

Development Consent

Section 80 of the *Environmental Planning and Assessment Act 1979*

I, the Minister for Infrastructure and Planning, approve the Development Application referred to in schedule 1, subject to the conditions in schedules 3 to 6.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the on-going environmental management of the development.

Craig Knowles MP
Minister for Infrastructure and Planning
Minister for Natural Resources

SIGNED BY MINISTER KNOWLES ON 18 FEBRUARY 2005
Sydney, _____ 2005

File No: S03/03677

Red type represents 19 October 2005 modification.

Blue type represents 6 March 2007 modification.

Green type represents 17 September 2008 modification.

Orange type represents 15 April 2009 modification.

Purple type represents ... September 2009 Modification.

SCHEDULE 1

Development Application:	DA-172-7-2004.
Applicant:	Werris Creek Coal Pty Limited.
Consent Authority:	Minister for Infrastructure and Planning.
Land:	See Appendix 1 and Figure i.
Proposed Development:	Construction and operation of the Werris Creek Coal Mine, about 4 kilometres south of Werris Creek, in general accordance with the Environmental Impact Statement for the <i>Proposed Werris Creek Coal Mine</i> , which includes: <ul style="list-style-type: none">• undertaking open cut coal mining operations over an area of approximately 80 hectares;• constructing and operating coal screening and crushing equipment;• constructing and operating a rail load-out facility;• transporting export coal by a private haul road to the rail load-out facility;• transporting coal from the coal processing area via the mine access road and the Quirindi to Werris Creek Road to domestic markets;

- producing up to 2 million tonnes per year of Run-of-Mine (ROM) coal;
- installation of a mine access road, various support services, structures and transportable buildings; and
- progressive shaping and rehabilitation of the mine area and other areas of disturbance.

State Significant Development:

The proposal is classified as State significant development, under section 76A(7) of the *Environmental Planning and Assessment Act 1979*, because it involves coal-mining related development that requires a new mining lease under section 63 of the *Mining Act 1992*.

Integrated Development:

The proposal is classified as integrated development, under section 91 of the *Environmental Planning and Assessment Act 1979*, because it requires additional approvals under the:

- *Protection of the Environment Operations Act 1997*;
- *Water Act 1912*; and
- *Roads Act 1993*.

Designated Development:

The proposal is classified as designated development, under section 77A of the *Environmental Planning and Assessment Act 1979*, because it is for a coal mine that would “*produce or process more than 500 tonnes of coal a day*”, and consequently meets the criteria for designated development in schedule 3 of the *Environmental Planning and Assessment Regulation 2000*.

Note:

- (a) *To find out when this consent becomes effective, see section 83 of the Environmental Planning and Assessment Act 1979 (EP&A Act);*
 - (b) *To find out when this consent is liable to lapse, see section 95 of the EP&A Act; and*
 - (c) *To find out about appeal rights, see section 97 of the EP&A Act.*
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SCHEDULE 2 DEFINITIONS

AEMR	Annual Environmental Management Report
ANZECC	Australian and New Zealand Environment Consultative Council
Applicant	Werris Creek Coal Pty Limited, or its successors in title
BCA	Building Code of Australia
Bore	Any bore or well or excavation or other work connected or proposed to be connected with sources of sub-surface water, and used or proposed to be used or capable of being used to obtain supplies of such water whether the water flows naturally at all times or has to be raised whether wholly or at times by pumping or other artificial means
CCC	Community Consultative Committee
Council	Liverpool Plains Shire Council
DA	Development Application
Day	Day is the period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
DECCW	Department of Environment, Climate Change and Water
Department	The Department of Planning
Director-General	Director-General of Department of Planning, or delegate
DII	Department of Industry and Investment
NOW	NSW Office of Water within DECCW
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence
Evening	Evening is the period from 6 pm to 10 pm
GTA	General Term of Approval
Land	Land means the whole of a lot in a current plan registered at the Land Titles Office at the date of this consent
Minister	Minister for Infrastructure and Planning, or delegate
MOP	Mining Operations Plan
Mtpa	Million tonnes per annum
Night	Night is the period from midnight to 7 am and 10 pm to midnight Monday to Saturday and midnight to 8 am and 10 pm to midnight on Sundays and public holidays
NP&W Act	<i>National Parks and Wildlife Act 1974</i>
PCA	Principal Certifying Authority appointed under Section 109E of the Act
Privately-owned land	Land excluding land owned by a mining company, where: <ul style="list-style-type: none"> • a private agreement does not exist between the Applicant and the land owner; and • there are no land acquisition provisions requiring the Applicant to purchase the land upon request from the land owner
Reasonable and Feasible	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements. Feasible relates to engineering corrections and what is practical to build
ROM coal	Run-of-mine coal
DTI	Department of Transport and Infrastructure
Site	Land to which the DA applies
tpa	tonnes per annum

**SCHEDULE 3
ADMINISTRATIVE CONDITIONS**

Obligation to Minimise Harm to the Environment

1. The Applicant shall implement all practicable measures to prevent and/or minimise any harm to the environment that may result from the construction, operation, or rehabilitation of the development.

Terms of Approval

2. The Applicant shall carry out the development generally in accordance with the:
 - (a) DA 172-7-2004;
 - (b) EIS titled *Environmental Impact Statement for the Proposed Werris Creek Coal Mine, and Specialist Consultant Studies Compendium*, dated August 2004, and prepared by R.W. Corkery & Co. Pty. Limited;
 - (c) letter from the Applicant, dated 1 December 2004, indicating the relocated position of the mine access entrance and road;
 - (d) document titled, *Application to Modify Conditions 4(48) and 4(51) of Development Consent DA 172-7-2004*, dated October 2005, prepared by Werris Creek Coal Pty Ltd;
 - (e) document titled, *Application to Modify Condition 44 of Development Consent DA 172-7-2004*, dated 11 December 2006, prepared by Werris Creek Coal Pty Ltd;
 - (f) the Statement of Environmental Effects titled *Statement of Environmental Effects for Minor Modifications to Werris Creek Coal Mine prepared by Werris Creek Coal Pty Limited* and dated June 2008 (the SEE);
 - (g) the Response to Submissions titled *Werris Creek Coal Pty Ltd Response to Public and Government Agency Submissions Modification Application to DA 172-7-2004 (MOD 3)* prepared by Werris Creek Coal Pty Limited and dated July 2008; and
 - (h) the Statement of Environmental Effects titled *Statement of Environmental Effects – Precursor Storage Facility at Werris Creek Coal Mine & Alternate Biodiversity Offset Area for Werris Creek Coal Mine* prepared by Werris Creek Coal Pty Limited and dated November 2008;
 - (i) *Statement of Environmental Effects for a Modification to the Mining Area and Related Activities at the Werris Creek Coal Mine* prepared by RW Corkery & Co Pty Limited, dated March 2009;
 - (j) *Responses to Submissions for the Statement of Environmental Effects for a Modification to the Mining Area and Related Activities at the Werris Creek Coal Mine* prepared by RW Corkery & Co Pty Limited, dated July and August 2009; and
 - (k) the conditions of this consent.
3. If there is any inconsistency between the above documents, the latter document shall prevail over the former to the extent of the inconsistency. However, the conditions of this consent shall prevail over all other documents to the extent of any inconsistency.
4. The Applicant shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
 - (a) any reports, plans or correspondence that are submitted in accordance with this consent; and
 - (b) the implementation of any actions or measures contained in these reports, plans or correspondence.
- 4A. The Applicant shall prepare revisions of any strategies, plans or programs required under this consent if directed to do so by the Director-General. Such revisions shall be prepared to the satisfaction of, and within a timeframe approved by, the Director-General.

