

# Development Consent

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

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

These conditions are required to:

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

Diane Beamer MP  
**Minister Assisting the  
Minister for Infrastructure and Planning  
(Planning Administration)**

Sydney,

16 December 2004

File No: S02/02197

Blue type represents 2006 modification

Pink type represents 2012 modification

### SCHEDULE 1

<b>Development Application:</b>	DA 177-8-2004
<b>Applicant:</b>	Wambo Coal Pty Limited
<b>Consent Authority:</b>	Minister for Infrastructure and Planning
<b>Land:</b>	See Appendix 1
<b>Proposed Development:</b>	<p>The development of rail and coal loading infrastructure adjacent to the Wambo Coal Mine, in general accordance with the Statement of Environmental Effects for the <i>Proposed Alterations to the Wambo Development Project – Rail and Train Loading Infrastructure</i>. This development includes the:</p> <ul style="list-style-type: none"><li>• construction and operation of a rail spur, rail loop, coal reclaim area, product coal conveyor and train load-out bin to enable the transport of coal;</li><li>• construction of a rail underpass beneath Wallaby Scrub Road;</li><li>• upgrading of the intersection between Wallaby Scrub Road and the Golden Highway; and</li><li>• transport of product coal to the market 24 hours day, 7 days a week.</li></ul>
<b>State Significant Development:</b>	<p>The proposal is classified as State significant development under section 76A(7) of the <i>Environmental Planning and Assessment Act 1979</i>, because it involves coal mining-related development associated with a development approval previously given by the Minister on or from 4 June 1987.</p>

**Integrated Development:**

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

- *Protection of the Environment Operations Act 1997*;
- *Rivers and Foreshores Improvement Act 1948*;
- *National Parks and Wildlife Act 1974*;
- *Roads Act 1993*; and
- *Mine Subsidence Compensation Act 1961*.

*Notes:*

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

<p>AHIMS Annual Review Applicant BCA Conditions of this consent Council DA Day  Department Director-General EA (Mod 2)</p>	<p>Aboriginal Heritage Information Management System The review required by condition 3 of Schedule 6 Wambo Coal Pty Limited, or its successors Building Code of Australia Conditions contained in Schedules 3 to 6 Singleton Shire Council Development Application Day is defined as the period from 7 am to 6 pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays Department of Planning and Infrastructure Director-General of Planning and Infrastructure, or delegate The environmental Assessment titled <i>Modification of DA 177-8-2004 – Locomotive Refuelling Station Wambo Coal Rail Loop</i> dated April 2011 and prepared by Wells Environmental Services, as modified by the letter dated 15 July 2011 titled <i>DA 177-8-2004 MOD 2 – Locomotive Refuelling Facility for QR National – Response to Submissions</i>, prepared by Wells Environmental Services</p>
<p>EPL Feasible  EP&amp;A Act EP&amp;A Regulation Evening GTA Incident</p>	<p>Environment Protection License issued under the POEO Act Feasible relates to engineering considerations and what is practical to build or carry out  <i>Environmental Planning and Assessment Act 1979</i> <i>Environmental Planning and Assessment Regulation 2000</i> Evening is defined as the period from 6 pm to 10 pm General Term of Approval A set of circumstances that causes or threatens to cause material harm to the environment, and/or breaches or exceeds the limits or performance measures/criteria in this consent</p>
<p>Land  Material harm to the environment</p>	<p>Land means the whole of a lot in a current plan registered at the Land Titles Office at the date of this consent Harm to the environment is material if it involves actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial</p>
<p>Minister MSB Night</p>	<p>Minister for Planning and Infrastructure, or delegate Mine Subsidence Board Night is defined as the period from 10 pm to 7 am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays</p>
<p>OEH POEO Act Privately owned land</p>	<p>Office of Environment and Heritage <i>Protection of the Environment Operations Act 1997</i> Land that is not owned by a public agency, or a mining company or its subsidiary</p>
<p>Reasonable</p>	<p>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</p>
<p>RFS RMS SEE</p>	<p>Rural Fire Service Roads and Maritime Services The Statement of Environmental Effects titled <i>Proposed Alterations to the Wambo Development Project – Rail and Train Loading Infrastructure</i>, dated June 2004, and prepared by Resource Strategies, and letter from Wambo Coal Pty Ltd to the Minister for Infrastructure and Planning regarding the “Proposed Alterations to the Wambo Development Project Rail and Train Loading Infrastructure” dated 13 August 2004</p>
<p>SEE (Mod 1)</p>	<p>The Statement of Environmental Effects titled <i>Report for Upgrade of Wallaby Scrub Road / Golden Highway Intersection</i> dated April 2006 and prepared by GHD Pty Ltd</p>
<p>Site Wambo Mining Complex</p>	<p>Land to which the DA applies The development approved under this consent, together with the development approved under the consent for the Wambo Coal Mine (305-7-2003), considered collectively</p>

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## SCHEDULE 3 ADMINISTRATIVE CONDITIONS

### Obligation to Minimise Harm to the Environment

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

### Terms of Approval

2. The Applicant shall carry out the development generally in accordance with the:
  - (a) SEE;
  - (b) SEE (Mod 1)
  - (c) EA (Mod 2); and
  - (d) conditions of this consent.
3. If there is any inconsistency between the above documents, the more recent document shall prevail over the former to the extent of the inconsistency. However, the conditions of this consent shall prevail over all other documents to the extent of any inconsistency.
4. The Applicant shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
  - (a) any reports, plans or correspondence that are submitted in accordance with this consent; and
  - (b) the implementation of any actions or measures contained in these reports, plans or correspondence.

### Limits on Approval

5. This consent lapses 21 years after the date it commences.
6. The Applicant shall:
  - (a) not transport more than 15 million tonnes of product coal via this development each year;
  - (b) only permit trains being loaded with coal at the Wambo loading facilities to utilise the refuelling infrastructure; and
  - (c) restrict the number of trains utilising the refuelling infrastructure to a maximum of six trains on any day.

