

# Notice of Modification

## Section 75W of the *Environmental Planning and Assessment Act 1979*

The Independent Planning Commission of NSW (the Commission), as delegate of the Minister for Planning and Public Spaces, modifies the development consent referred to in Schedule 1, as set out in Schedule 2.



Tony Pearson (Chair)  
**Member of the Commission**



Robyn Kruk AO  
**Member of the Commission**



Dr Peter Williams  
**Member of the Commission**

Sydney

29 August 2019

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### SCHEDULE 1

The development consent (DA 177-8-2004) for the development of rail and coal loading infrastructure adjacent to the Wambo Coal Mine, granted by the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration) on 16 December 2004.

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### SCHEDULE 2

1. Delete Schedules 2 to 6, including the Appendices, and replace with the following:

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## DEFINITIONS

<b>Aboriginal object</b>	Has the same meaning as the definition of the term in section 5 of the NP&W Act
<b>Aboriginal place</b>	Has the same meaning as the definition of the term in section 5 of the NP&W Act
<b>Annual Review</b>	The review required by condition D10
<b>Applicant</b>	Wambo Coal Pty Limited, or any person carrying out any development under this consent
<b>ARTC</b>	Australian Rail Track Corporation
<b>BCA</b>	Building Code of Australia
<b>BCD</b>	Biodiversity & Conservation Division within the Department
<b>Calendar year</b>	A period of 12 months from 1 January to 31 December
<b>Coal transportation</b>	The carrying out of coal loading and despatch via rail, using the on-site train loading facility and associated facilities and the Wambo rail loop, including train refuelling and coal stockpiling
<b>Conditions of this consent</b>	Conditions contained in Schedule 2
<b>Council</b>	Singleton Council
<b>Day</b>	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
<b>Decommissioning</b>	The deconstruction or demolition and removal of works installed as part of the development
<b>Demolition</b>	The deconstruction and removal of buildings, sheds and other structures on the site
<b>Department</b>	NSW Department of Planning, Industry and Environment
<b>Development</b>	The development described in the documents listed in condition A2(c), as modified by the conditions of this consent
<b>Development Layout</b>	The figure in Appendix 2
<b>DPIE Water</b>	Water Group within the Department
<b>DSC</b>	Dams Safety Committee
<b>EA</b>	Environmental Assessment
<b>EA (Mod 2)</b>	The modification application DA 177-8-2004 MOD 2 and accompanying documents titled <i>Locomotive Refuelling Station Wambo Coal Rail Loop</i> dated April 2011, prepared by Wells Environmental Services, as modified by the letter dated 15 July 2011 titled <i>DA 177-8-2004 MOD 2 – Locomotive Refuelling Facility for QR National – Response to Submissions</i> , prepared by Wells Environmental Services
<b>EA (Mod 3)</b>	The modification application DA 177-8-2004 MOD 3 and accompanying documents titled <i>United Wambo Open Cut Coal Mine Project Environmental Impact Statement</i> , prepared by Umwelt (Australia) Pty Limited, dated August 2016, submitted with the application for consent for the development for SSD-7142, including the Applicant's response to submissions, the Applicant's response to the Independent Planning Commission's review and the additional information responses provided by the Applicant in support of the application dated 20 September 2017, 6 November 2017, 5 December 2017, 11 October 2018 and 17 October 2018
<b>Environment</b>	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
<b>EPA</b>	NSW Environment Protection Authority

<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	<i>Environmental Planning and Assessment Regulation 2000</i>
<b>EPBC Act</b>	Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i>
<b>EPL</b>	Environment Protection Licence under the POEO Act
<b>Evening</b>	The period from 6 pm to 10 pm
<b>Feasible</b>	Means what is possible and practical in the circumstances
<b>Heritage Branch</b>	Heritage Branch of the Department of Premier and Cabinet
<b>Heritage item</b>	<p>An Aboriginal object, an Aboriginal place, or a place, building, work, relic, moveable object, tree or precinct of heritage significance, that is listed under any of the following:</p> <ul style="list-style-type: none"> <li>• the State Heritage Register under the <i>Heritage Act 1977</i>;</li> <li>• a state agency heritage and conservation register under section 170 of the <i>Heritage Act 1977</i>;</li> <li>• a Local Environmental Plan under the EP&amp;A Act;</li> <li>• the World Heritage List;</li> <li>• the National Heritage List or Commonwealth Heritage List under the EPBC Act; or</li> <li>• anything identified as a heritage item under the conditions of this consent</li> </ul>
<b>HVO</b>	Hunter Valley Operations coal mining complex approved under MP 06_0261 (HVO South) and DA 450-10-2003 (HVO North)
<b>Incident</b>	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
<b>Laden train</b>	Train transporting product coal from the site
<b>Land</b>	Has the same meaning as the definition of the term in section 1.4 the EP&A Act, except for where the term is used in the noise and air quality conditions in PART B of this consent where it is defined to mean the whole of a lot, or contiguous lots owned by the same landowner, in a current plan registered at the Land Titles Office at the date of this consent
<b>Material harm</b>	<p>Is harm that:</p> <ul style="list-style-type: none"> <li>• involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or</li> <li>• 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)</li> </ul> <p>This definition excludes “harm” that is authorised under either this consent or any other statutory approval’</p>
<b>Mine closure</b>	Decommissioning and final rehabilitation of the site following the cessation of mining operations
<b>Minimise</b>	Implement all reasonable and feasible mitigation measures to reduce the impacts of the development
<b>Minister</b>	NSW Minister for Planning and Public Spaces, or delegate
<b>Minor</b>	Not very large, important or serious
<b>Mitigation</b>	Activities associated with reducing the impacts of the development
<b>Modification 3</b>	The modification to the development as described in EA (Mod 3)

