

Notice of Modification

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

As delegate of the Minister for Planning and Public Spaces, the Independent Planning Commission of NSW modifies the project approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Peter Duncan AM
Member of the Commission



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Member of the Commission

Sydney

23 December 2019

SCHEDULE 1

The project approval (MP 07_0084) for the Eraring Ash Dam, granted by the then Minister for Planning on 29 August 2008.

SCHEDULE 2

1. Delete all references to "Eraring Energy" and replace with "Origin Energy Eraring Pty Ltd".
2. After all references to "Department of Planning", insert the words ", Industry & Environment".
3. In Schedule 2, delete the definitions for "DECC" and "Director-General", and insert the following in alphabetical order:

BC Act	<i>Biodiversity Conservation Act 2016</i>
BCD	Biodiversity Conservation Division within the Department
BCT	NSW Biodiversity Conservation Trust
CCC	Community Consultative Committee
DPIE Water	Water Division within the Department
EPA	Environment Protection Authority
Feasible	Feasible relates to engineering considerations and what is practical to build or implement
Incident	A set of circumstances that causes or threatens to cause material harm to the environment
Material harm	Is harm that: <ul style="list-style-type: none">• involves actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial; or• 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)
Minimise	Implement all reasonable and feasible mitigation measures to reduce the impacts of the development
Mitigation	Activities associated with reducing the impacts of the project
MOD 1	CCP storage facility expansion associated with MOD1 to the west of the CCP storage facility and shown in Appendix A
Negligible	Small and unimportant, such as to be not worth considering
Planning Secretary	The Secretary of the Department, or nominee and/or delegate

Reasonable 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

SA NSW Subsidence Advisory NSW
WSP Review Report *Geotechnical and Hydrogeological Review – Eraring Ash Dam*, dated 21 December 2018, and prepared by WSP Australia Pty Ltd

4. In Schedule 2, following the definition for “EA”, insert the following words:

as amended by:

- *Upgrade and Expansion of the CCP Management System, Eraring Power Station - Submissions Report*, dated 15 February 2008, and prepared by HLA – ENSR.
- Modification application (MOD 1) - *Ash Dam Augmentation Project Environmental Assessment*, dated 15 August 2018, prepared by AECOM and *Origin Eraring Power Station – Ash Dam Expansion MOD1 – Response to Submissions* dated 3 December 2018, prepared by AECOM.

5. In Schedule 2, following the definition for “Minister”, insert the words “and Public Spaces”.

6. In condition 1.1 of Schedule 2, delete all points a) to e) and replace with the following:

- 1) generally in accordance with the EA; and
- 2) in accordance with the conditions of this approval.

7. Replace condition 1.2 of Schedule 2 with:

If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this approval shall prevail to the extent of any inconsistency.

8. Delete all references to “Director-General” and replace with “Planning Secretary”.

9. Delete condition 1.4 of Schedule 2.

10. In condition 2.1 of Schedule 2, delete both references to “DECC” and replace with “BCD”.

11. Following condition 1.4 of Schedule 2, insert the following:

Community Consultative Committee

1.5 The Applicant must operate a CCC for the Project to the satisfaction of the Planning Secretary. This CCC must be operated in general accordance with the Department’s *Community Consultative Committee Guidelines: State Significant Projects January 2019* during the life of the Project. This CCC must be operating within three months from the date of approval of MOD 1, or other timeframe agreed by the Planning Secretary.

Notes:

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

12. Following condition 2.1 of Schedule 2, insert the following:

Note: This compensatory habitat package does not apply to clearing undertaken for MOD1, with additional offset requirements outlined in Condition 2.1A.

2.1A Within 12 months of commencing construction of MOD1 under this approval, or other timeframe agreed by the Planning Secretary, the Proponent shall retire the biodiversity credits specified in Table 1 to offset the biodiversity impacts of MOD1. The retirement of credits shall be carried out in consultation with BCD and in accordance with the Biodiversity Offsets Scheme of the BC Act, to the satisfaction of the BCT.