*Note: For the purposes of this condition, each train entering and exiting the site is classified as 2 train movements and a day refers to the 24 hours from midnight to midnight the next day.*

### Structural Adequacy

7. The Applicant shall ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the BCA and MSB.

#### Notes:

- Under Part 4A of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of development.
- The development is located in the Patrick Plains Mine Subsidence District. Under section 15 of the Mine Subsidence Compensation Act 1961, the Applicant is required to obtain the Mine Subsidence Board's approval before constructing or relocating any improvements on the site.

### Demolition

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

### Protection of Public Infrastructure

9. The Applicant shall:
  - (a) repair, or pay the full cost associated with repairing any public infrastructure that is damaged by the development; and
  - (b) relocate, or pay the full cost associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

### **Operation of Plant and Equipment**

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

### **Staged Submission of Plans and Programs**

11. With the approval of the Director-General, the Applicant may:
  - (a) submit any plan or program required by this consent on a progressive basis; and
  - (b) combine any plan or program required by this consent with any similar strategy, plan or program required by the consent for the Wambo Coal Mine (DA 305-7-2003).

## SCHEDULE 4 GENERAL ENVIRONMENTAL CONDITIONS

### ACQUISITION UPON REQUEST

1. Upon receiving a written request for acquisition from the landowner of the land listed in Table 1, the Applicant shall acquire the land in accordance with the procedures in conditions 1-3 of schedule 5.

*Table 1: Land subject to acquisition upon request*

19 - L Kelly	55 – E & C Burley
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*Note: For more information on the numbering and identification of properties used in this consent, see Attachment 1A and Attachment 1B of the SEE for the Alterations to the Wambo Development Project – Rail and Train Loading Infrastructure.*

2. While the land listed in Table 1 is privately owned, the Applicant shall implement all practicable measures to ensure that the impacts of the development comply with the predictions in the SEE, and the relevant conditions in this consent, at any residence on this land, to the satisfaction of the Director-General.

### <sup>1</sup>NOISE

#### Noise Impact Assessment Criteria

3. The Applicant shall ensure that noise generated by the development, combined with noise generated by any development in the Wambo Mining Complex, does not exceed the noise criteria provided in Table 2, unless higher noise criteria are specified in the consent for the Wambo Coal Mine (DA 305-7-2003).

*Table 2: Noise impact assessment criteria dB(A)*

Day <i>L<sub>Aeq</sub>(15 minute)</i>	Evening/Night <i>L<sub>Aeq</sub>(15 minute)</i>	Night <i>L<sub>A1</sub>(1 minute)</i>	Land Number
35	35	50	<i>All private residential or sensitive receptors, excluding the receptors listed in Table 1</i>

*Notes:*

- *Noise generated by the project is to be measured in accordance with the relevant requirements, and exemptions (including certain meteorological conditions), of the NSW Industrial Noise Policy.*
- *For this condition to apply, the exceedance of the criteria must be systemic.*

#### Construction Hours

4. The Applicant shall ensure that all construction work is carried out from 7 am to 6 pm Monday to Saturday (inclusive) and 8 am to 6 pm Sundays and Public Holidays.

#### Operating Hours

5. The Applicant shall:
  - (a) take all practicable measures to minimise train movements at the development on Friday evening (6 pm-9 pm) and Sunday morning (9 am-12 am);
  - (b) report on the implementation and effectiveness of these measures, to the satisfaction of the Director-General.

#### Rail Noise

6. The Applicant shall seek to ensure that its rail spur is only accessed by locomotives that are approved to operate on the NSW rail network in accordance with noise limits L6.1 to L6.4 in RailCorp's EPL (No. 12208) and ARTC's EPL (No. 3142) or a Pollution Control Approval issued under the former *Pollution Control Act 1970*.

<sup>1</sup> Incorporates **OEH** GTA

## Noise Monitoring

7. The Applicant shall monitor the noise generated by the development, and noise generated by the Wambo Mine, in general accordance with the Noise Management Plan for the Wambo Mining Complex and the *NSW Industrial Noise Policy*.
- 7A. By 31 May 2012, the Applicant shall review and update the Noise Management Plan for the Wambo Mining Complex, including a noise monitoring protocol for evaluating compliance with the criteria in condition 3 above.
- 7B. During the first 12 months of operation of the Rail Refuelling Facility, the Applicant must conduct attended noise monitoring at the nearest private receptor during refuelling events, no less often than every three months.

## <sup>2</sup>BLASTING AND VIBRATION

### Airblast Overpressure Criteria

8. The Applicant shall ensure that the airblast overpressure level from blasting at the development does not exceed the criteria in Table 3 at any residence on privately owned land.

Table 3: Airblast overpressure impact assessment criteria

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

### Ground Vibration Impact Assessment Criteria

9. The Applicant shall ensure that the ground vibration level from blasting at the development does not exceed the criteria in Table 4 at any residence on privately owned land.

Table 4: Ground vibration impact assessment criteria

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

For St Philip's Church, the Applicant shall ensure that ground vibration peak particle velocity generated by the development does not exceed 2.5 mm/s.

### Structural Assessment

10. Within 3 months of this consent, the Applicant shall:
  - (a) engage a suitably qualified, experienced, and independent structural engineer, whose appointment has been approved by the Director-General, to undertake a structural assessment of the St Philip's Church, and recommend measures required to reduce the impacts of the development on the church; and
  - (b) advise the Director-General of any measures required to be implemented to reduce the impacts of the development on the church.
11. The Applicant shall implement these measures to the satisfaction of the Director-General.

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<sup>2</sup> Incorporates OEH GTA



## Vibration Monitoring

12. The Applicant shall monitor the vibration from the operation of the rail spur and the rail line at least 4 times a year, or as directed by the Director-General.
13. Within 3 months of this consent, the Applicant shall prepare a Vibration Monitoring Program for the development to the satisfaction of the Director-General.