<b>MTW</b>	Mount Thorley Warkworth coal mine approved under SSD 6464 and SSD 6465
<b>Negligible</b>	Small and unimportant, such as to be not worth considering
<b>Night</b>	The period from 10 pm to 7 am on Monday to Saturday, and 10 pm to 8 am on Sundays and Public Holidays
<b>Non-compliance</b>	An occurrence, set of circumstances or development that is a breach of this consent
<b>NP&amp;W Act</b>	<i>National Parks and Wildlife Act 1974</i>
<b>NRAR</b>	NSW Natural Resources Access Regulator
<b>Planning Secretary</b>	Planning Secretary under the EP&A Act, or nominee
<b>POEO Act</b>	<i>Protection of the Environment Operations Act 1997</i>
<b>Privately-owned land</b>	Land that is not owned by a public agency or a mining, petroleum or extractive industry company (or its subsidiary)
<b>Product coal</b>	Washed run-of-mine coal from the Wambo CHPP
<b>Public infrastructure</b>	Linear and related infrastructure that provides services to the general public, such as roads, railways, water supply, drainage, sewerage, gas supply, electricity, telephone, telecommunications, etc.
<b>Reasonable</b>	Means applying 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
<b>Registered Aboriginal Parties</b>	As described in the <i>National Parks and Wildlife Regulation 2009</i>
<b>Rehabilitation</b>	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting
<b>Remediation</b>	Activities associated with partially or fully repairing or rehabilitating the impacts of the development or controlling the environmental consequences of this impact
<b>Residence</b>	Existing or approved dwelling at the date of grant of this consent
<b>Resources Regulator</b>	NSW Resources Regulator
<b>RFS</b>	NSW Rural Fire Service
<b>RMS</b>	NSW Roads and Maritime Services
<b>SA NSW</b>	Subsidence Advisory NSW
<b>SEE</b>	The Statement of Environmental Effects titled <i>Proposed Alterations to the Wambo Development Project – Rail and Train Loading Infrastructure</i> , dated June 2004, and prepared by Resource Strategies, and letter from Wambo Coal Pty Ltd to the Minister for Infrastructure and Planning titled <i>Proposed Alterations to the Wambo Development Project Rail and Train Loading Infrastructure</i> , dated 13 August 2004
<b>SEE (Mod 1)</b>	The modification application DA 305-7-2003 MOD 1 and accompanying Statement of Environmental Effects titled <i>Report for Upgrade of Wallaby Scrub Road / Golden Highway Intersection</i> , dated April 2006 and prepared by GHD Pty Ltd
<b>Site</b>	The land defined in Appendix 1
<b>United Wambo Mining Complex</b>	The development approved under this consent, DA 305-7-2003 and SSD 7142, considered collectively
<b>United Wambo open cut coal mine</b>	The coal mine approved under SSD 7142 and associated facilities
<b>Wambo CHPP</b>	Wambo Coal Handling and Preparation Plant

**Wambo Mining Complex**

The development approved under this consent, together with the development approved under DA 305-7-2003, considered collectively

**Wambo mine**

The coal mine approved under DA 305-7-2003 and associated facilities, including the Wambo CHPP and mine infrastructure area

## SCHEDULE 2

### PART A ADMINISTRATIVE CONDITIONS

#### OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A1. In addition to meeting the specific performance measures and criteria established under this consent, the Applicant must implement all reasonable and feasible measures to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the operation of the development, and any rehabilitation required under this consent.

#### TERMS OF CONSENT

- A2. 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 SEE, SEE (Mod 1), EA (Mod 2) and EA (Mod 3); and
  - (d) generally in accordance with the Development Layout.
- A3. 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 paragraph (a).
- A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and the documents listed in condition A2(c). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A2(c), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

#### NOTIFICATION OF COMPLETION OR SUSPENSION

- A5. The Department must be notified in writing at least one month prior to the cessation of coal transportation.
- A6. The Department must be notified in writing immediately following both the commencement and completion of any periods of suspension of coal transportation.

#### LIMITS OF CONSENT

##### Coal Transportation

- A7. Coal transportation may be carried out until 31 August 2042.
- Note:** *Under this consent, the Applicant is required to decommission and rehabilitate the site and carry out other mine closure requirements. Consequently, this consent will continue to apply in all respects other than to permit the carrying out of coal transportation until the rehabilitation of the site and other requirements have been carried out to the required standard.*
- A8. A maximum of 15 million tonnes of product coal from the United Wambo Mining Complex may be transported from the site in any calendar year.
- A9. A maximum of eight laden trains may leave the site in any 24 hour period.
- A10. No other trains may use the refuelling infrastructure, other than those being used for coal transportation under this consent.

