

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.

Frank Sartor MP

Minister for Planning

Sydney
S06/00617

13 April 2007

File

No:

[MODIFICATION 1 – approved 27 November 2007](#)

[MODIFICATION 2 – approved 13 May 2013](#)

[MODIFICATION 3 – approved 21 August 2020](#)

SCHEDULE 1

Application No: 06_0009

Proponent: Newcastle Coal Infrastructure Group

Approval Authority: Minister for Planning

Land:

Lots 2-3 and Lot 6 DP 1119752;
Lots 30-31 DP 1184229;
Lots 4-6 and Lots 10-12 DP 1207051;
Lot 61 DP 1184395;
Lot 62 of DP 1184943

Project:

Construction and operation of a coal export terminal with capacity of up to 79 million tonnes per annum, including:

- foundation preparation/capping of a rail corridor traversing the existing Kooragang Island Waste Emplacement Facility for the development of the rail spurs, rail sidings and rail loops;
- construction of rail spurs, rail sidings and rail loops, rail overpass, train unloading stations and connecting conveyors;
- reuse of dredged materials from the south arm of the Hunter River as preload and engineering fill for construction of the coal storage area, rail corridor and wharf facilities;
- construction of a coal storage area including coal stockpiles, conveyors, transfer points and combined stacker/reclaimers;
- construction of wharf facilities, shiploaders, conveyors and buffer bins;
- development of water management infrastructure including Site drainage works, stormwater settlement ponds, primary and secondary settling ponds, Site water pond, water tanks and stockpile spray system;
- installation of electricity reticulation and control systems;
- development of access roads and internal roads;
- construction of administration and workshop buildings;
- other associated minor infrastructure, plant, equipment and activities; and
- operation of the coal export terminal up to a capacity of 79 million tonnes per annum of coal, including the unloading of coal trains, the stockpiling of coal, and the loading of coal to ships via the wharf facilities and shiploaders.

Major Project:

The proposal is declared a Major Project under section 75B(1)(a) of the *Environmental Planning and Assessment Act 1979*, because it is a development of a kind that is described in clause 22 of Schedule 1 to *State Environmental Planning Policy (Major Projects) 2005*.

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SCHEDULE 2

Act, the	<i>Environmental Planning and Assessment Act, 1979</i>
ARTC	Australian Rail Track Corporation
BCA, the	Building Code of Australia
BCD	Biodiversity & Conservation Division within the Department
Breeding population (in relation to <i>Litoria aurea</i>)	Evidence of natural breeding events occur in two seasons (September to March) and include the presence of eggs, tadpoles and/or metamorphs that were not released from captive breeding stock in at least one pond. The breeding events do not have to be recorded over two consecutive seasons.
Conditions of Approval	The Minister's conditions of approval for the project.
Conservation Bond	An irrevocable and unconditional undertaking by an Australian bank which is an eligible financial institution for the purposes of Treasury Circular NSW TC08/01 dated 21 February 2008 as amended, supplemented or substituted from time to time to pay the face value of that undertaking (being such amount as is determined in accordance with condition 2.20A) on demand.
Council	Newcastle City Council
Day	the period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays
Department, the	Department of Planning, Industry and Environment.
Director-General, the	Director-General of the Department of Planning and Infrastructure, or nominee.
Planning Secretary's Approval	<p>A written approval from the Planning Secretary (or delegate).</p> <p>Where the Planning Secretary's Approval is required under a condition the Planning Secretary will endeavour to provide a response within one month of receiving an approval request. The Planning Secretary may ask for additional information if the approval request is considered incomplete. When further information is requested the time taken for the Proponent to respond in writing will be added to the one month period.</p>
Director General's Report	The report provided to the Minister by the Planning Secretary of the Department under section 75I of the EP&A Act.
EA	<i>Environmental Assessment: Coal Export Terminal</i> (prepared by Resource Strategies on behalf of Newcastle Coal Infrastructure Group and dated July 2006).
EPA	Environment Protection Authority
EPL	Environment Protection Licence issued under the <i>Protection of the Environment Operations Act, 1997</i>
Evening	the period from 6pm to 10pm on any day
Heritage NSW	Heritage NSW in the Department of Premier and Cabinet
High Capacity Optional Inlet	Rail infrastructure delineated on Figure 2-1 of the

Rail Spur and Rail Sidings	document referred to under condition 1.1b), as modified by condition 1.1e)
KIWEF	Kooragang Island Waste Emplacement Facility
Minister, the	Minister for Planning and Public Spaces or nominee.
Mtpa	Million tonnes per annum
Night	the period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
OEH	Office of Environment and Heritage
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
Proponent	Newcastle Coal Infrastructure Group, or any party acting under authorisation from and on behalf of the Newcastle Coal Infrastructure Group.
Publicly Available	Available for inspection by a member of the general public (for example available on an internet site or at a display centre).
PWCS	Port Waratah Coal Services
RMS	Roads and Maritime Services
Sensitive Receiver	Residence, education institution (e.g. school, TAFE college), health care facility (e.g. nursing home, hospital) or religious facility (e.g. church).
Site	Land to which Major Projects Application 06_0009 applies.
TfNSW	Transport for NSW (incorporating the former NSW Roads and Maritime Services)
Viable breeding population (in relation to <i>Litoria aurea</i>)	Success in the establishment of both a breeding population and a viable population.
Viable population (in relation to <i>Litoria aurea</i>)	Evidence of at least five reproductively mature individuals are identified within new aquatic and/or terrestrial habitat in each of the two seasons when breeding events occurred. Such evidence will include presence of calling males with nuptial pads and gravid females.

1. ADMINISTRATIVE CONDITIONS

Terms of Approval

- 1.1 The Proponent shall carry out the project in accordance with the conditions of this approval and generally in accordance with the:
- a) Major Projects Application 06_0009;
 - b) *Environmental Assessment: Newcastle Coal Infrastructure Group Coal Export Terminal*, prepared by Resource Strategies Pty Ltd and dated July 2006;
 - c) *Responses to Submissions*, prepared by Newcastle Coal Infrastructure Group and dated December 2006;
 - d) modification application MP 06_0009 MOD 1, related to the plan of subdivision titled *Stage 1 Proposed Subdivision of Lot 122 DP 874949, Lot 2 DP 581473, Lot 6 DP 1015754 and Lots 71 and 74 DP 1119950, Stages 2 and 3 Proposed Subdivision of Lot 20 DP 262325* (surveyors reference HW43.01.03.00) prepared by Paul John Stivano and undated; and plan of subdivision titled *Plan of Subdivision of Lot 122 DP 874949, Lot 2 DP 581473, Lot 6 DP 1015754 and Lots 71 and 74 DP 1119950* (surveyors reference HW43.01.03.00) prepared by Paul John Stivano and dated 2 November 2007;
 - e) modification application MP 06_0009 MOD 2 and supporting document titled *Newcastle Coal Infrastructure Group Coal (NCIG) Export Terminal Rail Flyover Modification Environmental Assessment* prepared by NCIG and dated June 2012, as modified by the Response to Submissions document prepared by NCIG and dated 6 December 2012;
 - f) modification application MP 06_0009 MOD 3 and supporting documents titled *Newcastle Coal Infrastructure Group Coal Export Terminal Optimisation Statement of Environmental Effects* prepared by Newcastle Coal Infrastructure Group, dated April 2020 and *NCIG MOD 3 Submissions Report* dated June 2020;
- 1.2 In the event of an inconsistency between:
- a) the conditions of this approval and any document listed from condition 1.1a) to 1.1e) inclusive, the conditions of this approval shall prevail to the extent of the inconsistency; and
 - b) any of the documents listed from condition 1.1a) to 1.1f) inclusive, the most recent document shall prevail to the extent of the inconsistency.
- 1.3 The Proponent shall comply with any reasonable requirement(s) of the **Planning Secretary** arising from the Department's assessment of:
- a) any reports, plans or correspondence that are submitted in accordance with this approval; and
 - b) the implementation of any actions or measures contained in these reports, plans or correspondence.

