



Standard Conditions for State Significant Development

*Mining Projects
August 2018*

August 2018

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Defined Terms

Applicant	[Applicant name] or any other person carrying out any development to which this consent applies.
Approved mine plan	The mine plan in Appendix [x].
Calendar year	A period of 12 months commencing on 1 January.
Conditions of this consent	The conditions contained in Schedule/s [xx] of this document.
Council	[insert relevant Council]
Demolition	The deconstruction and removal of buildings, sheds and other structures on the site.
Development	The development described in the EIS and Response to Submissions, including the works and activities comprising [insert the relevant phases for the development ie construction, etc], as modified by the conditions of this consent.
EIS	The Environmental Impact Statement titled [xxx], prepared by [xxx] dated [xxx], submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application.
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings.
Financial year	The period from 1 July to 30 June.
Incident	An occurrence or set of circumstances that causes, or threatens to cause, material harm and which may or may not be, or cause, a non-compliance. ■ Note: “material harm” is defined in this consent.
Management and mitigation measures	The management and mitigation measures set out in Appendix [x].
Material harm	Is harm that: <ul style="list-style-type: none"> a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial; or b) results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all

reasonable and practicable measures to prevent, mitigate or make good harm to the environment).

Mining operations	The carrying out of mining, including the removal and emplacement of overburden and extraction, processing, handling, storage and transport of coal/mineral ore on site.
Modification Assessments	The document assessing the environmental impact of a proposed modification of this consent and any other information submitted with the following modification applications made under the EP&A Act: [insert modification number and date]; [insert modification number and date]; etc.
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent.
PA	Means a planning agreement within the meaning of the term in section 7.4 of the EP&A Act.
Planning Secretary	Planning Secretary under the EP&A Act, or nominee.
Rehabilitation	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting.
Response to Submissions	The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act.
Year	A period of 12 consecutive months.

Administrative Conditions

1. Obligation to Minimise Harm to the Environment

In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent and, if prevention is not reasonable and feasible, minimise any material harm to the environment that may result from the construction and operation of the development, and any rehabilitation required under this consent.

2. Terms of Consent

The development may only be carried out:

- a) in compliance with the conditions of this consent;
- b) in accordance with all written directions of the Planning Secretary;
- c) generally in accordance with the EIS and Response to Submissions;
- d) generally in accordance with Modification Assessments; and
- e) in accordance with the Development Layout in Appendix x.

Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:

- a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
- b) the implementation of any actions or measures contained in any such document referred to in (a) above.

The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition [x](c) or [x](d). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition [x](c) and [x](d), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

3. Limits of Consent

Open Cut Mining only:

Identification of Approved Extraction Area

One month before the commencement of mining operations, unless otherwise agreed by the Planning Secretary:

- a) a registered surveyor must be engaged to mark out the boundaries of the approved limits of extraction within the site; and
- b) the Planning Secretary must be provided with a survey plan of such boundaries and the GPS coordinates of those boundaries.

The boundaries of the approved limits of extraction within the site must be clearly marked in a manner that allows them to be easily identified at all times during the carrying out of mining operations.

Mining operations

Mining operations may be carried out on the site until [Day Month Year].

Note: Under this consent, the Applicant is required to decommission and rehabilitate the site and carry out other requirements in relation to mining operations. Consequently, this consent will continue to apply in all respects other than to permit the carrying out of mining operations until the rehabilitation of the site and other requirements have been carried out to the required standard.

End. Underground Mining only:

Mining operations

Underground mining operations may only be carried out within the area covered by the approved mine plan.

Mining operations may be carried out on the site until [Day Month Year].

Note: Under this consent, the Applicant is required to decommission and rehabilitate the site and carry out other requirements in relation to mining operations. Consequently, this consent will continue to apply in all respects other than to permit the carrying out of mining operations until the rehabilitation of the site and other requirements have been carried out to the required standard.

End.

ROM Coal/Mineral ore Extraction and Transportation

A maximum of [xx] million tonnes of ROM coal/mineral ore may be extracted from the site in any calendar year.

A maximum of [xx] million tonnes of ROM coal/mineral ore from the site may be processed in any calendar year.

Product coal may only be transported from the site by rail.

A maximum of [xx] laden trucks/trains may leave the site in any 24-hour period.

A maximum of [xx] laden trucks/trains may leave the site in a 24-hour period on average when calculated over any calendar year.