## AIR QUALITY

### Impact Assessment Criteria

14. The Applicant shall ensure that all reasonable and feasible avoidance and mitigation measures are employed so that particulate matter emissions generated by the Wambo Mining Complex do not exceed the criteria listed in tables 5, 6 or 7 at any residence on privately-owned land or on more than 25 percent of any privately-owned land, unless higher air quality criteria is specified in the consent for the Wambo Coal Mine (DA 305-7-2003).

Table 5: Long term impact assessment criteria for particulate matter

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

Table 6: Short term impact assessment criterion for particulate matter

Pollutant	Averaging period	<sup>d</sup> Criterion
Particulate matter < 10 µm (PM <sub>10</sub> )	24 hour	<sup>a</sup> 50 µg/m <sup>3</sup>

Table 7: Long term impact assessment criteria for deposited dust

Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level
<sup>c</sup> Deposited dust	Annual	<sup>b</sup> 2 g/m <sup>2</sup> /month	<sup>a</sup> 4 g/m <sup>2</sup> /month

#### Notes to Tables 5-7:

<sup>a</sup> Total impact (ie incremental increase in concentrations due to the Wambo Mining Complex plus background concentrations due to all other sources);

<sup>b</sup> Incremental impact (ie incremental increase in concentrations due to the Wambo Mining Complex on its own);

<sup>c</sup> Deposited dust is to be assessed as insoluble solids as defined by Standards Australia, AS/NZS 3580.10.1:2003 Methods for Sampling and Analysis of Ambient Air – Determination of Particulate Matter – Deposited Matter – Gravimetric Method;

<sup>d</sup> Excludes extraordinary events such as bushfires, prescribed burning, dust storms sea fog, fire incidents, illegal activities or any other activity agreed by the Director-General in consultation with OEH.

## Operating Conditions

15. The Applicant shall:
  - (a) ensure any visible air pollution generated by the development is assessed regularly, and that operations are modified, and/or stopped as required to minimise air quality impacts on privately owned land;
  - (b) implement all practicable measures to minimise air pollutant emissions from the development; and
  - (c) report on the effectiveness of these measures in the **Annual Review**, to the satisfaction of the Director-General.

## SOIL AND WATER MANAGEMENT

Note: The Applicant is required to obtain licences for the development under the Rivers and Foreshores Improvement Act 1948 and the Protection of the Environment Operations Act 1997.

### Pollution of Waters

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

### <sup>3</sup>Soil and Water Management Plan

17. Prior to carrying out any development associated with the proposed refuelling facility, the Applicant shall review and update the Soil and Water Management Plan for the development, to the satisfaction of the Director-General. This plan must include:
- (a) an Erosion and Sediment Control Plan that:
    - is consistent with the requirements of *Managing Urban Stormwater: Soils and Construction* manual;
    - identifies activities that could cause soil erosion and generate sediment;
    - describes the location, function and capacity of erosion and sediment control structures; and
    - describes measures to minimise soil erosion and the potential for the migration of sediments to downstream waters;
  - (b) details of the dirty water management system to be implemented for the development including measures to prevent contamination from diesel and oil spills;
  - (c) a Surface Water Monitoring Program; and
  - (d) a strategy for decommissioning the water management structures on the site.
- 17B. The Applicant shall ensure any above-ground storage tanks containing materials likely to cause environmental harm are:
- (a) imperviously bunded with capacity 110% that of the largest container stored within the bund;
  - (b) designed and constructed in a manner which prevents the ingress of rain water into the tanks; and
  - (c) clearly labelled to identify contents.

## TRANSPORT

### Monitoring of Coal Transport

18. The Applicant shall:
- (a) keep records of the:
    - amount of coal loaded at the development each year; and
    - number of coal haulage train movements generated by the development (on a daily basis); and
  - (b) include these records in the *Annual Review*.

### <sup>4</sup>Road Works

19. The Applicant shall upgrade the Golden Highway/Wallaby Scrub Road intersection to the satisfaction of the RMS by the end of June 2013, or as otherwise agreed by the RMS. The intersection must be designed and constructed to a standard agreed to by the RMS, recognising both existing traffic usage and the proposed future closure of part of Wallaby Scrub Road.
20. The Applicant shall design and construct the underpass beneath Wallaby Scrub Road to the satisfaction of Council. Detailed design plans must be approved by Council prior to carrying out any development associated with the underpass.
21. Before carrying out any development in the Wallaby Scrub Road or Golden Highway road reserves, the Applicant shall prepare and implement a Traffic Management Plan for the road and railway works to the satisfaction of the RMS and Council.
22. All road works associated with the development shall be at the full cost of the Applicant.

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<sup>3</sup> Incorporates Department's GTA

<sup>5</sup> Incorporates RMS & Council GTA

## <sup>5</sup>Road Safety

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

## Access

24. The Applicant shall construct suitable and safe access to the rail refuelling facility, consistent with the access route shown in Figure 3 of Appendix 4. All tankers must enter and exit the site in a forward direction.
- 24A. The Applicant shall implement all reasonable and feasible measures to avoid dirt from the site being tracked onto the Golden Highway.

## Parking

25. The Applicant shall provide sufficient parking on-site or at the Wambo coal mine for all construction-related traffic generated by the development to the satisfaction of the Director-General.

## VISUAL

### Visual Amenity

26. The Applicant shall implement all practicable measures to mitigate the visual impacts of the development to the satisfaction of the Director-General.
27. The Applicant shall investigate and where feasible implement the following measures at locations within the Warkworth Village:
- (a) implement landscaping works in consultation with affected rural residents; and/or
  - (b) place and maintain visual screens between development infrastructure and the viewing location.
28. If a landowner in the Warkworth Village requests the Applicant in writing to investigate ways to minimise the visual impact of the development on his/her dwelling or land, the Applicant shall:
- (a) within 14 days of receiving this request, commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Director-General, to investigate ways to minimise the visual impacts of the development on the landowner's dwelling or land; and
  - (b) give the landowner a copy of the visual impact mitigation report within 14 days of receiving this report.