Limits of Approval

- 1.4 This approval shall lapse five years after the date on which it is granted, unless the works the subject of this approval are physically and substantially commenced on or before that time.
- 1.5 The project shall be limited to a maximum export capacity of 79 million tonnes of coal per annum.
- 1.6 The Proponent may only proceed to construct the High Capacity Optional Inlet Rail Spur and Rail Sidings upon receipt of the **Planning Secretary's** satisfaction that:

- a) the Compensatory Habitat and Ecological Monitoring Program required under condition 2.20 is being implemented according to the timeframes required, or to the extent agreed by the Planning Secretary; and
- b) the Proponent has complied with rail infrastructure design requirements referred to in condition 2.39 of this approval.

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. The Proponent shall ensure that a copy of this approval and all relevant environmental approvals are available on the Site at all times during the project.
- 1.7(a) Prior to the issue of the Subdivision Certificate, the Proponent shall provide to the relevant certifying authority evidence that all easements and covenants required by this approval have been or will be registered for the subdivision.
- 1.8 The Proponent shall ensure that all practicable measures shall be taken to prevent and minimise harm to the environment as a result of the construction, operation, and where relevant, decommissioning of the development.
- 1.9 The Proponent shall ensure that all plant and equipment installed at the premises or used in conjunction with the project must be:
- a) maintained in a proper and efficient condition; and
 - b) operated in a proper and efficient manner.
- 1.10 With the approval of the Planning Secretary, the Proponent may prepare and submit any management plan or monitoring program required by this approval on a progressive basis. Where a management plan and monitoring program is required before carrying out any development or stage of development, the plans/programs may be prepared and submitted in relation to either discrete components of the project or for a specified time period.

2. SPECIFIC ENVIRONMENTAL CONDITIONS

Air Quality Impacts

Odour

- 2.1 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 beyond the boundary of the Site.

Dust Emissions

- 2.2 The Proponent shall design, construct, commission, operate and maintain the project in a manner that minimises or prevents the emission of dust from the Site including wind blown and traffic generated dust.
- 2.3 The Proponent shall take all practicable measures to ensure that all vehicles entering or leaving the Site, carrying a load that may generate dust, are covered at all times, except during loading and unloading. Any such vehicles shall be covered or enclosed in a manner that will prevent emissions of dust from the vehicle at all times, to the extent practicable.

- 2.4 All activities on the Site shall be undertaken with the objective of preventing visible emissions of dust beyond the boundary of 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.
- 2.5 The Proponent shall control dust emissions on all internal roads, trafficable areas and manoeuvring areas to minimise the potential for dust generation by sealing, or otherwise treating surfaces in a manner acceptable to the **Planning Secretary**.
- 2.6 The Proponent shall design, construct, operate and maintain the project in a manner that minimises the potential generation of fugitive dust emissions from plant and equipment, including where relevant and practicable, design of the project to minimise the number of coal transfer points, minimise the drop height from stackers to stockpiles, full or partial enclosure of conveyors, installation of wind shields and belt cleaning systems to conveyors, and installation of dust control equipment to mobile plant.
- 2.7 As soon as practicable after the placement of fill/ preloading material on the Site, the Proponent shall cover, seal, grass or otherwise treat the Site in a manner acceptable to the **Planning Secretary** to minimise the potential generation of wind-blown dust from the fill/ preload material. The Proponent shall maintain the cover, seal, grass or other treatment for the duration of relevant Site preparation and preloading activities, and following the addition of further fill/ preload materials that may occur from time to time during that period.

Meteorological Monitoring Station

- 2.8 The Proponent shall install, operate and maintain a meteorological monitoring station to monitor weather conditions representative of those on the Site, in accordance with:
- AM-1 Guide to Siting of Sampling Units (AS 2922-1987).
 - AM-2 Guide for Horizontal Measurement of Wind for Air Quality Applications (AS 2923-1987).
 - AM-4 On-Site Meteorological Monitoring Program Guidance for Regulatory Modelling Applications.

The meteorological monitoring station shall be installed at or near the Site and the Proponent shall use the meteorological monitoring station to undertake the monitoring required under condition 3.1 of this approval. This condition does not preclude the Proponent from reaching agreement with any other relevant party for the installation, operation and maintenance of a shared monitoring station, or shared use of an existing monitoring station representative of the Site, provided the outcomes of this condition are achieved.

Noise Impacts

- 2.9 The Proponent shall minimise noise emissions from plant and equipment operated on the Site in relation to the project according to the principles outlined in the NSW Government's *Industrial Noise Policy*.

Construction Noise

- 2.10 All Site preparation, filling/ preloading and construction works that may generate an audible noise at any residential receptor shall only be undertaken between 7:00 am and 6:00 pm. Audible noise is defined as "noise that can be heard at the receiver."

This condition does not apply in the event of a direction from police or other relevant authority for safety or emergency reasons.

Note: 'safety or emergency reasons' refers to emergency works which may need to be undertaken to avoid loss of life, property loss and/or to prevent environmental harm.

- 2.11 Notwithstanding condition 2.10 of this approval, piling works shall not be conducted on Sundays or public holidays.
- 2.12 The Proponent may seek the **Planning Secretary's** approval to conduct Site preparation, filling/ preloading and construction works outside the hours specified under condition 2.10 on a case-by-case basis. In seeking the **Planning Secretary's** approval, the Proponent shall demonstrate a need for activities to be conducted during varied hours and how local acoustic amenity will be protected, as well as details of how the **EPA's** requirements with respect to the variation of hours have been addressed.

Operation Noise

- 2.13 The Proponent shall design, construct, operate and maintain the project to ensure that the noise contributions from the project do not exceed the maximum allowable noise contributions specified in Table 1 below, at those locations and during those periods indicated. The maximum allowable noise contributions apply under:
- meteorological condition of: wind speeds up to 3 ms⁻¹ (measured at 10 metres above ground level); or
 - temperature inversion conditions up to 3°C per 100 metres and wind speeds up to 2ms⁻¹ (measured at 10 metres above ground level).

Table 1 – Maximum Allowable Noise Contribution (dB(A))

Location	Day, Evening, Night At all times	Night 10:00pm to 7:00am Monday to Saturday 10.00pm to 8.00am on Sundays and Public Holidays	
	L _{Aeq} (15 minute)	L _{Aeq} (night)	L _{A1} (1 minute)
Fern Bay West	41	37	57
Fern Bay East	39	36	55
Stockton West	41	37	57
Stockton East	38	35	56
Mayfield West	45	40	55
Mayfield	44	39	62
Carrington	36	33	52

- 2.14 For the purpose of assessment of noise contributions specified under condition 2.13 of this consent, noise from the project shall be:
- measured at the most affected point on or within the Site boundary at the most sensitive receiver to determine compliance with L_{Aeq}(15 minute) night noise limits.
 - measured at one metre from the dwelling façade to determine compliance with L_{A1}(1 minute) noise limits.
 - subject to the modification factors provided in Section 4 of the *New South Wales Industrial Noise Policy* (EPA, 2000), where applicable.

