

Attachment 5

Planning Instruments Addendum

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A5 PLANNING INSTRUMENTS ADDENDUM

This Attachment provides further discussion on the requirements and application of State Environmental Planning Policies (SEPPs), the *Mid-Western Regional Local Environmental Plan 2012* (Mid-Western Regional LEP) and relevant Strategic Planning Documents to the Wilpinjong Extension Project (the Project).

References to Sections 1 to 7 in this Attachment are references to the sections of the main report of the Environmental Impact Statement (EIS). Internal references within this Attachment are prefixed with 'A5'.

A5.1 STATE ENVIRONMENTAL PLANNING POLICIES

A5.1.1 State Environmental Planning Policy (State and Regional Development) 2011

Projects that are defined as State Significant Development require the consent of the Minister for Planning (the Minister) under Division 4.1 of Part 4 of the New South Wales (NSW) *Environmental Planning and Assessment Act, 1979* (EP&A Act).

Clause 3 of the *State Environmental Planning Policy (State and Regional Development) 2011* (State and Regional Development SEPP) outlines the aims of the SEPP, including the following of relevance to the Project:

- (a) to identify development that is State significant development,

...

The Project falls within clause 5 of Schedule 1 of the State and Regional Development SEPP as it represents development for the purpose of 'mining', specifically coal mining. As it requires development consent it therefore comprises State Significant Development for the purposes of the EP&A Act (Section A5.2.1 and Section 6.2.1).

A5.1.2 State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

The *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* (Mining SEPP) applies to the whole of NSW.

Part 1 – Clause 2

Clause 2 sets out the aims of the Mining SEPP, as follows:

- (a) to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and
- (b) to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and
- (b1) to promote the development of significant mineral resources, and
- (c) to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources, and
- (d) to establish a gateway assessment process for certain mining and petroleum (oil and gas) development:
 - (i) to recognise the importance of agricultural resources, and
 - (ii) to ensure protection of strategic agricultural land and water resources, and
 - (iii) to ensure a balanced use of land by potentially competing industries, and
 - (iv) to provide for the sustainable growth of mining, petroleum and agricultural industries.

Parts 2 to 4AA of the Mining SEPP seek to achieve the aims outlined in clause 2. Relevant clauses in Parts 2 to 4AA of the Mining SEPP are addressed below.

Part 2 – Permissible Development

Clause 7(1) of the Mining SEPP states that development for any of the following purposes may be carried out only with development consent:

...

- (b) *mining carried out:*
 - (i) *on land where development for the purposes of agriculture or industry may be carried out (with or without development consent), or*
 - (ii) *on land that is, immediately before the commencement of this clause, the subject of a mining lease under the Mining Act 1992 or a mining licence under the Offshore Minerals Act 1999,*
- (c) *mining in any part of a waterway...that is not in an environmental conservation zone,*
- (d) *facilities for the processing or transportation of minerals or mineral bearing ores on land on which mining may be carried out (with or without development consent), but only if they were mined from that land or adjoining land,*

...

The Project requires development consent. Descriptions of the relevant LEP land use zones and the applicability of the Mining SEPP to permissibility of the Project are provided in Sections 6.2.1 and A5.2.1.

Part 3 – Development Applications – Matters for Consideration

Part 3 of the Mining SEPP outlines the matters to be considered when determining development applications. Relevant clauses are discussed further below.

Clause 12AB – Non-Discretionary Development Standards for Mining

Section 79C(2) of the EP&A Act prescribes:

If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

- (a) *is not entitled to take those standards into further consideration in determining the development application, and*

- (b) *must not refuse the application on the ground that the development does not comply with those standards, and*
- (c) *must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,*

and the discretion of the consent authority under this section and section 80 is limited accordingly.

Clause 12AB identifies non-discretionary development standards for the purposes of section 79C(2) of the EP&A Act in relation to the carrying out of development for the purposes of mining.

Table A5-1 provides each of the non-discretionary development standards listed in clause 12AB of the Mining SEPP and a summary of the conclusions of this EIS with respect to the Project. Where the Project complies with the non-discretionary development standards in clause 12AB of the Mining SEPP, the Minister (or delegate) must act in accordance with the clause and section 79C(2) of the EP&A Act.

Clause 12 – Compatibility with Other Land Uses

Clause 12 of the Mining SEPP requires that before determining an application for consent for development for the purposes of mining, the consent authority must:

- (a) *consider:*
 - (i) *the existing uses and approved uses of land in the vicinity of the development, and*
 - (ii) *whether or not the development is likely to have a significant impact on the uses that, in the opinion of the consent authority having regard to land use trends, are likely to be the preferred uses of land in the vicinity of the development, and*
 - (iii) *any ways in which the development may be incompatible with any of those existing, approved or likely preferred uses, and*
- (b) *evaluate and compare the respective public benefits of the development and the land uses referred to in paragraph (a) (i) and (ii), and*
- (c) *evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).*

**Table A5-1
Clause 12AB Non-Discretionary Development Standards for Mining**

Subclause of Clause 12AB	Compliance of the Project
<p>(3) Cumulative noise level</p> <p>The development does not result in a cumulative amenity noise level greater than the acceptable noise levels, as determined in accordance with Table 2.1 of the Industrial Noise Policy, for residences that are private dwellings.</p>	<p>The Project would not result in a cumulative amenity noise level greater than the acceptable noise levels, as determined in accordance with Table 2.1 of the Industrial Noise Policy, for residences that are private dwellings (i.e. not mine-owned) (Section 4.3 and Appendix A).</p>
<p>(4) Cumulative air quality level</p> <p>The development does not result in a cumulative annual average level greater than 30 µg/m³ of PM₁₀ for private dwellings.</p>	<p>The Project would not result in a cumulative annual average level greater than 30 µg/m³ of PM₁₀ at any privately-owned dwellings when considered cumulatively with existing background sources (Section 4.4 and Appendix B).</p>
<p>(5) Airblast overpressure</p> <p>Airblast overpressure caused by the development does not exceed:</p> <p>(a) 120 dB (Lin Peak) at any time, and</p> <p>(b) 115 dB (Lin Peak) for more than 5% of the total number of blasts over any period of 12 months, measured at any private dwelling or sensitive receiver.</p>	<p>Airblast overpressure caused by the Project would not exceed the relevant criteria as measured at any privately-owned dwelling or sensitive receiver (Section 4.5 and Appendix A).</p>
<p>(6) Ground vibration</p> <p>Ground vibration caused by the development does not exceed:</p> <p>(a) 10 mm/sec (peak particle velocity) at any time, and</p> <p>(b) 5 mm/sec (peak particle velocity) for more than 5% of the total number of blasts over any period of 12 months, measured at any private dwelling or sensitive receiver.</p>	<p>Ground vibration caused by the Project would not exceed the relevant criteria as measured at any privately-owned dwelling or sensitive receiver (Section 4.5 and Appendix A).</p>
<p>(7) Aquifer interference</p> <p>Any interference with an aquifer caused by the development does not exceed the respective water table, water pressure and water quality requirements specified for item 1 in columns 2, 3 and 4 of Table 1 of the Aquifer Interference Policy for each relevant water source listed in column 1 of that Table.</p>	<p>The Project would not exceed the water table and water pressure requirements specified for item 1 in columns 2 and 3 of Table 1 of the AIP for 'highly productive' water sources (Attachment 6).</p> <p>The Project is predicted to exceed the water quality requirements specified for item 1 in column 4 of Table 1 of the AIP for 'highly productive' water sources, but would meet the requirements in item 2 (Attachment 6).</p> <p>The Project would not exceed the water quality requirements specified for item 1 in column 4 of Table 1 of the AIP for 'less productive' water sources (Attachment 6).</p> <p>The Project is predicted to exceed the water table and water pressure requirements specified for item 1 in columns 2 and 3 of Table 1 of the AIP for 'less productive' water sources, but would meet the requirements in item 2 (Attachment 6).</p>