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

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

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

### Lighting Emissions

29. The Applicant shall take all practicable measures to mitigate off-site lighting impacts from the development, including measures to minimise the impacts of train headlight glare on privately owned land and the Golden Highway, to the satisfaction of the Director-General.
30. All external lighting associated with the development shall comply with *Australian Standard AS4282 (INT) 1995 – Control of Obtrusive Effects of Outdoor Lighting*.

### FLORA & FAUNA

31. The Applicant shall take all practicable measures to minimise vegetation clearing during the development.

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<sup>5</sup> Incorporates RMS GTA

32. Before carrying out the development, the Applicant shall prepare, and then subsequently implement, a Flora and Fauna Management Plan for the development to the satisfaction of the Director-General. This plan must include:
- (a) a Vegetation Clearance Protocol; and
  - (b) Revegetation and Landscaping Plan for the area marked on the map in Appendix 3.
33. The Vegetation Clearance Protocol shall include:
- (a) the delineation of areas of remnant vegetation to be cleared;
  - (b) progressive clearing;
  - (c) the identification of fauna management strategies;
  - (d) the collection of seed from the local areas;
  - (e) the salvage and reuse of material from the site; and
  - (f) the control of weeds during clearing activities;
34. The Revegetation and Landscaping Plan shall:
- (a) describe the measures that would be implemented to revegetate the area marked on the map in Appendix 3, including:
    - measures to control the occurrence of weeds;
    - measures to minimise the occurrence of feral pests;
    - selective planting of native vegetation;
    - the provision of roosting/nesting resources for fauna; and
  - (b) describe the measures that would be implemented to:
    - landscape the new Wallaby Scrub Road/Golden Highway intersection; and
    - maintain this landscaping during the life of the development; and
  - (c) include a program to monitor the effectiveness of the plan during the development.

## <sup>6</sup> ABORIGINAL HERITAGE

*Note: Under the National Parks and Wildlife Act 1974, the Applicant is required to obtain approvals for any impacts to Aboriginal objects.*

### Conservation

35. The Applicant shall take all practicable measures to ensure that the following sites or objects are not damaged by the development: 17, 18, 24, 25, 26, and 28.

*Note: For more information on the sites and objects, see Figure 12 of the EIS for the Alterations to the Wambo Development Project – Rail and Train Loading Infrastructure.*

### Consent to Destroy

36. Deleted

### Salvage

37. Deleted

38. Before the commencement of salvage operations, the Applicant shall establish a keeping place to house objects recovered from the salvage program.
39. The Applicant shall house the objects recovered during the salvage program in the keeping place established for that purpose.

## HERITAGE

40. The Applicant shall take all practicable measures to avoid non-Aboriginal heritage sites 5 and 6 during the development. However, if this is not practicable, the Applicant shall record the sites to an archival standard, in accordance with the requirements of the NSW Heritage Office, and provide these records to a suitable institution, to the satisfaction of the Director-General.

## ELECTRICITY TRANSMISSION LINE

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

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<sup>6</sup> Incorporates OEH GTA

## **BUSHFIRE MANAGEMENT**

42. By 31 May 2012, the Applicant shall review and update the Bushfire Management Plan for the Wambo Mining Complex. The plan must include:
- (a) mitigation measures including ongoing landscape management in the asset protection zone setbacks surrounding the rail refuelling facility; and
  - (b) details of a static water supply suitable for fire fighting by the RFS in the immediate vicinity of the rail refuelling facility.

## **SCHEDULE 5 ADDITIONAL PROCEDURES**

### **NOTIFICATION OF LANDOWNERS**

1. As soon as practicable following obtaining monitoring results showing an exceedance of the relevant criteria in schedule 4, the Applicant shall notify the affected landowner and/or tenants in writing of the exceedance, and provide regular monitoring results to each of these parties until the development is complying with the relevant criteria again.

### **Independent Review**

2. If an owner of privately-owned land considers the development to be exceeding the relevant criteria in schedule 4, then he/she may ask the Director-General in writing for an independent review of the impacts of the development on his/her land.

If the Director-General is satisfied that an independent review is warranted, then within 2 months of the Director-General's decision the Applicant shall:

- (a) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Director-General, to:
    - consult with the landowner to determine his/her concerns;
    - conduct monitoring to determine whether the development is complying with the relevant criteria in schedule 4; and
    - if the development is not complying with these criteria then:
      - determine if more than one mine is responsible for the exceedance, and if so the relative share of each mine regarding the impact on the land;
      - identify the measures that could be implemented to ensure compliance with the relevant criteria; and
  - (b) give the Director-General and landowner a copy of the independent review.
3. If the independent review determines that the development is complying with the relevant criteria in schedule 4, then the Applicant may discontinue the independent review with the approval of the Director-General.

If the independent review determines that any relevant acquisition criteria in schedule 4 are being exceeded and that the project is primarily responsible for this non-compliance, then the Applicant shall:

- (a) implement all reasonable and feasible mitigation measures, in consultation with the landowner and appointed independent person, and conduct further monitoring until the development complies with the relevant criteria; or
- (b) secure a written agreement with the landowner to allow exceedances of the relevant criteria, to the satisfaction of the Director-General.

If the independent review determines that any relevant acquisition criteria in schedule 4 are being exceeded, and that the development is primarily responsible for this non-compliance, then upon receiving a written request from the landowner, the Applicant shall acquire all or part of the landowner's land in accordance with the procedures in conditions 6-7 below.

4. If the independent review determines that any relevant criteria in schedule 4 are being exceeded, but that more than one mine is responsible for this non-compliance, then together with the relevant mine/s, the Applicant shall:
  - (a) implement all reasonable and feasible mitigation measures, in consultation with the landowner and appointed independent person, and conduct further monitoring until there is compliance with the relevant criteria; or
  - (b) secure a written agreement with the landowner and other relevant mines to allow exceedances of the relevant criteria, to the satisfaction of the Director-General.