Notwithstanding, should direct measurement of noise from the development be impractical, the Proponent may employ an alternative noise assessment method deemed acceptable by the **EPA** (refer to Section 11 of the *New South Wales Industrial*

Noise Policy (EPA, 2000)). Details of such an alternative noise assessment method accepted by the EPA shall be submitted to the Planning Secretary prior to the implementation of the assessment method.

Train Noise Performance

- 2.15 The Proponent shall take necessary action to ensure that trains operated on the Site meet the noise performance criteria established under condition 2.13.

Ecological Impacts

- 2.16 Prior to the commencement of construction, including Site preparation and fill/preloading activities, the Proponent shall employ a qualified ecologist approved by the Planning Secretary to undertake a pre-construction survey of all areas to be affected by construction works for the presence of *Litoria aurea*. Should members of this species be located within any area to be affected by the project, the Proponent shall notify the Planning Secretary and prepare a management plan for the relocation of *Litoria aurea* individuals in consultation with the BCD and Regional Land Management Corporation. The management plan shall include, but not be limited to, the identification of potential locations, management procedures and monitoring requirements for the relocation of *Litoria aurea* individuals prior to the commencement of works.
- 2.17 The Proponent shall design and construct relevant rail infrastructure associated with the project to include culverts, underpasses or other similar measures to permit the movement of *Litoria aurea* and other amphibian species under the rail infrastructure, and shall have consideration of existing and proposed frog habitat areas and movement corridors. The culverts, underpasses or other similar measures shall be installed to include suitable habitat for *Litoria aurea* and to provide protection from predators, and shall be designed in consultation with the BCD and PWCS.
- 2.18 All employees and contractors involved in construction or operation of components of the project in areas known or suspected of providing habitat for *Litoria aurea* and other amphibian species shall be trained in Site hygiene management in accordance with the *Hygiene Protocol for the Control of Disease in Frogs* (NPWS, 2001) prior to the commencement of the relevant work.
- 2.19 The Proponent shall employ a qualified ecologist, approved by the Planning Secretary, for the duration of construction works, including Site preparation and fill/preloading activities, to advise on the mitigation and management of impacts to listed threatened species that may be affected by the relevant works.
- 2.19A The Proponent shall minimise clearing of native vegetation, edge effects and fragmentation to the greatest extent practicable and shall maintain retained native vegetation and habitat on Site. In relation to the clearing required for the High Capacity Optional Inlet Rail Spur and Rail Sidings, the amount of clearing to the west of the existing Kooragang Island Main Line shall be limited to a maximum of 2.6 hectares including 1.32 hectares of *Coastal Saltmarsh in the NSW North Coast, Sydney Basin and South East Corner Bioregions Endangered Ecological Community*, and 0.13 hectares of *Freshwater Wetlands on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions Endangered Ecological Community*.

Compensatory Habitat and Ecological Monitoring Program

- 2.20 The Proponent shall develop and submit for the approval of the **Planning Secretary**, a Compensatory Habitat and Ecological Monitoring Program to detail how habitat and ecological values lost as a result of the project will be off-set, and how ecological monitoring will be undertaken to inform on-going ecological management. The Program shall be developed in consultation with the BCD, and shall include, but not necessarily be limited to:
- a) ecological surveys, following detailed design of the project, to identify and quantify the extent and types of habitat that would be lost or degraded as a result of the project;
 - b) provision for establishment of compensatory habitat for each relevant component of the project as follows, unless otherwise agreed by the **Planning Secretary**:
 - i) for *Litoria aurea* habitat lost as a result of the project, establishment of 75 hectares of compensatory habitat in a location agreed by the **Planning Secretary**, in consultation with the BCD. The compensatory habitat shall include viable and sustainable populations of *Litoria aurea* within a mosaic of wetland, terrestrial and breeding habitat, which includes foraging, sheltering, and wintering habitat attributes and movement corridors, in order to maximise the potential reproductive output of the *Litoria aurea* population. This amount of compensatory habitat may be reduced if the Proponent can determine, using a scientific methodology agreed to the Department, in consultation with the BCD, that the population of *Litoria aurea* impacted by the project is less than 37.5 hectares. The reduced amount shall be agreed to by the Department, in consultation with the BCD, by 30 June 2015;
 - ii) for migratory shore bird habitat (including endangered ecological communities) lost as a result of the project, including filling in of parts of Deep Pond and Swan Pond from the construction of rail and associated infrastructure, the establishment of 8 hectares of compensatory habitat in a location agreed by the **Planning Secretary**, in consultation with the BCD. The commencement of compensatory habitat works shall occur within six months of the commencement of construction of the High Capacity Optional Inlet Rail Spur and Rail Sidings, or as otherwise agreed by the **Planning Secretary**;
 - c) provision for on-going ecological studies and migratory bird monitoring in and around Deep Pond and Swan Pond, to investigate bird behaviour and to inform the design process for components of the project affecting these ponds;
 - d) provision for the funding of works required under this condition, to be managed by a board, trust or other mechanism that provides sound and legally enforceable means of allocating resources for ongoing adaptive management and review of the performance of compensatory habitat works for the life of the project;
 - e) provision for research into *Litoria aurea* in and around Kooragang Island and the Hunter Estuary, as may be identified by the Proponent in consultation with relevant ecological and research groups;
 - f) provision for ameliorative works on land surrounding the project Site, as may be negotiated by the Proponent with the relevant adjacent land owners, to improve or restore natural hydrology and ecosystems, remove mangrove communities where relevant and restore locally-endemic Endangered Ecological Communities;
 - g) consideration of coordinating compensatory and ameliorative works with similar requirements for other developments, including with respect to the development the subject of development consent DA-134-3-2003-i (dredging and remediation of the South Arm of the Hunter River);
 - h) monitoring requirements for compensatory habitat works and other ecological amelioration proposed under the Program; and
 - i) timing and responsibilities for the implementation of the provisions of the Program. The Proponent shall provide the following commitments in the Program, or as otherwise agreed by the **Planning Secretary**:

- i. before 31 December 2013, the Proponent shall secure compensatory habitat locations required under condition 2.20b);
- ii. before 31 December 2014, the Proponent shall have completed the migratory shorebird compensatory habitat works required under condition 2.20b)ii);
- iii. before 31 December 2016, the Proponent shall have completed the *Litoria aurea* compensatory habitat works required under condition 2.20b)i). If a viable breeding population of *Litoria aurea* has not been established as part of the implemented compensatory habitat works then the Proponent is required to purchase an equivalent area of land that is known to contain the species and manage this land for the enduring conservation of the species in perpetuity. Any land required to be purchased is required to be completed by 31 December 2019.

2.20A Financial surety of the requirements specified in condition 2.20 will be provided by the Proponent to the Department in the form of a Conservation Bond. Within 3 months of the date of the approval of modification application MP 06_0009 MOD 2, referred to in condition 1.1e), the Proponent shall determine the sum of the Conservation Bond to the satisfaction of the **Planning Secretary**, in consultation with BCD, based on the following:

- a) calculating the full cost of fulfilling its compensatory habitat obligations outlined in condition 2.20, in perpetuity, (including any land acquisition costs). These costs need to consider research, establishment of habitat, ongoing monitoring and management of the habitat.
- b) employing a suitably qualified quantity surveyor to verify the calculated costs.

