

# **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

## **DETERMINATION OF A DEVELOPMENT APPLICATION PURSUANT TO SECTION 92**

I, the Minister for Urban Affairs and Planning, pursuant to Section 91 of the Environmental Planning and Assessment Act, 1979 ("the Act") and clause 8 of State Environmental Planning Policy No. 34 - Major Employment Generating Industrial Development, determine the development application ("the application") referred to in Schedule 1 by granting consent to the application subject to the conditions set out in Schedule 2.

The reasons for the imposition of the conditions are set out in Schedule 2. The reason for the imposition of conditions generally is to minimise any adverse effects from the development, consistent with the objectives of the Act.

Craig Knowles  
**Minister for Urban Affairs and Planning**

Sydney, 19 October 1995

File No. N90/00356

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### **Schedule 1**

<b>Application made by:</b>	Bloomfield Collieries Pty Ltd ("the Applicant").
<b>To:</b>	The Minister for Urban Affairs and Planning ("the Minister").
<b>In respect of:</b>	Coal Lease 352 and land subject to Coal Lease Application No. 17 Singleton.
<b>For the following:</b>	Construction and operation of surface coal mine extensions ("the development").
<b>Development Application:</b>	DA49/94 lodged with Department of Urban Affairs and Planning on 30 November, 1994 accompanied by an Environmental Impact Statement prepared by HLA-Envirosciences Pty Ltd dated 29 November, 1994, and a supplement dated April 1995.
	(1) To ascertain the date upon which the consent becomes effective, refer to section 93 of the Act.
	(2) To ascertain the date upon which the consent is liable to lapse, refer to section 99 of the Act.
	(3) Section 97 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court exercisable within 12 months after receipt of this notice.

**SCHEDULE 2**  
**CONDITIONS OF CONSENT**

**Red type represents February 1999 modification**

**Blue type represents December 2003 modification**

**Green type represents June 2004 modification**

**Orange type represents August 2009 modification**

**Light Blue type represents November 2013 modification**

**Purple type represents November 2014 modification**

**Pink type represents February 2016 modification**

**Maroon type represents December 2016 modification**

Note: References to the “Secretary” in this consent mean the Secretary of the Department of Planning & Environment, and include a nominee of the Secretary.

**GENERAL**

1. The Development is to be carried out generally in accordance with the:
  - (i) Environmental Impact Statement prepared by Envirosiences Pty Limited, dated November 1994;
  - (ii) Supplementary Document prepared by Envirosiences Pty Limited, dated April 1995;
  - (iii) Correspondence from Bloomfield Collieries Pty Limited accompanying the application seeking a modification to the development consent, dated 12 November 1998;
  - (iv) Information provided by Rix’s Creek Mine accompanying the application seeking a modification to the development consent, dated 20 November 2003;
  - (v) Information prepared by Hunter Development Brokerage Pty Ltd accompanying the application seeking a modification to the development consent, dated 14 April 2004;
  - (vi) the modification application “Rix’s Creek Mine Cut and Cover Tunnel, New England Highway: Statement of Environmental Effects”, prepared by Sinclair Knight Merz and dated May 2009;
  - (vii) the modification application DA 49/94 MOD 5 and accompanying documents entitled *Rix’s Creek Rail Loop Section 75W Modification Environmental Assessment* dated April 2013, *Submissions Report Modification No.5 – Proposed Rail Loop and Loading Facility* dated July 2013, and letter from Global Acoustics regarding Rix’s Creek Proposed Rail Loop Environmental Noise Assessment dated 10 September 2013;
  - (viii) the modification application DA 49/94 MOD 6 and accompanying letter from Rix’s Creek Pty Limited titled *Proposed Modification to Rix’s Creek Open Cut Mine Maximum Consented Production Rate* and dated 22 October 2014;
  - (ix) the modification application DA 49/94 MOD 7 and accompanying document from Bloomfield Collieries Pty Ltd titled *Environmental Assessment for Proposed Modifications to Rix’s Creek DA 49/94 N90/00356 (Mod 7) and Integra Open Cut Project 08\_0102 (Mod 5)* and dated 4 February 2016; and
  - (x) the modification application DA 49/94 MOD 8 and accompanying document from Bloomfield Collieries Pty Ltd titled *Environmental Assessment for Proposed Modifications to Rix’s Creek DA 49/94 N90/00356 (Mod 8)* undated.
- 1A. The Development is to be carried out in accordance with the conditions of this consent.
- 1B. If there is any inconsistency between the documents listed in condition 1, the more recent document shall prevail to the extent of the inconsistency. The conditions of this consent shall prevail over all documents listed in condition 1.

## DURATION

2. Approval in respect of coal extraction is limited to a period of 21 years from the date of this consent or from the date of issue of a mining lease in satisfaction of Mining Lease Application No. 17 Singleton wherever is the later.

## STATUTORY REQUIREMENTS

3. The Applicant **must** ensure that all statutory requirements including but not restricted to those set down by the Local Government Act, 1993, Pollution Control Act, 1970, Clean Air Act, 1961, Clean Water Act, 1970, Noise Control Act, 1975, Protection of the Environment Administration Act, 1991 and all other relevant legislation, Regulations, Australian Standards, Codes, Guidelines and Notices, Conditions, Directions, Notices and Requirements of the [Office of Environment and Heritage \(OEH\)](#), [Environment Protection Authority \(EPA\)](#), [Department of Primary Industries Water \(DPI Water\)](#), [Division of Resources and Energy \(DRE\)](#) and [Roads and Maritime Services \(RMS\)](#), are fully met.

## PRODUCTION LEVEL

4. Mining plans for submission to [DRE](#) **must** be based on a total movement of materials in mining not exceeding [16.1](#) million bank cubic metres in any year.

## TRANSMISSION LINE RELOCATION

5. The Applicant **must** relocate any TransGrid transmission lines within the mining lease to the satisfaction of TransGrid and at a mutually agreed time.

**Reasons:** To ensure that the development is constructed and operated in the manner set out in the application and in accordance with the relevant statutory requirements.

## VISUAL AMENITY AND LIGHTING

6. The Applicant **must**:
  - (i) within six (6) months of the date of this consent or within such further period as the Singleton Council ("the Council") may permit, submit for Council's approval:
    - (a) An updated detailed landscaping plan covering all portions within the proposed mining area and associated lands owned by the Applicant. The Applicant **must** engage a suitably qualified person to assist in preparing the landscaping plan. The plan **must** provide for the establishment of trees and shrubs and the construction of mounding. The plan **must** incorporate appropriate erosion control and sediment control practices for earthworks associated with the development.
    - (b) Details of the visual appearance of all buildings, structures, facilities or works (including paint colours and specifications). Buildings and structures **must** be designed and constructed/renovated so as to present a neat and orderly appearance and to blend as far as possible with the surrounding landscape.
    - (c) A comprehensive plan of landscape management which **must** include detailed plans, specifications for the maintenance of all landscape works and plantings, and maintenance of building materials and claddings, proposed screen

plantings and mounding along the New England Highway and mine overburden dumps.

- (ii) apply a surface sealant such as bitumen emulsion, straw or seed within 30 days of its construction to any mounding or bunding as directed by EPA.
- (iii) comply with the requirements of Council in respect to any supplementary tree planting and visual amenity enhancement works within or immediately outside the mining lease area which may be identified by the Council in consultation with relevant land holders as necessary for the maintenance of satisfactory visual amenity in the local area.