Limits on Approval

5. This consent lapses 15 years after the date it commences.
6. The Applicant shall not extract more than 2 million tonnes of ROM coal a year from the development.

7. The Applicant shall not transport more than 50,000 tonnes of saleable coal a year from the development by public road.
- 7A The Applicant shall ensure the rail load-out coal stockpile does not:
 - (a) exceed 15 m in height; and
 - (b) contain more than 100,000 tonnes of coal.

Structural Adequacy

8. The Applicant shall ensure that all new buildings and structures are constructed in accordance with the relevant requirements of the BCA.

Note:

- (a) *Under Part 4A of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.*
- (b) *Part 8 of the EP&A Regulation sets out the requirements for the certification of development.*

Demolition

9. The Applicant shall ensure that any demolition work is carried out in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version.

Operation of Plant and Equipment

10. The Applicant shall ensure that all plant and equipment used at the site, or to transport coal off-site, are:
 - (a) maintained in a proper and efficient condition; and
 - (b) operated in a proper and efficient manner.

Section 94 Contributions

11. Before carrying out any development, or as otherwise agreed by Council, the Applicant shall pay Council:
 - \$20,000 towards the operation of the Werris Creek Rail Museum; and
 - \$15,000 towards the provision of youth facilities for Werris Creek, as a community enhancement program for the Werris Creek area.
12. Prior to 31 December 2008, the Applicant shall enter into a road maintenance agreement with Council regarding public roads maintained with Council funds and used for the transport of saleable coal from the development, to the satisfaction of Council. If agreement cannot be reached, the matter shall be referred to the Director-General for resolution.

**SCHEDULE 4
SPECIFIC ENVIRONMENTAL CONDITIONS**

AIR QUALITY

Impact Assessment Criteria

- The Applicant shall ensure that dust emissions generated by the development do not cause exceedances of the air quality criteria listed in Tables 1, 2 and 3 at any residence on, or on more than 25 percent of, any privately-owned land.

Pollutant	Averaging period	Criterion
Total suspended particulate (TSP) matter	Annual	90 µg/m ³
Particulate matter < 10 µm (PM ₁₀)	Annual	30 µg/m ³

Table 1: Long-term Impact Assessment Criteria for Particulate Matter

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

Table 2: Short-term Impact Assessment Criterion for Particulate Matter

Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level
Deposited dust	Annual	2 g/m ² /month	3.6 g/m ² /month

Table 3: Long-term Impact Assessment Criteria for Deposited Dust

Note: Deposited dust is assessed as insoluble solids as defined by Standards Australia, 1991, AS 3580.10.1-1991: Methods for Sampling and Analysis of Ambient Air - Determination of Particulates - Deposited Matter - Gravimetric Method.

Land Acquisition Criteria

- If the dust emissions generated by the development exceed the criteria in Tables 4, 5 and 6 at any residence on, or on more than 25 percent of, any privately-owned land, the Applicant shall, upon receiving a written request for acquisition from the landowner, initiate an independent review in accordance with conditions 4-9 of schedule 5 and, if required, acquire the land in accordance with the procedures in conditions 10-12 of schedule 5.

Pollutant	Averaging period	Criterion
Total suspended particulate (TSP) matter	Annual	90 µg/m ³
Particulate matter < 10 µm (PM ₁₀)	Annual	30 µg/m ³

Table 4: Long-term Land Acquisition Criteria for Particulate Matter

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

Table 5: Short-term Land Acquisition Criteria for Particulate Matter

¹Based on the number of block 24 hour averages in an annual period.

²Excludes extraordinary events such as bushfires, prescribed burning, dust storms, sea fog, fire incidents, illegal activities or any other activity agreed by the Director-General in consultation with the DECCW.

³Background PM₁₀ concentrations due to all other sources plus the incremental increase in PM₁₀ concentrations due to the mine alone.

⁴Incremental increase in PM₁₀ concentrations due to the mine alone.

Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level
Deposited dust	Annual	2 g/m ² /month	3.6 g/m ² /month

Table 6: Long-term Land Acquisition Criteria for Deposited Dust

Note: Deposited dust is assessed as insoluble solids as defined by Standards Australia, 1991, AS 3580.10.1-1991: Methods for Sampling and Analysis of Ambient Air - Determination of Particulates - Deposited Matter - Gravimetric Method.

¹Operating Conditions

3. The Applicant shall carry out the development in a way that prevents and/or minimises the air pollution generated by the development.
4. The Applicant shall:
 - (a) ensure any visible air pollution generated by the development is assessed regularly, and that mining operations are relocated, modified, and/or stopped as required to minimise air quality impacts on privately-owned land and ensure the visibility and safety of motorists using the surrounding public roads is not compromised;
 - (b) ensure that trucks entering and leaving the site carrying loads are covered at all times, except during loading and unloading; and
 - (c) implement all practicable measures to minimise the off-site odour and fume emissions generated by any spontaneous combustion or blasting at the development, to the satisfaction of the Director-General.

Additional Air Quality Mitigation Measures

5. Upon receiving a written request from any landowner where subsequent dust monitoring shows the dust generated by the development is greater than the deposited dust criteria in Table 6, the Applicant shall, in consultation with the landowner, install a first flush system (or similar) on any water tank used as a drinking water supply on the land. If within 3 months of receiving this request, the Applicant and the landowner cannot agree on the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the Director-General for resolution.

¹ Incorporates DECCW GTA

²Monitoring

6. Within 3 months of this consent, the Applicant shall prepare and implement a detailed Air Quality Monitoring Program in consultation with the DECCW, and to the satisfaction of the Director-General. The Air Quality Monitoring Program shall include an air quality monitoring protocol for evaluating compliance with the air quality impact assessment and land acquisition criteria in this consent.

³NOISE

Noise Impact Assessment Criteria

7. The Applicant shall ensure that the noise generated by the development does not exceed the noise impact assessment criteria presented in Table 7 at any residence on privately-owned land.