Table 1: Summary of Biodiversity Offset Strategy

Credit Type	Disturbance Area (hectares)	Credits Required
Ecosystem Credits		
PCT1627 Smooth-barked Apple-Turpentine – Sydney Peppermint heathy woodland on sandstone ranges of the Central Coast	0.95	22
PCT1636 Scribbly Gum – Red Bloodwood – <i>Angophora inopina</i> heathy woodland on lowlands of the Central Coast	8.0	261
Species Credits		
Black-eyed Susan – <i>Tetratheca juncea</i>	8.95	327
Squirrel glider – <i>Petaurus norfolcensis</i>	8.95	327
Stephen's banded snake – <i>Hoplocephalus stephensii</i>	8.95	327

13. Delete condition 2.2 of Schedule 2.
14. In condition 2.4 of Schedule 2, delete both references to “DECC” and replace with “EPA”.
15. In condition 2.6 of Schedule 2, delete the word “*Conservation*” and replace with the word “*Construction*”.
16. In condition 2.7 of Schedule 2, delete the words “does not intercept” and replace with the words “minimises the interception of”.
17. In condition 2.12 of Schedule 2, delete the words “*Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (DECC, 2004)*” and replace with “the EPA’s *Waste Classification Guidelines 2014* (or its latest version)”.
18. In condition 2.14 of Schedule 2, delete reference to “DECC” and replace with “BCD”.
19. In condition 3.1 of Schedule 2, delete both references to “DECC” and replace with “EPA”.
20. Following condition 4.2(d) of Schedule 2, insert the following:
 - e) an **Aboriginal Heritage Management Plan** to detail outcomes of consultation with the Aboriginal stakeholders and the measures that will be implemented to identify, protect, monitor and/or manage Aboriginal heritage sites. The Plan must include, but not necessarily be limited to:
 - i) the outcome of consultation with the Aboriginal stakeholders, including a site visit(s) to identify any heritage items;
 - ii) a description of the measures that would be implemented for protecting, monitoring and/or managing any identified heritage items;
 - iii) managing the discovery of any human remains;
 - iv) maintaining and managing reasonable access for Aboriginal stakeholders to heritage items on site; and
 - v) ongoing consultation with the Aboriginal stakeholders.
21. Following condition 4.4 of Schedule 2, insert the following:
 - 4.5 The Proponent shall comply with the performance measures in Table 2 during the operation of the CCP storage facility expansion.

Table 2: Performance Objectives

Feature	Performance Objectives
CCP storage facility expansion area, including western saddle embankment	<ul style="list-style-type: none"> • Safe, stable and non-polluting • Negligible subsidence impacts • Minimise seepage into underground workings
New clean water diversions and storage infrastructure	<ul style="list-style-type: none"> • Design, install and maintain the clean water system to capture and convey the 100-year ARI flood event • Maximise, as far as reasonable, the diversion of clean water around the CCP storage facility and disturbed areas on the site
Wetlands and aquatic ecosystems	<ul style="list-style-type: none"> • Negligible environmental consequences

Mine Void Remediation

- 4.6 Prior to carrying out any mine void remediation activities associated with the MOD 1 CCP storage facility expansion, the Proponent must prepare a Mine Void Remediation Plan. The Mine Void Remediation Plan must be prepared in consultation with the EPA, DPIE Water, Dams Safety Committee, Centennial Coal and SA NSW, and to the satisfaction of the Planning Secretary. This plan must:
- a) be prepared by suitably qualified and experienced hydrogeologist(s) and mine subsidence expert(s) whose appointment has been approved by the Planning Secretary;
 - b) be prepared with reference to and consideration of the recommendations of the WSP Review Report;
 - c) include detailed performance criteria and describe measures to ensure that the Proponent complies with the performance measures in Table 2;
 - d) include detailed hydrogeological investigations and groundwater modelling to better conceptualise the existing groundwater system and any potential risks to groundwater;
 - e) include detailed geotechnical and mine subsidence investigations;
 - f) detail proposed remedial strategies to mitigate potential groundwater and mine subsidence impacts from extending the CCP storage facility over existing mine voids;
 - g) report on fill material trials conducted to investigate and verify the effectiveness of the mine fill design, including strength, conductivity, flowability, and leachability of fill mixes;
 - h) detail the final design, implementation and validation program, including QA/QC and independent verification program, for the preferred mine void remediation strategy(s); and
 - i) include a comprehensive surface and groundwater monitoring and reporting program to be installed prior to construction to monitor compliance against the performance objectives in Table 2 and detailed performance criteria in Condition 4.6(c).