If the independent review determines that any relevant acquisition criteria in schedule 4 are being exceeded, but that more than one mine is responsible for this non-compliance, then upon receiving a written request from the landowner, the Applicant shall acquire all or part of the landowner's land on as equitable a basis as possible with the relevant mine/s, in accordance with the procedures in conditions 6-7 below.

### **Land Acquisition**

5. Within 3 months of receiving a written request from a landowner with acquisition rights, the Applicant shall make a binding written offer to the landowner based on:

- (a) the current market value of the landowner's interest in the land at the date of this written request, as if the land was unaffected by the development, having regard to the:
  - existing and permissible use of the land, in accordance with the applicable planning instruments at the date of the written request; and
  - presence of improvements on the land and/or any approved building or structure which has been physically commenced on the land at the date of the landowner's written request, and is due to be completed subsequent to that date, but excluding any improvements that have resulted from the implementation of any additional mitigation measures by the Applicant on the land;
- (b) the reasonable costs associated with:
  - relocating within the Singleton or Muswellbrook local government areas, or to any other local government area determined by the Director-General; and
  - obtaining legal advice and expert advice for determining the acquisition price of the land, and the terms upon which it is to be acquired; and
- (c) reasonable compensation for any disturbance caused by the land acquisition process.

If the Applicant and landowner cannot agree on the acquisition price of the land and/or the terms upon which the land is to be acquired within 28 days after the Applicant makes its written offer, then either party may refer the matter to the Director-General for resolution.

Upon receiving such a request, the Director-General will request the President of the NSW Division of the Australian Property Institute to appoint a qualified independent valuer to:

- consider submissions from both parties;
- determine a fair and reasonable acquisition price for the land and/or the terms upon which the land is to be acquired, having regard to the matters referred to in paragraphs (a)-(c) above;
- prepare a detailed report setting out the reasons for any determination; and
- provide a copy of the report to both parties.

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

However, if either party disputes the independent valuer's determination, then within 14 days of receiving the independent valuer's report, they may refer the matter to the Director-General for review. Any request for a review must be accompanied by a detailed report setting out the reasons why the party disputes the independent valuer's determination. Following consultation with the independent valuer and both parties, the Director-General will determine a fair and reasonable acquisition price for the land, having regard to the matters referred to in paragraphs (a)-(c) above, the independent valuer's report, the detailed report disputing the independent valuer's determination, and any other relevant submissions.

Within 14 days of this determination, the Applicant shall make a binding written offer to the landowner to purchase the land at a price not less than the Director-General's determination.

If the landowner refuses to accept the Applicant's binding written offer under this condition within 6 months of the offer being made, then the Applicant's obligations to acquire the land shall cease, unless the Director-General determines otherwise.

6. The Applicant shall pay all reasonable costs associated with the land acquisition process described in condition 6 above, including the costs associated with obtaining Council approval for any plan of subdivision (where permissible), and registration of this plan at the Office of the Registrar-General.

## SCHEDULE 6 ENVIRONMENTAL MANAGEMENT, MONITORING & REPORTING

### CONSTRUCTION MANAGEMENT PLAN

1. Before carrying out any development, the Applicant shall prepare, and subsequently implement, a Construction Management Plan for the development to the satisfaction of the Director-General. This plan must:
  - (a) describe the proposed construction works;
  - (b) outline the program for the proposed works;
  - (c) describe the procedures that would be implemented to:
    - keep the local community and relevant agencies informed about the proposed construction works;
    - receive, handle, respond to, and record complaints;
    - resolve any disputes that may arise during the proposed construction works;
    - respond to any non-compliance;
    - respond to emergencies;
  - (d) describe what measures would be implemented to minimise the dust and noise impacts of the development;
  - (e) include the relevant management plans required in schedule 4 of this consent; and
  - (f) describe the role, responsibility, authority, and accountability of all key personnel involved in the environmental management of the development.

*Note: The Applicant may prepare a Construction Management Plan for each stage of the proposed construction works. This condition does not apply in respect of minor works undertaken consequent to construction of the principle development, such as exempt and complying development, and the rail refuelling facility.*

### ENVIRONMENTAL MONITORING PROGRAM

2. Before carrying out any development, the Applicant shall prepare, and subsequently implement, an Environmental Monitoring Program for the development, in consultation with the relevant agencies, and to the satisfaction of the Director-General. This program must consolidate the various monitoring requirements in schedule 4 of this consent into a single document.
3. The Applicant shall regularly review, and if necessary update, this program to the satisfaction of the Director-General.

### ANNUAL REPORTING

4. Within 1 year of the date of this consent, and annually thereafter, the Applicant shall submit an **Annual Review** on the development to the Director-General and relevant agencies. This report must:
  - (a) identify the standards and performance measures that apply to the development;
  - (b) include a summary of the complaints received during the last year, and compare this to the complaints received in previous years;
  - (c) include a summary of the monitoring results on the development during the last year;
  - (d) include an accurate record of the amount of product coal transported on the development over the last year on a weekly basis;
  - (e) include an analysis of these monitoring results against the relevant:
    - impact assessment criteria;
    - monitoring results from previous years; and
    - predictions in the SEE;
  - (f) identify any trends in the monitoring over the life of the development;
  - (g) identify any non-compliance during the last year; and, if necessary,
  - (h) describe what actions were, or are being taken, to ensure compliance.

### REPORTING

#### Incident Reporting

5. The Applicant shall notify the Director-General and any other relevant agencies of any incident that has caused, or has the potential to cause, significant risk of material harm to the environment, at the earliest opportunity. For any other incident associated with the development, the Applicant shall notify the Director-General and any other relevant agencies as soon as practicable after the Applicant becomes aware of the incident. Within 7 days of the date of the incident, the Applicant shall provide the Director-General and any relevant agencies with a detailed report on the incident, and such further reports as may be requested.