Day (Construction Stage) <i>L_{Aeq(15 minute)}</i>	Day (Operational Stage) <i>L_{Aeq(15 minute)}</i>	Evening <i>L_{Aeq(15 minute)}</i>	Night <i>L_{Aeq(15 minute)}</i>	Night <i>L_{A1(1 minute)}</i>
40	35	35	35	45

Table 7: Noise Impact Assessment Criteria dB(A)

Note:

- Noise from the development is to be measured at the most affected point or within the residential boundary, or at the most affected point within 30 metres of a dwelling (rural situations) where the dwelling is more than 30 metres from the boundary.
- To determine compliance with the *L_{Aeq(15 minute)}* noise limits in the above table, where it can be demonstrated that direct measurement of noise from the development is impractical, the DECCW may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy). The modification factors in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise levels where applicable.
- Noise from the development is to be measured at 1 metre from the dwelling façade to determine compliance with the *L_{A1(1 minute)}* noise limits in the above table.
- The noise emission limits identified in the above table apply under meteorological conditions of:
 - wind speeds of up to 3 m/s at 10 metres above ground level; or
 - Temperature inversion conditions of up to 3°C/100m, and wind speeds of up to 2 m/s at 10 metres above ground level.
- "Construction Stage" applies Monday to Saturday, excluding public holidays, until 6 months after the commencement of operations, or the completion of the 15 metre high acoustic bund, whichever occurs first.

Rail Noise Impact Assessment Criteria

8. The Applicant shall ensure that the noise generated by shunting operations associated with the development does not exceed the noise impact assessment criteria presented in Table 8.

Day/Evening/Night <i>L_{Aeq(24 hour)}</i>	Day/Evening/Night <i>L_{A(max)}</i>	Property
55	80	Any residence on privately-owned land.

Table 8: Rail Shunting Noise Criteria dB(A)

Note: Shunting operations directly related to coal loading activities are subject to noise impact criteria in Table 7.

² Incorporates DECCW GTA

³ Incorporates DECCW GTA

Land Acquisition Criteria

9. If the noise generated by the development exceeds the criteria in Table 9, the Applicant shall, upon receiving a written request from the landowner, initiate an independent review in accordance with the procedures in conditions 4-9 of schedule 5 and, if required, acquire the land in accordance with the procedures in conditions 10-12 of schedule 5.

<i>Day/Evening/Night</i> <i>L_{Aeq(15 minute)}</i> 40	<i>Property</i>
	<i>All privately-owned land.</i>

Table 9: Land Acquisition Criteria dB(A)

Note: The provisions of this condition do not apply during the Construction Stage of the mine.

⁴Operating Conditions

10. The Applicant shall ensure that all reversing alarms fitted to vehicles on the site shall be of a mid-high frequency broadband type as described in the EIS.

Rail Spur Management Plan

11. The Applicant shall prepare and implement a detailed Rail Spur Management Plan for shunting operations associated with the development, in consultation with the Australian Rail Track Corporation and the company providing rail freight services to the Applicant. The Applicant shall not carry out any shunting operations before the Director-General has approved this Plan. This plan must include:
- (a) a noise monitoring program for privately-owned residences in proximity to the spur line to the development's rail load-out facilities;
 - (b) measures to reduce noise and vibration impacts on impacted residences; and
 - (c) measures to avoid or minimise impacts other than noise and vibration including, but not limited to, train headlights and interruption of public road access across the spur line,
- to the satisfaction of the Director-General.

Operating Hours – Construction Stage

12. The Applicant is permitted to operate the development between 7 am to 6 pm Monday to Friday and 8 am to 6 pm Saturday, excluding public holidays, during the "Construction Stage" as defined in condition 7. Construction activities must not commence until 8 am during temperature inversion conditions, southeast winds exceeding 3 m/s and northwest winds exceeding 3 m/s, unless approved by the DECCW. The Applicant shall notify the Department of the date of commencement of construction activities.

Operating Hours – Stage 1 Operations

13. On completion of the eastern acoustic bund to a height of 15 metres, the Applicant is permitted to operate the development between 7 am and 10 pm Monday to Friday and 8 am to 2 pm Saturday, excluding public holidays. Operations must not commence until 8 am during temperature inversion conditions, southeast winds exceeding 3 m/s and northwest winds exceeding 3 m/s unless approved by the DECCW. The Applicant shall notify the Department of the date of commencement of Stage 1 operations.
14. In addition to the permitted operational hours set out in condition 13, the Applicant may operate the train load-out facility between 2 pm and 10 pm Saturday, excluding public holidays, and maintenance operations may be conducted 24 hrs a day, Monday to Saturday.

⁴ Incorporates DECCW GTA

Operating Hours – Stage 2 Operations

15. The Applicant shall undertake an acoustical validation study, in a manner approved by the DECCW, of predicted noise impacts contained in the EIS against measured noise impacts of the development during the initial 6 months of its operation (or other time agreed by the Director-General). If, following consideration of the acoustical validation study, the DECCW and the Director-General are satisfied that predicted noise impacts are unlikely to be exceeded by the development, the Applicant may progress to Stage 2 operating hours.

Stage 2 operating hours are defined as:

- (a) midnight to 4 am; and 7 am to midnight Monday to Friday;
- (b) midnight to 4 am; and 7 am to 2 pm Saturday;
- (c) on-site processing of coal is permitted between the additional hours of 2 pm to 10 pm Saturday;
- (d) overburden removal and emplacement is permitted at any time Monday to Saturday; and
- (e) operation of the coal load-out facility and maintenance activities is permitted at any time Monday to Sunday

These hours may be varied, with the approval of the DECCW, if the Director-General is satisfied that the amenity of residents in the locality will not be adversely affected.

Note: Stage 2 operating hours do not apply to blasting (see conditions 20 & 23) or to the dispatch of coal by road (see condition 52).

Monitoring

16. Before carrying out any development, the Applicant shall prepare a Noise Monitoring Program for the development in consultation with the DECCW, and to the satisfaction of the Director-General, which includes a noise monitoring protocol for evaluating compliance with the criteria in conditions 7, 8, and 9.

Additional Noise Mitigation Measures

- 16A. If noise monitoring shows the noise generated by the development is equal to or greater than 38 dB(A) $L_{Aeq(15\text{ minute})}$ at any privately-owned residence (except where a written negotiated noise agreement is in place or the landowner has requested acquisition); then upon receiving a written request from the landowner, the Applicant shall implement reasonable and feasible noise mitigation measures (such as double glazing, insulation, and/or air conditioning) at the residence in consultation with the landowner. If within 3 months of receiving this request from the landowner, the Applicant and the landowner cannot agree on the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the Director-General for resolution.

METEOROLOGICAL MONITORING

17. Within 6 months of this consent, the Applicant shall ensure that there is a suitable meteorological station operating in the vicinity of the development in accordance with the requirements in *Approved Methods for Sampling of Air Pollutants in New South Wales*, and to the satisfaction of the DECCW and the Director-General.

BLASTING & VIBRATION

Airblast Overpressure Limits

18. The Applicant shall ensure that the airblast overpressure level from blasting at the development does not exceed the criteria in Table 10 at any residence on privately-owned land.