##### Hours of Operation

- A11. The Applicant may undertake approved coal transportation 24 hours a day, 7 days a week.
- A12. The Applicant must take all reasonable steps to minimise train movements at the development on Friday evening (6 pm to 9 pm) and Sunday morning (9 am to 12 am), when the St Phillips Church is in use.

#### EVIDENCE OF CONSULTATION

- A13. 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 to the Planning Secretary, 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.

## STAGING, COMBINING AND UPDATING STRATEGIES, PLANS OR PROGRAMS

- A14. With the approval of the Planning Secretary, the Applicant may:
- 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);
  - 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);
  - 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); and
  - combine any strategy, plan or program required by this consent with any similar strategy, plan or program required by a consent or approval for an adjoining mine subject to common, shared or related ownership or management, including DA 305-7-2003 (Wambo mine) and SSD 7142 (United Wambo open cut coal mine).
- A15. 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.

## APPLICATION OF EXISTING STRATEGIES, PLANS OR PROGRAMS

- A16. The Applicant must continue to apply existing management strategies, plans or monitoring programs required prior to the approval of Modification 3, until the approval of a similar plan, strategy or program following the approval of Modification 3.

## PUBLIC INFRASTRUCTURE

### Protection of Public Infrastructure

- A17. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- repair, or pay the full costs associated with repairing, any public infrastructure<sup>a</sup> that is damaged by carrying out the development; and
  - relocate, or pay the full costs associated with relocating, any public infrastructure<sup>a</sup> that needs to be relocated as a result of the development.

<sup>a</sup> This condition does not apply to damage to roads caused as a result of general road usage or damage subject to compensation under the Mining Act 1992.

## DEMOLITION

- A18. All demolition must be carried out in accordance with *Australian Standard AS 2601-2001 The Demolition of Structures* (Standards Australia, 2001).

## STRUCTURAL ADEQUACY

- A19. 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:
- the relevant requirements of the BCA; and
  - any additional requirements of SA NSW where the building or structure is located on land within a declared Mine Subsidence District.

### Notes:

- Under 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 the Coal Mine Subsidence Compensation Act 2017, the Applicant is required to obtain the Chief Executive of SA NSW's approval before carrying out certain development in a Mine Subsidence District.

## OPERATION OF PLANT AND EQUIPMENT

- A20. All plant and equipment used on site, or to monitor the performance of the development must be:
- maintained in a proper and efficient condition; and
  - operated in a proper and efficient manner.

## COMPLIANCE

- A21. 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.

## **APPLICABILITY OF GUIDELINES**

- A22. 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.
- A23. 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.

## PART B SPECIFIC ENVIRONMENTAL CONDITIONS

### NOISE

#### Noise Operating Conditions

- B1. The Applicant must:
- (a) take all reasonable steps to minimise all noise associated with the development, including during noise-enhancing meteorological conditions;
  - (b) operate a noise management system commensurate with the risk of impact to ensure compliance with the relevant conditions of this consent;
  - (c) only use locomotives and rolling stock that are approved to operate on the NSW rail network in accordance with the noise limits in ARTC's EPL and use reasonable endeavours to ensure that rolling stock is selected to minimise noise;
  - (d) use all reasonable efforts to co-ordinate noise management on the site with the noise management at Wambo mine; and
  - (e) carry out regular attended noise monitoring to determine whether the development is complying with the relevant conditions of this consent.

### AIR QUALITY AND GREENHOUSE GAS

#### Odour

- B2. The Applicant must ensure that no offensive odours, as defined under the POEO Act, are emitted from the site.

#### Air Quality Operating Conditions

- B3. The Applicant must:
- (a) take all reasonable steps to:
    - (i) minimise odour, fume, spontaneous combustion, greenhouse gas and particulate matter (including PM<sub>10</sub> and PM<sub>2.5</sub>) emissions of the development;
    - (ii) minimise any visible off-site air pollution generated by the development; and
    - (iii) minimise the extent of potential dust generating surfaces exposed on the site at any given point in time;
  - (b) operate an air quality management system commensurate with the risk of impact to ensure compliance with the relevant conditions of this consent;
  - (c) minimise the air quality impacts of the development during adverse meteorological conditions and extraordinary events; and
  - (d) use all reasonable efforts to co-ordinate air quality management on the site with the air quality management at Wambo mine.

### WATER

#### Soil Erosion

- B4. The Applicant must install and maintain suitable erosion and sediment control measures on the site, in accordance with the relevant requirements in the guidance series *Managing Urban Stormwater: Soils and Construction – Volume 1 (Landcom, 2004) and 2E Mines and Quarries (DECC, 2008)*.

#### Water Supply

- B5. The Applicant must ensure that it has sufficient water for all stages of the development, and if necessary, adjust the scale of the development to match its available water supply.

**Note:** Under the Water Act 1912 and/or the Water Management Act 2000, the Applicant is required to obtain all necessary water licences for the development, including during rehabilitation and post mine closure.

#### Pollution of Waters

- B6. Except as may be expressly provided by an EPL, the Applicant must comply with section 120 of the POEO Act while carrying out the development.

#### Water Management

- B7. The Applicant may receive water from, and transfer water to, neighbouring mines including HVO, MTW, Wambo mine and United Wambo open cut coal mine.
- B8. The Applicant may integrate the site water management system with water management for Wambo mine and United Wambo open cut coal mine.

