



Business Papers 2021

MID-WESTERN REGIONAL COUNCIL

ORDINARY MEETING
WEDNESDAY 15 SEPTEMBER 2021

SEPARATELY ATTACHED ATTACHMENTS

*A prosperous and progressive
community we proudly call home*



ATTACHMENTS

Report 8.5	Attachment 1	Planning Proposal	3
Report 9.4	Attachment 1	Revised Road Closure Land Transfer Deed	45
	Attachment 2	Road Closure Land Transfer Deed endorsed 17 June 2020	70
	Attachment 3	Heads of Agreement endorsed 15 May 2019.....	95
Report 9.5	Attachment 1	Heads of Agreement endorsed by Council 15-5-2019	116
	Attachment 2	Plan of land to be acquired for the purposes of the Roads Act.....	137
	Attachment 3	Draft Deed of Compulsory Acquisition by Agreement.....	140



*Looking After
our Community*

PLANNING PROPOSAL
HOUSEKEEPING
AMENDMENT 2021

1 SEPTEMBER 2021

MID-WESTERN REGIONAL COUNCIL
STRATEGIC PLANNING

■ ■ ■ ■ ■ TOWARDS 2030



THIS DOCUMENT HAS BEEN PREPARED BY THE DEVELOPMENT DIRECTORATE FOR MID-WESTERN REGIONAL COUNCIL.

ANY QUESTIONS IN RELATION TO THE CONTENT OF THIS DOCUMENT SHOULD BE DIRECTED TO:
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Table of Contents

Overview	4
Introduction	4
Background	4
Part 1 – Objectives or Intended Outcome	5
Part 2 – Explanation of Provisions	8
Part 3 – Justification	9
Section A - Need for the Planning Proposal	9
Section B - Relationship to Strategic Framework	9
Section C - Environmental, Social and Economic Impact	11
Section D - State and Commonwealth Interests	11
Part 4 – Mapping	13
Part 5 – Community Consultation	14
Part 6 – Project Timeline	15
Proposed Timeline	15
Appendix 1 – Section 117 Directions	16
Appendix 2 – Updated Schedule 5 Environmental Heritage	18

Overview

Introduction

The Planning Proposal Mid-Western Regional Local Environmental Plan Housekeeping Amendment (the Planning Proposal) explains the intent of, and justification for, the proposed amendments to the Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012).

The Planning Proposal is to implement the following changes to the MWRLEP 2012:

- 1) Update the property and/or legal description of Heritage Items in Schedule 5 Environmental Heritage.
- 2) Listing of 6 Bulga Street, Gulgong – Lot 3 DP 570476 in Schedule 5 Environmental Heritage.
- 3) Zone Lot 3 DP1172889 and crown road separating Lot 2 DP1172889 from Lot 3 DP1172889 to E1 National Parks and Nature Reserves.
- 4) Dwelling entitlement for Lots 4, 5, 6 and 8 DP 271077 included in Schedule 1 Additional permitted uses.

The proposal has been prepared in accordance with Section 3.32 and 3.33 of the Environmental Planning and Assessment Act 1979 (the Act) and the relevant Department of Planning and Environment guidelines, including A Guide to Preparing Local Environmental Plans and A Guide to Preparing Planning Proposals.

Background

Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012) came into effect on 10 August 2012. MWRLEP 2012 is the consolidation of the previous planning controls into one local environmental plan. It is also a translation of those controls into the NSW Government's Standard Instrument Principal Local Environmental Plan.

Part 1 – Objectives or Intended Outcome

The objective of the Planning Proposal is to implement the following:

PROPOSED AMENDMENT	LAND TO WHICH IT APPLIES	OBJECTIVE/OUTCOME
1. Update the property address and/or legal description of Heritage Items in Schedule 5 Environmental Heritage and remove incorrect listings.	Heritage items listed in Schedule 5 Environmental Heritage.	Accurate identification of heritage items.
2. Heritage listing of property	6 Bulga Street, Gulgong Lot 3 DP 570476	Heritage conservation of the dwelling.
3. Rezoning of Lot 3 DP 1172889 and part of a crown road.	Lot 3 DP 1172889 and part of a crown road.	Undertake amendment to LEP as directed by the Office of Environment & Heritage NSW National Parks & Wildlife.
4. Dwelling entitlement for Lots 4, 5, 6 and 8 DP 271077 included in Schedule 1 Additional permitted uses.	Lots 4, 5, 6 and 8 DP 271077.	Facilitate development consent be granted for dwellings on the subject lots.

1) Update the property address and/or legal description of Heritage Items in Schedule 5 Environmental Heritage.

Prior to the Mid-Western Regional Local Environmental Plan 2012 legal descriptions were not included as part of heritage item descriptions in the local environmental plans. Inventory sheets provide details, including street address and legal description and outline the significance of properties. Inventory sheets were prepared as part of previous heritage studies, the majority of heritage items have inventory sheets.

It appears when legal descriptions were included as part of the preparation of the Mid-Western Regional Local Environmental Plan 2012, the information detailed on the inventory sheets was utilised. In some circumstances, this information was dated, for instance, the lot was subdivided and now has a new legal description.

This amendment provides the correct street address and legal description for heritage items within Schedule 5 of the LEP. Buildings that no longer exist have been removed from the schedule. The updated Schedule 5 is provided as Appendix 2.

2) Listing of three additional items in Schedule 5 Environmental Heritage

6 Bulga Street, Gulgong (dwelling) – Lot 3 DP 570476

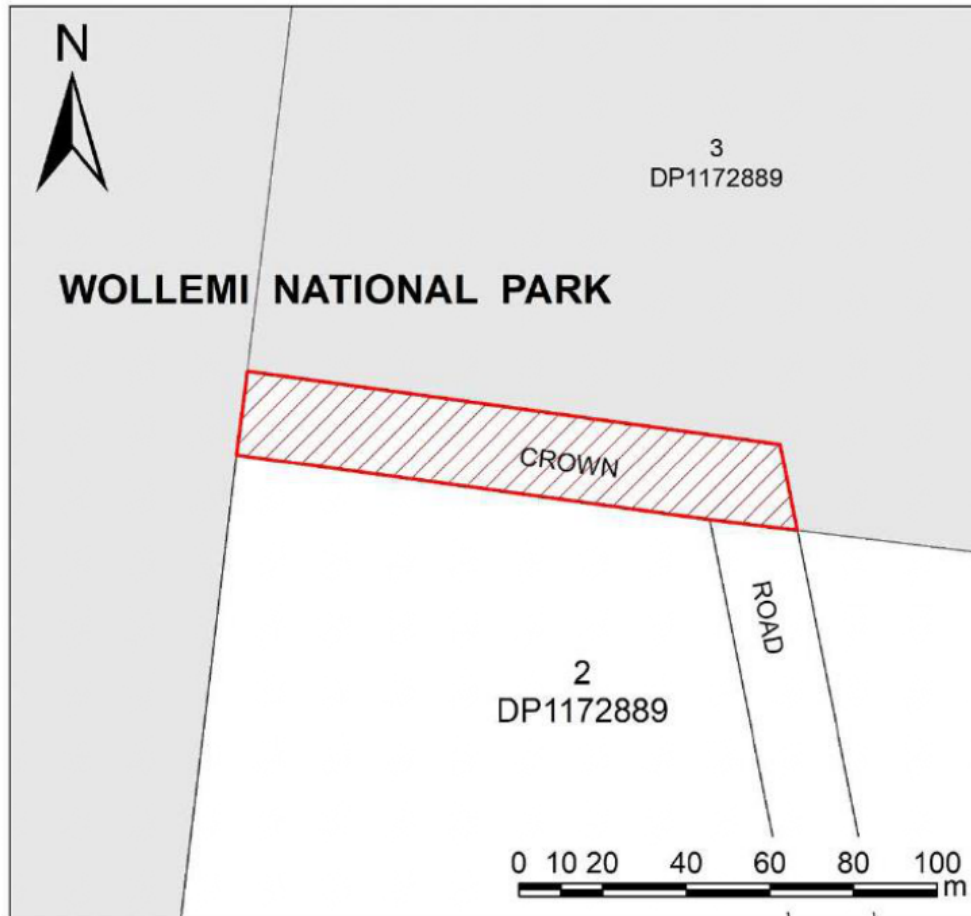
The landowner approached Council to list this property. The property was listed under the former Mudgee Local Environmental Plan 1998 and has an inventory sheet detailing its significance. It appears to be an error that it was not included in Schedule 5 Environmental Heritage of the MWRLEP 2012, accordingly the property is recommended for listing to correct this error.

3) Zone Lot 3 DP1172889 and crown road separating Lot 2 DP1172889 from Lot 3 DP1172889 to E1 National Parks and Nature Reserves

Correspondence was received from the Office of Environment & Heritage NSW National Parks & Wildlife instructing Council to rezone Lot 3 DP1172889 and crown road separating Lot 2 DP1172889 from Lot 3 DP1172889 to E1 National Parks and Nature Reserves.

This land is now part of the Wollemi National Park, under the *National Parks and Wildlife Act 1974*.

The below diagram depicts the part of the crown road to be zoned E1 National Parks and Nature Reserves.



4) Dwelling entitlement for Lots 4,5,6 and 8 DP271077 included in Schedule 1 Additional permitted uses.

Development Application 0190/2015 consented to the creation of one community lot and eight community residential allotments. All the residential allotments are less than the minimum lot size (MLS) specified in the MWRLEP 2012 of 12 hectares, ranging in size from 3.96ha-5.97ha.

The original development application proposed eight 12 hectare lots (all above the MLS), to ensure a dwelling entitlement could be achieved. Council directed the applicant to amend the development application, so that the high biodiversity area (existing vegetation) was contained in a single lot at the rear, in order to retain and better manage the existing vegetation. Accordingly, lots were created and approved below the minimum lot size of 12 hectares for a dwelling.

Council has already approved DA0148/2018, allowing the erection of a dwelling on Lot 9 (3.96ha). Of the remaining seven residential lots, Lots 2 and 3, each have an area above 5 hectares and therefore have a dwelling entitlement, through satisfying 4.2A(g) of the MWRLEP 2012; Lot 7 (4.54ha) could achieve an entitlement, through a 4.6 variation to 4.2A(g), being within 10% of the 5 hectare provision.

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

No lawful dwelling entitlement exists for Lots 4, 5, 6 and 8, as they do not achieve the MLS and are more than 10% of the 5ha provision.

In considering the Assessment Report and Determination, it is obvious that staff approved a community title subdivision, for the purposes of residential development, with conditions requiring the provision of soil tests for building pads; fill to be suitable for residential development. Commentary in Assessment Report also note that the proposal provides residential housing in a rural setting, and that vegetation removal will be limited to 0.65Ha for the clearing of fence lines, and dwelling pads; and that there is sufficient area to accommodate onsite sewerage management facility - to be assessed at the time of an application for dwellings.

Development Application (DA0190/2015) granted consent to a community title subdivision creating eight (8) residential lots, and one (1) community lot on Lesters Lane, without any clear avenue for dwelling entitlement, or right to erect a dwelling - despite the assessment report and consent clearly intending to do so.

In considering the Assessment Report and Determination, it is obvious that Council believed it was approving a community title subdivision, with approval to erect dwellings on each of the lots, subject to a future development application. Accordingly, it is proposed to include a dwelling entitlement for Lots 4, 5, 6 and 8 DP271077 in Schedule 1 Additional Permitted Uses of the MWRLEP 2012.