The Proponent must implement the approved Mine Void Remediation Plan.

Note: Condition 4.6 does not preclude the commencement of ground investigations, clearing activities, construction or upgrade of ancillary infrastructure and other works that may be required which are not directly associated with the implementation of a mine void remediation solution.

- 4.7 By the end of October each year, or other timeframe agreed by the Planning Secretary, a report shall be submitted to the Department to demonstrate annual progress of mine void remediation, to the satisfaction of the Planning Secretary.

Air Quality Management Plan

- 4.8 The Proponent must prepare an Air Quality Management Plan to the satisfaction of the Planning Secretary. This plan must:
- a) be prepared by a suitably qualified and experienced person/s;
 - b) be prepared in consultation with the EPA;
 - c) be submitted to the Planning Secretary for approval within 3 months of approval of MOD 1 or other timeframe agreed by the Planning Secretary,
 - d) describe the air quality management system in detail; and
 - e) describe the measures to be implemented to ensure:
 - i) compliance with the air quality operating conditions of this approval; and
 - ii) the air quality impacts of the project are minimised during adverse meteorological conditions and extraordinary events;
 - f) include an air quality monitoring program, undertaken in accordance with the *Approved Methods for Sampling and Analysis of Air Pollutants in New South Wales* (DEC, 2007), that:
 - i) uses monitors to evaluate the performance of the project to guide day to day operations;
 - ii) adequately supports the air quality management system; and
 - iii) includes a protocol for identifying any air quality-related incident or non-compliance and for notifying the Department and relevant stakeholders of these events.

The Proponent must implement the approved Air Quality Management Plan.

Notes: Extraordinary events excludes events such as bushfires, prescribed burning, dust storms, sea fog, fire incidents or any other activity agreed by the Planning Secretary.

Rehabilitation Management Plan

- 4.9 The Proponent must prepare a Rehabilitation Management Plan for all land disturbed by the development to the satisfaction of the Planning Secretary. This plan must:
- a) be prepared by a suitably qualified and experienced person/s;
 - b) be prepared in consultation with the Department and Council;
 - c) be submitted to the Secretary for approval within 3 years of approval of Modification 1 or other timeframe agreed by the Planning Secretary;
 - d) be consistent with the Long-Term Ash Management Strategy required under section 4A of this approval;
 - e) include detailed performance indicators and completion criteria for each rehabilitation domain, and triggers for remedial actions;
 - f) describe the measures to be implemented on the site to achieve the criteria in paragraph e);
 - g) include a program to monitor, independently audit and report on progress against the criteria in paragraph e) and the effectiveness of the measures in paragraph f); and
 - h) describe any further studies, work, research or consultation that will be undertaken to expand the site-specific rehabilitation knowledge base, reduce uncertainty and improve rehabilitation outcomes.

The Proponent must implement the approved Rehabilitation Management Plan.

4A LONG-TERM ASH MANAGEMENT STRATEGY

- 4A.1 The Proponent shall prepare and implement a **Long-Term Ash Management Strategy** for the site, to the satisfaction of the Planning Secretary. The Strategy shall be developed in consultation with the EPA and Council, and shall include, but not necessarily be limited to:
- a) a mandatory goal of 80% reuse or recycling of ash from the Eraring Power Station by 31 December 2021. This goal may only be altered with the prior written agreement of the Planning Secretary, based on a demonstration by the Proponent that market conditions reasonably preclude this goal being achieved;
 - b) a program for the investigation of alternative ash management measures over time, with a particular focus on the minimisation of ash disposal on site and beneficial reuse of ash;
 - c) a framework for the identification and assessment of alternative ash management measures from time to time, having regard to the operational needs of the Eraring Power Station, and social, economic and environmental implications of those measures;
 - d) a staging strategy for the implementation of works the subject of this approval;
 - e) a strategic management framework for the optimisation of ash disposal capacity on the site, and periodic review of ash management practices to achieve this outcome;
 - f) an environmental management framework for the on-going management of ash disposal and ash management measures on site, consistent with contemporary best environmental practice;
 - g) a rehabilitation strategy that outlines proposed rehabilitation, with consideration of the ash reuse potential, including a:
 - description of techniques to restore the area;
 - timetable for the progressive staging of the rehabilitation program; and
 - monitoring and auditing program; and
 - h) a strategy for the reconciliation of the generating life of the Eraring Power Station and the availability and management of ash produced by the Power Station.