Consideration of the potential impacts of the Project on agricultural and other land uses is summarised in Section 4.12.

As described in Section 4.12, land use in the vicinity of the Wilpinjong Coal Mine (and the Project) is characterised by a combination of coal mining operations, conservation areas, agricultural land uses and the Village of Wollar. Land use in the Project open cut extension areas includes mining-related infrastructure, public infrastructure, electricity transmission lines, areas of vegetation and cleared grazing land (Figure 1-4).

WCPL currently leases land adjoining its mining areas for continued agricultural use.

The Project is not incompatible with existing, approved or likely adjoining land uses. As described in Sections 4 and 7, the Project would be operated in a manner as to minimise potential impacts on the environment and alternative land uses on adjoining lands.

The development of the Project would result in significant socio-economic benefits to the regional economy and the State of NSW (Sections 4.16 and 6.7.1).

The public benefits of the Project have been considered in the Economic Assessment prepared by Deloitte Access Economics (Appendix M), including a consideration of the public benefits of the Project and the comparative socio-economic benefits of the alternative use of Project lands for agriculture rather than mining purposes.

WCPL would implement a progressive rehabilitation program (Section 5) which aims to rehabilitate the site to a state that would minimise the incompatibility of the Project with existing and future land uses in the area. The rehabilitated final landform would incorporate agricultural land and native woodland vegetation.

Accordingly the Minister can be satisfied as to these matters.

Clause 12A – Consideration of Voluntary Land Acquisition and Mitigation Policy

Clause 12A(2) of the Mining SEPP requires:

- (2) *Before determining an application for consent for State significant development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider any applicable provisions of the voluntary land acquisition and mitigation policy and, in particular:*
 - (a) *any applicable provisions of the policy for the mitigation or avoidance of noise or particulate matter impacts outside the land on which the development is to be carried out, and*
 - (b) *any applicable provisions of the policy relating to the developer making an offer to acquire land affected by those impacts.*

The applicable provisions of the *Voluntary Land Acquisition and Mitigation Policy – For State Significant Mining, Petroleum and Extractive Industry Developments* (NSW Government, 2014) are addressed in Sections 4.3 and 4.4, and Appendices A and B.

Clause 13 – Compatibility with Mining, Petroleum Production or Extractive Industry

Clause 13(2) of the Mining SEPP requires that before determining any application for consent for development in the vicinity of an existing mine, petroleum production facility or extractive industry, to which this clause applies, the consent authority must:

- (a) *consider:*
 - (i) *the existing uses and approved uses of land in the vicinity of the development, and*
 - (ii) *whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and*
 - (iii) *any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery, and*

- (b) *evaluate and compare the respective public benefits of the development and the uses, extraction and recovery referred to in paragraph (a) (i) and (ii), and*
- (c) *evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).*

The Project includes the extension of open cut mining operations at the Wilpinjong Coal Mine in the Ulan Coal Seam and the Moolarben Coal Member.

The continued development of coal resources in close proximity to WCPL's existing coal handling and preparation plant (CHPP) and other supporting facilities maximises the use of existing infrastructure and associated returns on existing financial investments. The NSW Division of Resources and Energy (DRE) (within the NSW Department of Industry, Skills and Regional Development) has acknowledged that the Project represents a responsible utilisation of NSW's valuable coal resources (Attachment 11).

The Project also provides new mining areas that are largely contiguous with approved and operational mining areas (i.e. thereby potentially minimising potential new disturbance areas).

As described in Section 2.5, there would be no direct interaction between the Project and the Moolarben Coal Complex, Ulan Mine Complex, Bowdens Silver Project and Bylong Coal Project. A summary of the Project key interactions with surrounding mining projects is provided in Section 2.5 and, where relevant, potential cumulative environmental impacts are described in Section 4.

While there would be no direct interaction between the Project and the immediately adjacent Moolarben Coal Complex, the extensions to Pit 6 proposed for the Project would result in a portion of barrier coal remaining between the Project and the approved Moolarben Coal Complex Open Cut 4. WCPL are consulting with Yancoal regarding potential rationalisation of the Moolarben Coal Complex Open Cut 4 final void and the proposed final void in Pit 6 (Section 3.1.5).

The Development Application area is covered by Petroleum Exploration Licence 456 granted to Dart Energy (Apollo) Pty Ltd. WCPL is unaware of any current proposal for coal seam gas or petroleum extraction in the Project area (due to the relatively shallow nature of the target coal seams which typically relates to low methane contents). WCPL has consulted with Dart Energy (Apollo) Pty Ltd regarding the Project (Section 3.1).

Accordingly the Minister can be satisfied as to these matters.

Clause 14 – Natural Resource Management and Environmental Management

Clause 14(1) of the Mining SEPP requires that before granting consent for development for the purposes of mining, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring that the development is undertaken in an environmentally responsible manner, including conditions to ensure the following:

- (a) *that impacts on significant water resources, including surface and groundwater resources, are avoided, or are minimised to the greatest extent practicable,*
- (b) *that impacts on threatened species and biodiversity, are avoided, or are minimised to the greatest extent practicable,*
- (c) *that greenhouse gas emissions are minimised to the greatest extent practicable.*

In addition, clause 14(2) requires that, without limiting subclause (1), in determining a development application for development for the purposes of mining, the consent authority must consider an assessment of the greenhouse gas emissions (including downstream emissions) of the development, and must do so having regard to any applicable State or national policies, programs or guidelines concerning greenhouse gas emissions.