Part 2 – Explanation of Provisions

The objectives and intended outcomes as described in Part 1 will be achieved by the following:

PROPOSED AMENDMENT	EXPLANATION OF PROVISIONS
1. Update the property address and/or legal description of Heritage Items in Schedule 5 Environmental Heritage and remove incorrect listings.	Schedule 5 Environmental Heritage will be updated with detailed in Attachment 1
2. Heritage listing of one property.	Assign an item number and include in Schedule 5: 6 Bulga Street, Gulgong -Lot 3 DP 570476.
3. Rezoning of Lot 3 DP 1172889 and part of a crown road.	Update Map LZN 009, Map Sheet ID Number 5270_COM_LZN_009_160_20120619 with Rezoning of Lot 3 DP 1172889 and part of a crown road.
4. Dwelling entitlement for Lots 4, 5, 6 and 8 DP 271077 included in Schedule 1 Additional permitted uses.	Include item 5. Use of certain land at 166, 174, 180 and 200 Lesters Lane, Piambong - Lots 4, 5, 6 and 8 DP 271077, development for a dwelling house is permitted with development consent.

Part 3 – Justification

Section A - Need for the Planning Proposal

Q1: Is the planning proposal the result of any strategic study or report?

The Planning Proposal is to facilitate housekeeping amendments, accordingly, is not a result of a strategic study or report.

Q2: Is the planning proposal the best means of achieving the objectives or outcomes or is there a better way?

PROPOSED AMENDMENT	BEST MEANS OF ACHIEVING?
1. Update the property address and/or legal description of Heritage Items in Schedule 5 Environmental Heritage and remove incorrect listings.	Updating Schedule 5 Environmental Heritage is the best means of achieving the proposed amendment.
2. Heritage listing of one property	Updating Schedule 5 Environmental Heritage is the best means of achieving the proposed amendment.
3. Rezoning of Lot 3 DP 1172889 and part of a crown road.	Updating Map LZN 009, Map Sheet ID Number 5270_COM_LZN_009_160_20120619 is the best means of achieving the proposed amendment.
4. Dwelling entitlement for Lots 4, 5, 6 and 8 DP 271077 included in Schedule 1 Additional permitted uses.	Updating Schedule 1 Additional permitted uses is the best means of achieving the proposed amendment.

Section B - Relationship to Strategic Framework

Q3: Is the planning proposal consistent with the application regional or sub-regional strategy?

The Central West and Orana Regional Plan 2036 (Regional Plan) applies to the Mid-Western Regional Local Government Area. Undertaking these housekeeping amendments is generally consistent with the Directions of the Regional Plan.

Q4: Is the proposal consistent with Council's Community Strategic Plan or other local strategic plan?

Undertaking these housekeeping amendments is generally consistent with the Directions of the Regional Plan is generally consistent with Council's Towards 2030, Mid-Western Region Community Plan.

Q5: Is the planning proposal consistent with applicable state environmental planning policies?

Yes. An analysis of the applicable State Environmental Planning Policies (SEPP's) is included in the following table. The proposal is either consistent with or not relevant to any applicable SEPP's.

SEPP	CONSISTENCY / RESPONSE
STATE ENVIRONMENTAL PLANNING POLICY (ABORIGINAL LAND) 2019	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (ACTIVATION PRECINCTS) 2020	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (CONCURRENCES AND CONSENTS) 2018	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES) 2017	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (GOSFORD CITY CENTRE) 2018	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT PROTECTION) 2020	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT PROTECTION) 2021	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (KOSCIUSZKO NATIONAL PARK—ALPINE RESORTS) 2007	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (KURNELL PENINSULA) 1989	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (MAJOR INFRASTRUCTURE CORRIDORS) 2020	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES) 2007	Not relevant
19 – BUSHLAND IN URBAN AREAS	Not relevant
21 – CARAVAN PARKS	Not relevant
33 – HAZARDOUS AND OFFENSIVE DEVELOPMENT	Not relevant
36 - MANUFACTURED HOME ESTATES	Not relevant
47 – MOORE PARK SHOWGROUND	Not relevant
50 – CANAL ESTATE DEVELOPMENT	Not relevant
55 – REMEDIATION OF LAND	Not relevant
64 – ADVERTISING AND SIGNAGE	Not relevant
65 – DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT	Not relevant
70 – AFFORDABLE HOUSING	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (PRIMARY PRODUCTION AND RURAL DEVELOPMENT) 2019	Consistent
STATE ENVIRONMENTAL PLANNING POLICY (STATE AND REGIONAL DEVELOPMENT) 2011	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (STATE SIGNIFICANT PRECINCTS) 2005	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (SYDNEY DRINKING WATER CATCHMENT) 2011	Not relevant

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

SEPP	CONSISTENCY / RESPONSE
STATE ENVIRONMENTAL PLANNING POLICY (SYDNEY REGION GROWTH CENTRES) 2006	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (THREE PORTS) 2013	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (URBAN RENEWAL) 2010	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (VEGETATION IN NON-RURAL AREAS) 2017	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (WESTERN SYDNEY AEROTROPOLIS) 2020	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (WESTERN SYDNEY EMPLOYMENT AREA) 2009	Not relevant
STATE ENVIRONMENTAL PLANNING POLICY (WESTERN SYDNEY PARKLANDS) 2009	Not relevant

Q6: Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The relevant section 117 Directions are addressed in Appendix 1. The proposal is consistent with the relevant 117 Directions.

Section C - Environmental, Social and Economic Impact

Q8: Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

Not applicable.

Q9: Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

As set out in A Guide to Preparing Planning Proposals, the purpose of this question is to ascertain the likely environmental effects that may be relevant. The nature of the planning proposal is such that no technical information is required.

Q10: How has the planning proposal adequately addressed any social and economic effects?

Not applicable.

Section D - State and Commonwealth Interests

Q11: Is there adequate public infrastructure for the planning proposal?

Not applicable as the Planning Proposal will not trigger an upgrade or reliance on public infrastructure.

Q12: What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Any consultation will be undertaken in accordance with any future Gateway Determination condition. However, due to the minor nature of the Planning Proposal it is considered unlikely any conditions will be agency consultation will be required.

Part 4 – Mapping

Map Sheet LZN 009, ID Number 5270_COM_LZN_009_160_20120619 will be amended to identify the rezoning of Lot 3 DP 1172889 and part of a crown road.

Part 5 – Community Consultation

The Planning Proposal is a housekeeping amendment and is considered to be a low impact proposal as outlined in 5.5.2 Community Consultation “Guide to preparing local environmental plans” is:

- Consistent with the pattern of surrounding land use zones and/or land uses
- Consistent with the strategic planning framework
- Presents no issue with regard to infrastructure servicing
- Not a principal LEP
- Does not reclassify public land

As such the following consultation is proposed:

- An exhibition period of 14 days commencing on the date that a notice of exhibition is printed in the local news press
- Advertising in the local newspaper at the start of the exhibition period
- Advertising on Council’s website for the duration of the exhibition period
- Consultation with agencies external to Council is not considered necessary.

Part 6 – Project Timeline

The Planning Proposal is a housekeeping amendment to the Mid-Western Local Environmental Plan 2012 and should be able to be achieved within 3 - 6 months of the date of the Gateway Determination.

Proposed Timeline

MILESTONE	DATE
Gateway Determination	October 2021
Completion of Technical Information	N/A
Agency Consultation	N/A
Public Exhibition	October 2021
Consideration of Submissions	November / December 2021
Mapping, Legal Drafting & Opinion	December 2021
RPA makes Plan	December 2021 / January 2022

Appendix 1 – Section 117 Directions

The Section 117 Directions have been identified in the table below. The planning proposal is generally consistent with the directions.

SECTION 117 DIRECTION	APPLICABLE	CONSISTENT	COMMENT
1. Employment and Resources			
1.1 Business & Industrial zones	No	N/A	
1.2 Rural zones	Yes	Yes	The Planning Proposal involves the rezoning of approximately 120 hectares of rural land, this amendment is undertaking a direction from Office of Environment & Heritage NSW National Parks & Wildlife.
1.3 Mining, Petroleum Production and Extractive Industries	No	N/A	
1.4 Oyster Aquaculture	No	N/A	
1.5 Rural Lands	Yes	Yes	The Planning Proposal involves the rezoning of approximately 120 hectares of rural land, this amendment is undertaking a direction from Office of Environment & Heritage NSW National Parks & Wildlife.
2. Environment & Heritage			
2.1 Environment Protection Zones	No	N/A	
2.2 Coastal Protection	No	N/A	
2.3 Heritage Conservation	Yes	Yes	The Planning Proposal will support the conservation of heritage items.
2.4 Recreation Vehicle Areas	No	N/A	
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	No	N/A	
2.6 Remediation of Contaminated Land	No	N/A	
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	No	N/A	
3.2 Caravan Parks and Manufactured Home Estates	No	N/A	
3.3 Home Occupations	No	N/A	
3.4 Integrating Land Use and Transport	No	N/A	

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

SECTION 117 DIRECTION	APPLICABLE	CONSISTENT	COMMENT
3.5 Development Near Licensed Aerodromes	No	N/A	
3.6 Shooting Ranges	No	N/A	
3.7 Reduction in non-hosted short term rental accommodation period	No	N/A	
4. Hazard and Risk			
4.1 Acid Sulfate Soils	No	N/A	
4.2 Mine Subsidence and Unstable Land	No	N/A	
4.3 Flooding	No	N/A	
4.4 Planning for Bushfire Protection	No	N/A	
5. Regional Planning			
5.2 Sydney Drinking Water Catchments	No	N/A	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	N/A	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A	
5.9 North West Rail Link Corridor Strategy	No	N/A	
5.10 Implementation of Regional Plans	N/A	N/A	
5.11 Development of Aboriginal Land Council land	No	N/A	
6. Local Plan making			
6.1 Approval and Referral Requirements	No	N/A	
6.2 Reserving Land for Public Purposes	No	N/A	
6.3 Site Specific Provisions	No	N/A	
7. Metropolitan Planning	No	N/A	

Appendix 2 – Updated Schedule 5 Environmental Heritage

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
	Lue Station Homestead	Lue Station, Parish of Arthur	Lot 30, DP 655396	Local	I361	Lot 30 DP 655396
	Cudgegong General Cemetery	Parish of Arthur	Lot 13 DP 756906	Local	I518	Lots 113-119 DP 756906
	John Riley's Grave	Lue Station, Parish of Arthur	Lot 30, DP 655396	Local	I362	Lot 30 DP 655396
	Havilah Cemetery	Parish of Barra	Lot 2, DP 556656	Local	I534	Lot 2 DP 556656
	Railway station and stationmaster's house group	Village of Lue, Parish of Barra		State	I363	Lot 1 DP 814706
	Hotel and residence	Village of Lue, Parish of Barra	Part Portion 28, DP 756865	Local	I364	Lot 1 DP 327510
	Shop, "John Thompson's Butcher/Draper/Grocer 1913"	Cox Street, Village of Lue, Parish of Barra	Lot 1, DP 771922	Local	I365	Lot 1 DP 771922
	366 Railway viaduct	East end of Village of Lue, Parish of Barra		Local	I366	Within railway corridor
	Mudgee Cemetery	Cassilis Road, Parish of Bumberra	DP755418	Local	I376	Lots 125, 126, 126A, 127, 128, 129, 130, 131, 184, 188, DP 755418; Lot 7002, DP 1020166; Lot 7003, DP 94127
	Avenue of trees	Cassilis Road (northern extension of Church Street), Parish of Bumberra		Local	I377	Road Reserve
	370 Roth House	Corner Cassilis Road and Henry Lawson Drive, Parish of Bumberra	Lot 1, DP 858020	Local	I370	Lot 1 DP 858020
	Mudgee Brickworks	Home Rule Road, Parish of Bumberra	DP 755418	Local	I375	Lot B DP 161329; Lot 2 DP 580864
	Gawthorne Cottage	Lue Road, Parish of Bumberra	Lot 1, DP 800689	Local	I372	Lot 1 DP 800689
	Wilgowra homestead	Lue Road, Parish of Bumberra	Lot 1, DP 304767	Local	I373	Lot 1 DP 304767
	Oakfields homestead	Lue Road, Parish of Bumberra	Lot 231 DP 791836	Local	I374	Lot 1 DP 1191835