The Conservation Bond is required to be lodged with the Department by 30 July 2013, or as otherwise agreed by the **Planning Secretary**, to ensure that the biodiversity offsets outlined in condition 2.20 are implemented in accordance with the performance and timing commitments provided in the Compensatory Habitat and Ecological Monitoring Program. If the offset is completed in accordance with the performance and timing commitments in the Compensatory Habitat and Ecological Monitoring Program to the satisfaction of the **Planning Secretary**, in consultation with the BCD, the **Planning Secretary** will release the bond. If the offset is not completed in accordance with the performance and timing commitments in the Compensatory Habitat and Ecological Monitoring Program, the **Planning Secretary** may, in consultation with BCD, call in all or part of the Conservation Bond, and arrange for the satisfactory completion of the relevant works.

The sum of the Conservation Bond may be reduced subject to the successful performance of the compensatory works. The reduction of the Conservation Bond would be at the agreement of the **Planning Secretary**, in consultation with the BCD. In relation to *Litoria aurea*, successful performance works include the identification of a viable breeding population.

2.20B In the event that the project is modified such that it results in impacts to biodiversity different to those assessed in the document referred to in condition 1.1b), the Proponent is required to submit for the approval of the **Planning Secretary**, a revised Compensatory Habitat and Ecological Monitoring Program within three months of any approval.

Traffic and Transport Impacts

General Road Infrastructure and Traffic Management

- 2.21 Prior to the commencement of each stage of construction of the project, including fill/preload activities, the Proponent shall develop and submit for the approval of the TfNSW and Council, construction traffic control measures to be implemented for the project. The construction traffic control measures shall include measures to ensure that project traffic does not adversely affect traffic movements on Cormorant Road during peak traffic times.
- 2.22 The Proponent shall design, install and maintain physical traffic control devices and signs for all prohibited traffic movements referred to in Appendix C of the document referred to under condition 1.1b) of this approval, during construction and operation of the project, as relevant. The Proponent shall submit design details of the traffic control devices and signs to the TfNSW and Council for approval prior to their installation. Traffic control devices and signs shall be installed prior to the commencement of construction and operation, as relevant, and at the expense of the Proponent.
- 2.23 The Proponent shall ensure that all access to the relevant Site areas shall be via the following routes:
- a) Main Site Area:
 - i) Pacific National access road;
 - ii) temporary haulage road (construction phase only);
 - iii) Egret Street; and
 - iv) Raven Street, Curlew Street.
 - b) Wharf Area:
 - i) temporary haulage road (construction phase only); and
 - ii) wharf access road.
 - c) Rail Area:
 - i) Delta access road (construction phase only); and
 - ii) Pacific National access road.

Cormorant Road/Temporary Haul Road Intersection

- 2.24 The Proponent shall ensure that traffic control signals and associated civil works are designed and constructed at the intersection of Cormorant Road and the temporary haulage road, west of the existing Blue Circle railway level crossing, in accordance with the RTA's *Road Design Guide* and the relevant Austroads guidelines, to the satisfaction of the TfNSW, including but not limited to, the following works:
- a) the traffic control signals shall be designed to restrict all movements at the intersection to through movements only;
 - b) the signals shall be co-ordinated with the adjacent Blue Circle railway level crossing signals; and
 - c) provision shall be made for on-road Nelson Bay Road cyclists at the intersection.
- 2.25 The Proponent shall ensure that the traffic control signals outlined in condition 2.24 at the intersection of Cormorant Road and the temporary haul road shall be removed to the satisfaction of the TfNSW and Council, at completion of the construction phase or after 12 months of operation of the signals. This shall include any rehabilitation work required to Cormorant Road as determined by the TfNSW and Council.
- 2.26 The Proponent shall ensure that the traffic control signals at the intersection of Cormorant Road and the temporary haul road shall not be utilised for traffic movements

across Cormorant Road between 6.00 am to 9.00 am and 4.00 pm to 6.00 pm on weekdays.

Cormorant Road/Tourle Street/Delta Access Road

2.27 The Proponent shall ensure that the intersection of Cormorant Road/Tourle Street and the Delta access road to the west of the Site is designed and constructed in accordance with the RTA's *Road Design Guide* and the relevant Austroads guidelines to the satisfaction of the TfNSW. The Proponent shall ensure that the intersection includes, as a minimum, the following:

- a) traffic movements shall be physically restricted to left in/left out only;
- b) the left turn in would require a sealed left turn deceleration lane;
- c) the left turn out should be constructed at right angles to Cormorant Road as a give way arrangement and sealed for an appropriate length to ensure that materials are not tracked onto Cormorant Road, The Proponent shall ensure that shaker grids are provided on Site at the start of the seal;
- d) a central median may be required on Cormorant Road at the exit of the Site to physically prevent right turn movements;
- e) adjustments to the footpath and cycleways shall be undertaken to the satisfaction of the TfNSW and Council.

Cormorant Road/Pacific National Access

2.28 The Proponent shall ensure that the intersection of Cormorant Road/Pacific National access shall be designed and constructed in accordance with the RTA's *Road Design Guide* and the relevant Austroads guidelines, to the satisfaction of the TfNSW. The Proponent shall ensure that the intersection should include as a minimum:

- a) traffic movements shall be physically restricted to left in/left out/right in only;
- b) the existing intersection shall be upgraded to include construction of concrete medians in Cormorant Road;
- c) this intersection shall be integrated with the wind turbine access to the satisfaction of the TfNSW and Council.

2.29 The Proponent shall construct a u-turn facility at the Pacific National access road to the satisfaction of the TfNSW and Council. The Proponent shall ensure that the u-turn facility:

- a) is located a minimum distance of 100 metres from Cormorant Road to avoid any potential conflict with traffic at the intersection; and
- b) is designed to cater for B-double movements.

Cormorant Road/Wharf area access

2.30 The Proponent shall ensure that the intersection of Cormorant Road and the Wharf access road to the south of the Site is designed and constructed in accordance with the RTA's *Road Design Guide* and the relevant Austroads guidelines to the satisfaction of the TfNSW. The Proponent shall ensure that the intersection includes the following minimum requirements:

- a) traffic movements shall be physically restricted to left in/left out/right in only;
- b) the left turn in would require a deceleration lane; and
- c) the left turn out should be constructed at right angles to Cormorant Road as a give way arrangement.

Cormorant Road/Egret Street

2.31 The Proponent shall ensure that the intersection of Cormorant Road/Egret Street is designed and constructed in accordance with the RTA's *Road Design Guide* and the

relevant Austroads guidelines to the satisfaction of the TfNSW. The Proponent shall ensure that the intersection includes, as a minimum:

- a) traffic movements shall be physically restricted to left in/left out and right in only; and
- b) the existing intersection shall be modified to include the construction of concrete medians in Cormorant Road.

Conveyor Bridge over Cormorant Road

2.32 The Proponent shall ensure that the bridge structure over Cormorant Road is designed and constructed to TfNSW requirements, including (but not limited to):

- a) allowance for future road widening/duplication of Cormorant Road;
- b) a minimum 6.5 metre vertical height clearance be provided from the top of the Cormorant Road pavement to the underside of the bridge structure;
- c) the bridge structure and its approaches to be designed to minimise impacts on maintenance activities required within the road reserve; and
- d) any maintenance activities required for the bridge structure shall be carried out from within/on the bridge structure.

2.33 The Proponent shall enter into an agreement with the TfNSW for the ongoing maintenance and demolition of the bridge structure.

2.34 The Proponent shall submit for the approval of the TfNSW and Council, detailed designs for the road works referred to under condition 2.21 to condition 2.32 inclusive, prior to the commencement of construction of those works, and prior to the commencement of construction of the relevant components of the project. All road works shall be undertaken and completed to the satisfaction of the TfNSW and Council.