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

Table 10: Airblast Overpressure Impact Assessment Criteria

Note: The overpressure values in Table 12 apply when the measurements are performed with equipment having a lower cut-off frequency of 2 Hz or less. If the instrumentation has a higher cut-off frequency a correction of 5 dB should be added to the measured value. Equipment with a lower cut-off frequency exceeding 10 Hz should not be used.

Ground Vibration Impact Assessment Criteria

19. The Applicant shall ensure that the ground vibration level from blasting at the development does not exceed the criteria in Table 11 at any residence on privately-owned land or noise sensitive location as defined in the DECCW's Industrial Noise Policy.

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

Table 11: Ground Vibration Impact Assessment Criteria

Blasting Hours

20. The Applicant shall only carry out blasting at the development between 10 am and 4 pm Monday to Friday during the Construction Stage and 9 am to 5 pm for Stages 1 and 2, except as further restricted by condition 22. No blasting is allowed on Saturdays, Sundays, public holidays or any other time without the written approval of the DECCW.

Blasting Frequency

21. The Applicant shall not carry out more than 1 blast a day at the site without the written approval of the DECCW.

Monitoring

22. Prior to carrying out any blasting, the Applicant shall prepare and implement a detailed Blasting Monitoring Program for the development in consultation with the DECCW and to the satisfaction of the Director-General. The Applicant shall monitor the airblast overpressure and ground vibration impacts of blasting operations of the development at privately-owned residences or noise sensitive locations as defined in the DECCW's Industrial Noise Policy, using the units of measurement, frequency, sampling method, and locations specified in Table 12.

Parameter	Units of Measure	Frequency	Sampling Method	Measurement Location
Airblast overpressure	dB(Lin Peak)	During every blast	AS2187.2-1993 ¹	Not less than 3.5 m from a building or structure
Peak particle velocity	mm/s	During every blast	AS2187.2-1993	Not more than 30 m from a building or structure

Table 12: Airblast Overpressure and Ground Vibration Monitoring

¹Standards Australia, 1993, AS2187.2-1993: Explosives - Storage, Transport and Use - Use of Explosives.

Blasting in Proximity to the Quirindi to Werris Creek Road

23. The Applicant shall prepare and implement a Traffic Management Plan in consultation with Council and the DII, and to the satisfaction of the Director-General for blasting activities that require the temporary periodic closure of the Quirindi to Werris Creek Road. This plan shall include measures to ensure:
- adequate warning is given to road users prior to blasting;
 - follow up inspections are made to ensure that public roads are safe and clear of debris; and
 - blasting does not occur at any time which delays the transportation of children to or from school.

Public Notice

24. During the life of the development, the Applicant shall:
- (a) operate a blasting hotline, or alternate system agreed to by the Director-General, to enable the public to get up-to-date information on blasting operations at the development; and
 - (b) notify the landowner/occupier of any land within 2 km of the development about this hotline or system on an annual basis.

Property Inspections

25. Before carrying out any blasting, the Applicant shall advise all landowners within 2 km of the development, and any other landowner nominated by the Director-General, that they are entitled to a property inspection.
26. If the Applicant receives a written request for a property inspection from any landowner within 2 km of the development, or any other landowner nominated by the Director-General, the Applicant shall within 3 months of receiving this request:
- (a) commission a suitably qualified person, whose appointment has been approved by the Director-General, to inspect the condition of any building or structure on the land, and recommend measures to mitigate any potential blasting impacts; and
 - (b) give the landowner a copy of this property inspection report.

Property Investigations

27. If any landowner within a 2 km of the development, or any other landowner nominated by the Director-General, claims that his/her property, including vibration-sensitive infrastructure such as water supply or underground irrigation mains, has been damaged as a result of blasting at the development, the Applicant shall within 3 months of receiving this request:
- (a) commission a suitably qualified person whose appointment has been approved by the Director-General to investigate the claim; and
 - (b) give the landowner a copy of the property investigation report.

If this independent investigation confirms the landowner's claim, and both parties agree with these findings, then the Applicant shall repair the damages to the satisfaction of the Director-General.

If the Applicant or landowner disagrees with the findings of the independent property investigation, then either party may refer the matter to the Director-General for resolution.

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process (see Appendix 2).

⁵**SURFACE & GROUND WATER**

Pollution of Waters

28. Except as may be expressly provided by a DECCW licence, the Applicant shall comply with section 120 of the *Protection of the Environment Operations Act 1997* during the carrying out of the development.

Discharge Limits

29. Except as may be expressly provided by a DECCW Licence, the Applicant shall ensure that the discharges from any licenced discharge point comply with the limits in Table 13.

Pollutant	Units of measure	50 percentile concentration limit	90 percentile concentration limit	100 percentile concentration limit
pH				6.5 ≤ pH ≤ 8.5
Total Suspended Solids	mg/L	20	35	50
Grease & Oil	mg/L			10

Table 13: Discharge Limits

Note: This condition does not authorise the discharge or emission of any other pollutants.

⁶**Groundwater Contingency Plan**

30. Within 6 months of this consent, the Applicant shall prepare a Groundwater Contingency Plan to the satisfaction of the Director-General. This Plan shall:
- include a program to establish the natural variability of groundwater quality and quantity;
 - establish trigger levels, benchmarks and contingency criteria;
 - provide measures to mitigate any impacts of the mine on the quality or quantity of groundwater supplies available on privately-owned land; and
 - provide for negotiated agreements with affected landowners, including compensation where mining impacts result in increased extraction costs for landowners.

⁷**Site Water Balance**

31. Each year, the Applicant shall:
- review the site water balance for the development against the predictions in the EIS;
 - re-calculate the site water balance for the development; and

⁵ Incorporates DECCW GTA

⁶ Incorporates Department's GTA

⁷ This should differentiate between licensed extracted water (from surface or groundwater sources), incidental water encountered in mining operations, and Harvestable Right water. These calculations must exclude the clean water system, including any sediment control structures, and any dams in the mine lease area which fall under the Maximum Harvestable Right Dam Capacity; include any dams that are licensable under Section 205 of the Water Act 1912, and water harvested from any non-harvestable rights dam on the mine lease area; address balances of inflows, licenced water extractions, and any transfers of water from the site; include an accounting system for water budgets; and include a salt budget.

- (c) report the results of this review in the AEMR, to the satisfaction of the Director-General.