## Water Management Performance Measures

B9. The Applicant must ensure that the development complies with the performance measures in Table 1.

**Table 1:** Water management performance measures

Feature	Performance Measure
Water management – General	<ul style="list-style-type: none"><li>• Maintain separation between clean and dirty water</li><li>• Minimise the use of clean and potable water</li><li>• Maximise water recycling, reuse and sharing opportunities</li><li>• Design, install, operate and maintain water management infrastructure in a proper and efficient manner</li></ul>
Sediment dams	<ul style="list-style-type: none"><li>• Design, install and maintain sediment dams in accordance with the guidance series <i>Managing Urban Stormwater: Soils and Construction – Volume 1 (Landcom, 2004)</i> and <i>2E Mines and Quarries (DECC, 2008)</i> and the requirements under the POEO Act or <i>Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Regulation 2002</i></li></ul>
Chemical and hydrocarbon storage	<ul style="list-style-type: none"><li>• Chemical and hydrocarbon products to be stored in bunded areas in accordance with the relevant Australian Standard</li></ul>
Above-ground storage tanks containing materials likely to cause environmental harm	<ul style="list-style-type: none"><li>• Imperviously bunded with a capacity of 110% that of the largest container stored within the bund</li><li>• Designed and constructed in a manner which prevents the ingress of rain water into the tanks</li><li>• Clearly labelled to identify contents</li></ul>

## HERITAGE

### Heritage Operating Conditions

B10. The Applicant must ensure that the development does not cause any direct or indirect impact on any identified heritage items located outside the approved disturbance area, beyond those predicted in the document/s listed in condition A2(c) or approved under a permit issued under the *National Parks and Wildlife Act 1974*.

**Notes:**

- The Applicant is required to obtain consent from BCD under Section 90 of the *National Parks Wildlife Act 1974* to destroy Aboriginal objects on the site.
- The Applicant must comply with the requirements of any Aboriginal Heritage Impact Permit/s issued for the development, including any approved salvage program.

B11. The Applicant must take all reasonable steps to ensure that the following sites or objects are not damaged by the development: 17, 18, 24, 25, 26, and 28.

**Note:** For more information on the sites and objects, see Figure 12 of the SEE.

B12. The Applicant must ensure that Aboriginal objects salvaged from the site are housed in a keeping place established for the purpose.

B13. The Applicant must take all reasonable steps to avoid non-Aboriginal heritage sites 5 and 6 during the development. However, if this is not practicable, the Applicant must record the sites to an archival standard, in accordance with the requirements of the Heritage Branch, to the satisfaction of the Planning Secretary.

B14. If suspected human remains are discovered on the site, then all work surrounding the area must cease, and the area must be secured. The Applicant must immediately notify NSW Police Force and BCD, and work must not recommence in the area until authorised by NSW Police Force and BCD.

B15. The Applicant must ensure that all workers receive suitable Aboriginal cultural heritage inductions prior to carrying out any activities which may cause impacts to Aboriginal objects or Aboriginal places, and that suitable records are kept of these inductions.

B16. The Applicant must undertake ongoing consultation and involvement of Registered Aboriginal Parties in the conservation and management of Aboriginal cultural heritage on the site.

## VISUAL

### Visual Amenity and Lighting

B17. The Applicant must:

- take all reasonable steps to minimise the visual and off-site lighting impacts of the development;
- ensure no fixed outdoor lights shine directly above the horizontal or above the building line or any illuminated structure;
- ensure mobile lighting does not shine directly above the horizontal (except where required for emergency safety purposes); and

- (d) ensure that all external lighting associated with the development complies with relevant Australian Standards including the latest version of *Australian Standard AS4282 – Control of Obtrusive Effects of Outdoor Lighting*.

B18. The Applicant must take all reasonable steps to mitigate off-site lighting impacts from the development, including measures to minimise the impacts of train headlight glare on privately owned land and the Golden Highway, to the satisfaction of the Planning Secretary.

### Visual Mitigation

B19. The Applicant must investigate and where feasible implement the following measures at locations within Warkworth Village:

- (a) implement landscaping works in consultation with affected rural residents; and/or
- (b) place and maintain visual screens between development infrastructure and the viewing location.

B20. If a landowner within Warkworth Village requests the Applicant in writing to investigate ways to minimise the visual impact of the development on his/her dwelling or land, the Applicant must:

- (a) within 28 days of receiving this request, commission a suitably qualified person whose appointment has been approved by the Planning Secretary, to investigate ways to minimise the visual impacts of the development on the landowner's dwelling; and
- (b) give the landowner a copy of the visual impact mitigation report within 14 days of receiving this report.

B21. If both parties agree on the measures that should be implemented to minimise the visual impact of the development, then the Applicant must implement these measures to the satisfaction of the Planning Secretary.

B22. If the Applicant and the landowner disagree on the measures that should be implemented to minimise the visual impact of the development, then either party may refer the matter to the Planning Secretary for resolution.

### WASTE

B23. The Applicant must:

- (a) take all reasonable steps to minimise the waste generated by the development; and
- (b) dispose of all waste at appropriately licensed waste facilities.