2.35 The project shall be designed, constructed, maintained and operated so as not to preclude any future expansion of Cormorant Road to accommodate four lanes of traffic. The Proponent shall consult with the TfNSW during detailed design of the project to ensure that the requirements of this condition are reflected in the final design of the project. In this regard, the Proponent will be required to enter into a Works Authorisation Deed with the TfNSW and submit detailed design plans and any additional relevant information, as may be required under the Deed, to the TfNSW for each specific change to the state road network for the TfNSW's assessment and approval.

2.36 The Proponent shall ensure that any property requirements including acquisition and/or road reserve dedication shall be in accordance with the requirements of the TfNSW and Council and at the full expense of the Proponent.

Internal Roads and Parking

2.37 The Proponent shall design, construct and maintain all internal road works, including the car park, to meet the following requirements:

- a) compliance with the provisions of relevant Australian Standards, TfNSW standards and guidelines, and Council codes;
- b) installation of clear signage to demarcate all vehicle movements within the Site;
- c) installation and maintenance of any landscaping on the Site so as not to affect driver sight distance for vehicles entering and exiting the Site; and
- d) clear demarcation of all visitor, disabled, ambulance and service vehicle parking areas.

Rail Infrastructure and Management

- 2.38 Prior to the commencement of any works associated with the construction of rail infrastructure on land associated with the Kooragang Island Waste Emplacement Facility, the Proponent shall consult with the Regional Land Management Corporation (RLMC) to reach agreement on the detailed design and operational aspects of the rail infrastructure components of the project on land owned by RLMC. Design details shall include all measures outlined in the documents referred to in condition 1.1.
- 2.39 The Proponent shall consult with PWCS and ARTC, and meet the reasonable requirements of ARTC with respect to the design of the project, including those components of the project that may affect the design, connection and operation of existing and proposed ARTC and PWCS rail infrastructure assets.

Utilities and Services

- 2.40 Utilities, services and other infrastructure potentially affected by construction shall be identified prior to construction to determine requirements for access to, diversion, protection, and/or support. Consultation with the relevant owner and/or provider of services that are likely to be affected by the project shall be undertaken to make suitable arrangements for access to, diversion, protection, and/or support of the affected infrastructure as required. The cost of any such arrangements shall be borne by the Proponent, unless otherwise agreed by the utility or service provider.

Soil and Water Quality Impacts

- 2.41 Except as may be expressly provided under the provision of 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.
- 2.42 Unless otherwise agreed by the **Planning Secretary**, the Proponent shall design, construct, maintain and operate surface water and stormwater management infrastructure on the Site to accommodate a 1 in 100 ARI rainfall event, and shall not permit the discharge of any water from the Site to the Hunter River unless expressly provided under the provision of an Environment Protection Licence.

Construction Soil and Water Management

- 2.43 The Proponent shall take all reasonable measures to prevent soil erosion and the discharge of sediments and pollutants from the Site during construction of the project.
- 2.44 The Proponent shall install stormwater drains, stormwater ponds, settlement ponds and/or storage ponds and other erosion, sediment and pollution controls as may be appropriate to manage stormwater on the Site. The Proponent shall maintain all erosion, sediment and pollution control infrastructure at or above design capacity for the duration of construction of the project and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- 2.45 All stockpiled construction materials shall be stabilised and covered where practicable to prevent erosion or dispersal of the materials. The Proponent shall manage any fill/preload material brought to the Site in manner that prevents erosion and dispersal of those materials.

Groundwater Monitoring and Management

- 2.45A Prior to the commencement of construction of the High Capacity Optional Inlet Rail Spur and Rail Sidings the Proponent shall sample and characterise the quality of the existing groundwater in and around the rail infrastructure corridor to determine groundwater quality trigger values.
- 2.45B Prior to the commencement of construction, the Proponent must develop a long-term groundwater monitoring program in and around the High Capacity Optional Inlet Rail Spur and Rail Sidings to identify changes in groundwater quality from pre-construction groundwater conditions. The groundwater monitoring program will include an action plan should groundwater quality trigger values be exceeded during the course of the monitoring program and the Proponent shall rectify any adverse impact on groundwater that may be detected. Groundwater monitoring must commence at least one month prior to the commencement of construction.

Fill/ Preload Material Specifications

- 2.46 Materials classified as Virgin Excavated Natural Materials (VENM) or those referred to under condition 2.47, shall be used as fill/ preload material for the project.
- 2.47 Unless otherwise agreed by the **Planning Secretary**, the Proponent shall only source clean materials for use in fill/ preloading activities from the development the subject of development consent DA-134-3-2003-i (dredging and remediation of the South Arm of the Hunter River). Where the Proponent seeks the agreement of the **Planning Secretary** to use fill/ preload materials from a different source, the **Planning Secretary** may require submission of additional information to demonstrate how the impacts from heavy vehicle movements will be adequately and appropriately mitigated and managed.
- 2.48 Unless otherwise agreed by the **Planning Secretary**, fill/ preload material sourced from the development the subject of development consent DA-134-3-2003-i shall be transported and managed consistently with an approved Dredged Material Transport Strategy under that development consent (condition B2.29).

Operation Soil and Water Management

- 2.49 All stormwater and surface water management infrastructure on the Site intended to manage actual or potentially contaminated water shall be lined with a low-permeability material to minimise potential leakage. Collected stormwater shall be reused on Site for beneficial purposes such as the wetting of coal to reduce dust emissions from the Site.
- 2.50 In the event that stormwater runoff collection cannot meet the water demand of the Site, treated wastewater, if available from the relevant water authority, shall be used preferentially over potable water for the purposes of dust control, unless otherwise agreed by the **Planning Secretary**.
- 2.51 All machinery wash down waters and amenities wastewater shall be directed to sewer (subject to Hunter Water Corporation approval), or to an appropriately licensed liquid waste disposal facility.
- 2.52 The Proponent shall design, install, maintain and operate rainwater tanks for the collection of water for domestic and potable uses on the Site. Collected rainwater shall be used preferentially to external potable water supplies.

Contaminated Land Management

- 2.53 The Proponent shall engage an appropriately qualified person to audit construction of the rail infrastructure over land use as part of the KIWEF against the commitments contained in the documents referred to in condition 1.1, including the High Capacity Optional Inlet Rail Spur and Rail Sidings. The auditor shall provide the **Planning Secretary** and the EPA with quarterly reports on the disturbance and recapping of the waste emplacement area during construction. In the event of any deviation from the commitments made in the abovementioned documents, prior approval should be sought from the EPA, and any deviation from the commitments shall be described in detail and reasons for the change provided and fully justified.
- 2.54 The Proponent shall ensure that any contaminated materials removed from the Site be directed to a waste management facility lawfully permitted to accept the materials.
- 2.55 To avoid any doubt, nothing in this approval relieves the need to comply with the requirements of Environment Protection Licence No. 6437 as it relates to the on-going management of the KIWEF.

Waste Generation and Management

- 2.56 All waste materials removed from the Site shall only be directed to a waste management facility lawfully permitted to accept the materials.
- 2.57 Except as expressly permitted in an appropriate licence, waste shall not be received at the Site for storage, treatment, processing or reprocessing or disposal.