Site Water Management Plan

32. Before carrying out any development, the Applicant shall prepare a Site Water Management Plan for the development in consultation with DECCW, and to the satisfaction of the Director-General. This plan must include:
- the predicted site water balance;
 - an Erosion and Sediment Control Plan;
 - a Surface Water Monitoring Program;
 - a Groundwater Management Plan; and
 - a strategy for the decommissioning of water management structures on the site.
33. The Erosion and Sediment Control Plan shall:
- be consistent with the requirements of the Department of Housing's *Managing Urban Stormwater: Soils and Construction* manual;
 - identify activities for the construction and operational phases of the development that could cause soil erosion and generate sediment;
 - describe the location, function, and capacity of erosion and sediment control structures; and
 - describe measures to minimise soil erosion and the potential for the migration of sediments to downstream waters.
34. The Surface Water Monitoring Program shall include:
- surface water impact assessment criteria;
 - a program to monitor the land in waste water utilisation area(s) and receiving waters;
 - a program to monitor the quality of water contained in, or discharged from, water storages (including the mining void) associated with the development;
 - a program to monitor surface water flows and quality upstream and downstream of the confluence of the Northern catchment into Werris Creek and the Southern catchment into Quipolly Creek; and
 - a program to monitor the effectiveness of the Erosion and Sediment Control Plan.
35. ⁸The Groundwater Management Plan must cover the full cycle of operation from pre-mining to completion of rehabilitation/restoration of all groundwater. This plan must include:
- clearly defined objectives for the Groundwater Management Plan;
 - release criteria applicable to the objectives of the Groundwater Management Plan;
 - identification of monitoring bores and piezometers which are representative of those areas likely to be impacted within and around the operational area;
 - inclusion of at least one monitoring bore at a location outside the predicted influence of the mine, within the regional fractured rock layers;
 - inclusion of bores representative of groundwater use in the area, including the shallow aquifer adjacent to Quipolly Creek;
 - pre-mining and post-mining, for a period of 10 years after mining has ceased, monitoring of watertable levels and water quality;
 - analytes to be monitored;
 - procedures for sampling and monitoring;
 - frequency of readings in relation to all specified parameters;
 - levels of readings indicating contamination/impacts of the groundwater; and
 - procedures for investigation of detected contamination/impacts.

⁹Independent Review of Monitoring

36. The Applicant shall provide to the Department an annual review and report on surface and groundwater monitoring and observable trends. The report is to be completed by a suitably qualified and independent hydrogeologist, whose appointment has been approved by the Director-General.

⁸ Incorporates Department's GTAs

⁹ Incorporates Department's GTA

Final Void Management

37. At least 3 years before the cessation of mining, or as otherwise directed by the Director-General, the Applicant shall prepare and implement a Final Void Management Plan, in consultation with the DII and DECCW, and to the satisfaction of the Director-General. This plan must:
- investigate options for the future use of the final void;
 - re-assess the potential groundwater impacts of the development; and
 - 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 over time.

FAUNA & FLORA

Biodiversity Offset Strategy

38. The Applicant shall implement the Biodiversity Offset Strategy (as summarised in Table 16 and shown in the figure in Appendix 3) in accordance with best practice flora and fauna management, and to the satisfaction of the Director-General.

Component	Location	Size (ha)
White Box Yellow Box Blakely's Red Gum Woodland endangered ecological community (22 ha) and Native Vegetation on Cracking Clay Soils of the Liverpool Plains endangered ecological community (102 ha)	south west of the mine	124
Area remaining from the original "200 ha" offset	south east and east of the open cut	77
Potential Linkage of remnant White Box, rehabilitation and plantings	south and south west of the open cut	129
White Box Yellow Box Blakely's Red Gum Woodland endangered ecological community	"Railway View"	20
Tumbledown Gum Woodland Community	"Railway View"	4.5
Cleared land	"Railway View"	7.5
Total Offset Area		362

Table 16: Biodiversity Offset Strategy

Agreement to Conserve Offset Areas

39. Prior to 30 June 2009, the Applicant shall implement suitable arrangements to provide long-term security for the offset in the Biodiversity Offset Strategy to the satisfaction of the Director-General.

Note: The long-term security of the offset can be achieved through one, or a combination, of the following: Deed of Agreement with the Minister, rezoning the land under the Liverpool Plains Local Environment Plan, caveats on the title under the Conveyancing Act 1919, etc..

Biodiversity Offset Management Plan

40. Prior to 31 August 2009, the Applicant shall prepare and subsequently implement a Management Plan for the Biodiversity Offset Strategy to the satisfaction of the Director-General. This plan must include:
- a description of the Biodiversity Offset Strategy in broad terms, including its objectives and its relationship to the mine's Rehabilitation Management Plan;
 - assessment and completion criteria for the Biodiversity Offset Strategy;

- (c) a detailed flora and fauna monitoring program for the Biodiversity Offset Strategy that is based on sound statistical principles; and
- (d) a detailed description of the procedures to be applied within the Biodiversity Offset lands, including:
 - erosion and sedimentation control;
 - soil and water management;
 - bushfire management;
 - exclusion of domestic livestock grazing;
 - weed management, targeting major woody and noxious weeds;
 - retention of regrowth native vegetation;
 - maintaining availability of a suitable fire control unit on site;
 - limiting human access to the offset area to authorised personnel only;
 - retaining all dead timber and fallen logs;
 - retaining bush rock in situ;
 - carrying out infill planting of native vegetation tubestock; and
 - feral animal control.

Annual Review of Biodiversity Offset Management Plan

- 41. The Applicant shall:
 - (a) annually review performance under the Biodiversity Offset Management Plan; and
 - (b) if necessary, revise the Biodiversity Offset Strategy, to the satisfaction of the Director-General.

Independent Audit of the Biodiversity Offset Management Plan

- 42. Prior to 31 August 2011, and every 3 years thereafter, the Applicant shall commission, and pay the full cost of, an Independent Audit of the Biodiversity Offset Management Plan. This audit must:
 - (a) be conducted by a suitably qualified, experienced, and independent person whose appointment has been approved by the Director-General;
 - (b) assess the performance of the Biodiversity Offset Management Plan; and
 - (c) if necessary, recommend actions or measures to improve the performance of the Biodiversity Offset Management Plan.

Conservation Bond

- 41. Following the independent audit of the Biodiversity Offset Strategy at the end of year 6 of the development, or prior to the cessation of mining, whichever occurs first, the Applicant shall lodge a reasonable conservation bond with the Department to ensure that there are sufficient resources available to fully implement the Biodiversity Offset Strategy. The amount of the bond shall be set by the Director-General, in consultation with the Applicant, and reflect the costs, at that time, of fully implementing the Biodiversity Offset Strategy. The Director-General, in consultation with the Applicant, may adjust the amount of the bond after any subsequent independent audit of the Biodiversity Offset Strategy.

ABORIGINAL & EUROPEAN HERITAGE

Conservation of the "Narrawolga Site"

- 42. The Applicant shall manage the removal, re-location and protection of the axe-grinding grooves known as the "Narrawolga Site" in accordance with the information accompanying modification application DA 172-7-2004 MOD-2 and to the satisfaction of the Director-General.