B24. Except as expressly permitted in an applicable EPL, specific resource recovery order or exemption under the *Protection of the Environment Operations (Waste) Regulation 2014*, the Applicant must not receive waste at the site for storage, treatment, processing, reprocessing or disposal.

### BUSHFIRE MANAGEMENT

B25. The Applicant must:

- (a) ensure that the development:
  - (i) provides for asset protection in accordance with the relevant requirements in the *Planning for Bushfire Protection* (RFS, 2006) guideline; and
  - (ii) ensure that there is suitable equipment to respond to any fires on the site; and
- (b) assist the RFS and emergency services to the extent practicable if there is a fire in the vicinity of the site.

### REHABILITATION

#### Rehabilitation Objectives

B26. The Applicant must rehabilitate the site to the satisfaction of the Resources Regulator. This rehabilitation must be generally consistent with the proposed rehabilitation activities described in the documents listed in condition A2(c) and must comply with the objectives in Table 2.

**Table 2:** Rehabilitation objectives

Feature	Objective
All areas of the site affected by the development	<ul style="list-style-type: none"> <li>• Safe, stable and non-polluting</li> <li>• Fit for the intended post-mining land use/s</li> </ul>
Areas proposed for native ecosystem re-establishment	<ul style="list-style-type: none"> <li>• Establish areas of self-sustaining:               <ul style="list-style-type: none"> <li>– riparian vegetation, within any diverted and/or re-established creek lines and retained water features;</li> <li>– habitat resources for threatened flora and fauna species; and</li> <li>– vegetation connectivity and wildlife corridors, as far as is reasonable and feasible</li> </ul> </li> </ul>
Final Landform	<ul style="list-style-type: none"> <li>• Stable and sustainable for the intended post-mining land use/s</li> <li>• Consistent with and complement the topography of the surrounding region</li> <li>• Maximise surface water drainage to the natural environment (excluding final void catchment)</li> </ul>

<b>Feature</b>	<b>Objective</b>
Rehabilitation materials	<ul style="list-style-type: none"> <li>Materials from areas disturbed under this consent (including topsoils, substrates and seeds) are to be recovered, managed and used as rehabilitation resources, to the greatest extent practicable</li> </ul>
Surface infrastructure of the development	<ul style="list-style-type: none"> <li>Decommissioned and removed, unless the Resources Regulator agrees otherwise</li> <li>All surface infrastructure sites are to be revegetated with suitable local native plant species to a landform consistent with the surrounding environment</li> </ul>
Community	<ul style="list-style-type: none"> <li>Ensure public safety</li> <li>Minimise adverse socio-economic effects associated with mine closure</li> </ul>

B27. The rehabilitation objectives in Table 2 apply to the entire site, including all landforms constructed under either this consent or previous consents. However, the Applicant is not required to undertake any additional earthmoving works on landforms that have been approved and constructed under previous consents.

### **Progressive Rehabilitation**

B28. The Applicant must rehabilitate<sup>a</sup> the site progressively, that is, as soon as reasonably practicable following disturbance. All reasonable steps must be taken to minimise the total area exposed at any time. Interim stabilisation and temporary vegetation strategies must be employed when areas prone to dust generation, soil erosion and weed incursion cannot be permanently rehabilitated.

<sup>a</sup> Nothing in this condition prevents further disturbance at some later stage of the development of areas that have been rehabilitated.

## **TRANSPORT**

### **Monitoring of Coal Transport**

B29. The Applicant must:

- (a) keep accurate records of the:
  - (i) amount of coal despatched from the site each year; and
  - (ii) number of laden train movements generated by the development (on a daily basis); and
- (b) include these records in the Annual Review.

### **Road Safety**

B30. The Applicant must take all reasonable steps to minimise road safety impacts from train headlight glare on motorists using the Golden Highway and Wallaby Scrub Road, including consideration of appropriate screening measures, to the satisfaction of the RMS and Council.

B31. The Applicant must implement all reasonable and feasible measures to avoid dirt from the site being tracked onto the Golden Highway.

### **Parking**

B32. The Applicant must provide sufficient parking on the site or at Wambo mine for all development-related traffic to the satisfaction of the Planning Secretary.

## **ELECTRICITY TRANSMISSION LINE**

B33. The Applicant must ensure that all development in the easement under Transgrid's 330kV Transmission Line No. 81 is carried out strictly in accordance with the relevant safety guidelines for works under or near high voltage transmission lines, in consultation with Transgrid, and to the satisfaction of the Planning Secretary.

## PART C ADDITIONAL PROCEDURES

### ACQUISITION UPON REQUEST

- C1. Upon receiving a written request for acquisition from the owner of the privately-owned land<sup>a</sup> listed in Table 3, the Applicant must acquire the land in accordance with the procedures in conditions C3 to C10, inclusive.

**Table 3:** Land subject to acquisition upon request

R019

<sup>a</sup> The location of the land referred to in Table 3 is shown on the figure in Appendix 3.

### NOTIFICATION OF LANDOWNERS/TENANTS

- C2. Prior to entering into any tenancy agreement for any land owned by the Applicant that is predicted to experience exceedances of the recommended air quality and/or noise criteria, the Applicant must:
- advise the prospective tenants of the potential health and amenity impacts associated with living on the land, and give them a copy of the NSW Health fact sheet entitled “*Mine Dust and You*” (NSW Health, 2017); and
  - advise the prospective tenants of the rights they would have under this consent,
- to the satisfaction of the Planning Secretary.