**Reasons:** To enhance the landscape quality in the vicinity of the mine.

**7. The Applicant must:**

- (i) implement all reasonable and feasible measures to mitigate visual and off-site lighting impacts of the project;
- (ii) ensure no unshielded outdoor lights shine above the horizontal; and
- (iii) ensure that all external lighting associated with the project complies with *Australian Standard AS4282 (INT) 1995 - Control of Obtrusive Effects of Outdoor Lighting*, or its latest version, to the satisfaction of the Secretary.

## **BUSHFIRE MANAGEMENT**

**8. The Applicant must:**

- (i) ensure that the project is suitably equipped to respond to fires on site; and
- (ii) assist the Rural Fire Service and emergency services as much as possible if there is a fire in the vicinity of the site.

## **TRAFFIC MANAGEMENT**

**9. The Applicant must prepare a Traffic Management Plan for the development, to the satisfaction of the Secretary. The Plan must:**

- (i) be submitted to the Secretary for approval prior to commencement of construction of the cut and cover tunnel;
- (ii) be prepared in consultation with the RMS and Singleton Shire Council;
- (iii) include procedures for regular monitoring of compliance with this plan; and
- (iv) include a Construction Traffic Management Plan for the construction of the rail loop and rail spur, including:
  - traffic control measures for vehicle movements along the New England Highway;
  - measures that would be implemented to minimise traffic and road safety impacts, and
  - management of heavy vehicles, particularly oversize loads to and from the site.

The Applicant must implement the management plan as approved from time to time by the Secretary.

**9A. The Applicant must obtain all necessary approvals from the RMS prior to commencing construction.**

## **NOISE**

### **Noise Criteria**

10. The Applicant **must**

- (i) comply with L<sub>A</sub> 10 daytime noise level design goals set out below:

The Retreat	42dB(A)
Singleton Heights	42dB(A)
Maison Dieu Road	38dB(A)

- (ii) comply with L<sub>A</sub> 10 night time noise level design goals set out below:

The Retreat	40dB(A)
Singleton Heights	40dB(A)
Maison Dieu Road	38dB(A)

Appendix 4 sets out the requirements for evaluating compliance with these criteria.

### **Operating Conditions**

10A. The Applicant must:

- (i) implement best practice noise management, including all reasonable and feasible noise mitigation measures, to minimise the operational, low frequency, and rail noise generated by the project at all times, including during temperature inversions;
- (ii) operate a comprehensive noise management system that uses a combination of predicted meteorological forecasting and real-time noise monitoring data to guide the day-to-day planning of mining operations and the implementation of both proactive and reactive mitigation measures to ensure compliance with the relevant conditions of this approval;
- (iii) maintain or improve the effectiveness of noise suppression equipment on plant at all times and ensure defective plant is not used operationally until fully repaired;
- (iv) ensure that noise attenuated plant is deployed preferentially in locations relevant to sensitive receivers;
- (v) minimise the noise impacts of the project during meteorological conditions under which data is to be excluded for the purposes of assessing compliance with these conditions (see Appendix 4); and
- (vi) co-ordinate the noise management on site with noise management at nearby mines (including Integra Underground, Ashton, Rix's Creek North and the Mount Owen Complex) to minimise cumulative noise impacts, to the satisfaction of the Secretary.

### **Noise Management Plan**

11. The Applicant must prepare a Noise Management Plan for the project to the satisfaction of the Secretary. This plan must:

- (i) be prepared in consultation with the EPA, and then submitted to the Secretary for approval by 30 April 2017;
- (ii) describe the measures that would be implemented to ensure:
  - compliance with the noise criteria and operating conditions of this approval; and
  - best management practice is being employed;
- (iii) describe the noise management system in detail;
- (iv) include a noise monitoring program that:
  - uses a combination of real-time and supplementary attended monitoring measures to evaluate the performance of the project;

- includes a protocol for determining exceedances of the relevant conditions in this approval;
  - evaluates and reports on the effectiveness of the noise management system and the best practice noise management measures; and
- (v) includes a protocol that has been prepared in consultation with the owners of nearby mines (including Integra Underground, Ashton, Rix's Creek North and the Mount Owen Complex) to minimise the cumulative noise impacts of the mines.

The Applicant must implement the approved management plan as approved from time to time by the Secretary.

11A. Prior to construction of the rail loop and rail spur, the Applicant **must**:

- prepare (and during construction implement) a Construction Noise Management Plan prepared in accordance with the *Interim Construction Noise Guideline* (DECC, 2009) (or any relevant updated version), to the satisfaction of the Secretary; and
- install temporary noise barriers in a suitable location to minimise noise impacts resulting from construction of the southern section of the rail spur, unless otherwise agreed by the Secretary.

11B. The Applicant **must** ensure that construction activities are restricted to standard construction hours specified in the *Interim Construction Noise Guideline* (DECC, 2009). If works are required outside standard construction hours, the Applicant **must** consult with the community and seek approval from the Secretary prior to commencement of construction.

## BLASTING

### Blasting Criteria

12. The Applicant must ensure that the blasting on site does not cause exceedances of the criteria in Table 1.

**Table 1: Blasting criteria**

<i>Receiver</i>	<i>Airblast Overpressure (dB(Lin Peak))</i>	<i>Ground Vibration (ppv(mm/s))</i>	<i>Allowable Exceedance</i>
Residence on privately-owned land	115	5	5% of the total number of blasts over a period of 12 months
	120	10	0%
Main Northern Rail Line	-	25	0%
Public roads	-	100	0%
All other public infrastructure	-	50	0%

However, these criteria do not apply if the Applicant has a written agreement with the relevant landowner or infrastructure owner to exceed the criteria, and the Applicant has advised the Department in writing of the terms of this agreement.

### Blasting Hours

- 12A. The Applicant must only carry out blasting on site between 9am and 5pm Monday to Saturday inclusive. No blasting is allowed on Sundays, public holidays, or at any other time without the written approval of the Secretary.

### Operating Conditions

12B. The Applicant must:

- (i) implement best blasting management practice on site to:
  - protect the safety of people and livestock in the surrounding area;
  - protect private or public property in the surrounding area;
  - minimise the dust and fume emissions of the blasting; and
- (ii) co-ordinate the blasting on site with the blasting at nearby mines (including Ashton, Rix's Creek North and the Mount Owen Complex) to minimise cumulative blasting impacts;
- (iii) co-ordinate the blasting on site with nearby underground mines (including Integra Underground) to minimise operational disturbance and to ensure the safety of underground personnel; and
- (iv) operate a suitable system to enable the public to get up-to-date information on the proposed blasting schedule on site, to the satisfaction of the Secretary.

12C. The Applicant must not undertake blasting within 500 metres of:

- (i) the New England Highway without the approval of the RMS; and
- (ii) the Main Northern Railway without the approval of the ARTC.

### **Blast Management Plan**

12D. The Applicant must prepare a Blast Management Plan for the project to the satisfaction of the Secretary. This plan must:

- (i) be prepared in consultation with OEH, and then submitted to the Secretary for approval by 30 April 2017;
- (ii) describe the blast mitigation measures that would be implemented to ensure compliance with the relevant condition of this approval;
- (iii) describe the measures that would be implemented to ensure that the public can get up-to-date information on the proposed blasting schedule on site;
- (iv) include a blast monitoring program to evaluate the performance of the project; and
- (v) include a protocol that has been prepared in consultation with the owners of the nearby mines (including Ashton, Rix's Creek North and the Mount Owen Complex) for minimising and managing the cumulative blasting impacts of the mines.

The Applicant must implement the approved management plan as approved from time to time by the Secretary.