Archaeology and Cultural Heritage Management Plan

- 43. The Applicant shall prepare and implement an Archaeology and Cultural Heritage Management Plan, in consultation with the DECCW and the Nungaroo LALC. This plan must:

- (a) describe in detail a conservation program for Aboriginal cultural heritage during the development;
- (b) establish a consultation protocol, including regular meetings, with the local Nungaroo LALC for Aboriginal cultural heritage management on-site during the development;
- (c) make provision for the local Aboriginal community to monitor works at the development that occur in areas considered by the local Aboriginal community to be culturally sensitive;
- (d) describe the procedures that would be implemented if any heritage or archaeological sites were discovered during the development;
- (e) describe a contingency plan and reporting procedure should damage to Aboriginal sites or places occur at the development; and
- (f) describe the induction and training program to be undertaken by all employees and contractors in respect of cultural heritage awareness and protection.

The Applicant shall not carry out any development before the Director-General has approved this plan.

45A. Prior to 31 May 2007, the Applicant shall revise the Werris Creek Coal Mine Archaeology and Cultural Heritage Management Plan in respect of the ongoing management of the "Narrawolga Site", in consultation with the DECCW, the Nungaroo LALC and other representatives of the local Aboriginal community, to the satisfaction of the Director-General.

"Narrawolga" Homestead

44. The Applicant shall, within 12 months of the date of this consent, ensure that a qualified heritage architect fully and appropriately records the "Narrawolga" homestead building in a report that:
- records the material elements of the building; and
 - identifies materials to be recovered during the demolition of the building for reuse.

The Applicant shall implement the recommendations of the report and provide a copy of the report to Council.

Reporting

45. The Applicant shall give a detailed progress report on the measures implemented to preserve and protect Aboriginal cultural heritage in the AEMR.

TRAFFIC & TRANSPORT

¹⁰New Mine Access Road Intersection to Werris Creek Road

46. The Applicant shall:
- (a) prior to 31 January 2006, design and construct a mine access road from the mine site to the Quirindi to Werris Creek Road;
 - (b) prior to construction of the mine site access road / Quirindi to Werris Creek Road intersection, produce a Traffic Management Plan for its construction and operation;
 - (c) maintain the intersection for the life of the mine; and
 - (d) provide street lighting in accordance with local electricity authority guidelines, to the satisfaction of Council.

¹¹Escott Road and Coal Haul Road Intersection

47. The Applicant shall:
- (a) prior to the use of the coal haul road from the mine site to rail load-out facility, design and construct the intersection of the coal haul road and Escott Road;
 - (b) prior to construction of the intersection, produce a Traffic Management Plan for its construction and operation;

¹⁰ Incorporates Council GTA

¹¹ Incorporates Council GTA

- (c) maintain the intersection for the life of the mine; and
- (d) provide street lighting in accordance with local electricity authority guidelines, to the satisfaction of Council.

¹²Escott Road and Werris Creek Road Intersection

48. The Applicant shall maintain the Escott Road/Werris Creek Road intersection for the life of the mine to the satisfaction of Council.

Internal Roads

49. The Applicant shall tar seal the:
- (a) mine access road prior to 31 January 2006; and
 - (b) coal haul road from the mine to the rail load-out facilities prior to its use to transport coal.

Coal Haulage

52. The Applicant shall only haul coal from the site by road between the hours of;
- (a) 7 am to 6 pm Monday to Friday;
 - (b) 7 am to 2 pm Saturday; and
 - (c) at no time on public holidays.

Coal haulage by road must not commence until 8 am during temperature inversion conditions, southeast winds exceeding 3 m/s and northwest winds exceeding 3 m/s, unless approved by the DECCW.

53. The Applicant shall ensure that spillage from coal haulage vehicles is minimised and that sediment-laden runoff from roads is effectively managed to prevent harm to the environment.

Monitoring

54. The Applicant shall:
- (a) keep records of the:
 - amount of coal transported from the site each year; and
 - number of coal haulage truck movements generated by the development; and
 - (b) include these records in the AEMR.

VISUAL IMPACT

Visual Amenity

55. The Applicant shall carry out the development in a way that prevents and/or minimises the visual impacts of the development, including:
- (a) design and construction of development infrastructure in a manner that minimises visual contrasts;
 - (b) progressive rehabilitation of mine overburden emplacements (particularly outer batters), including partial rehabilitation of temporarily inactive areas and proposed topsoil storage stockpiles; and
 - (c) construction of a 15 metre high acoustic/visual bund along the eastern perimeter of the overburden emplacement (parallel to the Quirindi to Werris Creek Road) during the Construction Stage of the mine,
 - (d) tree planting on the northern and eastern sides of the coal stockpile and rail load-out facility,
- to the satisfaction of the Director-General.
56. If a landowner of any privately-owned residence having direct views of the mine or train load-out facility of less than 2 km distance requests the Applicant in writing to investigate ways to minimise the visual impact of the development on his/her dwelling, the Applicant shall within 3 months:

¹² Incorporates Council GTA

- (a) commission a suitably qualified person whose appointment has been approved by the Director-General, to investigate ways to minimise the visual impacts from the development on the landowner's dwelling; and
- (b) give the landowner a copy of the visual impact mitigation report.

If both parties agree on the measures that should be implemented to minimise the visual impact from the development, then the Applicant shall implement these measures to the satisfaction of the Director-General.

If the Applicant and the landowner disagree on the measures that should be implemented to minimise the visual impact from the development, then either party may refer the matter to the Director-General for resolution.

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process (see Appendix 2).

Lighting Emissions

57. The Applicant shall:
- (a) take all practicable measures to mitigate off-site lighting impacts from the development; and
 - (b) ensure that all external lighting associated with the development complies with *Australian Standard AS4282 (INT) 1995 – Control of Obtrusive Effects of Outdoor Lighting*, to the satisfaction of the Director-General.

GREENHOUSE GAS EMISSIONS

58. The Applicant shall: shall implement an Energy Savings Action Plan for the project to the satisfaction of the Director-General. This plan must:
- a) be prepared in accordance with the *Guidelines for Energy Savings Action Plans* (DEUS, 2005), or its latest version;
 - b) include consideration of energy use by mobile equipment and investigate ways to reduce greenhouse gas emissions generated by the development; including the use of mains electric power to operate equipment associated with the coal processing plant and the rail load-out facility; and
 - c) be submitted to the Director-General for approval prior to 30 June 2010; and
 - d) include a program to monitor the effectiveness of measures to reduce energy use on site.

The Applicant must also report on greenhouse gas monitoring and management measures in the AEMR, to the satisfaction of the Director-General.

WASTE MANAGEMENT

59. The Applicant shall:
- (a) monitor the amount of waste generated by the development;
 - (b) investigate ways to minimise waste generated by the development;
 - (c) implement reasonable and feasible measures to minimise waste generated by the development; and
 - (d) report on waste and management and minimisation in the AEMR, to the satisfaction of the Director-General.
60. The Applicant shall not cause, permit or allow any waste generated outside the mine to be received at the mine for storage, treatment, processing, reprocessing or disposal, or any waste generated at the mine to be disposed at the mine, except as expressly permitted by a DECCW licence.

Note: This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste that requires a licence under the Protection of the Environment Operations Act 1997.