### LAND ACQUISITION

- C3. Within 3 months of receiving a written request for acquisition from a landowner with acquisition rights, the Applicant must make a binding written offer to the landowner based on:
- the current market value of the landowner’s interest in the land at the date of this written request, as if the land was unaffected by the development, 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 land 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, but excluding any improvements that have resulted from the implementation of any additional noise and/or air quality mitigation measures;
  - the reasonable costs associated with:
    - relocating within the Singleton local government area, or to any other local government area determined by the Planning Secretary; and
    - obtaining independent legal advice and expert advice for determining the acquisition price of the land, and the terms upon which it is to be acquired; and
  - reasonable compensation for any disturbance caused by the land acquisition process.
- C4. If, within 2 months of the binding written offer being made under condition C3, 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 Planning Secretary for resolution.
- C5. Upon receiving a request, under condition C4, the Planning Secretary will request the President of the NSW Division of the Australian Property Institute to appoint a qualified independent valuer to:
- consider submissions from both parties;
  - determine a fair and reasonable acquisition price for the land and/or the terms upon which the land is to be acquired, having regard to the matters referred to in condition C3;
  - prepare a detailed report setting out the reasons for any determination; and
  - provide a copy of the report to both parties.
- C6. Within 14 days of receiving the independent valuer’s report, the Applicant must make a binding written offer to the landowner to purchase the land at a price not less than the independent valuer’s determination.
- C7. However, if either party disputes the independent valuer’s determination, then within 14 days of receiving the independent valuer’s report, either party may refer the matter to the Planning Secretary for review. Any request for a review must be accompanied by a detailed report setting out the reasons why the party disputes the independent valuer’s determination. Following consultation with the independent valuer and both parties, the Planning Secretary will determine a fair and reasonable acquisition price for the land, having regard to the matters referred to in condition C3, the independent valuer’s report, the detailed report of the party that disputes the independent valuer’s determination and any other relevant submissions.
- C8. Within 14 days of this determination, the Applicant must make a binding written offer to the landowner to purchase the land at a price not less than the Planning Secretary’s determination.

- C9. If the landowner refuses to accept the Applicant's binding written offer under this condition within 6 months of the offer being made, then the Applicant's obligations to acquire the land shall cease, unless the Planning Secretary determines otherwise.
- C10. The Applicant must pay all reasonable costs associated with the land acquisition process described in conditions C3 to C9 inclusive, including the costs associated with obtaining Council approval for any plan of subdivision (where permissible), and registration of this plan at the Office of the Registrar-General.

## PART D ENVIRONMENTAL MANAGEMENT, REPORTING AND AUDITING

### ENVIRONMENTAL MANAGEMENT

#### Environmental Monitoring Program

- D1. The Applicant must prepare an Environmental Monitoring Program for the development, in consultation with the relevant agencies, and to the satisfaction of the Planning Secretary. This program must:
- describe the measures to be implemented to comply with the relevant performance measures and operating conditions of this consent;
  - include a monitoring program to evaluate the performance of the development against the relevant performance measures in this consent; and
  - include a protocol for identifying any air quality or noise related-exceedances, incident or non-compliance and for notifying the Department and relevant stakeholders of these events.
- D2. The Applicant must implement the Environmental Monitoring Program as approved by the Planning Secretary.

#### Environmental Management Strategy

- D3. The Applicant must prepare an Environmental Management Strategy for the development to the satisfaction of the Planning Secretary. This strategy must:
- provide the strategic framework for environmental management of the development;
  - identify the statutory approvals that apply to the development;
  - set out the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
  - set out the procedures to be implemented to:
    - keep the local community and relevant agencies informed about the operation and environmental performance of the development;
    - receive record, handle and respond to complaints;
    - resolve any disputes that may arise during the course of the development;
    - respond to any non-compliance and any incident; and
    - respond to emergencies; and
  - include:
    - references to any strategies, plans and programs approved under the conditions of this consent; and
    - a clear plan depicting all the monitoring to be carried out under the conditions of this consent.
- D4. The Applicant must implement the Environmental Management Strategy as approved by the Planning Secretary.

#### Adaptive Management

- D5. The Applicant must assess and manage development-related risks to ensure that there are no exceedances of the criteria and performance measures in this consent. Any exceedance of these criteria or performance measures constitutes a breach of this consent and may be subject to penalty or offence provisions under the EP&A Act or EP&A Regulation.

Where any exceedance of these criteria or performance measures has occurred, the Applicant must, at the earliest opportunity:

- take all reasonable and feasible steps to ensure that the exceedance ceases and does not recur;
- consider all reasonable and feasible options for remediation (where relevant) and submit a report to the Department describing those options and any preferred remediation measures or other course of action; and
- implement reasonable remediation measures as directed by the Planning Secretary.

#### REVISION OF STRATEGIES, PLANS AND PROGRAMS

- D6. Within three months of:
- the submission of an incident report under condition D8;
  - the submission of an Annual Review under condition D1010;
  - the submission of an Independent Environmental Audit under condition D11; or
  - the approval of any modification of the conditions of this consent,
- the suitability of existing strategies, plans and programs required under this consent must be reviewed by the Applicant.
- D7. 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

### Incident Notification

D8. The Applicant must immediately notify the Department and any other relevant agencies immediately after it becomes aware of an incident. The notification must be in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) and identify the development (including the development application number and name) and set out the location and nature of the incident.