### **Regular Reporting**

6. The Applicant shall provide regular reporting on the environmental performance of the development on its website, in accordance with the reporting arrangements in any condition of this consent.

### **INDEPENDENT ENVIRONMENTAL AUDIT**

7. The Applicant shall ensure that the development is included in the Independent Environmental Audit of the Wambo Mining Complex.

### **ACCESS TO INFORMATION**

8. From 31 May 2012, the Applicant shall:
  - (a) make copies of the following publicly available on its website:
    - the SEE, SEE (Mod 1) and EA (Mod 2);
    - all current statutory approvals for the development;
    - approved strategies, plans and programs required under the conditions of this consent;
    - a comprehensive summary of the monitoring results of the development, which have been reported in accordance with the various plans and programs approved under the conditions of this consent;
    - a complaints register, which is to be updated on a monthly basis;
    - the annual reviews (over the last 5 years);
    - any independent environmental audit, and the Applicant's response to the recommendations in any audit;
    - any other matter required by the Director-General; and
  - (b) keep this information up to date, to the satisfaction of the Director-General.

## APPENDIX 1 SCHEDULE OF LAND

### Freehold Land

Description	Landowner
Lot 174 DP 755267	Coal & Allied Operations Pty Ltd
Lot 171 DP 755267	Coal & Allied Operations Pty Ltd
Lot 85 DP 755267	Coal & Allied Operations Pty Ltd
Lot 1 Sec 21 DP 759053	Wambo Coal Pty Ltd
Lot 2 Sec 21 DP 759053	Wambo Coal Pty Ltd
Lot 3 Sec 21 DP 759053	Wambo Coal Pty Ltd
Lot 4 Sec 21 DP 759053	Wambo Coal Pty Ltd
Lot 5 Sec 21 DP 759053	Wambo Coal Pty Ltd
Lot 202 DP 257063	Wambo Coal Pty Ltd
Lot 7 DP 3030	Wambo Coal Pty Ltd
Lot 5 DP 542226	Wambo Coal Pty Ltd
Lot 10 DP 113343	Wambo Coal Pty Ltd
Lot 3 Sec 16 DP 759053	Wambo Coal Pty Ltd
Lot 193 DP 755267	Coal & Allied Operations Pty Ltd
Lot 86 DP 755267	Coal & Allied Operations Pty Ltd
Lot 88 DP 755267	Coal & Allied Operations Pty Ltd

### Crown Land Descriptions

Council controlled roads have been identified using geographical names where possible. Council and Crown roads and sections of Wollombi Brook with no real property identifier have their location described relative to adjoining lots.

### Crown Land

- Part of Lot 193 DP 755267 resumed for road reserve by gazettal notice 46 on 2 May 1958 Folios 1278 and 1279.

### Council Roads

- Wallaby Scrub Road
- Watt St.
- Parmeter St.