The potential impacts of the Project on groundwater and surface water resources are discussed in Sections 4.7 and 4.8 and Appendices C and D, including measures to minimise potential impacts.

The potential impacts of the Project on threatened species and biodiversity are described in Section 4.9 and Appendices E and F, including measures to minimise potential impacts.

The greenhouse gas emissions assessment for the Project is provided in Section 4.18 and Appendix B. Greenhouse gas abatement measures and relevant State or national policies, programmes and guidelines are described in Sections 4.18 and 6.

Accordingly the Minister can be satisfied as to these matters.

Clause 15 – Resource Recovery

Clause 15 of the Mining SEPP requires that:

- (1) *Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider the efficiency or otherwise of the development in terms of resource recovery.*
- (2) *Before granting consent for the development, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at optimising the efficiency of resource recovery and the reuse or recycling of material.*
- (3) *The consent authority may refuse to grant consent to development if it is not satisfied that the development will be carried out in such a way as to optimise the efficiency of recovery of minerals, petroleum or extractive materials and to minimise the creation of waste in association with the extraction, recovery or processing of minerals, petroleum or extractive materials.*

WCPL has progressively presented Project description information, mine layout plans and other information to the DRE during the development of this EIS (Section 3.1). Constraints to the extent of the Project open cut extension areas are described in Section 2.

It is in the financial interest of WCPL to maximise the efficiency and long-term value of open cut mining operations, coal production and processing and handling of coal in the CHPP.

Accordingly the Minister can be satisfied as to these matters.

Clause 16 – Transport

Clause 16(1) of the Mining SEPP requires that, before granting consent for development for the purposes of mining or extractive industry that involves the transport of materials, the consent authority must consider whether or not the consent should be issued subject to conditions that do any one or more of the following:

- (a) *require that some or all of the transport of materials in connection with the development is not to be by public road,*
- (b) *limit or preclude truck movements, in connection with the development, that occur on roads in residential areas or on roads near to schools,*
- (c) *require the preparation and implementation, in relation to the development, of a code of conduct relating to the transport of materials on public roads.*

As outlined in Section 2.9, product coal produced from the CHPP and bypass coal would continue to be stockpiled prior to being reclaimed and loaded onto trains for transport on the Sandy Hollow Gulgong Railway to domestic customers for use in electricity generation and to Newcastle for export.

No changes to existing rail transport routes are proposed for the Project.

The Road Transport Assessment, conducted by GTA Consultants, concluded that no significant impacts on the performance capacity, efficiency and safety of the road network are expected to arise as a result of the Project (Appendix J).

Clause 16(2) of the Mining SEPP requires that if the consent authority considers that the development involves the transport of materials on a public road, the consent authority must, within seven days after receiving the development application, provide a copy of the application to each roads authority for the road, and the NSW Roads and Maritime Services (RMS) (if it is not a roads authority for the road).

In addition, clause 16(3) of the Mining SEPP requires that the consent authority:

- (a) *must not determine the application until it has taken into consideration any submissions that it receives in response from any roads authority or the Roads and Traffic Authority within 21 days after they were provided with a copy of the application, and*

...

WCPL has consulted with the RMS and the Mid-Western Regional Council (MWRC) for the Project (Section 3.1). These authorities are aware of the proposed continuation and extension of the Wilpinjong Coal Mine and the associated use of relevant roads for the Project.

Accordingly the Minister can be satisfied as to these matters.

Clause 17 – Rehabilitation

Clause 17 of the Mining SEPP requires that before granting consent for development for the purposes of mining, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring the rehabilitation of land that will be affected by the development.

In particular, the consent authority must consider whether conditions of the consent should:

- (a) *require the preparation of a plan that identifies the proposed end use and landform of the land once rehabilitated, or*
- (b) *require waste generated by the development or the rehabilitation to be dealt with appropriately, or*
- (c) *require any soil contaminated as a result of the development to be remediated in accordance with relevant guidelines (including guidelines under section 145C of the Act and the Contaminated Land Management Act 1997), or*
- (d) *require steps to be taken to ensure that the state of the land, while being rehabilitated and at the completion of the rehabilitation, does not jeopardize public safety.*

WCPL currently implements an approved Mining Operations Plan for the Wilpinjong Coal Mine that describes management strategies including landform design, topsoil management, rehabilitation management measures, management of flora and fauna, rehabilitation monitoring programme and completion criteria.

A comprehensive program would be implemented for the progressive rehabilitation of the Project disturbance area, including the remediation of any contaminated soil, if applicable (Section 5).

One of the key Wilpinjong Coal Mine rehabilitation objectives (Section 5) is the creation of safe, stable, adequately drained post-mining landforms that are consistent with the local surrounding landscape.

The proposed management of waste rock material and CHPP rejects is discussed in Sections 2.10 and 2.11. The management of other wastes is described in Section 2.15.

A5.1.3 State Environmental Planning Policy No 33 – Hazardous and Offensive Development

State Environmental Planning Policy No 33 – Hazardous and Offensive Development (SEPP 33) applies to the whole of NSW.

Clause 2 of SEPP 33 sets out the aims and objectives of SEPP 33, the following being relevant to the Project:

- (a) *to amend the definitions of hazardous and offensive industries where used in environmental planning instruments, and*
- ...
- (d) *to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and*
- (e) *to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and*

...

Clause 12 of SEPP 33 requires a Preliminary Hazard Analysis to be prepared for developments for the purposes of potentially hazardous industries. The Preliminary Hazard Analysis must be prepared in accordance with the current circulars or guidelines published by the NSW Department of Planning and Environment (DP&E) and submitted with the development application.

Clause 13 of SEPP 33 requires the consent authority to consider the following when determining an application to carry out development for the purposes of a potentially hazardous or potentially offensive industry:

- (a) *current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and*
- (b) *whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and*
- (c) *in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and*
- (d) *any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and*
- (e) *any likely future use of the land surrounding the development.*

In accordance with the Secretary's Environmental Assessment Requirements (SEARs) and as part of the preparation of this EIS, a Preliminary Hazard Analysis has been conducted in accordance with SEPP 33 (Appendix Q).