In respect to a), if reuse options are slow to emerge, or they are not feasible on economic, environmental, or industrial reliability criteria, the timeframe goal be may extended with the agreement of the Planning Secretary, in consultation with the EPA. Extension of the goal shall be subject to the Proponent providing to the satisfaction of the Secretary information on available reuse options, justification of why these cannot be – or have not been - adopted, and a description of what measures will be implemented to facilitate the reuse of all ash generated on the premises for a beneficial purpose. After reviewing this information, the Planning Secretary in consultation with the EPA, may approve a modified timeframe goal(s), and may require the Proponent to carry out further investigations or works into reuse of all ash generated on the premises for a beneficial purpose.

- 4A.2 By the end of October each year, or other timeframe agreed by the Planning Secretary, a report shall be submitted to the Department to demonstrate annual progress of reuse and recycling of ash, to the satisfaction of the Planning Secretary.
22. In the heading above condition 5.1 of Schedule 2, insert the word "MANAGEMENT," after the word "ENVIRONMENTAL" and insert the words "AND AUDITING" after the word "REPORTING".
23. Delete conditions 5.1 and 5.2 of Schedule 2 and replace with the following:
- 5.1 The Proponent must immediately notify the Department and any other relevant agencies immediately after it becomes aware of an incident. The notification must be in writing and identify the development (including the development application number and name) and set out the location and nature of the incident.
- 5.2 Within seven days of becoming aware of a non-compliance, the Proponent must notify the Department of the non-compliance. The notification must be in writing 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.*
24. Following condition 5.2 of Schedule 2, insert the following:

Compliance

- 5.3 The Proponent shall develop and implement a Compliance Tracking Program to track compliance with the requirements of this project approval. The Program shall include, but not necessarily limited to:
- a) provisions for periodic review of the compliance status of the proposal and each of its components;
 - b) provisions for periodic reporting of compliance status to the relevant approval authority;
 - c) a program for independent environmental auditing of the proposal, in accordance with *ISO 19011:2002 - Guidelines for Quality and/ or Environmental Management Systems Auditing*; and
 - d) mechanisms for rectifying any non-compliance identified during environmental auditing or review of compliance.
- 5.4 The Proponent must provide regular compliance reporting to the Department on the development in accordance with the relevant *Compliance Reporting requirements* (DPE 2018).

Revision of Strategies, Plans and Programs

- 5.5 Within 3 months of:
- a) the submission of an incident report under condition 5.1 above; or
 - b) any modification to the conditions of this approval (unless the conditions require otherwise),
- the Proponent must review and, if necessary, revise the strategies, plans and programs required under this approval to the satisfaction of the Planning Secretary.

Where this review leads to revisions in any such document, then within 4 weeks of the review the revised document must be submitted to the Planning Secretary for approval.