12E. The Applicant must not carry out blasting that is within 500 metres of any privately-owned land or land not owned by the Applicant unless:

- (i) the Applicant has a written agreement with the relevant landowner to allow blasting to be carried out closer to the land, and the Applicant has advised the Department in writing of the terms of this agreement; or
- (ii) the Applicant has:
  - demonstrated to the satisfaction of the Secretary that the blasting can be carried out without compromising the safety of the people or livestock on the land, or damaging the buildings and/or structures on the land; and
  - updated the Blast Management Plan to include the specific measures that would be implemented while blasting is being carried out within 500 metres of the land.

### **AIR QUALITY AND GREENHOUSE GAS**

## Odour

13. The Applicant must ensure that no offensive odours are emitted from the site, as defined under the POEO Act.

## Greenhouse Gas Emissions

- 13A. The Applicant must implement all reasonable and feasible measures to minimise the release of greenhouse gas emissions from the site to the satisfaction of the Secretary.

## Air Quality Criteria

- 13B. The Applicant must ensure that all reasonable and feasible avoidance and mitigation measures are employed so that particulate matter emissions generated by the development do not cause exceedances of the criteria in Table 1A at any residence on privately-owned land.

Table 1A: Air quality criteria

Pollutant	Averaging Period	Criterion	
Particulate matter < 10 µm (PM <sub>10</sub> )	Annual	a,d 30 µg/m <sup>3</sup>	
Particulate matter < 10 µm (PM <sub>10</sub> )	24 hour	a 50 µg/m <sup>3</sup>	
Total suspended particulates (TSP)	Annual	a,d 90 µg/m <sup>3</sup>	
<sup>c</sup> Deposited dust	Annual	<sup>b</sup> 2 g/m <sup>2</sup> /month	<sup>a</sup> 4 g/m <sup>2</sup> /month

Notes to Table 1A:

a Cumulative impact (ie increase in concentrations due to the development plus background concentrations due to all other sources).

b Incremental impact (ie increase in concentrations due to the development alone, with zero allowable exceedances of the criteria over the life of the development).

c Deposited dust is to be 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.

d Excludes extraordinary events such as bushfires, prescribed burning, dust storms, fire incidents or any other activity agreed by the Secretary.

e "Reasonable and feasible avoidance measures" includes, but is not limited to, the operational requirements in condition 14.

## Operating Conditions

14. The Applicant must:
- implement best practice air quality management on site, including all reasonable and feasible measures to minimise the off-site odour, fume and dust emissions generated by the project, including those generated by spontaneous combustion;
  - minimise any visible air pollution generated by the project;
  - operate a comprehensive air quality management system on site that uses a combination of predictive meteorological forecasting and real-time air quality monitoring data to guide the day to day planning of mining operations and the implementation of both proactive and reactive air quality mitigation measures to ensure compliance with the relevant conditions of this approval;
  - minimise the air quality impacts of the project during adverse meteorological conditions and extraordinary events (see note d in condition 13B);
  - minimise surface disturbance on the site; and



- (vi) co-ordinate the air quality management on site with the air quality management of nearby mines (including Integra Underground, Ashton, Rix's Creek North and the Mount Owen Complex) to minimise cumulative air quality impacts, to the satisfaction of the Secretary.

### **Air Quality & Greenhouse Gas Management Plan**

14A. The Applicant must prepare an Air Quality & Greenhouse Gas Management Plan for the project to the satisfaction of the Secretary. This plan must:

- (i) be prepared in consultation with EPA, and then submitted to the Secretary for approval by 30 April 2017;
- (ii) describe the measures that would be implemented to ensure:
  - compliance with the air quality criteria and operating conditions of this approval; and
  - best practice air quality management is being employed;
- (iii) describe the air quality management system in detail;
- (iv) include an air quality monitoring program that:
  - uses a combination of real-time monitors and supplementary monitors to evaluate the performance of the project;
  - includes a protocol for determining any exceedances of the relevant conditions of this approval;
  - adequately supports the proactive and reactive air quality management system;
  - includes PM<sub>2.5</sub> monitoring (although this obligation could be satisfied by the regional air quality monitoring network if sufficient justification is provided);
  - evaluates and reports on the effectiveness of the air quality management system and the best practice air quality management measures; and
- (v) include a protocol that has been prepared in consultation with the owners of nearby mines (including Integra Underground, Ashton, Rix's Creek North and the Mount Owen Complex) to minimise the cumulative air quality impacts of the mines.

The Applicant must implement the approved management plan as approved from time to time by the Secretary.

### **METEOROLOGICAL MONITORING**

14B. For the life of the project, the Applicant must ensure that there is a meteorological station in the vicinity of the site that:

- (i) complies with the requirements in the *Approved Methods for Sampling of Air Pollutants in New South Wales* guideline; and
- (ii) is capable of continuous real-time measurement of temperature lapse rate in accordance with the *NSW Industrial Noise Policy* or as otherwise approved by the EPA.

### **SOIL & WATER**

#### **Water Supply**

14C. The Applicant must obtain all necessary water licences for the project under the *Water Act 1912* or the *Water Management Act 2000*.

14D. The Applicant 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 available water supply, to the satisfaction of the Secretary.

## Surface Water Discharges

14E. The Applicant must ensure that all surface water discharges from the site comply with the:

- (i) discharge limits (both volume and quality) set for the project in any EPL; or
- (ii) relevant provisions of the POEO Act or *Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Regulation 2002*.

## Water Management Plan

15. The Applicant **must** prepare a Water Management Plan for the development to the satisfaction of the **Secretary**. This Plan must:

- (i) be prepared in consultation with **DPI Water** by a suitably qualified expert whose appointment has been approved by the **Secretary**;
- (ii) be submitted to the **Secretary** by 31 March 2010; and
- (iii) include:
  - a site water balance for the development, which includes details of sources and security of water supply, on site water use and management and off site water transfers and investigates and describes measures to minimise water use by the development.
  - details on the diversion of Rix's Creek, including updates on monitoring and rehabilitation;
  - a surface water monitoring program with:
    - detailed baseline data of surface water flows and quality in the watercourses that could be affected by the development;
    - surface water impact assessment criteria, including trigger levels for investigating potentially adverse surface water impacts of the development;
    - a program to monitor surface water flows and quality in the watercourse that could be affected by the development.
  - a groundwater monitoring program with:
    - detailed baseline data of groundwater levels, yield and quality in the region, and privately owned groundwater bores, which could be affected by the development;
    - groundwater impact assessment criteria, including trigger levels for investigating any potentially adverse groundwater impacts of the development; and
    - a program to monitor:
      - groundwater inflows to the open cut mining operations; and
      - impacts of the development on the regions aquifers, any groundwater bores, and surrounding watercourses, including monitoring to the western boundary of the mine lease ; and
  - a surface and groundwater response plan which describes the measures and/or procedures that would be implemented to:
    - respond to any exceedances of the surface water and groundwater assessment criteria;
    - offset the loss of any baseflow to the surrounding watercourse and/or associated creeks caused by the development;
    - compensate landowners of privately-owned land whose water supply is adversely affected by the development; and
    - mitigate and/or offset any adverse impacts on groundwater dependent ecosystems or riparian vegetation.

The Applicant **must** implement the management plan as approved from time to time by the **Secretary**.