Visual Amenity Impacts

- 2.58 Within six months of the commencement of construction of the project, or as otherwise agreed by the **Planning Secretary**, the Proponent shall install the bund along the southern side of the stockpile yard (northern side of Cormorant Road) to the satisfaction of the **Planning Secretary**.
- 2.59 The Proponent shall ensure that all external lighting installed as part of the project is mounted, screened, and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary, and be in general accordance with the latest version of *AS 4282 – 1997 Control of the Obtrusive Effects of Outdoor Lighting*.
- 2.60 The Proponent shall plant and maintain local native vegetation species along the earthen bund referred to under condition 2.58. Vegetation shall be planted prior to the commencement of operation of the project, and shall aim to screen the project from visual receptors towards the south, to the greatest extent practicable.
- 2.61 Advertising and project identification signs shall not be installed along the Cormorant Road frontage of the Site.

3. ENVIRONMENTAL MONITORING AND AUDITING

Meteorological Monitoring

- 3.1 From the commencement of construction of the project, the Proponent shall continuously monitor, utilising the meteorological monitoring station referred to under condition 2.8 of this approval, each of the parameters listed in Table 2, utilising the

sampling method indicated and applying a 15-minute average period to all results, and recording data in units specified in Table 2.

Table 2 – Meteorological Monitoring

Parameter	Units of Measure	Sampling Method
Temperature at two metres	°C	AM-4
Temperature at ten metres	°C	AM-4
Wind speed at ten metres	ms ⁻¹	AM-2 and AM-4
Wind direction at ten metres	°	AM-2 and AM-4
Sigma theta at ten metres	°	AM-2 and AM-4
Solar radiation	Wm ⁻²	AM-4

Ambient Dust Monitoring

- 3.2 Prior to the commencement of operation of the project, the Proponent shall develop and submit for the approval of the **Planning Secretary** and the **EPA**, an **Ambient Dust Monitoring Program**, to outline how the ambient dust impacts of the project will be monitored. The Program shall include, but not necessarily be limited to:
- a) identification of an integrated air quality monitoring network, developed in consultation with the owner/ operator of the existing Kooragang Coal Terminal;
 - b) locations, frequencies and methods for monitoring total suspended particles, PM₁₀ and deposited particulate matter;
 - c) provision for the use of at least four hi-volume air samplers (HVAS), four dust depositional gauges and a meteorological station capable of monitoring wind direction and speed in accordance with condition 2.8 and condition 3.1 of this approval;
 - d) investigation of the use of Tapered Element Oscillating Microbalance Samplers (TEOMS) as part of the integrated air quality monitoring network. Should the Proponent consider TEOMS not to be required, the Proponent may seek approval from both the **Planning Secretary** and the **EPA** to exclude this requirement. In seeking such an exclusion, the Proponent's reasons for the exclusion shall be provided and be fully justified;
 - e) provided that the use of TEOMS is proven to be justified (as outlined in d) above), the Proponent shall utilise real-time monitoring data to inform environmental management decisions associated with the project;
 - f) a framework for identifying actual and potential dust impacts, and for applying pro-active and reactive mitigation and management measures to address those impacts;
 - g) provision for independent review and auditing of the Program; and
 - h) mechanisms for updating the Program as may be required from time to time.
- 3.3 Following one full year of data collection in accordance with an approved Ambient Dust Monitoring Program (refer to condition 3.2), the Proponent shall undertake a model validation study to review TSP, PM₁₀ and dust deposition levels to assess compliance with the dust impact predictions made in the documents referred to under condition 1.1 and with applicable ambient air quality goals. The model validation study shall be undertaken in accordance with *Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales* (DEC, 2005), and any specific requirements of the **EPA**.
- 3.4 Within 28 days of conducting the dust validation study referred to under condition 3.3 of this approval, the Proponent shall provide the **Planning Secretary** and the **EPA** with a copy of the report. If the dust validation study identifies significant deviance from the predictions made in the documents referred to under condition 1.1 or any exceedance

with ambient air quality goals, the Proponent shall detail what additional measures would be implemented to further mitigate dust impacts. The Proponent shall clearly indicate who would implement these measures, when these measures would be implemented, and how the effectiveness of these measures would be assessed and reported to the **Planning Secretary**.

- 3.5 The requirements of conditions 3.3 and 3.4 shall be repeated once one year of dust monitoring data is available after the project exceeds an export rate of 33 million tonnes of coal per annum.

Noise Auditing

- 3.6 Within 90 days of the commencement of operation of the project, or as otherwise agreed by the **Planning Secretary**, and during a period in which the project is operating under normal operating conditions, the Proponent shall undertake a program to confirm the noise performance of the project. The noise program shall include, but not necessarily be limited to:
- a) noise monitoring, consistent with the guidelines provided in the *New South Wales Industrial Noise Policy* (EPA, 2000), to assess compliance with condition 2.13 of this approval.
 - b) methodologies, locations and frequencies for noise monitoring;
 - c) identification of monitoring sites at which pre- and post-project noise levels can be ascertained;
 - d) details of any complaints and enquiries received in relation to noise generated by the project within the first 90 days of operation;
 - e) an assessment of night-time use of audible alarm systems;
 - f) a statement of whether the Site is in compliance with noise limits outlined in condition 2.13; and
 - g) any additional noise mitigation measures and timetables for implementation.
- 3.7 Within 28 days of conducting the noise monitoring referred to under condition 3.6 of this approval, the Proponent shall provide the **Planning Secretary** and the **EPA** with a copy of the report. If the noise monitoring report identifies any non-compliance with the noise limits imposed under this approval (refer condition 2.13), the Proponent shall detail what additional measures would be implemented to ensure compliance, clearly indicating who would implement these measures, when these measures would be implemented, and how the effectiveness of these measures would be measured and reported to the **Planning Secretary**.
- 3.8 The requirements of conditions 3.6 and 3.7 shall be repeated within 90 days of the commencement of operation of each stage of the project, including the operation of the High Capacity Optional Inlet Rail Spur and Rail Sidings.

4. COORDINATION OF PORT WORKS AND COAL EXPORT ACTIVITIES

Coordinated Environmental Monitoring and Management Protocol

- 4.1 Prior to the commencement of operation of the project, or within such period as otherwise agreed by the **Planning Secretary**, the Proponent shall develop, in consultation with owner/ operator of the existing Kooragang Coal Terminal, a **Coordinated Environmental Monitoring and Management Protocol** to provide a framework for the coordinated and cooperative monitoring and management of environmental impacts from the developments. The Protocol shall include, but not necessarily be limited to:
- a) procedures for access to, and provision of, monitoring data from each development, particularly in relation to dust and noise emissions;

- b) the respective remediation and redevelopment works;
- c) arrangements for coordinated and cooperative monitoring of ambient environmental impacts, including agreements relating to sharing of monitoring networks/ infrastructure, coordinated interpretation of monitoring results and coordination dissemination of monitoring results to relevant parties;
- d) measures to ensure a coordinated and cooperative approach to the management of common or cumulative environmental impacts from the developments;
- e) arrangements for communication between the parties, including designated contact persons and contact details;
- f) notification procedures in the event of an incident at either development that may impact on the other development, or generate a significant common or cumulative impact;
- g) any agreement for participation in the development of any of the management plans or monitoring programs required under this approval;
- h) mechanism for review of the Protocol from time to time; and
- i) such other matters as parties may agree.

The Applicant shall provide a copy of the Protocol to the **Planning Secretary** and the **EPA and BCD** as soon as practicable after agreement on the terms of the Protocol.