This Preliminary Hazard Analysis was conducted to evaluate the hazards associated with the Project in accordance with the general principles of risk evaluation and assessment outlined in the NSW Department of Planning and Infrastructure (DP&I) (now DP&E) *Assessment Guideline: Multi-level Risk Assessment* (DP&I, 2011).

This Preliminary Hazard Analysis also addressed the requirements of the *Hazardous and Offensive Development Application Guidelines: Applying SEPP 33* (NSW Department of Planning [DoP], 2011a), and has been documented in general accordance with *Hazard Industry Planning Advisory Paper No.6: Hazard Analysis* (DoP, 2011b).

In regard to clause 13(b), extensive consultation has been undertaken with public authorities during the preparation of this EIS as described in Section 3.

Project alternatives (including the Project location) are discussed in Section 6.7.2, which addresses clause 13(d) of SEPP 33.

In regard to clause 13(e), the land surrounding the Project is zoned as RU1 (Primary Production), E1 (National Parks and Nature Reserves), E3 (Environmental Management), R5 (Large Lot Residential) and SP2 (Infrastructure) under the Mid-Western Regional LEP (Section 6.2) and the Project is generally compatible with the uses that are permissible in adjoining lands.

Consideration of the potential impacts of the Project on agricultural land uses and amenity are assessed in Appendices A, B and I and summarised in Sections 4.3 to 4.6 and 4.12. Consideration of the potential interactions with the adjoining Munghorn Gap Nature Reserve is addressed in Appendix E.

Accordingly the Minister can be satisfied as to these matters.

A5.1.4 State Environmental Planning Policy No 44 – Koala Habitat Protection

State Environmental Planning Policy No 44 – Koala Habitat Protection (SEPP 44) requires the council in certain local government areas (LGAs) (which are listed in Schedule 1 of SEPP 44) to consider whether the land which is the subject of the Development Application is 'potential koala habitat' or 'core koala habitat'. The Project is located within the former Mudgee LGA, which is listed in Schedule 1 of SEPP 44.

Clause 9 of SEPP 44 requires:

- (1) *Before a council may grant consent to a development application for consent to carry out development on land to which this Part applies that it is satisfied is a core koala habitat, there must be a plan of management prepared in accordance with Part 3 that applies to the land.*

- (2) *The council's determination of the development application must not be inconsistent with the plan of management.*

Since the Project is State Significant Development to which Division 4.1 of Part 4 of the EP&A Act applies, the Minister is the consent authority (Section 6.2.2) rather than Council.

An assessment of Koala habitat for the purposes of SEPP 44 has been undertaken (Section 4.9 and Appendix E) and this assessment has found that the Project Development Application area comprises potential Koala habitat, but does not comprise core Koala habitat.

Accordingly the Minister can be satisfied as to these matters.

A5.1.5 State Environmental Planning Policy No 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation Land (SEPP 55) applies to the whole of NSW and is concerned with the remediation of contaminated land. SEPP 55 sets out matters relating to contaminated land that a consent authority must consider in determining an application for development consent.

'Contaminated land' in SEPP 55 has the same meaning as it has in Part 7A of the EP&A Act:

contaminated land means land in, on or under which any substance is present at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment.

Clause 7(1) of SEPP 55 provides that a consent authority must not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Clause 7 of SEPP 55 further provides:

- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is:*
 - (a) *land that is within an investigation area,*
 - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
 - ...

Clause 7(2) provides that before a consent authority determines an application for development consent, a 'preliminary investigation' is required where:

- the application for consent is to carry out development that would involve a 'change of use'; and
- that 'change of use' applies to certain land specified in clause 7(4).

The certain land specified in clause 7(4) on which the 'change of use' must relate is either:

- land that is an 'investigation area' – defined in SEPP 55 as land declared to be an investigation area by a declaration in force under Division 2 of Part 3 of the *Contaminated Land Management Act, 1997*; or
- land on which development for a purpose referred to in Table A5-1 to the contaminated land planning guidelines (being *Managing Land Contamination – Planning Guidelines SEPP 55 – Remediation of Land* [NSW Department of Urban Affairs and Planning {DUAP} and NSW Environment Protection Authority {EPA}, 1998]) is being, or is known to have been carried out.

Australasian Groundwater and Environmental Consultants (AGE) (2005) prepared a Land Contamination Assessment for the Wilpinjong Coal Project EIS, including a preliminary investigation of Mining Lease (ML) 1573. AGE (2005) concluded that “the study area is considered suitable for the land use change from agriculture to the development of the Wilpinjong Coal Mine”.

The majority of the Project does not involve a ‘change of use’ because the Project would involve the continued development of open cut mining and associated activities within the existing ML 1573 held by Wilpinjong Coal Pty Ltd (WCPL).

Where these activities are to be undertaken within the existing mining tenements, these Project activities would not result in any change in the use of land, as mining related activities are already approved and occurring.

Lloyd Consulting (Appendix L) completed a Land Contamination Assessment of the Development Application area, including a preliminary investigation in accordance with the *Managing Land Contamination – Planning Guidelines SEPP 55 - Remediation of Land* (DUAP and EPA, 1998).

The preliminary investigation included a desktop review, site inspection, interviews with Project personnel, a preliminary risk assessment, identification of potentially contaminated areas where further investigation was warranted and sampling and analysis of potentially contaminated areas. The findings of the preliminary investigation are provided in Appendix L and summarised in Section 4.12.

On the basis of the preliminary investigation, Lloyd Consulting (Appendix L) concluded that the Development Application area is suitable for the Project use and no further investigations are considered to be required.

Land contamination management measures, including post-mining investigation and remediation measures are described in Sections 4.12.3 and 5.

Accordingly the Minister can be satisfied as to these matters.

A5.1.6 State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) applies to the whole of NSW and includes provisions for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.

Electricity Transmission and Distribution Networks

The applicability of the Infrastructure SEPP to Project permissibility is discussed in Section A5.2.1.

Subdivision 2, Division 5, Part 3 of the Infrastructure SEPP sets out provisions for developments that are likely to affect an electricity transmission or distribution network. Clause 45 of the Infrastructure SEPP relevantly provides:

- (1) *This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following:*

...

- (b) *development carried out:*

- (i) *within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
- (ii) *immediately adjacent to an electricity substation, or*
- (iii) *within 5m of an exposed overhead electricity power line,*

...

- (2) *Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must:*

- (a) *give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and*
- (b) *take into consideration any response to the notice that is received within 21 days after the notice is given.*

The Project involves the relocation of a section of the TransGrid Wollar to Wellington 330 kilovolt (kV) electricity transmission line (ETL) to facilitate mining in Pit 8 (Section 2.4).