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
	Old School/Church	Lue Road, Parish of Bumberra	Lot 1, DP 304767	Local	I1003	Lot 1 DP 304767
	Loneragan homestead (Putta Bucca)	Putta Bucca Road, Parish of Bumberra	Lot 23 DP 755418	Local	I371	Lot 1 DP 883502
	Wingvee Homestead and Woolshed and Quartz Roasting Pits	Triamble Road, Parish of Cummings	Lot 27, DP 756911	State	I979	Lot 27, DP 756911
	"Melrose Park", Homestead	Parish of Derale	Lot 1 DP 736756	Local	I378	Lot 31 DP 1197309
	Havilah homestead, chapel and shearing sheds	Parish of Derale	Portion 65 DP 755427	Local	I379	Lot 30 DP 1194728
	"Spring Ridge", Homestead	Spring Ridge, Parish of Goodiman	Lot 2 DP 612712	Local	I385	Lot 22 DP 613344
	Guntawang homestead	Guntawang Road, Parish of Guntawang	Lot 3, DP 718231	Local	I390	Lot 3, DP 718231
	"The Lagoon", Homestead	Castlereagh Highway, Parish of Guntawang	Lot 1, DP 1144337	Local	I391	Lot 1, DP 1144337
	Old gold mine	Parish of Guntawang	Portion 412, DP 755934	Local	I392	Lot 14 DP1172228
	Stone Church	Parish of Hearne	Portion 144, DP 755778	Local	I11R	Lot 144 DP 755778
	Cemetery	Parish of Hearne	Lot 1, DP 199334	Local	I18R	Lot 1, DP 199334
	Ben Buckley Homestead and Woolshed	Parish of Rouse	Lot 1, DP 869050	Local	I998	Lot 1, DP 869050
	Tannabutta General Cemetery	Parish of Tannabutta	Lot 7001, DP 1023927	Local	I1005	Lots 7001, 7004, 7005, DP 1023927
	Triamble Homestead and Woolshed	976 Triamble Road, Parish of Trianbil	Lot 25, DP 756911	Local	I976	Lot 25 DP 756911
	St Matthew's Anglican Church	Triamble Road, Parish of Trianbil	Lot 13 DP 1125856	Local	I978	Lot 15 DP 1125856
	Uamby Cemetery	Parish of Uamby		Local	I1000	
	Catholic Church	Parish of Warrangunia	Portion 255 DP 755799	Local	I13R	Lot 237 DP 755799
	Cemetery	Parish of Warrangunia	Portion 107 and 110 DP 755799	Local	I17R	Lots 107-110 DP 755799
	Church of England	Parish of Warrangunia	Part Portion 25 DP 755799	Local	I12R	Lot 1 DP 1149029
	Uniting Church	Parish of Warrangunia	Part Portion 22 DP 755799	Local	I10R	Lot 21 DP 1117946
	Home Rule School, residence	Home Rule, Parish of Wyaldra	Portions 140 and 141 DP 755415	Local	I420	Lots 140 and 141 DP 755415

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
	Yamble homestead and outbuildings	Parish of Yarrobil	Lot 3 DP 1083951	Local	I421	Lot 3, DP 1083951
Avisford	Chinese Water Race		Lot 119 DP 756864	State	I1013	Lot 119, DP 756864
Barigan	Homestead	367 Barigan Road	Portions 65 and 142	Local	I367	Lot 65 and Lot 142 DP 755430
Biraganbil	Morrowolga homestead		Portion 28	Local	I369	Lot 1 DP 1083951
Biraganbil	Biraganbil homestead	Wellington Road	Lot 2 DP 534376	Local	I368	Lot 2 DP 534376
Bylong	St Stephen's Anglican Church	7647 Bylong Valley Way	Lot 51 DP 1142227	Local	I14R	Lot 51 DP 1142227
Clandulla	Railway Station	SRA 205564		Local	I30R	within Railway corridor
Cooyal	St Andrews Anglican Church Cemetery	Linburn Lane	Lot 304 DP 755414	Local	I532	Lot 304 DP 755414
Crudine	Cemetery		Portions 43-46	Local	I16R	Lots 43 - 49 DP755768
Crudine	School		Portion 24 DP755768	Local	I15R	Lot 25 DP 755768
Erudgere	Ellersly Homestead		Lot 53 DP 756897	Local	I995	Lot 1 DP 72342
Erudgere	"Erudgere", Winery	Hargraves-Hill End Road	Portions 74 and 76 DP 756880	Local	I380	Lots 74 and 76 DP 756880
Eurunderee	"Budgee Budgee Shop"		Lot 1 DP 1095527	Local	I384	Lot 1 DP 1095527
Eurunderee	"Loaded Dog Inn"		Lot 2 DP 778714	Local	I382	Lot 2 DP 778714
Eurunderee	"Craigmoor Wines"	Craigmoor Road	Portion 39 DP 755429	Local	I383	Lot 38 DP 755418
Eurunderee	Henry Lawson Memorial	Henry Lawson Drive	Lot 1 DP 368450	Local	I381	Lot 1 DP 368450
Goolma	Goolma Primary School		Lot 106 DP 750777	Local	I999	Lot 106 DP 750777
Goolma	St Mark's Anglican Church		Lot 146 DP 750777	Local	I997	Lot 146 DP 750777
Goolma	Pineview Homestead and Woolshed	889 Gollan Road		Local	I992	Lot 4 DP 750752
Grattai	"Beragoo", Homestead		Lot 8 DP 253524	Local	I386	Lot 2 DP 1026521
Wilbetree	Tinja Homestead		Lot 2, DP 1039849	Local	I989	Lot 2, DP 1141106
Wilbetree	Wilbetree homestead and outbuildings		Lot 1, DP 32365	Local	I413	Lot 1, DP 32365
Wilbetree	Wollara Homestead		Lot 41, DP 755453	Local	I982	

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Wilbetree	Burrunah Homestead	Wilbetree Road	Lot 1, DP 72342	Local	1988	Lot 53 DP 1124333
Gulgong	Fletchers Shaft		Crown reserve	Local	1990	
Gulgong	Old Railway Dam and Pump Shed		Lot 1, DP 1062193	Local	1389	Lot 1, DP 1062193
Gulgong	Scully's Shaft		Crown reserve	Local	1987	
Gulgong	Showground		Portions 86, 90 and 419	Local	1360	Lot 86, 90 and 419 DP 755434
Gulgong	House	16 Bayly Street (corner Nandoura Street)	Lot 1 Sec 72 DP 33960	Local	1189	Lot 1 DP 33960
Gulgong	House	22 Bayly Street	Lots 5 and 6 Sec 54 DP 758482	Local	1190	Lots 6 Section 54 DP 758482 Vol 95 Fol 44
Gulgong	House	29 Bayly Street	Lot 1 Sec 53 DP131408	Local	1191	Lot 1 DP131408
Gulgong	Old Flour Mill	31–35 Bayly Street (southwest corner White Street)	Lots 5–7, Section 5, DP 758482	Local	1192	Lot 7 Section 5 DP 758482
Gulgong	House	32 Bayly Street	Lot 9, Section 54, DP 758482; Lot 1A, DP 328975	Local	1193	Lot 9, Section 54, DP 758482; Lot 1A, DP 328975
Gulgong	House	42 Bayly Street	Lot 6 Section 12 DP 758482	Local	1194	Lot 6 Section 12 DP 758482
Gulgong	Catholic School	49 Bayly Street	Lot 1, Section 19, DP 1150865	Local	1196	Lot 1, DP 1150865
Gulgong	Catholic Rectory	53 Bayly Street	Lot 2, DP 1150865; Lots 4–8, Section 19, DP 758482	Local	1197	Lot 2, DP 1150865
Gulgong	St Andrews Presbyterian Church	54 Bayly Street	Lot 3, Section 20, DP 758482	Local	1195	Lot 3, Section 20, DP 758482
Gulgong	Church of St John the Baptist	55–59 Bayly Street	Lots 3–7, Section 19, DP 758482	Local	1199	Lot 3 and Part Lot 6, Section 19, DP 758482
Gulgong	St Luke's Anglican Church	64 Bayly Street (southeast corner Bulga Street)	Lot 1, DP 724452	Local	1198	Lot 1, DP 724452
Gulgong	House	29 Belmore Street	Lot 13, DP 35627	Local	1200	Lot 14, DP 740567
Gulgong	House	35 Belmore Street	Lot 16, DP 35627	Local	1201	Lot 1, DP 349857
Gulgong	House	47 Belmore Street	Lot 1, Section 57, DP 758482	Local	1202	Lot 1, Section 57, DP 758482
Gulgong	House	63 Belmore Street	Lot 2, Section 40, DP 774736	Local	1203	Lot 2, DP 774736

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Gulgong	Row of four houses	68-74 Belmore Street	Lots 1-4, DP 329007	Local	I204	Lots 1, 3 DP 329007, Vol 4596, Fol 168; Lot 2 DP 329007; Lot 4 Section 41 DP 758482
Gulgong	House	73 Belmore Street	Lot 2, Section 40, DP 758482	Local	I205	Lot 2, Section 40, DP 758482
Gulgong	House	84 Belmore Street	Lot 5, Section 14, DP 758482	Local	I206	Lot 5, Section 14, DP 758482
Gulgong	House	85 Belmore Street (demolished)	Lot 7, Section 13, DP 758482	Local	I207	Lot 7, Section 13, DP 758482
Gulgong	House	86 Belmore Street	Lot 6, Section 14, DP 758482	Local	I208	Lot 6, Section 14, DP 758482
Gulgong	House	88 Belmore Street	Lot 2 DP 357981	Local	I209	Lot 2 DP 357981
Gulgong	Uniting Church	89 Belmore Street (southeast Medley Street)	Lot 9, Section 13, DP 758482	Local	I210	Lot 9, Section 13, DP 758482
Gulgong	House	90 Belmore Street	Lot 8, Section 14, DP 758482	Local	I211	Lot 8, Section 14, DP 758482
Gulgong	House	104 Belmore Street (northeast corner Bulga Street)	Lot 1 DP 521414	Local	I212	Lot 1 DP 521414
Gulgong	House	8 Bowman Street	Lot 31, Section 59, DP 611931	Local	I214	Lot 31, DP 611931
Gulgong	House	9 Bowman Street	Lot 5, Section 60, DP 75848	Local	I213	Lot 5, Section 60, DP 75848
Gulgong	House	1 Bulga Street (northeast corner Little Bayly Street)	Lot 12 Section 21 DP 758482	Local	I217	Lot 12 DP 581936
Gulgong	Catholic church buildings	53-59 Bulga Street (southeast corner Bayly Street)	Lots 1-7, Section 19, DP 758482	Local	I216	Lots 4, 5 Part Lot 6 Lot 7 Sec 19 DP 758482
Gulgong	House	2 Cainbil Street (southwest corner Rouse Street)	Lot 4 DP 23799	Local	I218	Lot 4 DP 23799
Gulgong	House	18 Cainbil Street	Lot 2 DP 17320	Local	I219	Lot 2 DP 17320
Gulgong	House	24 Cainbil Street	Lot 5 DP 17320	Local	I220	Lot 5 DP 17320
Gulgong	House	26 Cainbil Street	Lot 6 DP 17320	Local	I221	Lot 6 DP 17320
Gulgong	House	12 Caledonian Street	Lot 3 DP 1107097; Lot 2 DP 607166	Local	I222	Lot 3 DP 1107097; Lot 2 DP 607166
Gulgong	House	2 Canadian Street	Lot 12 DP 807670	Local	I223	Lot 12 DP 807670