## Erosion and Sediment Control Plan

- 15A. The Applicant **must** prepare an Erosion and Sediment Control Plan. This Plan must:
- (i) be consistent with the requirements of the *Managing Urban Stormwater: Soils and Construction Manual* (Landcom 2004, or its latest version);
  - (ii) identify activities that could cause soil erosion and generate sediment;
  - (iii) describe measures to minimise soil erosion and the potential for transport of sediment to downstream waters;
  - (iv) describe the location, function, and capacity of erosion and sediment control structures; and
  - (v) describe what measures would be implemented to monitor and maintain the structures over time.

The Applicant **must** implement the plan as approved from time to time by the Secretary.

## Rixs Creek Diversion

16. The Applicant **must**:
- (i) liaise with **DPI Water** and meet their requirements for the design, construction and maintenance of any diversion of Rixs Creek;
  - (ii) not divert Rixs Creek in the southern mining area;
  - (iii) not mine within 20m of the bank of Rixs Creek in Pit 2 and Pit 3.

**Reasons:** To protect water quality in Rixs Creek and to provide for water management measures at the site.

## LANDSCAPE MANAGEMENT

- 16A. The Applicant **must** prepare a detailed Landscape Management Plan for the development to the satisfaction of the **DRE** and the **Secretary**. This plan must:
- (i) be prepared in consultation with **OEHL**, **DPI Water** and Singleton Shire Council by suitably qualified expert/s whose appointment/s have been approved by the **Secretary**;
  - (ii) include a:
    - Rehabilitation Management Plan to be submitted for approval by the **Secretary** by 31 March 2010;
    - Final Void Management Plan to be submitted for approval by the **Secretary** by 31 December 2011; and
    - Mine Closure Plan to be submitted for approval by the **Secretary** by 31 December 2011.

The Applicant **must** implement the management plan as approved from time to time by the Secretary.

## Rehabilitation Management Plan

- 16B. The Rehabilitation Management Plan must include:
- (i) the objectives for rehabilitation of the site of the development;
  - (ii) a description of the short, medium, and long term measures that would be implemented to rehabilitate the development and the remnant vegetation and habitat on the site;
  - (iii) detailed performance and completion criteria for the rehabilitation of the site;

- (iv) a detailed description of how the performance of the rehabilitation of the mine would be monitored over time to achieve the stated objectives;
- (v) a detailed description of what measures would be implemented over the next 3 years, including the procedures to be implemented for:
  - minimising and rehabilitating disturbed areas;
  - protecting vegetation and soil outside the disturbance areas;
  - undertaking pre-clearance surveys;
  - managing impacts on fauna;
  - landscaping the site to minimise visual impacts;
  - conserving and reusing topsoil;
  - collecting and propagating seed for rehabilitation works;
  - salvaging and reusing material from the site for habitat enhancement;
  - controlling weeds and feral pests;
  - controlling access; and
  - bushfire management;
- (vi) a program to monitor the effectiveness of these measures, and progress against the performance and completion criteria;
- (vii) a description of the potential risks to successful rehabilitation and/or revegetation, and a description of the contingency measures that would be implemented to mitigate these risks; and
- (viii) details of who is responsible for monitoring, reviewing, and implementing the plan.

### **Final Void Management**

16C. The Final Void Management Plan must:

- (i) incorporate design criteria and specifications for the final void based on verified groundwater modelling predictions and a re-assessment of post-mining groundwater equilibration;
- (ii) assess the potential interactions between creeks on the site and the final void; and
- (iii) describe what actions and measures would be implemented to:
  - minimise any potential adverse impacts associated with the final void; and
  - manage and monitor the potential impacts of the final void.

### **Mine Closure Plan**

16D. The Mine Closure Plan must:

- (i) define the objectives and criteria for mine closure;
- (ii) investigate options for the future use of the site, including the final void/s;
- (iii) investigate ways to minimise the adverse socio-economic effects associated with mine closure, including reduction in local employment levels;
- (iv) describe the measures that would be implemented to minimise or manage the ongoing environmental effects of the development; and
- (v) describe how the performance of these measures would be monitored over time.

### **BIODIVERSITY**

16E. The Applicant **must** implement the biodiversity offset strategy as outlined in Table 2 and as generally described in the documents listed in condition 1 (vii) of schedule 2 (and shown conceptually in Appendix 2), to the satisfaction of the **Secretary**.

**Table 2: Biodiversity Offset Strategy**

Offset Type	Offset Area (hectares)							
	1	2	3	4	5	6	7	Total
Central Hunter Ironbark-Spotted Grey-Gum Box Forest EEC	6.89	1.47	0.51	3.14	6.70	3.07	1.49	23.27
Central Hunter Grey Box-Ironbark Woodland EEC	1.07	1.55	0.86	0.06	0	0.21	0	3.75
Hunter Lowlands Redgum Forest EEC	0	0	0	0	0	0	0.69	0.69
Derived Grassland	44.02	13.53	4.96	8.36	5.91	3.74	10.09	90.61
<b>Total</b>	<b>51.98</b>	<b>16.55</b>	<b>6.33</b>	<b>11.56</b>	<b>12.61</b>	<b>7.02</b>	<b>12.27</b>	<b>118.32</b>

16F. The Applicant **must** prepare a Biodiversity Management Plan for the rail loop and rail spur as generally described in the documents listed in condition 1 (vii) of schedule 2, to the satisfaction of the **Secretary**. This plan must:

- (i) be prepared in consultation with OEH, and be submitted to the **Secretary** for approval prior to construction of the rail loop and rail spur;
- (ii) describe how the implementation of the offset strategy would be integrated with the overall rehabilitation of the mine site;
- (iii) include:
  - a description of the short, medium, and long term measures that would be implemented to manage:
    - the offset strategy; and
    - vegetation and habitat on the site and in the offset areas;
  - detailed performance and completion criteria for implementation of the offset strategy;
  - a detailed description of the measures that would be implemented for:
    - revegetation and regeneration within the disturbance areas and offset areas, including establishment of canopy, sub-canopy (if relevant), understorey and ground strata;
    - maximising salvage and beneficial use of resources in areas that are to be impacted, including vegetation, fauna habitat and soil;
    - protecting vegetation and soil outside the disturbance areas;
    - conserving and reusing topsoil;
    - undertaking pre-clearance surveys;
    - managing impacts on fauna;
    - collecting and propagating seed;
    - salvaging, transplanting and/or propagating threatened flora and native grassland;
    - controlling weeds and feral pests;
    - managing grazing;
    - controlling access; and
    - bushfire management;
  - a program to monitor the effectiveness of these measures, and progress against the performance and completion criteria;
  - a description of the potential risks to successful revegetation, and a description of the contingency measures that would be implemented to mitigate these risks; and
  - details of who would be responsible for monitoring, reviewing, and implementing the plan.

The Applicant **must** implement the management plan as approved from time to time by the Secretary.

## **HERITAGE**

**16G.** The Applicant **must** prepare a Heritage Management Plan for the rail loop and rail spur as generally described in the documents listed in condition 1 (vii) of schedule 2, to the satisfaction of the Secretary. This plan must:

- (i) be prepared in consultation with OEH, registered Aboriginal parties and the Heritage Council NSW, and be submitted to the Secretary for approval prior to construction of the rail loop and rail spur;
- (ii) include the following for the management of Aboriginal heritage on site:
  - a plan of management for the disturbance of land associated with the rail loop, rail spur and visual bund; and
  - a program/procedures for:
    - salvage, test excavation and/or management of Aboriginal sites and potential archaeological deposits within the project disturbance area;
    - protection and monitoring of Aboriginal sites outside the project disturbance area;
    - managing the discovery of any new Aboriginal objects or skeletal remains during the project; and
    - ongoing consultation and involvement with all registered Aboriginal parties in the conservation and management of Aboriginal cultural heritage on the site, including prior to any salvage works; and
- (iii) include the following for the management of historic heritage on site:
  - a plan of management for the disturbance of land associated with the rail loop and rail spur; and
  - a program/procedures for:
    - avoiding and preserving culturally significant sites where possible;
    - monitoring, salvage and/or management of historic heritage sites within the project disturbance area;
    - taking full archival records of historic heritage sites that would be disturbed by the project;
    - protection and monitoring of heritage items outside the project disturbance area; and
    - managing the discovery of any new heritage items identified during the project.