As described in Section 2.6.2, local 22 kV and 66 kV ETLs (owned and operated by Essential Energy) would also require relocation and/or extension for the Project.

Consultation has been conducted with TransGrid and Essential Energy (the relevant electricity supply authorities) regarding the Project and the relocation of relevant ETLs (Section 3), and this consultation is ongoing.

Railways and Rail Corridors

Subdivision 2 of Division 15, Part 3 of the Infrastructure SEPP sets out provisions for development in rail corridors. Clause 84 of the Infrastructure SEPP relevantly provides:

- (1) *This clause applies to development that involves:*
 - (a) *a new level crossing, or*
 - ...
 - (c) *a likely significant increase in the total number of vehicles or the number of trucks using a level crossing that is in the vicinity of the development.*
- (2) *Before determining a development application for development to which this clause applies, the consent authority must:*
 - (a) *within 7 days after the application is made, give written notice of the application to the chief executive officer of the rail authority for the rail corridor, and*
 - (b) *take into consideration:*
 - (i) *any response to the notice that is received within 21 days after the notice is given, and*
 - (ii) *the implications of the development for traffic safety including the costs of ensuring an appropriate level of safety, having regard to existing traffic characteristics and any likely change in traffic at level crossings as a result of the development, and*
 - (iii) *the feasibility of access for the development that does not involve use of level crossings.*
- (3) *Subject to subclause (5), the consent authority must not grant consent to development to which this clause applies without the concurrence of the chief executive officer of the rail authority for the rail corridor,*

- (4) *In determining whether to provide concurrence, the chief executive officer must take into account:*
 - (a) *any rail safety or operational issues associated with the aspects of the development, and*
 - (b) *the implications of the development for traffic safety including the cost of ensuring an appropriate level of safety, having regard to existing traffic and any likely change in traffic at level crossings as a result of the development.*
- (5) *The consent authority may grant consent to development to which this clause applies without the concurrence of the chief executive officer of the rail authority for the rail corridor if:*
 - (a) *the consent authority has given the chief executive officer notice of the development application, and*
 - (b) *21 days have passed since that notice was given and the chief executive officer has not granted or refused to grant concurrence.*
- (6) *The consent authority must provide the rail authority for the rail corridor with a copy of the determination of the application within 7 days after the determination is made.*
- ...

The Project would involve realignment of Ulan-Wollar Road (to the east and west of the mine) and associated relocation of a rail level crossing to facilitate the proposed open cut extension areas (Section 2.4).

An assessment of increased traffic at rail level crossings is presented in Appendix J, having regard to existing traffic characteristics and any likely change in traffic at level crossings as a result of the Project.

Consultation with Australian Rail Track Corporation (ARTC) (the relevant rail authority) regarding the Project is ongoing and is described in Section 3.

Clause 86 of the Infrastructure SEPP relevantly provides:

- (1) *This clause applies to development (other than development to which clause 88 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land:*
 - (a) *within or above a rail corridor, or*
 - (b) *within 25m (measured horizontally) of a rail corridor, or*

- (c) *within 25m (measured horizontally) of the ground directly above an underground rail corridor.*
- (2) *Before determining a development application for development to which this clause applies, the consent authority must:*
 - (a) *within 7 days after the application is made, give written notice of the application to the chief executive officer of the rail authority for the rail corridor, and*
 - (b) *take into consideration:*
 - (i) *any response to the notice that is received within 21 days after the notice is given, and*
 - (ii) *any guidelines issued by the Director-General for the purposes of this clause and published in the Gazette.*
- (3) *Subject to subclause (4), the consent authority must not grant consent to development to which this clause applies without the concurrence of the chief executive officer of the rail authority for the rail corridor to which the development application relates, unless that rail authority is ARTC.*

...

The Sandy Hollow Gulgong Railway is located within the Project Development Application area. The Project would involve construction activities associated with the realignment of Ulan-Wollar Road and the relocation of ETLs within the rail easement of the Sandy Hollow Gulgong Railway.

Consultation has been conducted with ARTC (the relevant rail authority) regarding the Project (Section 3) and is ongoing.

A5.2 MID-WESTERN REGIONAL LOCAL ENVIRONMENTAL PLAN 2012

A discussion of the general aims of the Mid-Western Regional LEP is provided in Section 6.5.2.

A5.2.1 Permissibility

The Project Development Application area includes land zoned under the Mid-Western Regional LEP as (Section 6.2.1):

- E3 – Environmental Management.
- R5 – Large Lot Residential.
- RU1 – Primary Production.
- SP2 – Infrastructure.

Permissibility of Mining Activities

Mining is defined under the Mid-Western Regional LEP as:

mining means mining carried out under the Mining Act 1992 or the recovery of minerals under the Offshore Minerals Act 1999, and includes:

- (a) *the construction, operation and decommissioning of associated works, and*
- (b) *the rehabilitation of land affected by mining.*

Under the land use table in the Mid-Western Regional LEP 'open cut mining' is permissible with consent in zones RU1 Primary Production and E3 Environmental Management.

Within zones R5 Large Lot Residential and SP2 Infrastructure, open cut mining is taken to be prohibited under the Mid-Western Regional LEP.

Clause 4 of the Mining SEPP relevantly provides that the policy applies to the State of NSW, and Clause 5(3) of the Mining SEPP gives it primacy where there is any inconsistency between the provisions in the SEPP and the provisions in any other environmental planning instrument (subject to limited exceptions).

Clause 5(3) relevantly provides:

- (3) *...if this Policy is inconsistent with any other environmental planning instrument, whether made before or after this Policy, this Policy prevails to the extent of the inconsistency.*

The practical effect of Clause 5(3) for the Project is that if there is any inconsistency between the provisions of the Mining SEPP and those contained in the Mid-Western Regional LEP, the provisions of the Mining SEPP will prevail.

Clauses 6 and 7 of the Mining SEPP provide what types of mining development are permissible without development consent and what types are permissible only with development consent.

The word 'mining' in the Mining SEPP is given an extended definition in Clause 3(2) as follows:

mining means the winning or removal of materials by methods such as excavating, dredging, or tunnelling for the purpose of obtaining minerals, and includes:

- (a) *the construction, operation and decommissioning of associated works; and*

- (b) *the stockpiling, processing, treatment and transportation of materials extracted, and*
- (c) *the rehabilitation of land affected by mining.*

Clause 7(1) states:

7 Development permissible with consent

(1) Mining

Development for any of the following purposes may be carried out only with development consent:

...