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Gulgong	"Tarrowonga", House	Corner Canadian Lead Road and Homer Street	Lot 249, DP 755433	Local	I224	Lot 249, DP 755433
Gulgong	Gulgong Cemetery	Castlereagh Highway		Local	I388	Lot 19, DP 1172228; Lot 1, DP 1122574; Lot 1, DP 1123016; Lot 7019, DP 1060567; Lot 7021, DP 1060560; Lot 1, DP 650652
Gulgong	House	5 Cooyal Street	Lot 3, Section 90, DP 758482	Local	I225	Lot 3 Section 90 DP 758482
Gulgong	House	10 Fitzroy Street	Lot 3 Section 86 DP 758482	Local	I228	Lot 3 Section 86 DP 758482
Gulgong	House	17 Herbert Street (corner with Rouse Street)	Lot 1, Section 43, DP 758482	Local	I229	Lot 1, Section 43, DP 758482
Gulgong	House	26 Herbert Street	Lot 11, Section 16, DP 758482	Local	I233	Lot 11, Section 16, DP 758482
Gulgong	House	28 Herbert Street	Lots 10 and 10A, Section 16, DP 758482	Local	I230	Lots 10 and 10A, Section 16, DP 758482
Gulgong	House	32 Herbert Street	Lots 8 and 7, Section 16, DP 758482	Local	I234	Lot 7, Section 16, DP 758482; Lot 8 DP 664161
Gulgong	House	50 Herbert Street (corner with Lynne Street)	Lot 32, Section 15, DP 591214	Local	I235	Lot 32 DP 591214
Gulgong	House	57 Herbert Street	Lot A, Section 7, DP 372437	Local	I237	Lot A, DP 372437
Gulgong	Gulgong Pioneer Museum	59–61 and 63–73 Herbert Street	Lots 1A, 1B, 2, 3, 6A, 6B and 6C, Section 6, DP 758482; Lot 1, DP 1088767; Lot 1, DP 103042; Lots 1 and 2, DP 1110254	Local	I236	Lots 1A, 1B, 2, 3, 5, 6A, 6B and 6C, Section 6, DP 758482; Lot 1, DP 1088767; Lots 1 and 2, DP 1110254
Gulgong	Shop and residence	62 Herbert Street	Lot 1, Section 14, DP 904818; Lots 1B and 2, Section 14, DP 758482	Local	I238	Lot 111 and Lot 112, DP 1174403
Gulgong	House	70 Herbert Street	Lots 1 and 2, Section 13, DP 758482	Local	I239	Lots 1 and 2, Section 13, DP 758482
Gulgong	Shop and House	74 Herbert Street	Lot 2A, Section 12, DP 758482	Local	I240	Lot 2B, Section 12, DP 758482; Lot 2A, Section 12, DP 758482

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Gulgong	Commercial building	74A Herbert Street	Lot 2B, Section 12, DP 758482	Local	I241	Lot 2B, Section 12, DP 758482; Lot 2A, Section 12, DP 758482
Gulgong	"Hobsons Shops Golden West Trading Post" and house	75 Herbert Street	Lots 1C and 1B, Section 5, DP 758482	State	I242	Lots 1C and 1B, Section 5, DP 758482
Gulgong	Gulgong Dry Cleaners	77 Herbert Street	Lot 1, DP 663000	Local	I243	Lot 1, DP 663000
Gulgong	Commercial building	78 Herbert Street	Lot 1, Section 12, DP 758482	Local	I244	Lot 1, Section 12, DP 758482
Gulgong	Commercial building	79–81 Herbert Street	Lots 2A and 2B, Section 5, DP 758482; Lot 31, Section 5, DP 635531	Local	I245	Lots 2A and 2B, Section 5, DP 758482; Lot 31, Section 5, DP 635531
Gulgong	Farmers and Graziers Co-op	83–85 Herbert Street	Lot 2, Section 5 DP 583142	Local	I246	Lot 2, DP 583142
Gulgong	Commercial building	87 Herbert Street	Lot 11, Section 5 DP 715378	Local	I247	Lot 11, DP 715378
Gulgong	"Davies Butchery"	89 Herbert Street (southeast corner Queen Street)	Lot 1, Section 4, DP 981816	Local	I248	Lot 1, DP 981816, Vol 666, Fol 237
Gulgong	Post Office	94 Herbert Street (southwest corner Robinson Street)	Lot 2, Section 28, DP 206281	Local	I249	Lot 21, DP 1183549
Gulgong	"Post Office Hotel"	97 Herbert Street (southeast corner Robinson Street)	Lots 1–3, Section 27, DP 758482	Local	I250	Lots 1–3, Section 27, DP 758482
Gulgong	Court House	98 Herbert Street	Lot 3, Section 28, DP 758482	Local	I251	Lot 7307 DP 1171571
Gulgong	Ulan County Council	102 Herbert Street	Lot 1, DP 1011525	Local	I252	Lot 1, DP 1011525
Gulgong	"Australian Joint Stock Bank"	101–103 Herbert Street	Lots 4 and 5, Section 27, DP 758482	Local	I253	Lots 4 and 5, Section 27, DP 758482
Gulgong	Fire Station	104 Herbert Street	Lot 5, Section 28, DP 758482	Local	I254	Lot 5, Section 28, DP 758482
Gulgong	House	105 Herbert Street	Lot 6, Section 27, DP 758482	Local	I255	Lot 6, Section 27, DP 758482
Gulgong	"Wyaldra Shire Hall"	109 Herbert Street	Lot 1, DP 831594	Local	I256	Lot 1, DP 831594
Gulgong	House	113 Herbert Street	Lot 3, Section 65, DP 758482	Local	I257	Lot 3, Section 65, DP 758482
Gulgong	Silos and house	Homer Street	Lot 102, DP 818674	Local	I258	Lot 102, DP 818674
Gulgong	"Haleys Cottage", House	2 Little Belmore Street (southeast corner White Street)	Lot 2, Section 42, DP 591934	Local	I259	Lot 2, DP 591934

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Gulgong	House	4 Loftus Street	Lot 4 Section 69 DP 758482	Local	I260	Lot 4 Section 69 DP 758482
Gulgong	House	11 Lynne Street	Lot 4, Section 23, DP 568136	Local	I263	Lot 4 Section 23 DP 758482
Gulgong	House	12 Lynne Street	Lot 2, Section 46, DP 513027	Local	I261	Lot 2, DP 513027
Gulgong	House	14 Lynne Street	Lot 21, Section 46, DP 568136	Local	I262	Lot 21, DP 568136
Gulgong	"Ten Dollar Town Motel"	Mayne Street (northwest corner Medley Street)	Lot 1, Section 18	Local	I308	Lot 1 Section 18 DP 758482
Gulgong	House	23 Mayne Street (Portion 219, Parish of Gulgong)	Lot 102, DP 1095103	Local	I265	Lot 102, DP 1095103
Gulgong	House	24 Mayne Street	Lot 2, DP 595785	Local	I264	Lot 2, DP 595785
Gulgong	House	38 Mayne Street	Lot 41 Section 45 DP 552358	Local	I266	Lot 41, DP 552358
Gulgong	House	45 Mayne Street	Lot 2, Section 44	Local	I267	Lot 2 Sec 44 DP 758482
Gulgong	House	46 Mayne Street	Lot 1, Section 45	Local	I268	Lot 1 Sec 45 DP 758482
Gulgong	House	49 Mayne Street	Lot 7, Section 32	Local	I269	Lot 7, Section 32, DP 758482, Vol 927, Fol 134
Gulgong	House	51 Mayne Street	Lot 6, Section 32	Local	I270	Lot 6 Sec 32 DP 758482
Gulgong	House	56 Mayne Street	Lot 2, Section 31	Local	I271	Lot 2 Sec 31 DP 758482
Gulgong	House	59 Mayne Street	Lot 1, Section 32	Local	I272	Lot 1, Section 32, DP 758482
Gulgong	House	74 Mayne Street	Lots 6 and 7, Section 30	Local	I273	Lots 6 & 7 Sec 30 DP 758482
Gulgong	"Loyola", House	77 Mayne Street	Lot D Section 29	Local	I274	Lot 2, DP 625944
Gulgong	House	78 Mayne Street	Lot 4, Section 30	Local	I275	Lot 4 Sec 30 DP758482
Gulgong	House	80 Mayne Street	Lot 3, Section 30	Local	I276	Lot 31 DP 628727
Gulgong	Shop	88 Mayne Street	Lot 2B, Section 4	Local	I277	Lot 1 DP 1067479
Gulgong	House	89 Mayne Street	Lot 15, Section 29	Local	I278	Lot 15, DP 791487
Gulgong	"Jas Loneragan"	90-100 Mayne Street (northeast corner Herbert Street)	Lots 5-7, Section 4	Local	I279	Lots 5A, 5B, 5C, Section 4, DP 758482; Lots 6,

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
						7, 8E, Section 4, DP 758482
Gulgong	St Vincent de Paul shop and residence	91 Mayne Street	Lot 9, Section 1	Local	I280	Lot 9, Section 1, DP 758482
Gulgong	House	93 Mayne Street	Lot 8, Section 1	Local	I281	Lot 8, Section 1, DP 758482
Gulgong	Prince of Wales Hotel	97 Mayne Street	Lots 5 and 6, Section 1	Local	I282	Lots 5 and 6, Section 1, DP 758482
Gulgong	"Prince of Wales Opera House"	99 Mayne Street	Lot 4, Section 1	Local	I283	Lot 4, Section 1, DP 758482
Gulgong	"CBC Bank" Commercial Building	103-107 Mayne Street	Lot3, Section 1	Local	I284	Lots 2 & 3, DP 1096227
Gulgong	Commercial building	102 Mayne Street (northwest corner Herbert Street)	Section 3	Local	I285	Lot 7, DP 653016
Gulgong	Commercial building	104 Mayne Street	Lot 6, Section 3	Local	I286	Lot 1, DP 448275
Gulgong	Commercial building "CBC Bank"	103-107 Mayne Street	Lots 1-3, Section 1	Local	I287	Lot 1 DP 1096227
Gulgong	"Greatest Wonder of the World"	123 Mayne Street	Part Lot 4 Section 2	Local	I288	Lot 1, DP 400599
Gulgong	"American Tobacco Warehouse"	125 Mayne Street	Part Lot 4 Section 3	Local	I289	Lot 1, DP 400599
Gulgong	Commercial building	127 Mayne Street	Lot 5A, Section 2	Local	I290	Lot 5A, Section 2, DP 758482
Gulgong	Commercial building	128-132 Mayne Street (northeast corner Medley Street)	Lots 1A, 2B and 2C, Section 3	Local	I291	Lot 2, DP 1009259
Gulgong	Commercial building	131-133 Mayne Street	Lots 6A-6C, Section 2	Local	I292	Lot 4, DP 617328; Lot 6C, Section 2, DP 758482
Gulgong	The Coffee House	137 Mayne Street	Lot 7A, Section 2	Local	I293	Lot 2, DP 617324
Gulgong	Commercial building	139 Mayne Street (northwest corner Medley Street)	Lot 7, Section 2	Local	I294	Lot 1, DP 617324
Gulgong	Centennial Hotel	145 Mayne Street (corner Medley Street)	Lots 1 and 2, Section 17	Local	I295	Lot 1, DP 622459
Gulgong	"The Henry Lawson Centre"	147 Mayne Street	Part Lot 3 Section 17	Local	I296	Lot 1, DP 906317
Gulgong	House	148 Mayne Street	Lots 6 and 7, Section 18	Local	I297	Lots 6 and 7A, Section 18, DP 758482