4. Notification of Commencement

The date of commencement of each of the following phases of the development must be notified to the Department in writing, at least one month before that date:

- a) mining operations;
- b) extraction of ROM coal/mineral ore;
- c) cessation of mining operations; and
- d) any period of suspension of mining operations in the mining area.

If the operation of the development is to be staged, the Department must be notified in writing at least one month before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

5. Surrender of Existing Consents or Approvals

Within 12 months of the date of commencement of development to which this consent applies, or within another timeframe agreed by the Planning Secretary, the Applicant must surrender the existing [project approval/development consent dated [XXX] for the [XX Project] in accordance with the EP&A Regulation.

Upon the commencement of development to which this consent applies, and before the surrender of existing development consents or project approvals required under condition [x], the conditions of this consent prevail to the extent of any inconsistency with the conditions of those consents or approvals.

Note: This requirement does not extend to the surrender of construction and occupation certificates for existing and proposed building works under the former Part 4A of the EP&A Act or Part 6 of the EP&A Act as applies from 1 September 2018. The surrender should not be understood as implying that works legally constructed under a valid consent or approval can no longer be legally maintained or used.

6. Evidence of Consultation

Where conditions of this consent require consultation with an identified party, the Applicant must:

- a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for approval; and
- b) provide details of the consultation undertaken including:
 - i. the outcome of that consultation, matters resolved and unresolved; and
 - ii. details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

7. Staging, Combining and Updating Strategies, Plans or Programs

With the approval of the Planning Secretary, the Applicant may:

- a) prepare and submit any strategy, plan or program required by this consent on a staged basis (if a clear description is provided as to the specific stage and scope of the development to which the strategy, plan or program applies, the relationship of the stage to any future stages and the trigger for updating the strategy, plan or program);
- b) combine any strategy, plan or program required by this consent (if a clear relationship is demonstrated between the strategies, plans or programs that are proposed to be combined); and
- c) update any strategy, plan or program required by this consent (to ensure the strategies, plans and programs required under this consent are updated on a regular basis and incorporate additional measures or amendments to improve the environmental performance of the development).

If the Planning Secretary agrees, a strategy, plan or program may be staged or updated without consultation being undertaken with all parties required to be consulted in the relevant condition in this consent.

If approved by the Planning Secretary, updated strategies, plans or programs supersede the previous versions of them and must be implemented in accordance with the condition that requires the strategy, plan or program.

8. Protection of Public Infrastructure

Unless the Applicant and the applicable authority agree otherwise, the Applicant must:

- a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by carrying out the development; and
- b) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development.

Note: This condition does not apply to damage to roads caused as a result of general road usage or otherwise addressed by contributions required by condition [x] of this Schedule.

9. Demolition

All demolition must be carried out in accordance with *Australian Standard AS 2601-2001 The demolition of structures* (Standards Australia, 2001).

10. Structural Adequacy

All new buildings and structures, and any alterations or additions to existing buildings and structures, that are part of the development, must be constructed in accordance with:

- a) the relevant requirements of the BCA; and
- b) any additional requirements of the SANSW where the building or structure is located on land within a declared Mine Subsidence District.

Note:

- Under Part 6 of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.
- Under section 21 of the Coal Mine Subsidence Compensation Act 2017, the Applicant is required to obtain the Chief Executive of Subsidence Advisory NSW's approval before carrying out certain development in a Mine Subsidence District.

11. Compliance

The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

12. Division 7.1 Contributions to Council

Under section 7.11 of the EP&A Act, an annual financial contribution must be paid to Council to be put toward the maintenance of [xx] Road or local roads. The contribution is \$[xx], (adjusted on a quarterly basis to account for movements in the Australian Bureau of Statistics Consumer Price Index – Building Construction (NSW)).

The contribution must be paid to Council within one month of the date notified for the commencement of mining operations and in the same month each year and reported in the Annual Review required in condition x of Schedule [xx].

13. Planning Agreement

Within six months after the date of commencement of mining operations, or other timeframe agreed by the Planning Secretary, the Applicant must enter into a PA with the Council/Minister in accordance with:

- a) Division 7.1 of Part 7 of the EP&A Act; and
- b) the terms of the offer in the letter dated [xx] from [xx] to the Council/Minister, which has been accepted by the Council/Minister.

14. Operation of Plant and Equipment

All plant and equipment used on site, or to monitor the performance of the development must be:

- a) maintained in a proper and efficient condition; and
- b) operated in a proper and efficient manner.