- (b) *mining carried out:*
 - (i) *on land where development for the purposes of agriculture or industry may be carried out (with or without development consent), or*
 - (ii) *on land that is, immediately before the commencement of this clause, the subject of a mining lease under the Mining Act 1992 or a mining licence under the Offshore Minerals Act 1999,*

...

- (d) *facilities for the processing or transportation of minerals or mineral bearing ores on land on which mining may be carried out (with or without development consent), but only if they were mined from that land or adjoining land,*

...

'Extensive agriculture' is permissible under the Mid-Western Regional LEP without consent in both the R5 Large Lot Residential and SP2 Infrastructure zones.

Clause 7(1)(b)(i) of the Mining SEPP provides that development for the purposes of 'mining' may be carried out with development consent on land where development for the purposes of agriculture is permissible. Therefore while open cut mining in R5 Large Lot Residential and SP2 Infrastructure is prohibited under the Mid-Western Regional LEP, the Mining SEPP prevails and provides that mining can be carried out with consent on these lands.

Accordingly, the Minister would not be precluded from granting development consent under section 89E of the EP&A Act for the Project in respect of those parts of the Project land where open cut mining is prohibited under the Mid-Western Regional LEP.

Permissibility of Electricity Transmission Lines

Under the land use table in the Mid-Western Regional LEP, a public utility undertaking in the form of an ETL would be permissible with consent in zones RU1 Primary Production and R5 Large Lot Residential.

Within zones E3 Environmental Management and SP2 Infrastructure, an ETL is taken to be prohibited under the Mid-Western Regional LEP.

Clause 4 of the Infrastructure SEPP relevantly provides that the policy applies to the State of NSW, and Clause 8(1) of the Infrastructure SEPP gives it primacy where there is any inconsistency between the provisions in the SEPP and the provisions in any other environmental planning instrument (subject to limited exceptions).

Clause 8(1) relevantly provides:

- (1) *...if there is an inconsistency between this Policy and any other environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.*

The practical effect of Clause 8(1) for the Project is that if there is any inconsistency between the provisions of the Infrastructure SEPP and those contained in the Mid-Western Regional LEP, the provisions of the Infrastructure SEPP will prevail.

Part 3 of the Infrastructure SEPP provides development controls for infrastructure, including types of infrastructure that are permissible without development consent and what types of infrastructure are permissible only with development consent.

An 'electricity transmission or distribution network' is defined in clause 40 of the Infrastructure SEPP as follows:

electricity transmission or distribution network
includes the following components:

- (a) *above or below ground electricity transmission or distribution lines (and related bridges, cables, conductors, conduits, poles, towers, trenches, tunnels, ventilation and access structures),*
- (b) *above or below ground electricity kiosks or electricity substations, feeder pillars or transformer housing, substation yards or substation buildings.*

Clause 41 of the Infrastructure SEPP states:

- (1) *Development for the purpose of an electricity transmission or distribution network may be carried out by or on behalf of an electricity supply authority or public authority without consent on any land...*
- (2) *In this clause, a reference to development for the purpose of an electricity transmission or distribution network includes a reference to development for any of the following purposes if the development is in connection with such a network:*
 - (a) *construction works (whether or not in a heritage conservation area), including:*
 - (i) *laying and installation of cables and cable pits, co-location of cabling and erection of ventilation and access structures, bridges and tunnel adits, and construction of a tunnel or conduit for an underground cable, and*
 - (ii) *alteration, demolition or relocation of a local heritage item, and*
 - (iii) *alteration or relocation of a State heritage item,*
 - (b) *emergency works, or routine maintenance works, on the site of an existing component of a network or on land that is adjacent to such a site...,*
 - (c) *environmental management works,*

Therefore, development for the purpose of an electricity transmission network, including construction works, may be carried out by or on behalf of an electricity supply authority (TransGrid) without consent.

Section 89E(4) of the EP&A Act provides:

- (4) *If part of a single proposed development that is State significant development requires development consent to be carried out and the other part may be carried out without development consent:*
 - (a) *Part 5 does not apply to that other part of the proposed development, and*
 - (b) *that other part of the proposed development is taken to be development that may not be carried out except with development consent.*

Therefore, the relocation of the TransGrid Wollar to Wellington 330 kV ETL for the purposes of the Project may form part of the Development Application under the State Significant Development provisions (Division 4.1) under Part 4 of the EP&A Act and does not require separate assessment under Part 5 of the EP&A Act.

A5.2.2 Zone Objectives

Clause 2.3(2) of the Mid-Western Regional LEP provides that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The following provides the zone objectives of the Mid-Western Regional LEP relevant to the Project:

RU1 Primary Production

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To maintain the visual amenity and landscape quality of Mid-Western Regional by preserving the area's open rural landscapes and environmental and cultural heritage values.*
- *To promote the unique rural character of Mid-Western Regional and facilitate a variety of tourist land uses.*

E3 Environmental Management

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*

...

R5 Large Lot Residential

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

SP2 Infrastructure

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

...

The Project is considered to be generally consistent with the above zone objectives, because, as described in Section 4, management and mitigation measures would be implemented where practicable to minimise the potential impacts of the Project on other land uses and the environment.

Mining operations and nearby agricultural enterprises have co-existed since the commencement of operations at the Wilpinjong Coal Mine and this would continue for the Project.

The Project would also not affect the serviceability of the Sandy Hollow Gulgong Railway.

A5.2.3 Special Provisions

Parts 5 and 6 of the Mid-Western Regional LEP provide a number of provisions of potential relevance to the Project, including the relevant clauses described below.

Heritage Conservation

Clause 5.10 relates to the assessment and management of impacts to non-Aboriginal heritage or Aboriginal heritage and includes the following subclauses potentially relevant to the Project:

5.10 Heritage conservation

...

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or*
- (b) on land that is within a heritage conservation area, or*
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),*

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

...

(8) Aboriginal places of heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.*

...

Clause 5.10 set out above is potentially applicable to the Project with respect to direct disturbance or indirect impacts (e.g. blasting) that could impact on non-Aboriginal or Aboriginal heritage sites located within or adjacent to the Project Development Application area.

An Aboriginal Cultural Heritage Assessment and a Historical Heritage Assessment have been conducted for the Project (Appendices G and H) and have, where relevant, identified suitable management and mitigation measures for potential direct and indirect impacts of the Project.

Accordingly the Minister can be satisfied as to these matters.