The Applicant **must** implement the management plan as approved from time to time by the Secretary.

## **ACQUISITION OF AFFECTED LANDS**

**17.**

**17A. Affected Lands defined in the Development Consent of 19 October, 1989.**

The Applicant **must** forthwith upon receipt of a request to purchase land identified as being within the area of affectation defined in the development consent for Rixs Creek Coal Mine of 19 October 1989 and owned by any of:

R J Eveleigh

Wendy Bowman & G R Elder

Estate I H. Bowman

Elizabeth S. Bowman

Durian Holdings  
purchase such land.

In the event of failure to complete the purchase within six (6) months, clause 17C(iv) below, applies.

**17B. Affected Lands other than those defined in the Development Consent of 19 October, 1989**

- (i) The Applicant **must** within six (6) months of receipt of a written request from any of the owners of the properties listed in Attachment 1 of this Consent, purchase the whole of the properties. In the event of failure to complete the purchase within six (6) months, clause 17C(iv) below, applies.
- (ii) Where acquisition has not been sought of a property subject to sub-clause 17B(i) an owner or occupier of a dwelling on the property may request the Applicant to carry out measures at the dwelling to mitigate the impact upon the residence of dust fallout/concentration, noise, and vibration, emanating from the mine in excess of the criteria set out in this Consent. The Applicant **must** forthwith carry out such measures at its own expense.
- (iii) In the event that within one (1) month of a request instigated under sub-clause 17B(ii), the Applicant and the owner or occupier cannot agree upon the measures to be carried out, either party may refer the matter to the Community Consultative Committee. The Applicant **must** forthwith carry out the measures which may be required by the said Committee.

**17C. Potentially Affected Lands**

- (i) In the event that the **EPA** determines that noise from the mining operations at any residence (built or with building approval at the date of this Consent) or more than 25% of any property in the vicinity of Maison Dieu Road is in excess of the relevant noise level design goals set out in clause 10 of this Consent for two (2) consecutive monitoring periods, the Applicant **must** purchase such property within six (6) months of receipt of a written request from the owner of the affected property.
- (ii) In the event that the **EPA** determines that dust from the mining operations increases the dust deposition rate by more than 2 gm/m<sup>2</sup>/month averaged over any six (6) month period, at any residence (built or with building approval at the date of this Consent) or over more than 25% of any property in the vicinity of Maison Dieu Road is the Applicant **must** purchase such property within six (6) months of receipt of a written request from the owner of the affected property.
- (iii) In respect of a request to purchase land arising under subclause 17A, 17B, 17C(i) or 17C(ii), the Applicant **must** pay the owners the acquisition price which **must** take into account and provide payment for:
  - a) a sum not less than the current market value of the owner's interest in the land or part thereof (as the case may be) having regard to the existing use of the land whosoever is the occupier and all improvements thereon immediately prior to the granting of this consent as if the land was unaffected by the development proposal. The provisions of this subclause do not apply to the holder of an authority under the Mining Act, 1992.
  - b) the owners reasonable compensation for disturbance allowance and relocation costs within the Local Government Areas of Singleton or



Muswellbrook.

- c) the owners reasonable costs for obtaining legal advice and expert witnesses for the purposes of determining the acquisition price of the land and the terms upon which it is to be acquired.
- (iv) In the event that the Applicant and any owner referred to in subclause 17(A) and 17(B)(i) and 17(C) cannot agree within the time limit upon the acquisition price of the land and/or the terms upon which it is to be acquired, then:
  - a) either party may refer the matter to the **Secretary** who **must** request the President for the time being of the Australian Institute of Valuers and Land Economists to appoint a qualified independent valuer, suitably experienced in compensation issues, who **must** determine, after consideration of any submissions from the owners and the Applicant, the acquisition price **as described and referred to in subclause (iii) herein**.
  - b) in the event that the independent valuer requires guidance on any contentious legal, planning or other issues, the independent valuer **must** refer the matter to the **Secretary**, recommending the appointment of a qualified panel. The **Secretary**, if satisfied that there is need for a qualified panel, **must** arrange for the constitution of the panel. The panel **must** consist of:
    - 1) the appointed independent valuer,
    - 2) the **Secretary**, or her nominee,
    - and/or
    - 3) the President of the Law Society of NSW or his nominee.The qualified panel **must** on the advice of the valuer determine the issue referred to it and advise the valuer.  
The panel may recommend to the **Secretary** to request the Institution of Surveyors (NSW) to appoint an independent surveyor to determine the part of the land to be acquired in relation to the area of affectation which may reasonably be subdivided and acquired having regard to topography, provisions of planning instruments and other associated matters;
  - c) The Applicant **must** bear the costs of any valuation or survey assessment requested by the **Secretary** in accordance with subclauses (a) and (b) herein.
  - d) Upon receipt of a valuation arising pursuant to subclauses (a) and (b), the Applicant **must** offer to acquire the relevant land at a price not less than the said valuation. Should the Applicant's offer to acquire not be accepted by an owner within six (6) months of the date of such offer, the Applicant's obligations to such owner pursuant to this Clause **must** cease.
  - e) Upon settlement of the acquisition referred to in this Clause the Applicant **must** also pay to the owner the costs and compensation assessed pursuant to subclause (iii) herein including the owner's reasonable costs in the event of a subdivision.

All acquisitions of land under this condition **must** be reported in the Annual Report. Once sub-clauses 17A, 17B and 17C have been complied with they **must** not be reapplied for the duration of the development consent. This applies to lands already purchased under the development consent of 19 October, 1989.

**Reasons:** To provide for acquisition of affected land.



## **ENVIRONMENTAL MANAGEMENT**

### **Environmental Management Strategy**

18. If the Secretary requires, the Applicant must prepare an Environmental Management Strategy for the project to the satisfaction of the Secretary. This strategy must:
- (i) be submitted to the Secretary for approval;
  - (ii) provide the strategic framework for the environmental management of the project;
  - (iii) identify the statutory approvals that apply to the project;
  - (iv) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the project;
  - (v) 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
  - (vi) include:
    - copies of any strategies, plans and programs approved under the conditions of this approval; and
    - a clear plan depicting all the monitoring required to be carried out under the conditions of this approval.

The Applicant must implement the approved strategy as approved from time to time by the Secretary.

### **Management Plan Requirements**

- 18A. The Applicant must ensure that the management plans required under this approval are prepared in accordance with any relevant guidelines, and include:
- (i) detailed baseline data;
  - (ii) 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;
  - (iii) a description of the measures that would be implemented to comply with the relevant statutory requirements, limits, or performance measures/criteria;
  - (iv) a program to monitor and report on the:
    - impacts and environmental performance of the project; and
    - effectiveness of any management measures (see (c) above);
  - (v) a contingency plan to manage any unpredicted impacts and their consequences;
  - (vi) a program to investigate and implement ways to improve the environmental performance of the project over time;
  - (vii) a program to regularly review management practices to align with contemporary best practice industry standards;
  - (viii) a protocol for managing and reporting any:
    - incidents;
    - complaints;
    - non-compliances with the conditions of this approval and statutory requirements; and

- exceedances of the impact assessment criteria and/or performance criteria; and
- (ix) a protocol for periodic review of the plan.