### Non-Compliance Notification

D9. Within seven days of becoming aware of a non-compliance, the Applicant must notify the Department of the non-compliance. The notification must be in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) and identify the development (including the development application number and name), set out the condition of this consent that the development is non-compliant with, why 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.

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

### Annual Review

D10. By the end of March each year or other timeframe 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. This review must:

- (a) describe the development (including any rehabilitation) that was carried out in the previous calendar year, and the development that is proposed to be carried out over the current calendar year;
- (b) include a comprehensive review of the monitoring results and complaints records of the development over the previous calendar year, including a comparison of these results 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 documents listed in condition A2(c);
- (c) identify any non-compliance or incident which occurred in the previous calendar year, and describe what actions were (or are being) taken to rectify the non-compliance and avoid reoccurrence;
- (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 calendar year to improve the environmental performance of the development.

### Independent Environmental Audit

D11. By the end of October 2020, 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 of the development. The audit must:

- (a) be led by a suitably qualified, experienced and independent auditor whose appointment has been endorsed by the Planning Secretary;
- (b) be conducted by a suitably qualified, experienced and independent team of experts (including any expert in field/s specified by the Planning Secretary) whose appointment has been endorsed by the Planning Secretary;
- (c) be carried out in consultation with the relevant agencies and the CCC;
- (d) 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);
- (e) review the adequacy of any approved strategy, plan or program required under the abovementioned approvals and this consent;
- (f) 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
- (g) be conducted and reported to the satisfaction of the Planning Secretary.

- D12. Within three months of commencing an Independent Environmental Audit, or other 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.

#### **Monitoring and Environmental Audits**

- D13. 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, compliance report and independent audit.

For the purposes of this condition, as set out in the EP&A Act, “monitoring” means monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an “environmental audit” means 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.

#### **ACCESS TO INFORMATION**

- D14. Within three months of the determination of Modification 3, until the completion of all rehabilitation required under this consent, the Applicant must:
- (a) make the following information and documents (as they are obtained, approved or as otherwise stipulated within the conditions of this consent) publicly available on its website:
    - (i) the documents listed in condition A2(c);
    - (ii) all current statutory approvals for the development;
    - (iii) all approved strategies, plans and programs required under the conditions of this consent;
    - (iv) 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;
    - (v) 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;
    - (vi) a summary of the current phase and progress of the development;
    - (vii) contact details to enquire about the development or to make a complaint;
    - (viii) a complaints register, updated monthly;
    - (ix) the Annual Reviews of the development;
    - (x) 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; and
    - (xi) any other matter required by the Planning Secretary; and
  - (b) keep such information up to date, to the satisfaction of the Planning Secretary.

**APPENDIX 1 SCHEDULE OF LAND**

<b>Wambo Train Loading Facility Consent</b>			
<b>Lot Sec DP</b>	<b>Status</b>	<b>Lot Sec DP</b>	<b>Status</b>
7//3030	Wambo Coal	1/21/759053	Wambo Coal
10//113343	Wambo Coal	2/21/759053	Wambo Coal
202//257063	Wambo Coal	3/21/759053	Wambo Coal
5//542226	Wambo Coal	3/16/759053	Wambo Coal
33//610878	Private	4/21/759053	Wambo Coal
86//755267	Wambo Coal	5/21/759053	Wambo Coal
88//755267	Wambo Coal	1//1088908	Wambo Coal
171//755267	Wambo Coal	2//1088908	Wambo Coal
174//755267	Wambo Coal	1//1090601	Wambo Coal
193//755267	Road - Local Government Authority	Road Reserves	