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Gulgong	House	149 Mayne Street	Lot 5B, Section 17	Local	I298	Lots 4B, 5A, 5B, Section 17, DP 758482
Gulgong	House	153 Mayne Street	Lot 6, Section 17	Local	I299	Lot 1, DP 310887
Gulgong	House	155 Mayne Street	Lot 7, Section 17	Local	I300	Lot 1, DP 310888
Gulgong	"Cullengoral"	156 Mayne Street	Lot 21, Section 18	Local	I301	Lot 21, Section 18, DP 758482
Gulgong	House	161 Mayne Street	Lot 12, Section 17	Local	I302	Lot 12, Section 17, DP 758482; Part Lot 11B Sec 17 DP 758482
Gulgong	House	162 Mayne Street	Lot 1, Section 24	Local	I303	-
Gulgong	House	164 Mayne Street	Lot 2, Section 24	Local	I304	Lot B, DP 346477
Gulgong	Shop	165 Mayne Street	Lot 14 Sec 17	Local	I305	Lot 14, Section 17, DP 758482
Gulgong	House	166 Mayne Street	Lot 3, Section 24	Local	I306	Lot A DP346477
Gulgong	House	167 Mayne Street	Lot 15, Section 17	Local	I307	Lot 15, Section 17, DP 758482
Gulgong	House	169 Mayne Street	Lot 5, Section 25	Local	I309	Lot 2 DP 352061 Vol 5586 Fol 105
Gulgong	House	192 Mayne Street	Lot 22, DP 598308	Local	I310	-
Gulgong	House	200 Mayne Street	Portion 436, Parish of Guntawang	Local	I311	-
Gulgong	Gulgong District Hospital	206 Mayne Street	Lots 195 and 196, DP 755434	Local	I312	-
Gulgong	House	Main Road No 55 (near Medley Street)	Portion 143, Parish of Guntawang	Local	I313	Lot 203, DP 755433 and Lot 143, DP 755434
Gulgong	House	33 Medley Street	Lot 24, Section 16, DP 758482	Local	I314	Lot 24, Section 16, DP 758482
Gulgong	House	39 Medley Street	Lot 4, Section D, DP 33960	Local	I315	Lot 4, Section D, DP 33960
Gulgong	House	41 Medley Street	Lot 1, DP 101068	Local	I316	Lot 1, DP 101068
Gulgong	House	43 Medley Street	Lot 2, DP 101068	Local	I317	Lot 2, DP 101068
Gulgong	House	44 Medley Street	Lot 3, Section 23	Local	I318	Lot 3, Section 23, DP 758482

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Gulgong	House	45 Medley Street	Lot 8A, Section 12, DP 758482	Local	I319	Lot 8A, Section 12 DP 758482; Part Lot 7A DP 400142
Gulgong	House	51 Medley Street	Lot 2, Section 11	Local	I320	Lot 2, DP 575419
Gulgong	House	56 Medley Street	Lot 3, Section 21	Local	I321	Lot 3, Section 21, DP 758482
Gulgong	House	58–60 Medley Street	Lots 21 and 22, Section 21	Local	I322	Lots 21 and 22, DP 618789
Gulgong	Police station	61 Medley Street	Lot 2, Section 28	Local	I323	Lot 2, DP 1011525
Gulgong	House	62 Medley Street	Lot 1, Section 21	Local	I324	Lot 1, Section 21, DP 758482
Gulgong	Uniting Church Hall	64 Medley Street	Part Lot 2, Section 20	Local	I325	Lot 1, DP 808108
Gulgong	"Albury House", House	68 Medley Street (northwest corner Bayly Street)	Lot 1, Section 20	Local	I326	Lot 1, Section 20, DP 758482
Gulgong	House	75 Medley Street	Lot 1, Section 39	Local	I327	Lot 10, DP 1176613
Gulgong	"Phonograph Museum" and residence	78 Medley Street	Lots 14 and 15 Sec 18	Local	I328	Lot 100 DP 577859
Gulgong	House	86 Medley Street	Lot 2, Section 33	Local	I329	Lot 2, DP 310069
Gulgong	"Merry", House	100 Medley Street	Lot 4, Section 35	Local	I330	Lot 4, Section 35, DP 758482
Gulgong	House	104 Medley Street	Lot 2, Section 36	Local	I331	Lot 2, Section 36, DP 758482
Gulgong	House	108 Medley Street	Part Lot 2, Section 38	Local	I332	Lot 1, DP 304399
Gulgong	House	110 Medley Street	Lot 3, Section 38	Local	I333	Lot 3, Section 38, DP 758482
Gulgong	House	2 Moonlight Street	Lot 10, Section 60	Local	I334	Lot 10, Section 60, DP 758482
Gulgong	House	4 Nandoura Street	Lot 2, Section 73	Local	I335	Lot 3, Section 73 DP
Gulgong	House	4 Nandoura Street	Lot 2, DP 758482	Local	I351	(duplicate of I335)
Gulgong	Commercial building (Loneragans Garage)	33 Queen Street	Lot 6, Section 5	Local	I336	Lot 5 and 6 Section 5 DP 758482; Lot C DP 385690
Gulgong	Commercial building	35 Queen Street	Lot 5, Section 5	Local	I337	Lot 32 DP 635361

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Gulgong	House	40 Queen Street	Lot 102, DP 596820	Local	I338	Lot 102, DP 596820
Gulgong	House	58 Queen Street	Lot 2, resubdivision of Portion 182 Parish of Guntawang	Local	I339	Lot 2 DP 398909
Gulgong	House	60 Queen Street	Lot 1, DP 1098121	Local	I340	-
Gulgong	House	62 Queen Street	Part Lot 181 Section 84	Local	I341	Lot 1 DP 1098121
Gulgong	House	Railway Street	Lot 22, DP 802634	Local	I342	Lot 22, DP 802634
Gulgong	-	Reef Street, Northwest corner Canadian Street	Lot 12, DP 807670	Local	I343	-
Gulgong	House	3 Robinson Street	Lot 12, Section 27	Local	I344	Lot 12, Section 27, DP 758482
Gulgong	House	3A Robinson Street	Lot 11, Section 27	Local	I345	Lot 11, Section 27, DP 758482
Gulgong	Old "Central School"	41 White Street	Part Lot 2, Section 64	Local	I346	Lot 483, DP 46131
Gulgong	House	4 Loftus Street	Lot 4, Section 69	Local	I347	Lot 4, Section 69, DP 758482
Gulgong	"Red Hill House", House	Robinson Street (southeast corner White Street)	Lot 1, Section 80, DP 758482	Local	I227	Lot 1, Section 80, DP 758482
Gulgong	Railway station and stationmaster's house group	Saleyards Lane, Parishes of Gulgong and Guntawang		State	I349	Lot 1 DP 808892
Gulgong	House	Scully Street (corner of Cooyal Street)	Part Lot 2 Section 64	Local	I348	Lot 486 DP 46131
Gulgong	House	1 Scully Street	Lot 3, Section 63, DP 758482	Local	I226	Lot 3, Section 63, DP 758482
Gulgong	House	Station Street	Lot 66	Local	I352	Lot 22 DP 802634
Gulgong	"Loneragans Flour Mill"	2-10 Station Street	Portions 388, 406 and 428, Parish of Guntawang	Local	I350	Lots 388, 406, 428, DP 755434; Lot 1 DP 131764
Gulgong	House	Corner Tallawang and Bligh Streets	Lot 3, Section 49, DP 758482	Local	I355	-
Gulgong	House	23 Tallawang Street (southeast corner Prince Street)	Lot 1, Parish of Guntawang	Local	I353	-
Gulgong	House	29 Tallawang Street (southeast corner Prince Street)	Lot 1, Section 48	Local	I354	Lot 1, Section 48, DP 758482

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Gulgong	House	11 White Street (northeast corner Lynne Street)	Lot 1, Section 47	Local	I356	Lot 1, Section 47, DP 758482
Gulgong	House	24 Wyaldra Street	Portion 148, 755934	Local	I358	Lot 148, DP 755434
Gulgong	Gulgong Grandstand	Victoria Park, 16 Grevillea Street	Portion 91, 755434	Local	I359	Lot 91, DP 755434
Gulgong	House	6 Bulga Street		Local		Lot 3 DP 570476
Menah	Menah homestead		Lot 1, DP 877564	Local	I406	Lot 1 DP877564
Menah	Explorers' Tree, "Camping Tree"	Wilbertree Road	Lot 2, DP 602711	Local	I407	Lot 1, DP 904055
Menah	River Red Gum	Wilbertree Road (on road reserve)		Local	I408	Located within Road Reserve of Wilbetree Road
Munghorn	Munghorn Gap Nature Reserve			Local	I993	
Piambong	Cullenbone (Former School House)	Castlereagh Highway	Lot 182, DP 756901	Local	I410	Lot 182, DP 756901
Piambong	"Wandu", Limosin Stud	Gulgong Road	Portion 182, DP 756901	Local	I410	Lot 182, DP 756901
Piambong	Binawee homestead and outbuildings	111 Lesters Lane	Part Lot 4, DP 8266646	State	I409	Lot 4 DP 826646
Pyramul	Catholic Church and Graveyard	111 Prices Lane	Lots 72 and 73, DP 756901	Local	I411	Lots 72 and 73 DP 756913
South Mudgee	"Cranford", House	195 Church Street	Lot 124, DP 579311	Local	I29	Lot 124, DP 579311
South Mudgee	House	4 Clifton Avenue	Lot 2, DP 713943	Local	I30	Lot 2, DP 713943
South Mudgee	House	25 Madeira Road	Lot 23, DP 244319	Local	I113	Lot 23, DP 244319
South Mudgee	Redbank Dam	Parish of Mudgee	Lots 112A, 113A and 114, DP 756894	Local	I404	Lots 112A, 113A and 114, DP 756894
South Mudgee	"Kenny's Brickworks"	East side of Sawpit Road	DP 382040	Local	I405	Lot Y, DP 382040
Tallawang	"Niven's Springridge Hotel", House	Spring Ridge Road	Lot 1, DP 591912; Lot 112, DP 721220	Local	I387	Lot 1 DP 591912 Lot 112 DP 721220
Ulan	Goulburn River National Park			Local	I994	
Windeyer	Anglican Church		Lot 4, Plan C161	Local	I414	Lots 4 and 8, Section 5, DP 759095
Windeyer	"Gold and Fleece", Hotel		Lot 1, DP 771751	Local	I416	Lot 1, DP 771751