*Note: The Secretary may waive some of these requirements if they are unnecessary or unwarranted for particular management plans.*

### **Preparation of Management Plans**

- 18B. Prior to approval of management plans required under Schedule 2, all existing management plans, monitoring programs, strategies, programs, protocols, etc approved as at the date of approval of Modification 8 shall continue to have full force and effect.

### **Relationships between Management Plans**

- 18C. With the agreement of the Secretary, the Applicant may combine any strategy, plan or program required by this approval with any similar strategy, plan or program required for Rix's Creek North.

## **REPORTING**

### **Incident Reporting**

- 18D. The Applicant must notify the Secretary and any other relevant agencies of any incident associated with the project as soon as practicable after the Applicant becomes aware of the incident. Within 7 days of the date of the incident, the Applicant must provide the Secretary and any relevant agencies with a detailed report on the incident.

### **Regular Reporting**

- 18E. The Applicant must provide regular reporting on the environmental performance of the project on its website, in accordance with the reporting arrangements in any approved plans or programs of the conditions of this approval.

## **ANNUAL REVIEW**

19. By the end of March each year, or other timing as may be agreed by the Secretary, the Applicant must submit a report to the Department reviewing the environmental performance of the development to the satisfaction of the Secretary. This review must:
- (i) describe the development (including any rehabilitation) that was carried out in the past calendar year, and the development that is proposed to be carried out over the current calendar year;
  - (ii) include a comprehensive review of the monitoring results and complaints records of the development over the past calendar year, which includes a comparison of these results against the:
    - relevant statutory requirements, limits or performance measures/criteria;
    - requirements of any plan or program required under this consent;
    - monitoring results of previous years; and
    - relevant predictions in the documents listed in condition 1 of Schedule 2;
  - (iii) identify any non-compliance over the past calendar year, and describe what actions were (or are being) taken to ensure compliance;
  - (iv) identify any trends in the monitoring data over the life of the development;
  - (v) identify any discrepancies between the predicted and actual impacts of the development, and analyse the potential cause of any significant discrepancies; and

- (vi) describe what measures will be implemented over the current calendar year to improve the environmental performance of the development.

## COMPLAINTS

20. The Applicant **must** observe all requirements of the **DRE** complaints protocol and refer to complaints received in the Annual **Review** (Condition 19).

**Reasons:** To provide for environmental monitoring and performance reporting.

## COMMUNITY CONSULTATIVE COMMITTEE

21. The Applicant **must** operate a Community Consultative Committee (CCC) for the development to the satisfaction of the Secretary. This CCC must be operated in general accordance with the *Community Consultative Committee (CCC) Guidelines for State Significant Projects* (Department of Planning, 2016, or its latest version).

*Notes:*

- *The CCC is an advisory committee. The Department and other relevant agencies are responsible for ensuring that the Applicant complies with this consent.*
- *In accordance with the guideline, the Committee should be comprised of an independent chair and appropriate representation from the Applicant, Council, recognised environmental groups and the local community.*
- *The Applicant may, with the approval of the Secretary, combine the function of this CCC with the function of other CCCs in the area.*

## FINANCIAL CONTRIBUTIONS

22. The Applicant **must** pay to the Council a financial contribution pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 in the amount of \$900.00 per additional employee (as identified within the EIS and Supplementary Document) according to the requirements of the Council's Section 94 Contributions Plan No. 1. The Applicant **must** pay the contribution to Council within six (6) months of acting upon this consent;

**Reasons:** To meet the requirements of the Act in relation to community infrastructure contributions.

## CLOSURE OF THE NEW ENGLAND HIGHWAY FOR BLASTING

23. The Applicant **must**:
- (a) The Applicant **must** provide road deviations adjacent to the highway in accordance with Figure 34 of the EIS to the satisfaction of the **RMS** and the Council unless a valid Management Plan is in operation. These deviations **must** be constructed at the Applicant's cost and be constructed to allow two-way traffic movement and to an all weather gravel standard for a design speed of forty (40) kilometres per hour.
  - (b) The Applicant **must** conduct all closures of the New England Highway for blasting in accordance with the Management Plan included in Appendix 2 of the EIS Supplementary Document to the satisfaction of the **RMS** and the Council.
  - (c) In the event that the **RMS**, after consultation with the Applicant and the Council deems that the requirements of the Management Plan are not being met, the Applicant **must** cease blasting within 500 metres of the highway.

## **CLOSURE/RELOCATION OF MIDDLE FALBROOK ROAD**

24. The Applicant **must** liaise with the Council in regard to the future closure/relocation of Middle Fallbrook Road in order to provide an alternative road link and proceed to construct such alternative road link as required, in conjunction with potential alternative road link to be provided by other mines to the north of the development. Any relocation **must** be designed and constructed to the Council's bitumen sealed rural roads standard.

**Reasons:** To provide for road relocations in the event of road closures.

## **DISPUTE RESOLUTION**

25. In the event that the Applicant and the Council or a Government body other than the Department, cannot agree on the specification or requirements applicable under this consent, other than in subclause 17C(iv), the matter shall be referred by either party to the **Secretary** or if not resolved, to the Minister, whose determination of the disagreement shall be final and binding on the parties.

**Reasons:** To provide for dispute resolution in respect to conditions of consent.

## **INDEPENDENT ENVIRONMENTAL AUDIT**

26. By the end of December 2016, and every 3 years thereafter, unless the Secretary directs otherwise, the Applicant must commission, commence and pay the full cost of an Independent Environmental Audit of the development. This audit must:
- (i) be conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Secretary;
  - (ii) include consultation with the relevant agencies;
  - (iii) assess the environmental performance of the development and assess whether it is complying with the requirements in this consent and any relevant EPL or Mining Lease (including any assessment, plan or program required under these approvals);
  - (iv) review the adequacy of strategies, plans or programs required under the abovementioned approvals;
  - (v) recommend appropriate measures or actions to improve the environmental performance of the development, and/or any assessment, strategy, plan or program required under the abovementioned approvals; and
  - (vi) be conducted and reported to the satisfaction of the Secretary.

*Note: This audit team must be led by a suitably qualified auditor and include experts in any field specified by the Secretary.*

- 26A. Within 12 weeks of commencing each audit, unless the Secretary agrees otherwise, the Applicant must submit a copy of the audit report to the Secretary, together with its response to any recommendations contained in the audit report, and a timetable for the implementation of any measures proposed to address the recommendations.

## **WASTE**

27. The Applicant must:
- (i) minimise and monitor the waste generated by the project; and
  - (ii) ensure that the waste generated by the project is appropriately stored, handled, and disposed of;
  - (iii) manage on-site sewage treatment and disposal in accordance with the requirements of Council; and

(iv) report on waste management and minimisation in the annual review, to the satisfaction of the Secretary.

## REVISION OF STRATEGIES, PLANS AND PROGRAMS

28. Within 3 months of:

- (i) the submission of an incident report under condition 18D above;
  - (ii) the submission of an audit report under condition 26A above;
  - (iii) the submission of an Annual Review under condition 19 above; and
  - (iv) the approval of a modification to this consent,
- the Applicant must review, and if necessary revise, the strategies, plans, and programs required under this approval to the satisfaction of the Secretary.