Salinity

Clause 6.1 relates to the consideration of salinity in determining a development application as follows:

6.1 Salinity

- (1) The objective of this clause is to provide for the appropriate management of land that is subject to salinity and the minimisation and mitigation of adverse impacts from development that contributes to salinity.*

- (2) Before determining a development application for development that, in the opinion of the consent authority, may affect the process of salinisation or is proposed to be carried out on land affected by groundwater salinity, the consent authority must consider the following:*

- (a) whether the development is likely to have any adverse impact on salinity processes on the land,*
- (b) whether salinity is likely to have an impact on the development,*
- (c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

The Geochemistry Assessment prepared by Geo-Environmental Management (Appendix K) concluded that the overburden and interburden associated with the Project was generally expected to be non-saline. Sampling undertaken of coarse rejects, raw coal and product coal at the existing Wilpinjong Coal Mine were all confirmed to be non-saline in nature (Appendix K).

A Groundwater Assessment (Appendix C) and Surface Water Assessment (Appendix D) have been prepared for the Project to consider potential impacts on salinity processes.

The Project is not expected to have an adverse impact on downstream salinity (Appendix D). The Project would also include management measures to minimise and mitigate potential salinity impacts as outlined in Sections 4.7.3 and 4.8.3.

Accordingly the Minister can be satisfied as to these matters.

Earthworks

Clause 6.3(3) outlines relevant considerations for development for the purposes of earthworks:

- (3) *Before granting development consent for earthworks, the consent authority must consider the following matters:*
 - (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development,*
 - (b) *the effect of the development on the likely future use or redevelopment of the land,*
 - (c) *the quality of the fill or the soil to be excavated, or both,*
 - (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
 - (e) *the source of any fill material and the destination of any excavated material,*
 - (f) *the likelihood of disturbing relics,*
 - (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
 - (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The Project would involve earthworks as a component of construction and other development activities (Section 2.6).

In regard to subclauses 6.3(3) (a) and 6.3(3) (g), the Surface Water Assessment (Appendix D) includes assessments of the potential impacts on drainage patterns and waterways. Section 4.8.3 and Appendix D describe the erosion and sediment control measures that would be implemented for the Project.

In regard to subclause 6.3(3) (b), rehabilitation and decommissioning of Project disturbance areas, including the final land use, are described in Section 5.

In regard to subclause 6.3(3) (d), potential impacts on amenity, including noise, dust and visual impacts are described in Sections 4.3, 4.4 and 4.15 and Appendices A, B and O.

In regard to subclauses 6.3(3) (c) and 6.3(3) (e), waste rock (including overburden and interburden) mined during the development of the Project would continue to be used to backfill mine voids behind the advancing open cut operations, as well as the approved elevated waste rock emplacement in Pit 2. An assessment of the geochemical characteristics of the waste rock material associated with the development of the Project is provided in the Geochemistry Assessment (Appendix K) and summarised in Section 2.10.

In regard to subclauses 6.3(3) (f), an Aboriginal Cultural Heritage Assessment and Historical Heritage Assessment have been conducted for the Project and are provided in Appendices G and H.

A summary of management and mitigation measures for the Project is provided in Section 7.

Accordingly the Minister can be satisfied as to these matters.

Groundwater Vulnerability

Clause 6.4 relates to consideration of impacts on groundwater as follows:

6.4 Groundwater vulnerability

- (1) *The objectives of this clause are as follows:*
 - (a) *to maintain the hydrological functions of key groundwater systems,*
 - (b) *to protect vulnerable groundwater resources from depletion and contamination as a result of development.*
- ...
- (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider the following:*
 - (a) *the likelihood of groundwater contamination from the development (including from any on-site storage or disposal of solid or liquid waste and chemicals),*
 - (b) *any adverse impacts the development may have on groundwater dependent ecosystems,*
 - (c) *the cumulative impact the development may have on groundwater (including impacts on nearby groundwater extraction for a potable water supply or stock water supply),*

- (d) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

A Groundwater Assessment has been prepared for the Project (Appendix C) to consider potential impacts on groundwater, including potential cumulative impacts on groundwater dependent ecosystems and other groundwater users.

The potential impacts from the Project would be within the minimal impact considerations of the NSW Aquifer Interference Policy (NSW Government, 2012) (Attachment 6). The Project would also include management measures to minimise and mitigate impacts to groundwater resources as outlined in Section 4.7.3.

Measures that would be implemented for the Project to mitigate the risk of contamination are outlined in Section 4.12.3.

Accordingly the Minister can be satisfied as to these matters.

Essential Services

Clause 6.9 outlines considerations relating to the provision of essential services:

6.9 Essential services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,

- (d) stormwater drainage or on-site conservation,
- (e) suitable road access.

The existing infrastructure and services at the Wilpinjong Coal Mine would continue to be utilised throughout the life of the Project, with minor additions, upgrades and maintenance works.

Proposed arrangements for the supply of water and electricity and road access for the Project are described in Section 2.14. Sewage treatment and disposal for the Project is outlined in Section 2.15 and the management of stormwater is described in Section 2.12.

Accordingly the Minister can be satisfied as to these matters.

A5.3 STRATEGIC PLANNING DOCUMENTS

The following strategic planning documents have been considered in the planning of the Project and the preparation of this EIS:

- *Upper Hunter Strategic Regional Land Use Plan* (the Upper Hunter SRLUP) (DP&I, 2012);
- *Central West Regional Action Plan* (NSW Department of Premier and Cabinet, 2012);
- *Central Tablelands Local Land Services Transitional Catchment Action Plan* (Transitional Central Tablelands CAP) (Central Tablelands Local Land Services, 2013);
- *Mid-Western Regional Comprehensive Land Use Strategy* (Mid-Western Regional CLUS) (MWRC, 2010); and
- *Towards 2030 Mid-Western Region Community Plan* (MWRC, 2013).

A5.3.1 Development Control Plans

Clause 11 of the State and Regional Development SEPP provides that development control plans (whether made before or after the commencement of the SEPP) do not apply to State Significant Development, and hence do not apply to the Project.

Pursuant to clause 11 of the State and Regional Development SEPP, development control plans do not form a relevant consideration under section 79C of the EP&A Act for State Significant Development.

A5.3.2 Upper Hunter Strategic Regional Land Use Plan

The Upper Hunter SRLUP was released by the then DP&I (now DP&E) in September 2012 and aims to provide a framework to support growth, protect the environment and manage competing land uses over the next 20 years (DP&I, 2012).