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Windeyer	School and schoolmaster's house		Section 9, DP 756923	Local	I415	Lot 1, DP 122963
Windeyer	Windeyer Cemetery	Mudgee Street on Meroo Creek	Part Portion 287, DP 756923	Local	I417	Lot 7300, DP 1145330
Windeyer	Gold Mining Race	Old Hargraves Road		Local State	I984	Part Lot 119 DP 756864
Windeyer	Chinese Cemetery	Ovens, Clarke Road		Local	I516	
Mudgee	Burrundulla Station and homes		Portion 182, DP 756894	Local	I402	Lot 1, DP 1133741
Mudgee	Talbragar Reserve			Local	I991	
Mudgee	Wallinga homestead		Lot 11, DP 581380	Local	I401	Lot 1, DP 578659
Mudgee	Catholic Church	Southeast corner of Church and Market Streets	Lots 19 and 20, Section 11, DP 158721	State	I3	Lots 19 and 20, Section 11, DP 158721
Mudgee	Clock Tower	Corner Church and Market Streets		Local	I185	Located in road reserve intersections of Church and Market Streets
Mudgee	Convent and hall	Corner Church and Market Streets	Lots 17 and 18, Section 11, DP 158721	State	I4	Lots 17 and 18, Section 11, DP 158721
Mudgee	"Macs Corner Store", Shop/residence	Northeast corner Church and Horatio Streets	Lot 1, Section 32, DP 797677	Local	I23	Lot 1, DP 797677
Mudgee	Postal Pillar Box	Church Street, corner Moufarrige Mall	Lots 12 and 13, DP 240238	Local	I186	Lots 12 and 13, DP 240238
Mudgee	"Lawson Park Hotel"	1-3 Church Street	Lot 1, DP 82856; Lot 1, DP 86378	Local	I1	Lot 1, DP 82856; Lot 1, DP 86378
Mudgee	"Regent Theatre"	3-5 Church Street	Lot 1, Section 3, DP 633977	Local	I2	Lot 1, DP 633977
Mudgee	Anglican Church	6 Church Street (corner of Market and Church Streets)	Part Lot 1, DP 1043650	Local	I125	Lot 102 DP 1237993
Mudgee	Catholic Church Hall	13 Church Street	Lot 17, Section 11, DP 158721	State	I6	Lot 17, DP 1099904, Lot 18 Sec 11 DP 758721
Mudgee	"Town Centre", Store	19-41 Church Street	Lot 11, Section 11, DP 719577	Local	I7	Lot 11 DP 719577
Mudgee	"Mercer's Pharmacy", Shop	22-24 Church Street	Lot 12, DP 1041494	Local	I8	Lot 12, DP 1041494
Mudgee	Shop, (previously cafe)	26 Church Street	Lot 1, DP 744764	Local	I9	Lot 1, DP 744764

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Mudgee	"Woolleys Butchery", Shop	47 Church Street	Lot 2, DP 503897	Local	I10	Lot 2, DP 503897
Mudgee	Shop/Hotel	49-51 Church Street (corner Mortimer Street)	Lot 2, Section 11, DP 332516	Local	I11	Lot 2, DP 332516, Vol 3138, Fol 200
Mudgee	Shop, Travel Agency	56-62 Church Street	Lots 21 and 22, DP 809582; Lot 2, Section 10, DP 208895	Local	I12	Lots 21 and 22, DP 809582; Lot 2, DP 208895
Mudgee	"Afton", House	63 Church Street	Lot 2, DP 830698	Local	I13	Lot 2, DP 830698
Mudgee	"Busy Hands", Gallery/shop	71 Church Street	Lot 1, DP 780555	Local	I14	Lot 1, DP 780555
Mudgee	Office/residence	89 Church Street	Lot 1, DP 1125495	Local	I15	Lot 1, DP 1125495
Mudgee	House	93 Church Street	Lot 2, DP 1125495	Local	I16	Lot 2, DP 1125495
Mudgee	House	95 Church Street	Lot 4, DP 1125495	Local	I17	Lot 4, DP 1125495
Mudgee	"F S Pharmacy", Shop	96 Church Street	Lot 2, Section 17, DP 739068	Local	I18	Lot 2, DP 739068, Vol 1594, Fol 949
Mudgee	"Settler's Coffee Lounge", Shop	98 Church Street	Lot 1, DP 152701	Local	I19	Lot 1, DP 152701
Mudgee	Terrace houses	110-112 Church Street	Lots B and D, Section 17, DP 163315	Local	I20	Lots B and D, DP 163315
Mudgee	Terrace houses	125-127 Church Street	Lots 3 and 4, Section 32, DP 745127	Local	I21	Lots 4, DP 745127; Lot 3 DP 780493
Mudgee	House	129 Church Street	Lot 2, DP 1009027	Local	I22	Lot 2, DP 1009027
Mudgee	Old Fire Station (now Dentists)	136 Church Street	Lot 1, DP 79472	Local	I24	Lot 1, DP 79472
Mudgee	Terrace houses	150-152 Church Street	Lot 2, DP 812473	Local	I25	Lot 2, DP 812473
Mudgee	House/ commercial rooms	154 Church Street	Lot 3, Section 26, DP 770737	Local	I26	Lot 3 DP 770737; Lot 2 DP 770737
Mudgee	House	182 Church Street	Lot 2, Section 65, DP 621579	Local	I27	Lot 2 DP 621579
Mudgee	House	184 Church Street	Lot 62, DP 588050	Local	I28	Lot 62, DP 588050
Mudgee	Terrace houses	8-10 Court Street	Lot A, DP 156704	Local	I32	Lot A, DP 156704
Mudgee	House	14-16 Court Street	Lot 1, DP 747160	Local	I33	Lot 1, DP 747160

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Mudgee	House	48 Court Street	Lot 1, DP 758721	Local	I34	Lot 1, Section 23 DP758721
Mudgee	Pitched stone kerb and gutter	West side Court Street, between Nos 50 and 76		Local	I187	Road Reserve of Court Street
Mudgee	House	64 Court Street	Lot 14, DP 758721	Local	I35	Lot 14, Section 23, DP 758721
Mudgee	Technical College	70–76 Court Street	Lot 1, Section 36, DP 739918	Local	I36	Lot 1 DP 739918
Mudgee	House	78 Court Street	Lot 14, Section 36, DP 758721	Local	I37	Lot 14 Sec 36 DP 758721 Vol 2566 Fol 680
Mudgee	House	8 Cox Street	Lot 1, DP 998518	Local	I31	Lot 1, DP 998518
Mudgee	House	30 Denison Street	Lot 2, DP 1105808	Local	I38	Lot 2, DP 1105808
Mudgee	Terrace houses	32–34 Denison Street	Lot 1, DP 195728; Lot 1, DP 999093	Local	I39	Lot 1, DP 195728; Lot 1, DP 999093
Mudgee	Terrace houses	41–41A Denison Street	Lot 31, Section 31, DP 609574	Local	I40	Lot 1 DP1190698
Mudgee	Terrace houses	50–52 Denison Street	Lots 11 and 12, DP 873162	Local	I41	Lots 11 and 12, DP 873162
Mudgee	House	53 Denison Street	Lot 1, DP 794928	Local	I42	Lot 1, DP 794928
Mudgee	"Ludgate", House	56 Denison Street	Lot C, Section 27, DP 70326	Local	I43	Lot C, DP 70326
Mudgee	House	58 Denison Street	Lot B, Section 27, DP 70326	Local	I44	Lot 1, DP 1247000
Mudgee	"Mooltan", House	63 Denison Street	Lot 4, DP 39051	Local	I45	Lot 4, DP 39051
Mudgee	House	97 Denison Street	Lot 2, Section 35, DP 758721	Local	I46	Lot 2 DP 1093349
Mudgee	House	109 Denison Street	Lot 1, DP 742431	Local	I47	Lot 1, DP 742431
Mudgee	House	116 Denison Street	Lot 1, Section 22, DP 743222	Local	I48	Lot 1, DP 743222
Mudgee	Memorial Park	Douro Street (opposite Lovejoy Street)	Lots 19 and 20, Section 8, DP 758721	Local	I55	Lots 19 and 20, Section 8, DP 758721
Mudgee	Memorial Park	Douro Street	Lots 19 and 20, Section 8, DP 758721	Local	I182	Lots 19 and 20, Section 8, DP 758721
Mudgee	House	9-Douro-Street	Lots 2 and 3, DP 921496	Local	I49	Lots-10, DP 1217725
Mudgee	Duplex houses	13 Douro Street	Lot 1, DP 525941	Local	I50	Part Lot 10 DP 1217725

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Mudgee	Duplex houses	17 Douro Street	Lots 9 and 10, Section 18, DP 455013	Local	I51	Part Lot 10 DP 1217725
Mudgee	"Rexton", House	18 Douro Street	Lot 1, DP 521204	Local	I52	Lot 1, DP 521204
Mudgee	House	28 Douro Street	Lot 1, DP 196609	Local	I53	Lot 1, DP 196609
Mudgee	House	80-82 Douro Street	Lots 1 and 2, DP 1096219	Local	I54	Lot 2 DP 1096219
Mudgee	House	19 Gladstone Street	Lot 1, DP 1166498	Local	I56	Lot 1, DP 1166498
Mudgee	House	30 Gladstone Street	Lot 30, DP 1055200	Local	I57	Lot 30, DP 1055200
Mudgee	House	42-44 Gladstone Street	Lot 22, Section 16, DP 702449	Local	I58	Lot 22, DP 702449
Mudgee	House	54 Gladstone Street	Lot 2, DP 305741	Local	I59	Lot 2, DP 305741
Mudgee	House	55 Gladstone Street	Lot 4, DP 1099063	Local	I60	Lot 4, DP 1099063
Mudgee	House	57 Gladstone Street	Lot 1, DP 199187	Local	I61	Lot 1, DP 199187
Mudgee	House	61 Gladstone Street	Lot 1, DP 1064183	Local	I62	Lot 1, DP 1064183
Mudgee	House	68 Gladstone Street	Lot 1, DP 198118	Local	I63	Lot 1, DP 198118
Mudgee	House	69 Gladstone Street	Lot 1, DP 731585	Local	I64	Lot 1 and Lot 2 DP 731585
Mudgee	House	79 Gladstone Street	Lot 10, Section 25, DP 716500	Local	I65	Lot 10, DP 716500
Mudgee	House	83 Gladstone Street	Lot 2, Section 25, DP 974978	Local	I66	Lot 2, DP 974978
Mudgee	House	104 Gladstone Street	Lot 1, DP 531145	Local	I67	Lot 1, DP 531145
Mudgee	House	106 Gladstone Street	Lot 1, Section 19, DP 703379	Local	I68	Lot 1, DP 703379
Mudgee	House	156 Gladstone Street	Lot 2, DP 1061477	Local	I69	Lot 2, DP 1061477
Mudgee	House	176 Gladstone Street	Lot 12, Section 6, DP 770287	Local	I70	Lot 12, DP 770287
Mudgee	House	210 Gladstone Street	Lot 4, DP 566202	Local	I71	Lot 4, DP 566202
Mudgee	"Caerleon Park", Homestead	Gulgong Road	Lot 1, DP 1099627	Local	I403	Lot 1, DP 1099627
Mudgee	High school	Corner Horatio and Douro Streets	Lot 2, DP 814188	Local	I79	Lot 2, DP 814188

