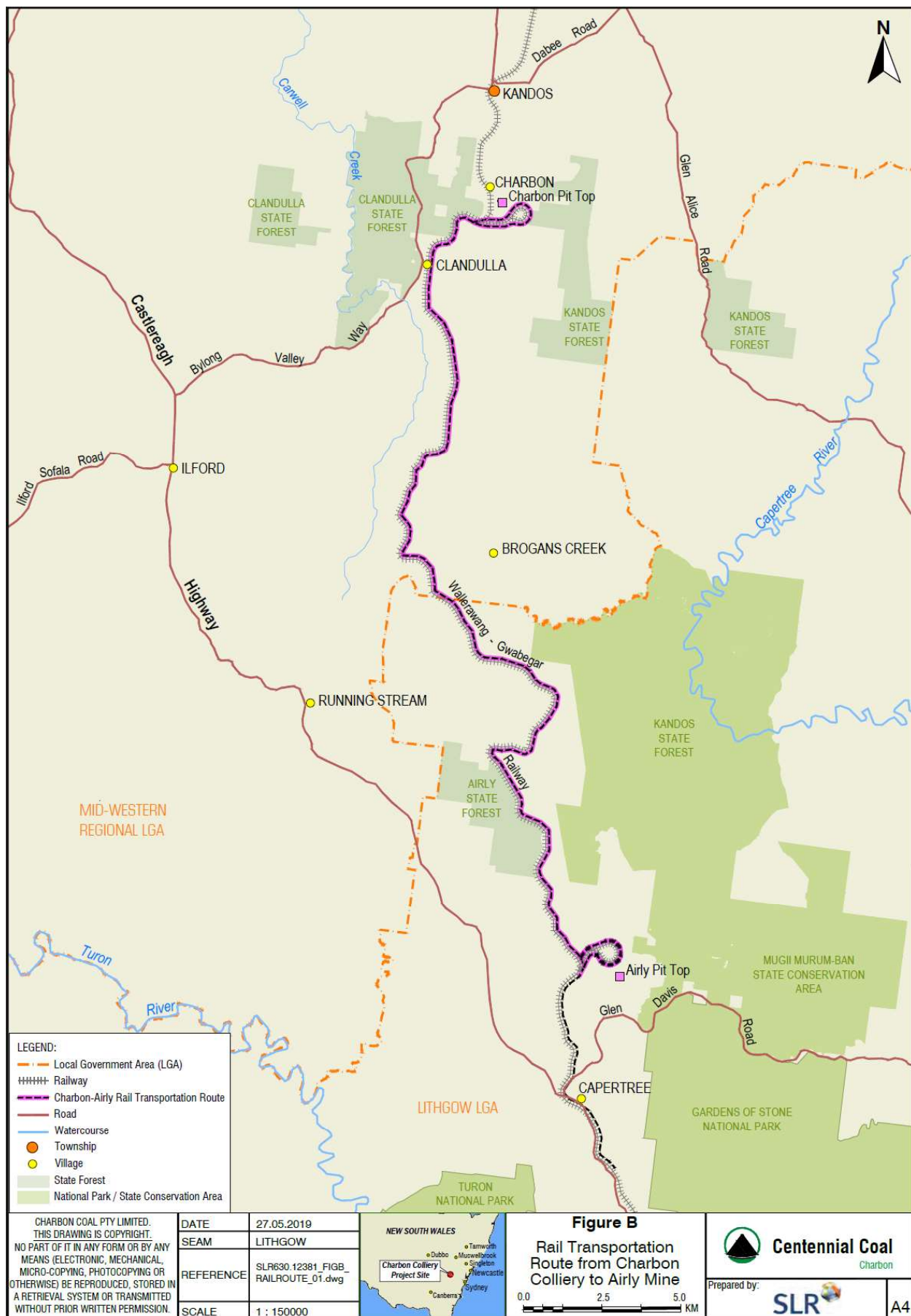28. After Appendix 11, insert:

APPENDIX 12: Water Transfer Route

Figure 13: *Rail route for water transfer from Charbon Colliery to Airly Coal Mine*

End of modification

(SSD 5581 MOD 2)