HAZARDS MANAGEMENT

Spontaneous Combustion

61. The Applicant shall:
- (a) take the necessary measures to prevent, as far as is practical, spontaneous combustion on the site; and
 - (b) manage any spontaneous combustion on-site to the satisfaction of the DII.

Dangerous Goods

62. The Applicant shall ensure that the storage, handling, and transport of:
- (a) dangerous goods is done in accordance with the relevant *Australian Standards*, particularly *AS1940* and *AS1596*, and the *Dangerous Goods Code*; and
 - (b) explosives are managed in accordance with the requirements of the DII.

BUSHFIRE MANAGEMENT

63. The Applicant shall:
- (a) ensure that the development is suitably equipped to respond to any fires on-site; and
 - (b) assist the Rural Fire Service and emergency services as much as possible if there is a fire on-site during the development.
64. The Applicant shall prepare and implement a Bushfire Management Plan for the site, to the satisfaction of Council and the Rural Fire Service.

MINE CLOSURE STRATEGY

Landscape Management Plan

65. The Applicant shall prepare and implement a detailed Landscape Management Plan for the development to the satisfaction of the DII and the Director-General. This plan must:
- (a) be prepared in consultation with DECCW, NOW and DII by a suitably qualified expert;
 - (b) be submitted to the Director-General for approval prior to 30 April 2010 or as otherwise approved by the Director-General, and include:
 - a Rehabilitation Management Plan; and
 - a Mine Closure Plan.

Note: The Department accepts that the initial Landscape Management Plan may not include the Mine Closure Plan. However, if this occurs, the Applicant will be required to seek approval from the Director-General for an alternative timetable for the completion and approval of the Mine Closure Plan.

Rehabilitation Management Plan

66. The Rehabilitation Management Plan must include:
- (a) objectives for rehabilitation of the site;
 - (b) a description of the short, medium, and long term measures that would be implemented to:
 - rehabilitate the site;
 - manage the remnant vegetation and habitat on the site;
 - maximise effective habitat linkages to surrounding vegetated lands;
 - conserve and reuse topsoil;
 - control weeds, feral pests and access; and
 - manage any potential conflicts between the rehabilitation works and Aboriginal cultural heritage;
 - (c) detailed performance and completion criteria for the rehabilitation of the site;
 - (d) a discussion of its relationship with the Biodiversity Offset Management Plan;
 - (e) a detailed description of how the performance of the rehabilitation of the mine would be monitored over time to achieve the stated objectives;

- (f) 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
- (g) details of who (by person and/or position) is responsible for monitoring, reviewing, and implementing the plan.

Note: Reference to "rehabilitation" in this consent includes all works associated with the rehabilitation and restoration of the site as described in the documents listed in condition 1.

Mine Closure Plan

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

SCHEDULE 5
ADDITIONAL PROCEDURES FOR AIR QUALITY & NOISE MANAGEMENT

Notification of Landowners

1. If the air dispersion and/or noise model predictions in the documents listed in condition 2 of schedule 3 identify that the air pollution and/or noise generated by the development are likely to be greater than the air quality and/or noise impact assessment criteria in schedule 4, then the Applicant shall notify the relevant landowners and/or existing or future tenants (including tenants of mine-owned properties) accordingly before it carries out any development.
2. If the results of the air quality and/or noise monitoring required in schedule 4 identify that the air pollution and/or noise generated by the development is greater than any of the air quality and/or noise criteria in schedule 4, except where this is predicted in the EIS, then the Applicant shall notify the Director-General and the affected landowners and/or existing or future tenants (including tenants of mine-owned properties) accordingly, and provide quarterly monitoring results to each of these parties until the results show that the development is complying with the air quality and/or noise criteria in schedule 4.
3. Within 6 months of this consent, the Applicant shall develop a brochure to advise landowners and/or existing or future tenants (including tenants of mine-owned properties) of the possible health and amenity impacts associated with exposure to particulate matter, in consultation with NSW Health, and to the satisfaction of the Director-General.

The Applicant shall review relevant human health studies and update this brochure every 3 years, to the satisfaction of the Director-General.

The Applicant shall provide this brochure (and associated updates) to all landowners and/or existing or future tenants (including tenants of mine-owned properties) of properties where the monitoring results identify that the mine is exceeding the air quality land acquisition criteria in schedule 4.

Independent Review

4. If a landowner considers the development to be exceeding the air quality and/or noise criteria in schedule 4, except where this is predicted in the EIS, then he/she may ask the Applicant in writing for an independent review of the air pollution and/or noise impacts of the development on his/her land.

If the Director-General is satisfied that an independent review is warranted, the Applicant shall within 3 months of the Director-General advising that an independent review is warranted:

- (a) consult with the landowner to determine his/her concerns;
 - (b) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Director-General, to conduct air quality and/or noise monitoring on the land, to determine whether the development is complying with the relevant air quality and/or noise criteria in schedule 4, and identify the source(s) and scale of any air quality and/or noise impact on the land, and the development's contribution to this impact;
 - (c) give the Director-General and landowner a copy of the independent review.
5. If the independent review determines that the development is complying with the relevant air quality and/or noise criteria in schedule 4, then the Applicant may discontinue the independent review with the approval of the Director-General.
 6. If the independent review determines that the development is not complying with the relevant air quality and/or noise criteria in schedule 4, and that the development is primarily responsible for this non-compliance, then the Applicant shall:
 - (a) take all practicable measures, in consultation with the landowner, to ensure that the development complies with the relevant air quality and/or noise criteria; and

- (b) conduct further air quality and/or noise monitoring to determine whether these measures ensure compliance; or
- (c) secure a written agreement with the landowner to allow exceedances of the air quality and/or noise criteria in schedule 4, to the satisfaction of the Director-General.

If the additional monitoring referred to above subsequently determines that the development is complying with the relevant air quality and/or noise criteria in schedule 4, then the Applicant may discontinue the independent review with the approval of the Director-General.

If the measures referred to in (a) do not achieve compliance with the air quality and/or noise land acquisition criteria in schedule 4, and the Applicant cannot secure a written agreement with the landowner to allow these exceedances within 3 months, then the Applicant shall, upon receiving a written request from the landowner, acquire the landowner's land in accordance with the procedures in conditions 10-12 below.

7. If the independent review determines that the relevant air quality and/or noise criteria in schedule 4 are being exceeded, but that more than one development is responsible for this non-compliance, then the Applicant shall:
 - (a) take all practicable measures with the relevant development/s, in consultation with the landowner, to ensure that the relevant air quality and/or noise criteria are complied with; and
 - (b) conduct further air quality and/or noise monitoring to determine whether these measures ensure compliance; or
 - (c) secure a written agreement with the landowner to allow exceedances of the air quality and/or noise criteria in schedule 4, to the satisfaction of the Director-General.