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Mudgee	House	44 Horatio Street	Lot 1, DP 770364	Local	172	Lot 1, DP 770364
Mudgee	House	60 Horatio Street	Lot 1, Section 32, DP 157325	Local	173	Lot 1, DP 157325
Mudgee	Terrace houses	81–83 Horatio Street	Lot 1, Section 43, DP 783371; Lot 1, DP 770585	Local	174	Lot 1 DP 783371; Lot 1 DP 770585
Mudgee	House	99 Horatio Street	Lot 3, Section 42, DP 758721	Local	175	Lot 3, Section 42, DP 758721
Mudgee	House	105 Horatio Street	Lot 60, Section 42, DP 819521	Local	176	Lot 60 DP 819521
Mudgee	"Hillsborough", Guesthouse	141–143 Horatio Street	Lot 1, DP 560021	Local	177	Lot 1, DP 560021
Mudgee	House	149 Horatio Street	Lot B, Section 40, DP 157929	Local	178	Lot B, DP 157929
Mudgee	Railway buildings (excluding engine shed), railway station site	Inglis Street	No identified land parcel—railway reserved land	State	183	Within Rail corridor
Mudgee	Railway station	Inglis Street	No identified land parcel—railway reserved land	State	184	Within Rail corridor
Mudgee	House	6–8 Inglis Street	Lot 9, Section 45, DP 758721	Local	181	Lot 8, Section 45, DP 758721
Mudgee	Terrace houses	9–11 and 13–15 Inglis Street	Lots 2–5, DP 818204	Local	182	Lots 2–5, DP 818204
Mudgee	House	25 Inglis Street	Lot 2, Section 49, DP 758721	Local	185	Lot 2 Sec 49 DP 758721 Vol 1519 Fol 118
Mudgee	Hotel	34–36 Inglis Street	Lot 20, Section 43, DP 758721	Local	186	Lot 20, Section 43, DP 758721
Mudgee	House	3 Lawson Street	Lot 2, Section 1, DP 153157	Local	187	Lot 2, DP 153157
Mudgee	"Bleak House", House and stables	5–7 Lawson Street	Lot A, DP 153641	Local	188	Lot A, DP 153641
Mudgee	House	24 Lawson Street	Lot 1, Section 15, DP 702222	Local	189	Lot 100 DP 1256703
Mudgee	House	25 Lawson Street	Lot 1, DP 737884	Local	190	Incorrectly listed.
Mudgee	House	45 Lawson Street	Lot 7, Section 29, DP 758721	Local	191	Lot 7, Section 29, DP 758721
Mudgee	Terrace house	48 Lawson Street	Lot 18, DP 741978	Local	192	Lot 18, DP 741978
Mudgee	Terrace houses	49–51 Lawson Street	Lots 21 and 22, DP 573727	Local	193	Lots 21 and 22, DP 573727
Mudgee	House	50 Lawson Street	Lot 17, Section 28, DP 758721	Local	194	Lot 17, Section 28, DP 758721

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Mudgee	House	55 Lawson Street	Lot 2, DP 615824	Local	I95	Lot 2, DP 615824
Mudgee	House	64 Lawson Street	Lot 1, DP 735817	Local	I96	Lot 1, DP 735817
Mudgee	House	65 Lawson Street	Lot 1, DP 797025	Local	I97	Lot 1, DP 797025
Mudgee	"Whitton Lodge", House	72 Lawson Street	Lot 1, DP 564561	Local	I98	Lot 1, DP 564561
Mudgee	"Lewis Street Tyre Service", Commercial building	1 Lewis Street	Lot 1, Section 2, DP 593835	Local	I99	Lots 1 and 2, DP 1257862
Mudgee	"Oriental Tavern", Hotel	6 Lewis Street (corner Mortimer Street)	Lot 1, DP 732911	Local	I100	Lot 1, DP 1246309
Mudgee	Storeroom (old Wells & Co Store)	13 Lewis Street	Lot 2, DP 818101	Local	I101	Lot 2, DP 818101
Mudgee	"Mandalay", House	14 Lewis Street	Lot 1, DP 949925	Local	I102	Lot 1, DP 949925
Mudgee	"Koolabah", House	18 Lewis Street	Lot 1, DP 830698	Local	I104	Lot 1, DP 830698
Mudgee	House	25 Lewis Street	Lot X, DP 385399	Local	I105	Lot X, DP 385399
Mudgee	House, (nursery)	49 Lewis Street	Lot 6, Section 28, DP 258279	Local	I106	Lot 1 DP 1165619
Mudgee	Shop/residence	52 Lewis Street	Lot 3, Section 27, DP 548836	Local	I107	Lot 3, DP 548836
Mudgee	Houses	67, 69 and 71 Lewis Street	Lot 8, DP 1043589; Lot 1, Section 31, DP 999357; Lot 1, DP 735813	Local	I108	Lot 8, DP 1043589; Lot 1, DP 999357; Lot 1, DP 735813
Mudgee	House	73 Lewis Street	Lot 2, DP 197701; Lot 1, Section 31, DP 197701	Local	I109	Lots 1 and 2, DP 197701
Mudgee	House	83 Lewis Street	Lot 12, DP 998556	Local	I110	Lot 12, DP 998556
Mudgee	Offices	1 Lovejoy Street	Lots 1 and 2, DP 737071	Local	I111	Lot 1 DP 737071
Mudgee	"Mudgee Club", Clubhouse	5 Lovejoy Street	Lot 2, DP 1107328	Local	I112	Lot 2, DP 1107328
Mudgee	Bandstand, Robertson Park	Market Street	Lot 4, Section 68, DP 727197	Local	I140	Lot 4, DP 727197
Mudgee	Robertson Park	Market Street	Lot 4, Section 68, DP 727197	Local	I181	Lot 4, DP 727197
Mudgee	Terrace houses	17-19 Market Street	Lot 100, Section 12, DP 818735	Local	I114	Lot 100, DP 818735

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Mudgee	Terrace houses	21–25 Market Street	Lots 1–3, DP 210071	Local	I115	Lots 1–3, DP 210071
Mudgee	"Mudgee Club", House	26 Market Street	Lot 2, Section 3, DP 68326	Local	I116	Lot 2, DP 68326
Mudgee	House	27 Market Street	Lot 27, DP 1096567	Local	I117	Lot 10, DP 1096567
Mudgee	"Craigmoor Wines", Shop	30 Market Street	Lot 7, Section 3, DP 1651	Local	I118	Lot 7, DP 1651
Mudgee	Shop/residence	42–44 Market Street	Lot 3A, Section 3, DP 389431; Lot X, DP 389432	Local	I119	Lot 3, DP 1257417
Mudgee	Two shops	43–45 Market Street	Lots 1 and 2, DP 802702	Local	I120	Lots 1 and 2, DP 802702
Mudgee	Shop/residence	46 Market Street	Lot 1, Section 3, DP 596907	Local	I121	Lot 1, DP 596907
Mudgee	Shops	52–54 Market Street	Lot 1, DP 770608	Local	I122	Lot 1, DP 770608
Mudgee	Shop	56 Market Street	Lot 1, DP 782453	Local	I124	Lot 1, DP 782453
Mudgee	Catholic Presbytery	57 Market Street (corner Church and Market Streets)	Lots 17 and 18, Section 11, DP 158721	State	I5	Lot 18 Sec 11 DP758721, Lot 17 DP 1099904
Mudgee	"Beaurepaires Tyres", Commercial building	58 Market Street (corner of Church and Market Streets)	Lot 1, Section 3, DP 731541	Local	I123	Lot 1 DP731541
Mudgee	Westpac Bank	59 Market Street	Lot 1, Section 10, DP 217403	Local	I126	Lot 1, DP 217403
Mudgee	State Bank	62 Market Street	Lot 1, DP 73990	Local	I127	Lot 1, DP 73990
Mudgee	Town Hall	64 Market Street	Lot 5, Section 55, DP 758721	State	I128	Lot 5, Section 55, DP 758721
Mudgee	Woolpack Hotel	67 Market Street	Lot 112, DP 1136696	Local	I129	Lot 112, DP 1136696
Mudgee	Old bank building (now Dear Loneragan & Hogan Solicitors)	70 Market Street	Lot 4, Section 55, DP 758721; Lot 3, DP 1052954	Local	I130	Lot 4, Section 55, DP 758721; Lot 3, DP 1052954
Mudgee	Shop	71–73 Market Street	Lot 9, DP 240238	Local	I131	Lot 9, DP 240238
Mudgee	Post Office	80 Market Street	Lot 11, Section 54, DP 786618	State	I133	Lot 11, DP 786618
Mudgee	Shops	81–83 Market Street	Lots 5 and 6, DP 1026343	Local	I132	Lots 5 and 6, DP 1026343
Mudgee	Police Station and stables	82 Market Street	Lot 1, DP 819971	Local	I134	Lot 1, DP 819971

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Mudgee	House	88 Market Street	Lot 9, DP 824137	Local	I135	Lot 9, DP 824137
Mudgee	Government Offices (old Council Chambers)	90 Market Street	Lot 113, DP 48439	Local	I136	Lot 113, DP 48439
Mudgee	Court House annex	94 Market Street	Lot 4, Section 67, DP 758721	Local	I137	Lot 4, Section 67, DP 758721
Mudgee	Court House	96 Market Street	Lot 5, Section 67, DP 758721	Local	I138	Lot 5, Section 67, DP 758721
Mudgee	Shop	97 Market Street (corner Market and Perry Streets)	Lot 1, Section 10, DP 61325	Local	I139	Lot 1, DP 61325
Mudgee	Parkview Guesthouse	99 Market Street	Lot 4, DP 270016	Local	I141	Lot 4, DP 270016
Mudgee	Courthouse Hotel	111 Market Street	Lot 1, DP 874233	Local	I142	Lot 1, DP 874233
Mudgee	Museum	126 Market Street	Lot 111, DP 850558	Local	I143	Lot 111, DP 850558
Mudgee	House	141 Market Street	Lot 3, Section 1, DP 355899	Local	I144	Lot 3, DP 355899
Mudgee	House	144 Market Street	Lot 42, DP 703056	Local	I145	Lot 42, DP 703056
Mudgee	Old stables (now house)	146 Market Street	Lot 41, DP 703056	Local	I146	Lot 2 DP 1225748
Mudgee	Terrace houses	155–159 Market Street	Lot 1, DP 883949	Local	I147	Lot 1, DP 883949
Mudgee	House	177 Market Street	Lot 1, DP 718081	Local	I148	Lot 1, DP 718081
Mudgee	"Loneragans", House	18 Mortimer Street	Lot 2, DP 836115	Local	I149	Lot 2, DP 836115
Mudgee	Terrace houses	63–69 Mortimer Street	Lots 1–4, DP 817985	Local	I150	Lots 2–4, DP 817985; Lot 52, DP 1188155
Mudgee	House	64 Mortimer Street	Lot 17, DP 758721	Local	I151	Lot 17, Section 12, DP 758721
Mudgee	Double storey residential building	70 Mortimer Street	Lot 1, DP 1132208	Local	I152	Lot 1, DP 1132208
Mudgee	House	82A Mortimer Street	Lot 2, DP 735096	Local	I153	Lot 2, DP 735096
Mudgee	"Civic Theatre", Theatre	84–88 Mortimer Street	Lot 1, DP 1056499	Local	I154	Lot 1, DP 1056499
Mudgee	Uniting Church	87 Mortimer Street	Lot 2, DP 833884	Local	I155	Lot 2, DP 833884
Mudgee	Terrace houses	100–106 Mortimer Street	Lot 1, Section 9, DP 778954; Lot 1, Section 9, DP 745507; Lot 1, Section 9, DP	Local	I156	Lot 1 and 2, DP 778954; Lot 1, DP 745507; Lot 1, DP 745180;