Coordinated Works Program

- 4.2 Prior to the commencement of construction of any component of the project, or within such period as otherwise agreed by the **Planning Secretary**, the Proponent shall develop, in consultation with **TfNSW**, a **Coordinated Works Program** to ensure that the requirements of this approval, and the conditions imposed on the development the subject of development consent DA-134-3-2003-i (dredging and remediation of the South Arm of the Hunter River) are met and coordinated where the relevant works are interrelated. The Program shall specifically focus on requirements for coordination of works in and around the Hunter River foreshore, ecological monitoring and management, and scheduling of dredging and fill/ preloading activities.

Coordination of Cumulative Dust Studies

- 4.3 The Proponent shall participate in any cumulative dust study that may be commissioned by the Department, in consultation with **EPA**. Any such study shall be focused on cumulative dust impacts from major port and industrial sources in the Lower Hunter Estuary on potentially affected residential and sensitive receptors, with specific reference to receptors in Fern Bay, Stockton, Mayfield and Carrington. The extent of the Proponent's involvement in such a study shall be agreed with and to the satisfaction of the **Planning Secretary**, and shall include, but not necessarily be limited to:
- a) provision of monitoring data associated with the environmental performance of the project;
 - b) provision of management and auditing documentation associated with the project and relevant to the study;
 - c) access to the project and relevant technical and environmental experts associated with the project;
 - d) arrangements for any financial contributions to cover the reasonable expenses associated with the study; and
 - e) such other matters as the Proponent and the **Planning Secretary** may agree.

5. COMPLIANCE MONITORING AND TRACKING

Compliance Tracking Program

- 5.1 The Proponent shall develop and implement a **Compliance Tracking Program** to track compliance with the requirements of this approval. The Program shall include, but not necessarily limited to:
- a) provisions for periodic review of the compliance status of the project against the requirements of this approval;
 - b) provisions for periodic reporting of compliance status to the **Planning Secretary**;
 - c) a program for independent environmental auditing at least annually, or as otherwise agreed by the **Planning Secretary**, in accordance with *ISO 19011:2002 - Guidelines for Quality and/ or Environmental Management Systems Auditing*; and
 - d) mechanisms for rectifying any non-compliance identified during environmental auditing or review of compliance.
- 5.2 The independent environmental audit referred to in condition 5.1c) shall:
- a) be conducted by a 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 requirements in this approval, and any other relevant approvals and relevant EPL/s;
 - d) review the adequacy of any approved strategy, plan or program required under the abovementioned approvals; and
 - e) recommend measures or actions to improve the environmental performance of the project, and/or any strategy, plan or program required under these approvals.

*Note: This audit team must be led by a suitably qualified auditor, and include experts in biodiversity, air quality, noise, surface water and groundwater management and other fields as specified by the **Planning Secretary**.*

6. COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT

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

Complaints and Enquiries Procedure

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

The telephone number, the postal address and the email address shall be displayed on a sign near the entrance to the Site, in a position that is clearly visible to the public, and which clearly indicates the purposes of the sign. This information is also to be provided on the Proponent's website.

- 6.3 The Proponent shall record details of all complaints received through the means listed under condition 6.2 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) record of operational and meteorological condition contributing to the complaint;
 - f) any action(s) taken by the Proponent in relation to the complaint, including any follow-up contact with the complainant; and
 - g) 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 **Planning Secretary** upon request.

Provision of Electronic Information

- 6.4 The Proponent shall establish and maintain a new website, or dedicated pages within its existing website for the provision of electronic information associated with the project. The Proponent shall publish and maintain up-to-date information on this website or dedicated pages including, but not necessarily limited to:
- a) a copy of the documents referred to under condition 1.1 of this approval, and any documentation supporting modifications to this approval that may be granted from time to time;
 - b) a copy of this approval and each relevant environmental approval, licence or permit required and obtained in relation to the project;
 - c) a copy of each strategy, plan and program required under this approval; and
 - d) the outcomes of compliance tracking in accordance with condition 5.1 of this approval.

7. ENVIRONMENTAL MANAGEMENT

Environmental Representative

- 7.1 Prior to the commencement of construction of the project, or otherwise agreed by the **Planning Secretary**, the Proponent shall nominate a suitably qualified and experienced Environmental Representative(s) for the approval of the **Planning Secretary**. The Proponent shall employ the Environmental Representative(s) on a full-time basis, or as otherwise agreed by the **Planning Secretary**, during the operation of the project. The Environmental Representative(s) shall be:
- a) the principal contact point in relation to the environmental performance of the project;
 - b) responsible for all management plans and monitoring programs required under this approval;
 - c) responsible for considering and advising on matters specified in the conditions of this approval, and all other licences and approvals related to the environmental performance and impacts of the project;
 - d) responsible for receiving and responding to complaints in accordance with condition 6.2 and 6.3 of this approval; and
 - e) given the authority and independence to require reasonable steps be taken to avoid or minimise unintended or adverse environmental impacts, and failing the effectiveness of such steps, to direct that relevant actions be ceased immediately should an adverse impact on the environment be likely to occur.

Construction Environmental Management Plan

- 7.2 Prior to the commencement of construction of the project, the Proponent shall prepare and implement a **Construction Environmental Management Plan** to outline environmental management practices and procedures to be followed during construction of the project. The Plan shall be prepared in accordance with *Guideline for the Preparation of Environmental Management Plans* (DIPNR 2004) and shall include, but not necessarily be limited to:
- a) a description of all activities to be undertaken on the Site during construction including an indication of stages of construction, where relevant;
 - b) statutory and other obligations that the Proponent is required to fulfil during construction including all approvals, consultations and agreements required from authorities and other stakeholders, and key legislation and policies;
 - c) details of how the environmental performance of the construction works will be monitored, and what actions will be taken to address identified 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 minimise soil erosion and the discharge of sediment and other pollutants to lands and/ or waters during construction activities;
 - iii) measures to monitor and control noise emissions during construction works;
 - iv) measures to monitor and manage groundwater impacts, particularly in the vicinity of the High Capacity Optional Inlet Rail Spur and Rail Sidings, and
 - v) measures to monitor and manage potential Aboriginal Heritage impacts.
 - d) a description of the roles and responsibilities for all relevant employees involved in the construction of the project;
 - e) the additional studies listed under condition 7.3 of this approval;
 - f) a traffic control plan to detail the various traffic control measures to be used for construction traffic access connections to the classified road network; and
 - g) complaints handling procedures during construction.

The Plan shall be submitted for the approval of the **Planning 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 **Planning Secretary**. Construction works shall not commence until written approval has been received from the **Planning Secretary**.