15. Community Consultative Committee

Before the commencement of mining operations, a Community Consultative Committee (CCC) must be established for the development in accordance with the Department's *Community Consultative Committee Guidelines: State Significant Projects* (2016). The CCC must begin to exercise functions in accordance with such Guidelines before the commencement of construction and continue to do so for the duration of construction and mining operations and for at least six months following the completion of mining operations.

Note:

- The CCC is an advisory committee only.
- In accordance with the Guidelines, the Committee should comprise an independent chair and appropriate representation from the Applicant, Council and the local community.

Open Cut Mining only:

16. Supply of Overburden

With the approval of the Planning Secretary, the Applicant may supply overburden material to regional infrastructure developments in the vicinity of the site if the use of such material in those developments is the subject of development consent granted under Part 4 of the EP&A Act, an environmental assessment carried out under Division 5.1 of Part 5 of the EP&A Act, or an approval granted under Division 5.2 of Part 5 of the EP&A Act.

End.

17. Applicability of Guidelines

References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.

However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

Environmental Management

1. Environmental Management Strategy

An Environmental Management Strategy must be prepared for the development to the satisfaction of the Planning Secretary. The strategy must be submitted to the Planning Secretary for approval before carrying out [mining operations / quarrying operations / construction]:

- a) provide the strategic framework for environmental management of the development;
- b) identify the statutory approvals that apply to the development;
- c) set out the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
- d) set out the procedures to be implemented to:
 - i. keep the local community and relevant agencies informed about the operation and environmental performance of the development;
 - ii. receive record, handle and respond to complaints;
 - iii. resolve any disputes that may arise during the course of the development;
 - iv. respond to any non-compliance and any incident;
 - v. respond to emergencies; and
- e) include:
 - i. references to any strategies, plans and programs approved under the conditions of this consent; and
 - ii. a clear plan depicting all the monitoring to be carried out under the conditions of this consent.

The Environmental Management Strategy approved by the Planning Secretary must be implemented.

2. Management Plan Requirements

Management plans required under this consent must be prepared in accordance with relevant guidelines, and include:

- a) detailed baseline data;
- b) details of:

- i. the relevant statutory requirements (including any relevant approval, licence or lease conditions);
 - ii. any relevant limits or performance measures and criteria; and
 - iii. the specific performance indicators that are proposed to be used to judge the performance of, or guide the implementation of, the development or any management measures;
- c) a description of the measures to be implemented to comply with the relevant statutory requirements, limits, or performance measures and criteria;
- d) a program to monitor and report on the:
- i. impacts and environmental performance of the development; and
 - ii. effectiveness of the management measures set out pursuant to paragraph (c) above;
- e) a contingency plan to manage any unpredicted impacts and their consequences and to ensure that ongoing impacts reduce to levels below relevant impact assessment criteria as quickly as possible;
- f) a program to investigate and implement ways to improve the environmental performance of the development over time;
- g) a protocol for managing and reporting any:
- i. incident and any non-compliance (specifically including any exceedance of the impact assessment criteria and performance criteria);
 - ii. complaint;
 - iii. failure to comply with statutory requirements; and
- h) a protocol for periodic review of the plan.

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

3. Revision of Strategies, Plans and Programs

Within three months of:

- a) the submission of an Annual Review under condition [x];
- b) the submission of an incident report under condition [x];
- c) the submission of an Independent Environmental Audit under condition [x];
- d) the approval of any modification of the conditions of this consent; or
- e) the issue of a direction of the Planning Secretary under condition [x] which requires a review,

the strategies, plans and programs required under this consent must be reviewed, and the Department must be notified in writing that a review is being carried out.

If necessary to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, to the satisfaction of the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review.

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

Reporting and Auditing

1. Incident Notification, Reporting and Response

The Department must be notified in writing to compliance@planning.nsw.gov.au immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one) and set out the location and nature of the incident.

Subsequent notification must be given and reports submitted in accordance with the requirements set out in Appendix [x].

APPENDIX [X] - WRITTEN INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

A written incident notification addressing the requirements set out below must be emailed to the Department at the following address, compliance@planning.nsw.gov.au, within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition [x] or, having given such notification, subsequently forms the view that an incident has not occurred.

WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

Written notification of an incident must:

- a) identify the development and application number;
- b) provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
- c) identify how the incident was detected;
- d) identify when the Applicant became aware of the incident;
- e) identify any actual or potential non-compliance with conditions of consent;
- f) describe what immediate steps were taken in relation to the incident;
- g) identify further action that will be taken in relation to the incident; and
- h) identify a project contact for further communication regarding the incident.