APPENDIX 2 DEVELOPMENT LAYOUT PLAN



Legend

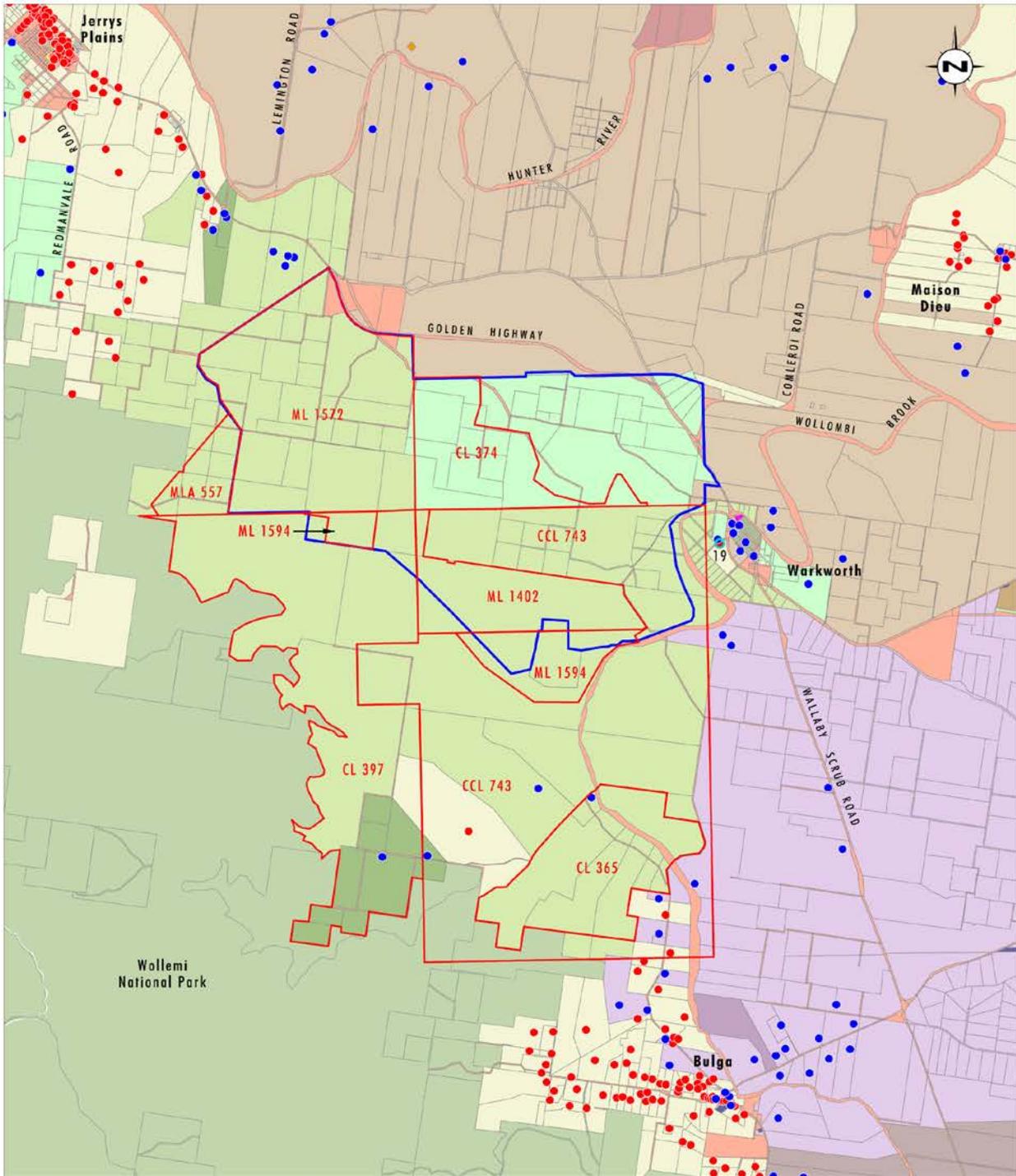
- Rail DA 177-8-2004
- Wambo DA 305-7-2003

Rail Facility

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20180806 15.29

Figure 1: Development Layout

APPENDIX 3 RECEIVER ZONES AND LOCATIONS



Data Source: United Collieries (2017), Department of Finance, Services & Innovation (2017)

0 1.0 2.0 4.0km  
1:90 000

Legend

- |  |  |   |
|--|--|---|
| <ul style="list-style-type: none"> <li><span style="border: 1px solid red; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Mining and Coal Lease Boundary</li> <li><span style="border: 1px solid blue; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> United Wambo Project Area</li> <li><span style="background-color: #d3d3d3; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Mine Owned (Bulga)</li> <li><span style="background-color: #f5deb3; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Mine Owned (HVO)</li> <li><span style="background-color: #d3d3d3; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Mine Owned (Glencore)</li> <li><span style="background-color: #d3d3d3; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Mine Owned (Ravensworth)</li> <li><span style="background-color: #d3d3d3; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Mine Owned (Wambo)</li> <li><span style="background-color: #d3d3d3; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Mine Owned (Yancoal)</li> <li><span style="background-color: #d3d3d3; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Mine Owned (United Wambo Joint Venture)</li> <li><span style="background-color: #d3d3d3; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> AGL Energy</li> </ul> | <ul style="list-style-type: none"> <li><span style="background-color: #ffcc00; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Ausgrid</li> <li><span style="background-color: #0000ff; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Bulga Community Centre</li> <li><span style="background-color: #ffcc00; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Government Authority (Federal, State or Local)</li> <li><span style="background-color: #ffff00; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Department of Education and Communities</li> <li><span style="background-color: #00b0f0; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Diocese of Newcastle</li> <li><span style="background-color: #d3d3d3; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> National Parks and Wildlife Service</li> <li><span style="background-color: #d3d3d3; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Private</li> <li><span style="background-color: #d3d3d3; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Redbank Energy</li> <li><span style="background-color: #d3d3d3; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Singleton Council</li> <li><span style="background-color: #d3d3d3; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Telstra</li> </ul> | <ul style="list-style-type: none"> <li><span style="background-color: #ff00ff; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Wanaruah Local Aboriginal Land Council</li> <li><span style="color: red; font-size: 12px;">●</span> Private Residence</li> <li><span style="color: blue; font-size: 12px;">●</span> Mine Owned Residence</li> <li><span style="border: 1px solid cyan; border-radius: 50%; display: inline-block; width: 10px; height: 10px; margin-right: 5px;"></span> Acquisition Rights</li> </ul> |
|--|--|---|

Acquisition Rights

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20180910 15.18

Figure 2: Receiver with Acquisition Rights