- 7.3 As part of the Construction Environmental Management Plan for the project required under condition 7.2 of this approval, the Proponent shall prepare and implement the following:
- a) where soil testing prior to the commencement of construction identifies the presence of acid sulfate soils, an **Acid Sulfate Soil Management Plan** prepared in accordance with guidance provided in *Acid Sulfate Soil Manual* (Acid Sulfate Soil Management Advisory Committee, 1998);
 - b) a **Construction Surface Water Management Plan** to detail how surface water and stormwater will be managed on the Site during construction. The Plan shall include use of appropriately sized stormwater controls, in accordance with *Managing Urban Stormwater: Soils and Construction* (Landcom, 2004). The Plan shall also include specific measures to avoid sediment laden stormwater from entering Deep and Swan Ponds, wetland areas or the Hunter River, and a monitoring program for stormwater leaving the Site;

- c) a **Construction Noise Management Plan** to detail how construction noise and vibration impacts would be minimised and managed, including, but not necessarily limited to:
 - i) details of construction activities and a schedule for construction works;
 - ii) identification of construction activities that have the potential to generate noise and/ or vibration impacts on surrounding land uses, particularly residential areas;
 - iii) a detailed description of what actions and measures would be implemented to ensure that these works would comply with the relevant noise and vibration criteria/ guidelines;
 - iv) procedures for notifying residents of construction activities that are likely to effect their noise and vibration amenity, as well as procedures for dealing with and responding to noise complaints; and
 - v) a description of how the effectiveness of these actions and measures would be monitored during the proposed works, clearly indicating how often this monitoring would be conducted, how the results of this monitoring would be recorded; and, if any non-compliance is detected.
- d) a **Construction Traffic Management Protocol** to detail how heavy vehicle movements associated with the project will be managed during construction, including Site preparation and fill/ preloading activities. The Protocol shall specifically address the movement of oversize loads to and from the Site, the management of construction traffic, restrictions to the hours of heavy vehicle movements to avoid road use conflicts, and the transport of construction waste materials. In addition to approval from the **Planning Secretary**, the Construction Traffic Management Protocol shall be submitted for the approval of the **TfNSW** and Council.
- e) a **Construction Aboriginal Heritage Management Plan** to detail how construction impacts on Aboriginal heritage will be minimised and managed. The plan shall be developed in consultation with the local Aboriginal Community, and include, but not necessarily be limited to:
 - i. a commitment to provide opportunities for representatives of the local Aboriginal community to monitor any initial ground disturbance activities associated with previously undisturbed environments within the project area;
 - ii. procedures for dealing with previously unidentified Aboriginal objects (excluding human remains) including cessation of works in the vicinity, assessment of the significance of the item(s) and determination of appropriate mitigation measures including when works can re-commence by a suitably qualified archaeologist in consultation with the Department, Heritage NSW and the local Aboriginal community, and registering of the new site in the Heritage NSW's Aboriginal Heritage Information Management System (AHIMS) register;
 - iii. procedures for dealing with human remains, including cessation of works in the vicinity and notification of the Department, NSW Police, Heritage NSW and local Aboriginal community and not recommencing any works in the area unless authorised by the Heritage NSW and/ or the NSW Police; and
 - iv. heritage training and induction processes for construction personnel (including procedures for keeping records of inductions) and obligations under the conditions of this approval including site identification, protection and conservation of Aboriginal cultural heritage.

7.4 In the event that construction of the project is staged or phased up to the maximum capacity specified under condition 1.5, the requirements of conditions 7.2 and 7.3 shall be repeated prior to the commencement of construction.

Operation Environmental Management Plan

- 7.5 Prior to the commencement of operation of the project, the Proponent shall prepare and submit for the approval of the **Planning Secretary** an **Operation Environmental Management Plan** (OEMP) to detail an environmental management framework, practices and procedures to be followed during the operation of the project. The Plan shall be consistent with the Department's *Guideline for the Preparation of Environmental Management Plans* (DIPNR 2004), and shall include, but not necessarily be limited to:
- a) a description of all activities to be undertaken on the Site during operation including an indication of stages of operation, where relevant;
 - b) statutory and other obligations that the Proponent is required to fulfil during operation including all approvals, consultations and agreements required from authorities and other stakeholders, and key legislation and policies;
 - c) details of how the environmental performance of the operations will be monitored, and what actions will be taken to address identified 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 minimise soil erosion and the discharge of sediment and other pollutants to lands and/ or waters during operation;
 - iii) measures to monitor and control noise emissions during operation;
 - iv) measures to monitor and manage retained onsite native vegetation and habitat
 - d) a description of the roles and responsibilities for all relevant employees involved in the operation of the project;
 - e) the additional studies listed under condition 7.6 of this approval; and
 - f) complaints handling procedures during operation.

The Operation Environmental Management Plan shall be made available for inspection by the public upon request following its approval by the **Planning Secretary**.

- 7.6 As part of the Operation Environmental Management Plan for the project required under condition 7.5 of this approval, the Proponent shall prepare and implement the following:
- a) a **Dust Management Plan** to outline measures to minimise and manage any impacts from the operation of the project on local air quality. The Plan shall include, but not necessarily be limited to:
 - i) identification of all major sources of dust emissions that may occur as result of the operation of the project;
 - ii) description of the procedures to manage the dust emissions from the sources identified;
 - iii) identification of the locations where monitoring of dust emissions is to be undertaken;
 - iv) procedures for monitoring dust emissions from the project, in accordance with the requirements of this approval and the Environment Protection Licence for the project;
 - v) protocols for regular maintenance of plant and equipment, to minimise the potential for fugitive dust emissions; and
 - vi) description of procedures to be undertaken if any non-compliance is detected.
 - b) a **Noise Management Plan** to outline monitoring, management procedures and measures to minimise total operational noise emissions from the project. The Plan shall also include, but not necessarily be limited to:

- i) identification of all relevant receivers and the applicable criteria at those receivers commensurate with the noise limits specified under this approval;
 - ii) identification of activities that will be carried out in relation to the project and the associated noise sources;
 - iii) assessment of project noise impacts at the relevant receivers against the noise limits specified under this approval;
 - iv) details of all management methods and procedures that will be implemented to control individual and overall noise emissions from the Site during the project;
 - v) details regarding the procurement process to guarantee that equipment levels meet the noise levels as provided in the documents listed in condition 1.1;
 - vi) development of reactive and pro-active strategies for dealing promptly with any noise complaints;
 - vii) noise monitoring and reporting procedures; and
 - viii) regular internal audits of compliance of all plant and equipment with acceptable design noise.
- c) a **Water Management Plan** to outline the water management system for the Site. The Plan shall include, but not necessarily be limited to:
- i) predicted Site water balance including the water supply system;
 - ii) details regarding water management structures such as settling ponds, water tanks and the water management system for dredge sea water;
 - iii) locations and design specifications for all water diversions from undisturbed runoff areas including channel design and stabilisation, sediment retention storages and other structures;
 - iv) details on the internal drainage system including bunding, drainage channels, dewatering sumps and any pipelines;
 - v) procedures for the management of groundwater encountered on Site and any temporary dewatering facilities; and
 - vi) procedures to be implemented to minimise potential surface water impacts.
- d) a **Spontaneous Combustion Management Protocol** to outline measures to minimise and manage the spontaneous combustion of the coal stockpiles. The Plan shall include, but not necessarily be limited to:
- i) coal stockpile management measures;
 - ii) monitoring of potential causes of spontaneous combustion events; and
 - iii) corrective action in the event of spontaneous combustion.

7.7 The Operation Environmental Management Plan required under conditions 7.5 and 7.6 shall be periodically reviewed and maintained, to reflect any phasing of implementation of the project, and any operational changes that may be made from time to time.

8. ENVIRONMENTAL REPORTING

Incident Reporting

8.1 The Proponent shall notify the **Planning Secretary** of any incident with actual or potential significant off-Site impacts on people or the biophysical environment as soon as practicable after the occurrence of the incident. The Proponent shall provide written details of the incident to the **Planning Secretary** within seven days of the date on which the incident occurred.

8.2 The Proponent shall maintain a register of accidents, incidents and potential incidents with actual or potential significant off-Site impacts on people or the biophysical environment. The register shall be made available for inspection at any time by the independent qualified person or team conducting the Environmental Audit and/or the **Planning Secretary**.

- 8.3 The Proponent shall meet the requirements of the **Planning Secretary** to address the cause or impact of any incident, as it relates to this approval, reported in accordance with condition 8.1 of this consent, within such period as the **Planning Secretary** may agree.
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