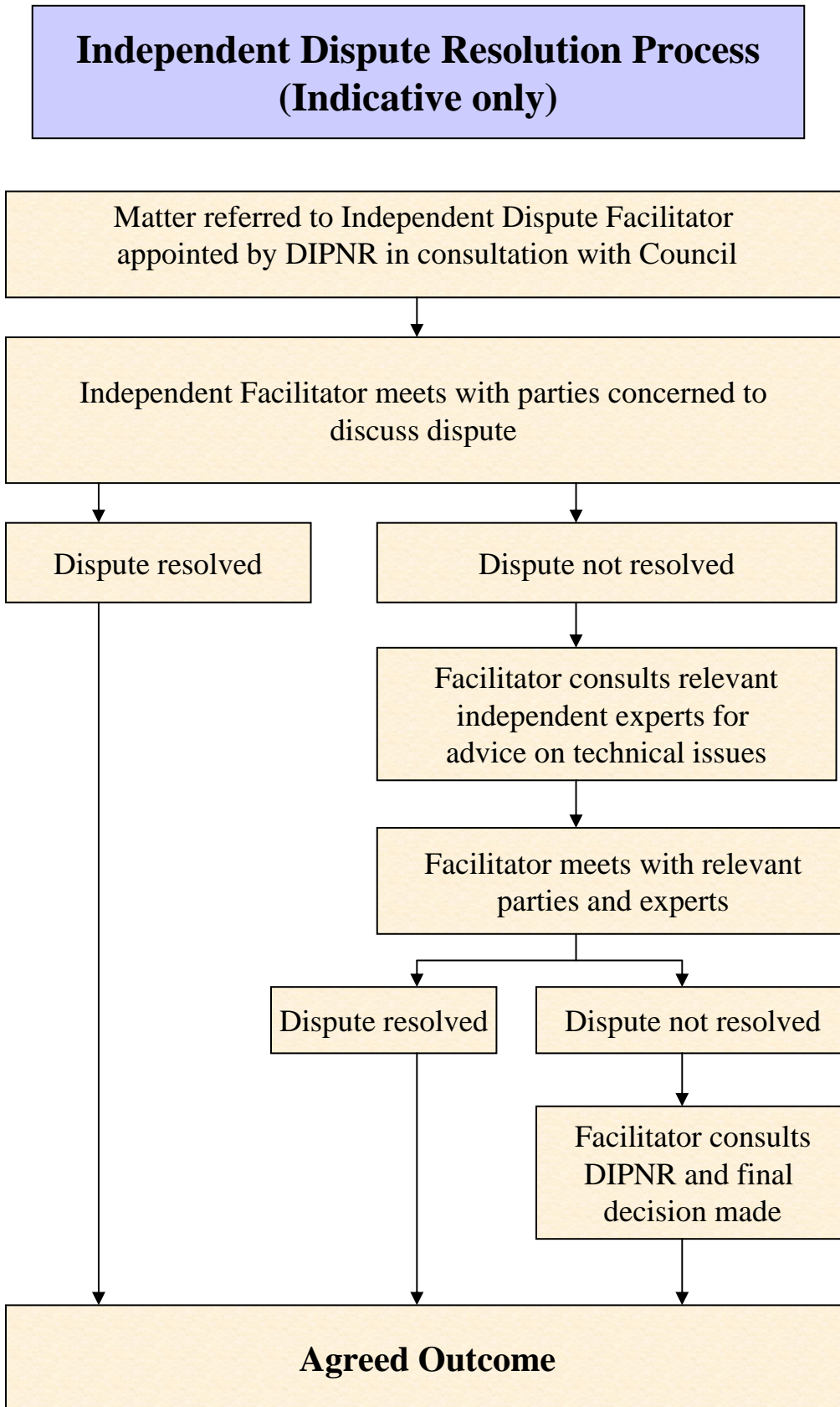
### Crown Roads

- High Road
- Bounded by Lots 35, 36, 85 DP 755267, Lots 1-3 Sec 21 DP759053

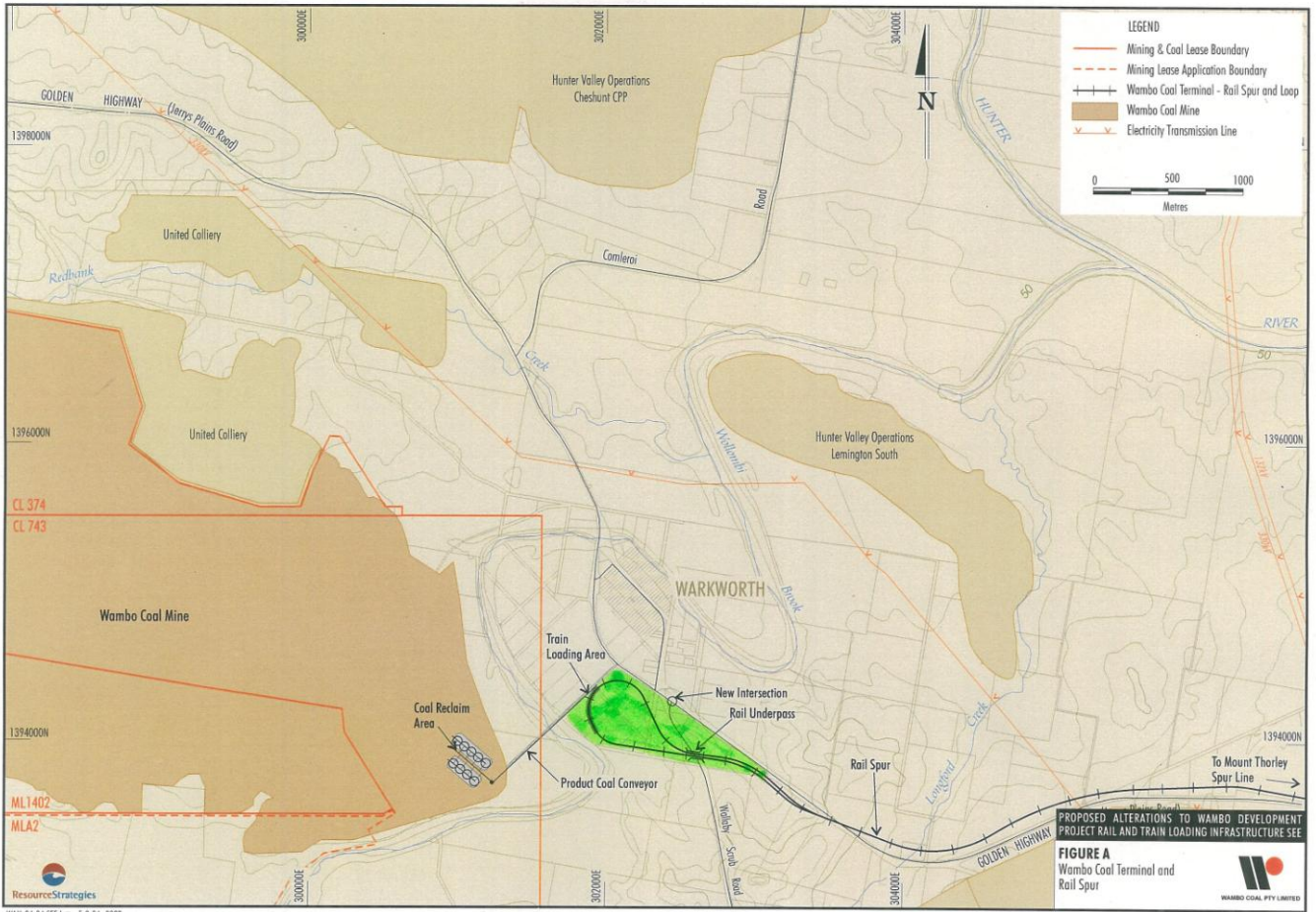
### Wollombi Brook

- Bounded by Lot 5 Sec 21 DP759053, Lot 3 Sec 16 DP759053, Lot 10 DP 113343, Lot 5 DP 542226