INCIDENT REPORT REQUIREMENTS

Within 30 days of the date on which the incident occurred, or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.

The Incident Report must include:

- a) a summary of the incident;
- b) outcomes of an incident investigation, including identification of the cause of the incident;
- c) details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence;
- d) details of any communication with other stakeholders regarding the incident.

2. Non-Compliance Notification

The Department must be notified in writing to compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance.

The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

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

3. Annual Review

By the end of [September / March] in each year after the commencement of the development, (or such other timing as may be agreed by the Planning Secretary), a report must be submitted to the Department reviewing the environmental performance of the development to the satisfaction of the Planning Secretary. The review must:

- a) describe the development (including any rehabilitation) that was carried out in the previous [financial (if September is selected) / calendar (if March is selected)] year, and the development that is proposed to be carried out in the current [financial / calendar] year;
- b) include a comprehensive review of the monitoring results and complaints records from the previous [financial / calendar] year, including a comparison of these against the:
 - i. relevant statutory requirements, limits or performance measures/criteria;
 - ii. requirements of any plan or program required under this consent;
 - iii. monitoring results of previous years; and
 - iv. relevant predictions in the EIS, or Response to Submissions or Modification Assessment;

- c) identify any non-compliance or incident which occurred in the previous [financial / calendar] year, and describe what actions were (or are being) taken to rectify the non-compliance and avoid recurrence;
- d) evaluate and report on:
 - i. the effectiveness of the noise and air quality management systems; and
 - ii. compliance with the performance measures, criteria and operating conditions in this consent;
- e) identify any trends in the monitoring data over the life of the development;
- f) identify any discrepancies between the predicted and actual impacts of the development, and analyse the potential cause of any significant discrepancies; and
- g) describe what measures will be implemented over the next [financial / calendar] year to improve the environmental performance of the development.

Copies of the Annual Review must be submitted to Council and made available to the CCC and any interested person upon request.

4. Independent Environmental Audit

Within one year of the commencement of any development under this consent, and every three years after, unless the Planning Secretary directs otherwise, the Applicant must commission and pay the full cost of an Independent Environmental Audit (Audit) of the development. The Audit must:

- a) be led and conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Planning Secretary;
- b) be carried out in consultation with the relevant agencies and the CCC;
- c) assess the environmental performance of the development and whether it is complying with the relevant requirements in this consent, water licences and mining leases for the development (including any assessment, strategy, plan or program required under these approvals);
- d) review the adequacy of any approved strategy, plan or program required under the abovementioned approvals and this consent;
- e) recommend appropriate measures or actions to improve the environmental performance of the development and any assessment, strategy, plan or program required under the abovementioned approvals and this consent; and
- f) be conducted and reported to the satisfaction of the Planning Secretary.

Within three months of commencing an Audit, or within another timeframe agreed by the Planning Secretary, the Applicant must submit a copy of the audit report to the Planning Secretary, and any other NSW agency that requests it, together with its response to any recommendations contained in

the audit report, and a timetable for the implementation of the recommendations. The recommendations must be implemented to the satisfaction of the Planning Secretary.

Note: The audit team must be led by a suitably qualified auditor and include experts in any fields specified by the Planning Secretary.

5. Monitoring and Environmental Audits

Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification, Annual Review and independent environmental auditing.

Note: For the purposes of this condition, as set out in the EP&A Act, “monitoring” is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an “environmental audit” is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.

6. Access to Information

Before the commencement of construction/mining operations until the completion of all rehabilitation required under this consent, the Applicant must:

- a) make the following information and documents (as they are obtained or approved) publicly available on its website:
 - i. the documents referred to in condition [x] of this consent;
 - ii. all current statutory approvals for the development;
 - iii. all approved strategies, plans and programs required under the conditions of this consent;
 - iv. the proposed staging plans for the development if the construction, operation or decommissioning of the development is to be staged;
 - v. minutes of CCC meetings;
 - vi. regular reporting on the environmental performance of the development in accordance with the reporting requirements in any plans or programs approved under the conditions of this consent;
 - vii. a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;

- viii. a summary of the current stage and progress of the development;
 - ix. contact details to enquire about the development or to make a complaint;
 - x. a complaints register, updated monthly;
 - xi. the Annual Reviews of the development;
 - xii. audit reports prepared as part of any Independent Environmental Audit of the development and the Applicant's response to the recommendations in any audit report;
 - xiii. any other matter required by the Planning Secretary; and
- b) keep such information up to date, to the satisfaction of the Planning Secretary.