Within 4 weeks of conducting any such review, the Applicant must advise the Secretary of the outcomes of the review, and provide any revised documents to the Secretary for review and approval.

*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.*
- *Revisions related to the rail loop modification must be submitted prior to commencing construction.*

## UPDATING & STAGING SUBMISSION OF STRATEGIES, PLANS OR PROGRAMS

29. To ensure the strategies, plans or programs under this consent are updated on a regular basis, and that they incorporate any appropriate mitigation measures to improve the environmental performance of the development, the Applicant may at any time submit revised strategies, plans or programs to the Secretary for approval. With the agreement of the Secretary, the Applicant may also submit any strategy, plan or program required by this consent on a staged basis.

With the agreement of the Secretary, the Applicant may revise any strategy, plan or program approved under this consent without consulting with all the parties nominated under the applicable conditions of consent.

*Notes:*

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

## ACCESS TO INFORMATION

30. The Applicant must:

- (i) make copies of the following publicly available on its website:
  - the documents referred to in condition 1 of Schedule 2;
  - all current statutory approvals for the project;
  - all approved strategies, plans and programs required under the conditions of this approval;

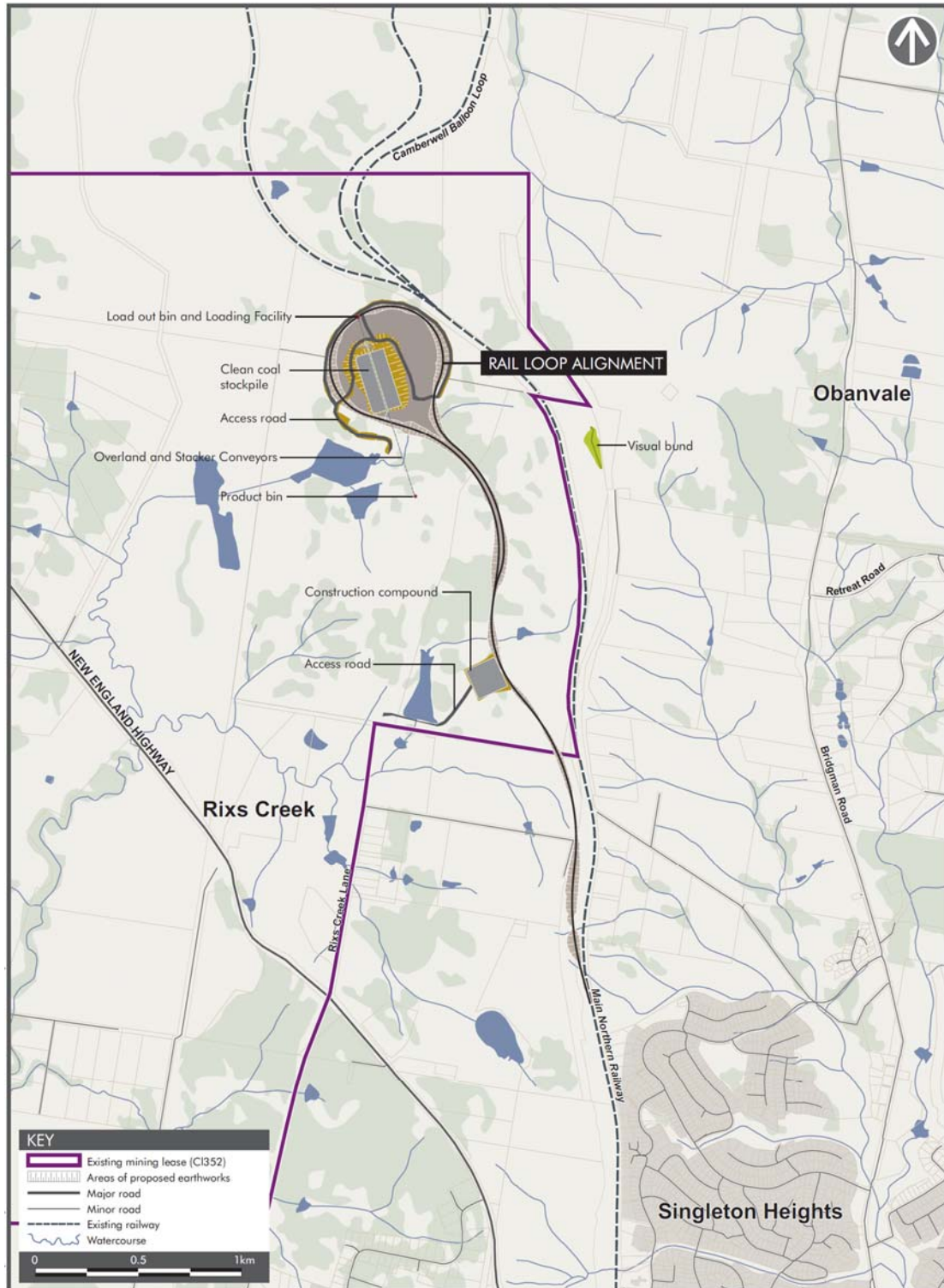
- the monitoring results of the project, reported in accordance with the specifications in any conditions of this approval, or any approved plans or programs;
  - a complaints register, which is to be updated on a monthly basis;
  - minutes of CCC meetings;
  - the annual reviews over the life of the project;
  - any independent environmental audit, and the Applicant's response to the recommendations in any audit; and
  - any other matter required by the Secretary;
- (ii) keep this information up-to-date,  
to the satisfaction of the Secretary.

**Note:** This approval does not relieve the Applicant of the obligation to obtain any other approval under the Local Government Act, 1993 as amended, the Ordinance made there under including approval of building plans, or any other Act.