APPENDIX 2  
INDEPENDENT DISPUTE RESOLUTION PROCESS



## APPENDIX 3 REVEGETATION AND LANDSCAPING AREA



# APPENDIX 4 RAIL REFUELLING FACILITY

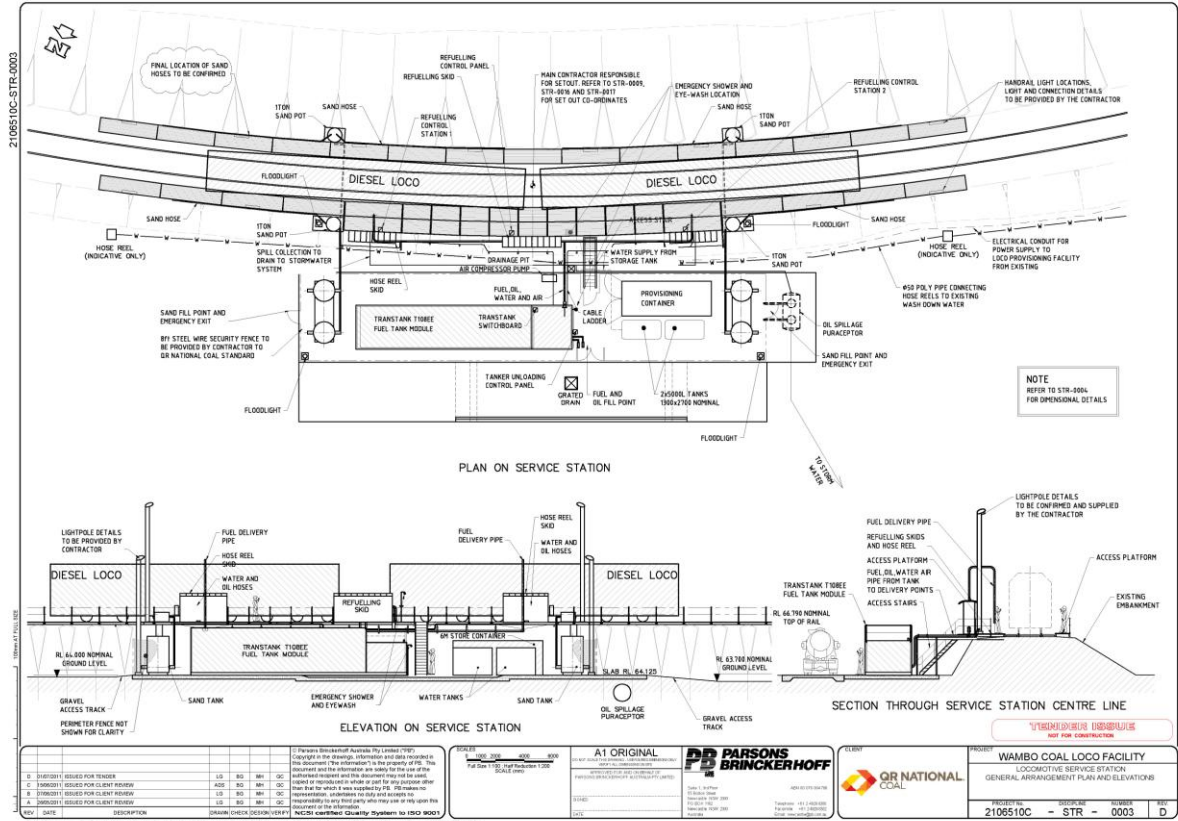


Figure 1: Rail Refuelling Facility site layout and elevation

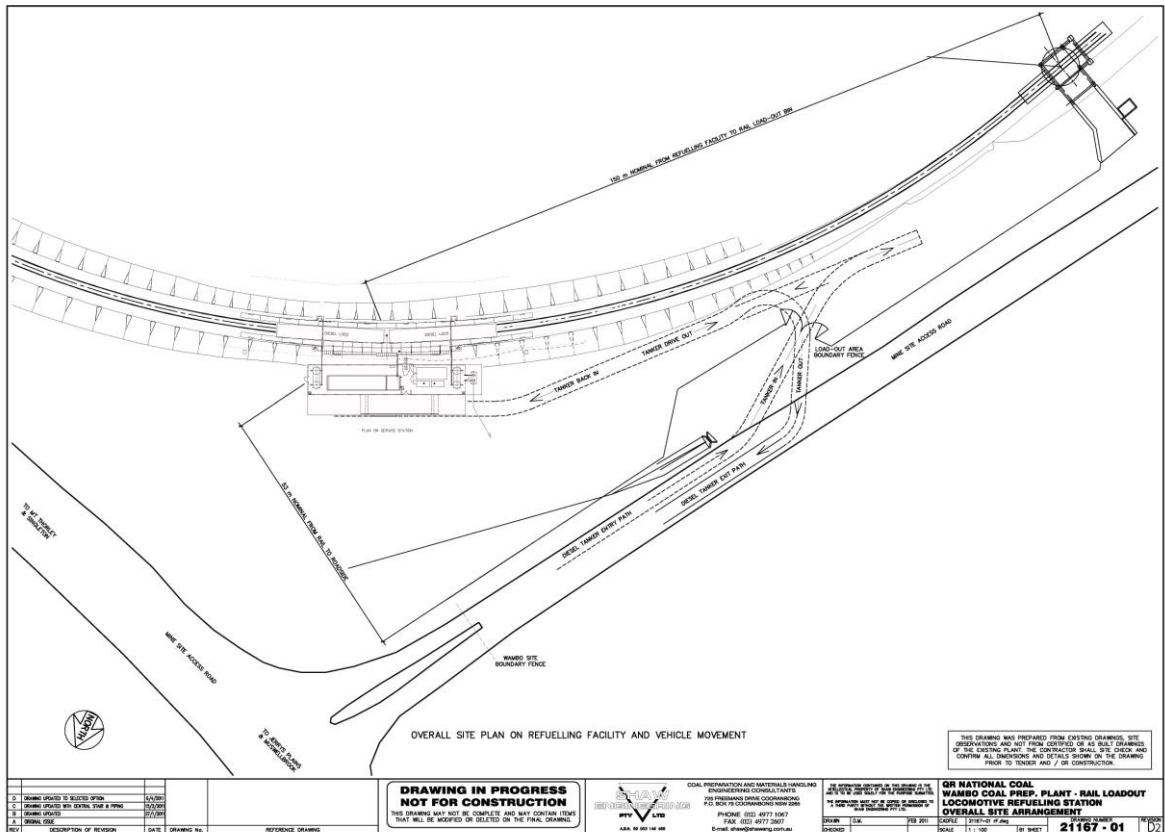


Figure 2: Rail Refuelling Facility site plan and vehicle movement