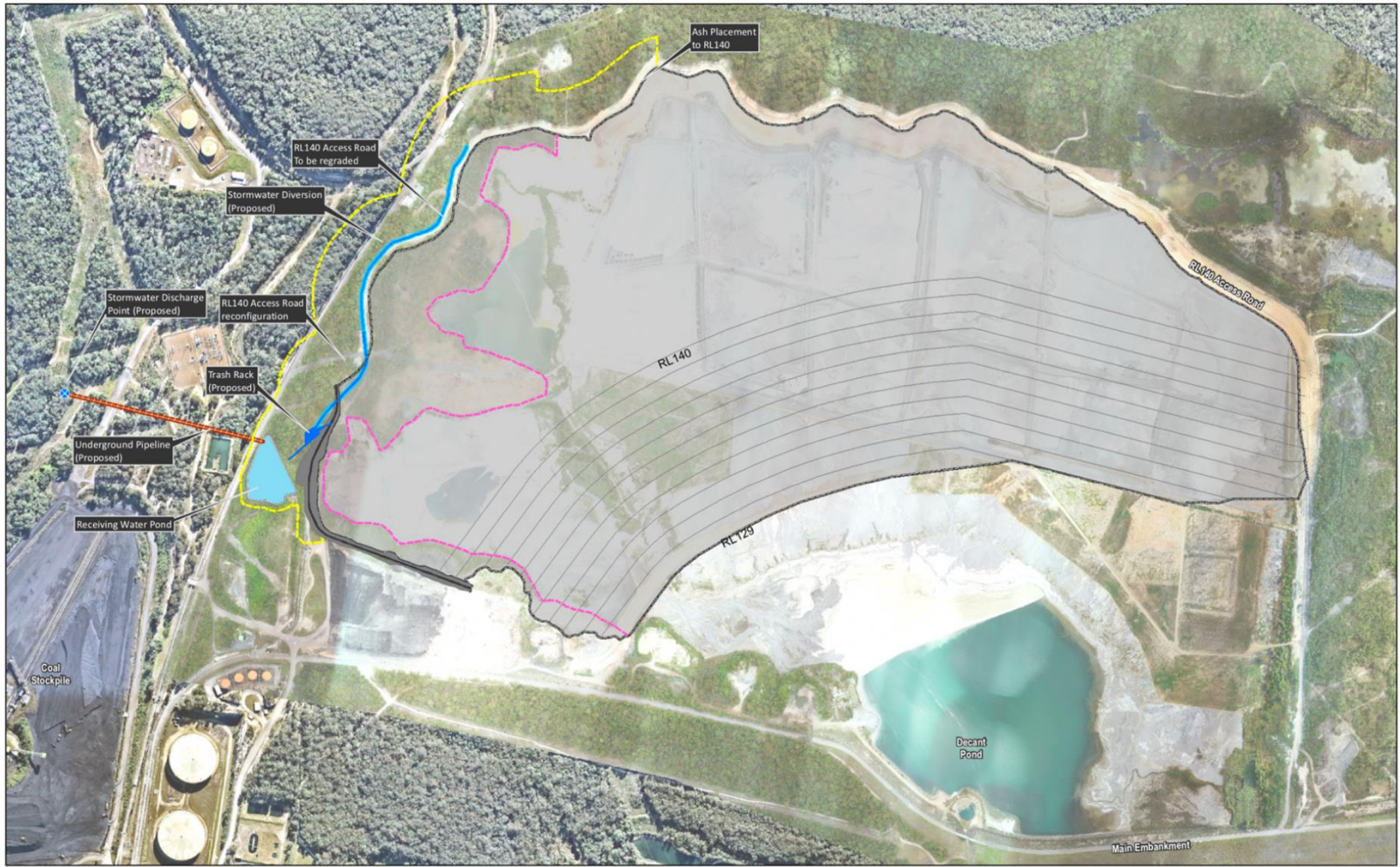
Note: This is to ensure the strategies, plans and programs are updated on a regular basis, and incorporate any recommended measures to improve the environmental performance of the project.

Access to Information

- 5.6 The Proponent must:
- a) make the following information publicly available on its website as relevant to the stage of the project:
 - the EAs;
 - current statutory approvals for the project;
 - approved strategies, plans and programs required under the conditions of this approval;

- a comprehensive summary of the monitoring results of the project, which have been reported in accordance with the various strategies, plans and programs approved under the conditions of this approval;
 - a complaints register, which is to be updated on a monthly basis;
 - any independent environmental audit, and the Proponent's response to the recommendations in any audit; and
 - any other matter required by the Secretary; and
- b) keep this information up to date,
to the satisfaction of the Planning Secretary.

25. Following condition 5.5 of Schedule 2, insert the following figure:



Appendix A: CCP Storage Facility – MOD1 Western Expansion