The Upper Hunter SRLUP is focused around eight key areas each with several underlying objectives. These key areas include: balancing agriculture and resources development; infrastructure; economic development and employment; housing and settlement; community health and amenity; natural environment; natural hazards and climate change; and heritage (DP&I, 2012).

The Gateway process is presented in the Upper Hunter SRLUP as the key policy response for managing land use conflict between mining and coal seam gas proposals and agricultural land (DP&I, 2012). In compliance with the Gateway process, a Site Verification Certificate was issued by the Secretary of the DP&E on 17 October 2014 verifying that the open cut extension areas associated with the Project are not located on Biophysical Strategic Agricultural Land. The Project is also not located in an area mapped as a critical industry cluster under the Mining SEPP.

In addition to above, the Upper Hunter SRLUP outlines a number of actions for the DP&E and other agencies to prepare additional guidance and policy material, undertake studies and compile baseline information. This EIS has been prepared with reference to relevant environmental planning instruments, policies, guidelines and plans required by the SEARs (Attachment 1).

A5.3.3 Central West Regional Action Plan

The *Central West Regional Action Plan* (NSW Department of Premier and Cabinet, 2012) was released by the NSW Government in 2012 and covers the local government areas of Mid-Western Regional, City of Lithgow, Oberon, Bathurst, Blayney, Orange, Cabonne, Cowra, Weddin, Lachlan, Parkes and Forbes.

The Central West Regional Action Plan outlines regional priorities and actions that align with the NSW 2021 Plan (NSW Department of Premier and Cabinet, 2012).

The Project is consistent with the priority actions in the Central West Regional Action Plan, which include fostering the mining sector in the region.

A5.3.4 Central Tablelands Local Land Services Transitional Catchment Action Plan

The Transitional Central Tablelands CAP is intended to be an internal planning document that will be used to direct natural resource management activities and investment across the Central Tablelands Local Land Services region (Central Tablelands Local Land Services, 2013).

The Transitional Central Tablelands CAP has been primarily developed from the Central West and Lachlan Catchment Action Plans, supplemented by input from the Hawkesbury Nepean and Hunter Central Rivers Catchment Action Plans.

The Transitional Central Tablelands CAP outlines three key areas including environment, profitable farming systems and communities. The following sub-sections include a description of the goals and strategies for each area outlined in the Transitional Central Tablelands CAP and a discussion of consistency of these goals and strategy with the Project.

Environment

The Transitional Central Tablelands CAP has a goal to improve and maintain the condition of the natural environment, through the following strategies:

- S1. To improve the extent, condition and connectivity of native vegetation*
- S2. To improve the stability, condition and connectivity of water assets*

WCPL would implement a progressive rehabilitation program which would incorporate a combination of grazing (pasture) and nature conservation (mixed woodland/pasture) land use areas (Section 5).

The Project incorporates measures to minimise and mitigate impacts on native vegetation and a proposal for the offset of unavoidable impacts on biodiversity (Section 4.9). The Project biodiversity offset measures would comprise a combination of securing the long-term viability of existing woodland (i.e. Project biodiversity offset areas) and other supplementary measures.

The Project also includes measures to mitigate and manage potential impacts on groundwater and surface water resources (Sections 4.7 and 4.8).

Profitable Farming Systems

The Transitional Central Tablelands CAP has a goal to achieve more profitable, healthy and resilient farmland, through the following main targets:

- S3. *To increase uptake of best farming practices to enable resource use efficiency*
- S4. *To assist farmers manage threatening processes impacting on productivity including (disease, pests, weeds, grazing pressure)*
- S5. *To improve the ability of farm enterprises to manage economic, biological and climatic variability*

The Project would be developed in a manner that would minimise and manage potential impacts on land resources, including the reinstatement of agricultural land on rehabilitated areas (Section 5).

Adjoining Peabody Energy-owned lands within the Project Development Application area would continue to be used for agricultural uses, where practicable (Section 4.12).

The Project would also involve the implementation of measures to minimise potential impacts of weeds and feral animals (Section 5) that may affect adjoining agricultural lands.

Communities

The Transitional Central Tablelands CAP has a goal to improve social and economic capacity and wellbeing through management of natural resources, through the following main targets:

- S6. *Increase the extent of landholder capacity to manage for triple bottom line outcomes*
- S7. *Increase protection and utilisation of cultural values and traditional ecological knowledge*
- S8. *Improve opportunities for community participation and contribution to NRM decision making processes and the health of socio-ecological landscapes*

Consultation conducted with a range of stakeholders including the Central Tablelands Local Land Services, local communities, relevant landholders and the Aboriginal community is described in Section 3.

The outcome of consultation with these stakeholders has been considered and addressed in the preparation of this EIS.

The Project would continue to involve ongoing public involvement and participation through the assessment process under the EP&A Act, and over the life of the Project (Section 3).

Aboriginal stakeholders would have the opportunity to be involved throughout the life of the Project (Section 4.10).

A5.3.5 Mid-Western Regional Comprehensive Land Use Strategy

The Mid-Western Regional CLUS was prepared to identify environmental, social and economic opportunities and constraints within the Mid-Western Regional LGA and provides direction and guidance for change over a 15 to 20 year time period (MWRC, 2010).

The Mid-Western Regional LEP that commenced in 2012 was the primary tool for implementation of the strategy. Consideration of the Project against the Mid-Western Regional LEP is provided in Section A5.2.

A5.3.6 Towards 2030 Mid-Western Region Community Plan

The *Towards 2030 Mid-Western Region Community Plan* has grouped community expectations into five themes, namely: looking after our community; protecting our natural environment; building a strong local economy; connecting our region; and good government (MWRC, 2013). Each of these themes is underpinned by a number of strategies.

The Project and the consultation process have regard to the *Towards 2030 Mid-Western Region Community Plan* as:

- WCPL has been a significant contributor to community funding through financial and in-kind contributions to a number of non-government and community organisations in the region (Section 3.2.4). WCPL would make continued contributions to the MWRC and local community through rates and infrastructure contributions and ongoing support for community initiatives.

- It is expected that additional demand for social infrastructure and emergency services as a result of the Project would generally be low, and the Project is not expected to adversely affect housing availability or affordability (Section 4.17).
- The Project involves management and mitigation measures to minimise the potential impacts of the Project on other land uses and the environment (Sections 4 and 7).
- The Project would support local businesses across the LGA through the generation of indirect economic revenue in the region (Section 4.16).
- WCPL would continue to make financial contributions to the MWRC for road upgrades and maintenance (Section 4.13).

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A5.4 REFERENCES

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