## APPENDIX 1

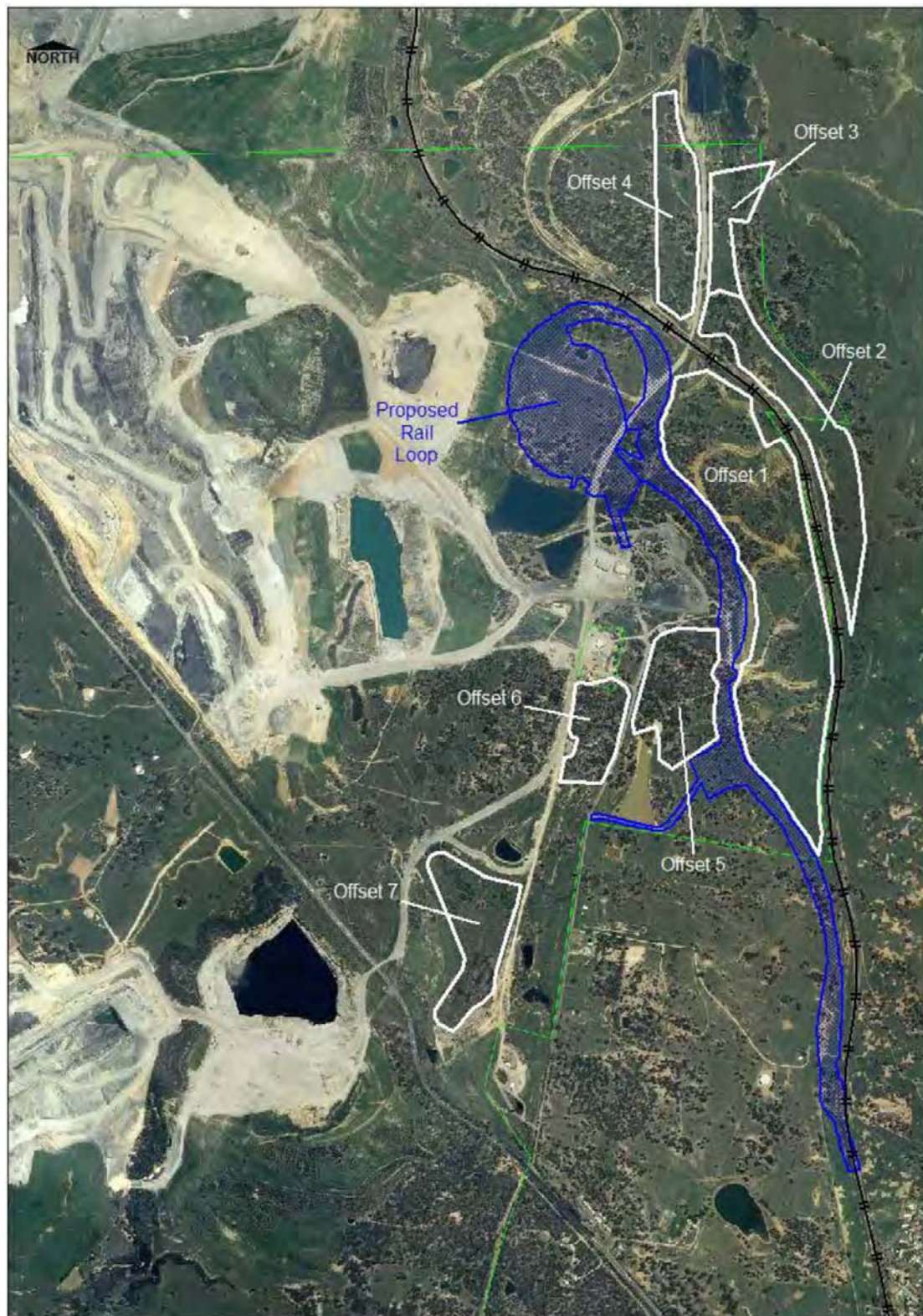
### Rail Loop Alignment





## APPENDIX 2

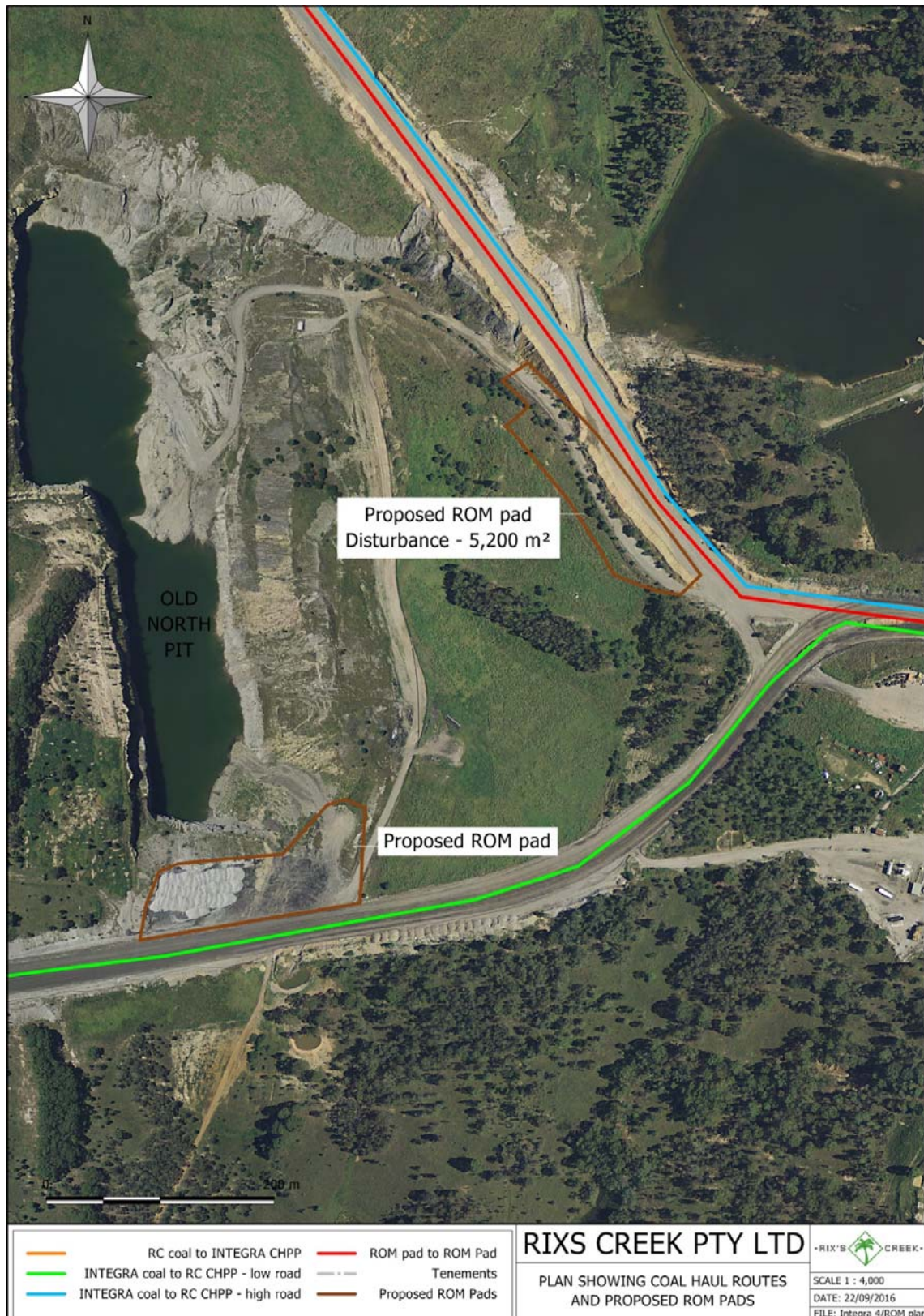
### Biodiversity Offsets





### APPENDIX 3

#### Run-Of-Mine Coal Storage Pads



## **APPENDIX 4: NOISE COMPLIANCE ASSESSMENT**

### **Compliance Monitoring**

1. Attended monitoring is to be used to evaluate compliance with the relevant conditions of this approval.
2. Data collected for the purposes of determining compliance with the relevant conditions of this approval is to be excluded under the following meteorological conditions:
  - a) during periods of rain or hail;
  - b) average wind speed at microphone height exceeds 5 m/s;
  - c) wind speeds greater than 3 m/s measures at 10 m above ground level; and
  - d) temperature inversion conditions greater than 3°C/100m.
3. Unless otherwise agreed with the Secretary, this monitoring is to be carried out in accordance with the relevant requirements relating for reviewing performance set out in the *NSW Industrial Noise Policy* (as amended from time to time), in particular the requirements relating to:
  - a) monitoring locations for the collection of representative noise data;
  - b) equipment used to collect noise data, and conformity with Australian Standards relevant to such equipment; and
  - c) modifications to noise data collected, including for the exclusion of extraneous noise and/or penalties for modifying factors apart from adjustments for duration.
4. To the extent that there is any inconsistency between the *NSW Industrial Noise Policy* and the requirements set out in this Appendix, the Appendix prevails to the extent of the inconsistency.

### **Determination of Meteorological Conditions**

5. Except for wind speed at microphone height, the data to be used for determining meteorological conditions shall be that recorded by the meteorological station located on the site (as required by condition 14B of Schedule 2).