8. If the independent review determines that the relevant air quality and/or noise land acquisition criteria in schedule 4 are being exceeded at the residence and/or on the landowner's land, and that more than one development is responsible for this non-compliance, and the Applicant cannot secure a written agreement with the landowner to allow these exceedances within 3 months, then upon receiving a written request from the landowner, the Applicant shall acquire all or part of the landowner's land on as equitable a basis as possible with the relevant development/s in accordance with the procedures in conditions 10-12 below.

If the Applicant is unable to finalise an agreement with the landowner and/or other development/s, then the Applicant or landowner may refer the matter to the Director-General for resolution.

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process.

If, following the Independent Dispute Resolution Process, the Director-General decides that the Applicant shall acquire all or part of the landowner's land, then the Applicant shall acquire this land in accordance with the procedures in conditions 10-12 below.

9. If the landowner disputes the results of the independent review, either the Applicant or the landowner may refer the matter to the Director-General for resolution.

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process.

Land Acquisition

10. Within 3 months of receiving a written request from a landowner with acquisition rights, the Applicant shall make a binding written offer to the landowner based on:
 - (a) the current market value of the landowner's interest in the property at the date of this written request, as if the property was unaffected by the development the subject of the DA, having regard to the:

- existing and permissible use of the land, in accordance with the applicable planning instruments at the date of the written request; and
 - presence of improvements on the property and/or any approved building or structure which has been physically commenced at the date of the landowner's written request, and is due to be completed subsequent to that date;
- (b) the reasonable costs associated with:
- relocating within the Liverpool Plains local government area, or to any other local government area determined by the Director-General;
 - obtaining legal advice and expert advice for determining the acquisition price of the land, and the terms upon which it is required; and
- (b) reasonable compensation for any disturbance caused by the land acquisition process.

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

Upon receiving such a request, the Director-General shall request the President of the Australian Property Institute to appoint a qualified independent valuer or Fellow of the Institute, to consider submissions from both parties, and determine a fair and reasonable acquisition price for the land, and/or terms upon which the land is to be acquired.

If either party disputes the independent valuer's determination, then the independent valuer should refer the matter back to the Director-General.

Upon receiving such a referral, the Director-General shall appoint a panel comprising the:

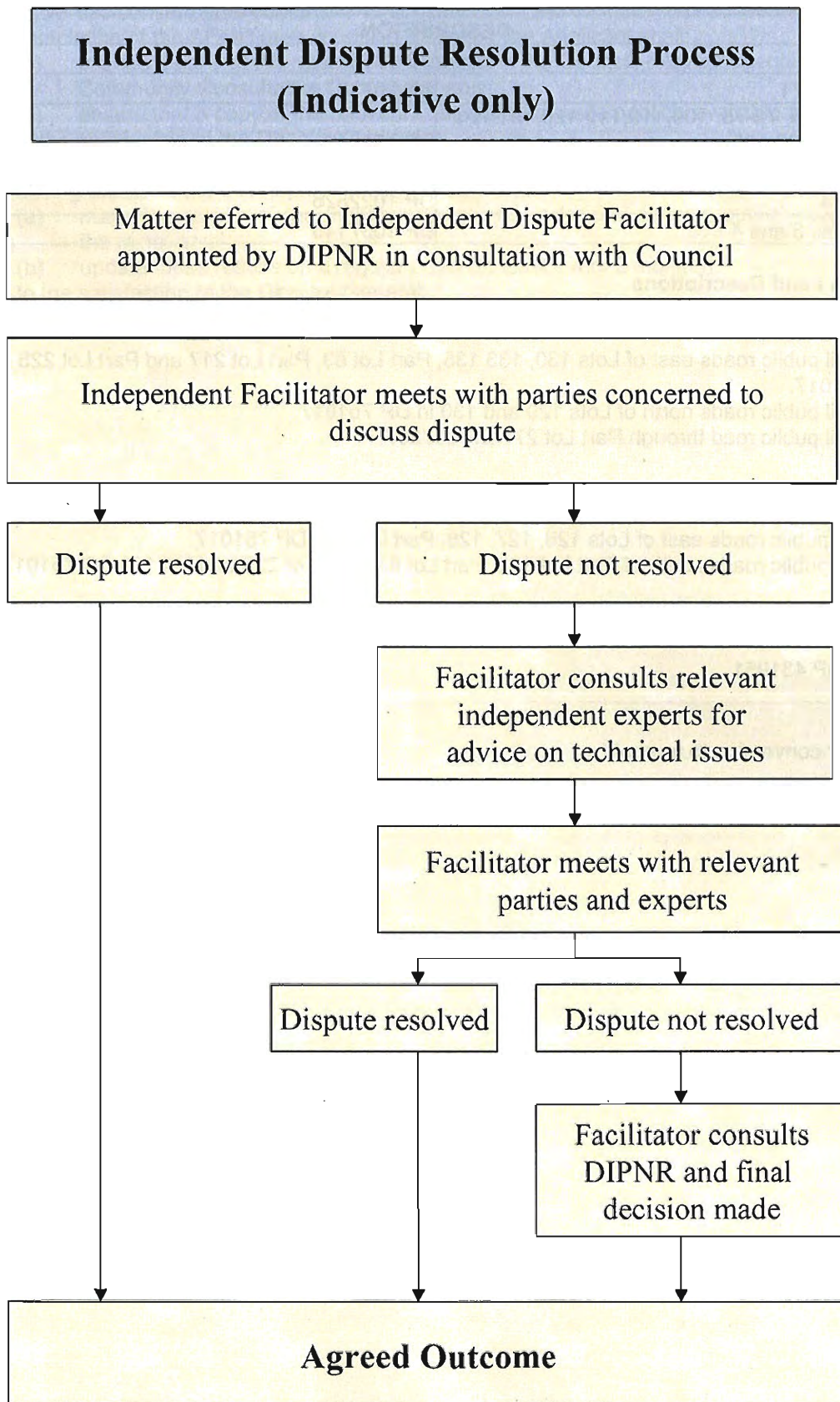
- (i) appointed independent valuer;
 - (ii) Director-General and/or nominee/s; and
 - (iii) President of the Law Society of NSW or nominee,
- to consider submissions from both parties, including meeting with the parties individually if requested, and to determine a fair and reasonable acquisition price for the land, and/or the terms upon which the land is to be acquired.

Within 14 days of receiving the panel's determination, the Applicant shall make a written offer to purchase the land at a price not less than the panel's determination.

If the landowner refuses to accept this offer within 6 months of the date of the Applicant's offer, the Applicant's obligations to acquire the land shall cease, unless otherwise agreed by the Director-General.

11. The Applicant shall bear the costs of any valuation or survey assessment requested by the independent valuer, panel, or the Director-General and the costs of determination referred above.
12. If the Applicant and landowner agree that only part of the land shall be acquired, then the Applicant shall pay all reasonable costs associated with obtaining Council approval for any plan of subdivision, and registration of the plan at the Office of the Registrar-General.

APPENDIX 2
INDEPENDENT DISPUTE RESOLUTION PROCESS



APPENDIX 3 LOCATION OF BIODIVERSITY OFFSET STRATEGY