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
			745180; Lot 1, DP 790217			Lot 1, DP 790217
Mudgee	Presbyterian Church	103 Mortimer Street	Lot 1, DP 589892	Local	1157	Lot 1, DP 589892
Mudgee	House	114 Mortimer Street	Lot 1, Section 9, DP 745237	Local	1158	Lot 101, DP 1267033
Mudgee	Shop	131 Mortimer Street	Lot 2, DP 837945	Local	1159	Lot 2, DP 837945
Mudgee	House	133 Mortimer Street	Lot 1, DP 837945	Local	1160	Lot 1, DP 837945
Mudgee	House	152 Mortimer Street	Lot 16, Section 2, DP 393	Local	1161	Lot 16, Section 2, DP 393
Mudgee	House	185 Mortimer Street	Lot 1, Section 7, DP 732081	Local	1162	Lot 1, DP 732081
Mudgee	Tomb memorial to James Blackman and family	Blackman Park, Park Street	Lot 394, DP 756894	Local	1188	Lot 394, DP 756894
Mudgee	River Red Gum tree	Corner Perry and Short Streets	Southwest corner of Lot 2, DP 777994	Local	1183	removed
Mudgee	"Mudgee Guardian", Commercial building	9 Perry Street	Lots 1 and 2, DP 1094462	Local	1163	Lots 1 and 2, DP 1094462
Mudgee	Shop (previously Masonic Temple)	18 Perry Street	Lot 1, Section 9, DP 707405	Local	1164	Lot 1, DP 707405
Mudgee	Salvation Army Citadel	19 Perry Street	Lot 1, Section 10, DP 910612	Local	1165	Lot 1, DP 910612, Vol 901, Fol 227
Mudgee	House	24 Perry Street	Lot 2, Section 18, DP 595449	Local	1166	Lot 12, DP 1261148
Mudgee	House	26 Perry Street	Lot D, Section 18, DP 81982	Local	1167	Lot D, DP 81982
Mudgee	House	28–30 Perry Street	Lot 1, Section 18, DP 85623	Local	1168	Lot 1, DP 85623
Mudgee	Shops	37–39 Perry Street	Lot 1, DP 807813; Lot 1, Section 17, DP 734887	Local	1169	Lot 1, DP 807813; Lot 1, DP 734887
Mudgee	"Paragon", Hotel	38 Perry Street	Lot 2, DP 730123	Local	1171	Lot 2, DP 730123
Mudgee	"Mechanics Institute", School of Arts (now residence)	40 Perry Street	Lot 11, Section 25, DP 716500	Local	1170	Lot 11, DP 716500
Mudgee	Mudgee Public School	44 Perry Street (additions)	Lot 1, DP 814188	Local	1172	Lot 1, DP 814188
Mudgee	Mudgee Public School	44 Perry Street (original building)	Lot 1, DP 814188	Local	1173	Lot 1, DP 814188

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Mudgee	Terrace houses	49 Perry Street	Lot 5, Section 26, DP 758721	Local	1174	Lot 1, DP 1205471
Mudgee	House, Headmaster's residence	48 Perry Street	Lot 1, DP 814188	Local	1175	Lot 1, DP 814188
Mudgee	"Onohan", House	55 Perry Street	Lot 71, DP 1129312	Local	1176	Lot 71, DP 1129312
Mudgee	House	57 Perry Street	Lot 8, Section 26, DP 758721	Local	1177	Lot 1 DP 1189280
Mudgee	Lawson Park	Short Street	Section 74, DP 758721; Section 54A, DP 758721; Lot 1, Section 54A, DP 758721	Local	1180	Lot 1, Section 74, DP 758721; Lot 1, Section 54A, DP 758721; Lot 1, DP 787930
Mudgee	River Red Gum tree	Short Street, Police Station property	Lot 4, Section 67, DP 758721	Local	1184	Removed
Mudgee	Doctor's surgery and dwelling	19 Short Street	Lot 1, DP 986022	Local	1178	Lot 1, DP 986022; Lot 2 DP 986022
Mudgee	"The Willows", House	29 Short Street	Lot 3, DP 1103896	Local	1179	Lot 3, DP 1103896
Mudgee	Old School	Sydney Road		Local	11004	
Hargraves	Empire Hall		Lot 12, Section 3, DP 758501	Local	11029	Lot 12, Section 3, DP 758501
Hargraves	Hargraves Cemetery		Lots 100-106, DP 756885	Local	1400	Lots 100-106, DP 756885
Hargraves	"The Elders", Miners Cottage		Lot 7, DP 756885	Local	11028	Lot 71 DP 756885
Hargraves	Beechworth Homestead	Beechworth Road	Lot 1, DP 879791	Local	1977	Lot 4, DP 1200073
Hargraves	House	Bowen Street	Section 24	Local	1399	Lot 210 DP821671; Lot 7026 & 7025 DP 1095782
Hargraves	"National School"	Bowen Street		Local	1393	Lot 210 DP821671
Hargraves	Catholic Church	Merinda Street	Lot 4, Section 2, DP 758501	Local	1398	Lot 4, Section 2, DP 758501
Hargraves	House (old Court House and Police Station)	Merinda Street	Lot 701, DP 1021142	Local	1395	Lot 701, DP 1021142
Hargraves	House	Merinda Street (next to court house)	Lot 1, Section 6, DP 758501	Local	1396	Lot 1, Section 6, DP 758501
Hargraves	"Old Warry"	Merinda Street	Lot 3, Section 3, DP 758501	Local	11030	Lot 3 Section 5 DP 758701
Hargraves	Red Doors, Fomer Butcher Shop	Merinda Street	Lot 2, Section 3, DP 758501	Local	1980	Lot 23 DP1110800

STRATEGIC PLANNING | PLANNING PROPOSAL HOUSEKEEPING AMENDMENT 2021

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Hargraves	St Stephen's Church of England	Corner Merinda and Church Streets	Portion 124, Section 6, DP 756885	Local	I394	Lot 124, DP 756885
Hargraves	Terrace houses	Merinda Street	Lot 1, Section 3, DP 758501	Local	I397	Lot 1, Section 3, DP 758501
Ilford	School Residence	Parish of Warrangunia	Portion 255, DP 755799	Local	I31R	
Ilford	Wishing Well	Road Reserve at Cherry Tree Hill		Local	I33R	
Kandos	Band Rotunda	Public Reserve, Angus Avenue	Lot 24, DP 8161	Local	I2R	Lot 24, Section 8, DP 8161
Kandos	Anglican Church	Angus Avenue	Lot 11, Section 9, DP 8161	Local	I3R	Lot 11, Section 9, DP 8161; Lot 12 Section 9 DP 8161
Kandos	Post Office	Angus Avenue	Lot 11, DP 774796	Local	I4R	Lot 11, DP 774796
Kandos	Museum	Angus Avenue	Lots 10 and 11, Section 1, DP 8161	Local	I5R	Lots 10 and 11, Section 1, DP 8161
Kandos	Uniting Church	Dunn Street	Lots 13 and 14, Section 24, DP 9704	Local	I1R	Lots 13 and 14, Section 24, DP 9704
Kandos	Catholic Church	Fleming Street	Lot 5, Section 4, DP 9750	Local	I9R	Lot 5, Section 4, DP 9750
Kandos	School	Fleming Street	Lots 3 and 4, Section 17, DP 9604	Local	I7R	Lots 3 and 4, Section 17, DP 9604
Kandos	Railway Station	Ilford Road	SRA Ref 930448	Local	I8R	SRA Ref 930448
Kandos	Court House	21 Ilford Road	Lot 7007, DP 1023908	Local	I6R	Lot 7007, DP 1023908
Rylstone	Railway Station		SRA Ref 227462	State	I29R	SRA Ref 227462
Rylstone	Uniting Church and manse	3–5 Ilford Road	Lot 1, DP 387675; Lot 2, Section 14, DP 758891	Local	I19R	Lot 1, DP 387675; Lot 2, Section 14, DP 758891
Rylstone	Bridge View Inn	Louee Street	Lot 21, Section 5, DP 758891	State	I34R	Lots 3 and 21, Section 5A, DP 758891
Rylstone	Catholic Church	Louee Street	Lots 4–6, Section 5, DP 758891	Local	I22R	Lot 62, DP 1193895; Lots 4 and 5, Section 5A, DP 758891
Rylstone	Court House	Louee Street	Part Lots 3 and 4, Section 5	Local	I25R	Lot 302, DP 1093099

SUBURB	ITEM NAME	ADDRESS	CURRENT LISTING	SIGNIFICANCE	ITEM NO	CORRECT LEGAL DESCRIPTION
Rylstone	Hall	Louee Street	Lots 9, 10 and 21, Section 5	Local	I28R	Lots 9, 10 and 21, Section 5, DP 758891
Rylstone	Police Residence	Louee Street	Part Lots 4 and 5, Section 5	Local	I23R	Lot 302, DP 1093099
Rylstone	Police Station	Louee Street	Lots 1 and 2, Section 5	Local	I24R	Lot 302, DP 1093099
Rylstone	Post Office	Louee Street	Lot 10, DP 776797	Local	I26R	Lot 10, DP 776797
Rylstone	Shire Office	Louee Street	Lot 8, Section 5	Local	I27R	Lot 8, Section 5, DP 758891
Rylstone	Former Presbyterian Church	90A Louee Street	Lot 3, DP 1239243	Local	I32R	Lot 3, DP 1239243
Rylstone	Anglican Church	Mudgee Street	Lots 7–10, Section 6	Local	I21R	Lots 1 and 2, DP 1097481; Lots 9 and 10, Section 6, DP 758891
Rylstone	Dwelling (Anglican Rectory)	Mudgee Street	Lots 7–10, Section 6,	Local	I20R	Lots 1 and 2, DP 1097481; Lots 9 and 10, Section 6, DP 758891
Rylstone	Rylstone Kandos Cemetery	73–75A Narrango Road	Lot 1, DP 650678; Lot 1, DP 668504; Lot 1, DP 668505; Lot 1, DP 724249; Lot 150, DP 755789; Lot 7023, DP 1030117; Lot 1, DP 1121520; Lot 1, DP 1138214	Local	I35R	Lot 1, DP 650678; Lot 1, DP 668504; Lot 1, DP 668505; Lot 1, DP 724249; Lot 150, DP 755789; Lot 7023, DP 1030117; Lot 1, DP 1121520; Lot 1, DP 1138214
Wollar	Catholic Church		Part Lots 6–8, Section 4, DP 755455	Local	I419	Lots 6 and 7, Section 4, DP 759102
Wollar	St Luke's Anglican Church Cemetery		Lot 61A, DP 755455	Local	I519	Lots 61A and 62, DP 755455
Wollar	St Luke's Church of England		Portion 61A	Local	I418	Lots 61A and 62, DP 755455
Wollar	Wandoona Homestead		Lot 103, DP 755455	Local	I996	Lot 103, DP 755455



Road Closure Land Transfer Deed

Mid-Western Regional Council

ABN 96 149 391 332

Peabody Pastoral Holdings Pty Ltd

ACN 141 206 368

Wilpinjong Coal Pty Ltd

ACN 104 594 694

Moolarben Coal Mines Pty Limited

ACN 108 601 672

2021

CONTENTS

CLAUSE	PAGE
1. INTERPRETATION	1
1.1 Definitions	1
1.2 Rules for interpreting this Deed	4
2. ACKNOWLEDGMENTS OF THE PARTIES	4
2.1 Purpose of this Deed	4
2.2 Capacity of the parties	4
2.3 Part of the Road on Lot 100	4
3. SUBDIVISION PLAN AND INSTRUMENT	5
4. CLOSURE OF ROAD CLOSURE LAND	5
4.1 Closure of Road Closure Land and registration of Subdivision Plan	5
4.2 Certificates of title for New Lots	5
5. PPH CALL OPTION AND PPH PUT OPTION	6
5.1 Grant of PPH Call Option	6
5.2 Irrevocable offer	6
5.3 Exercise of PPH Call Option	6
5.4 Grant of PPH Put Option	6
5.5 Irrevocable offer	6
5.6 Exercise of PPH Put Option	6
6. MOOLARBEN CALL OPTION AND MOOLARBEN PUT OPTION	6
6.1 Grant of Moolarben Call Option	6
6.2 Irrevocable offer	6
6.3 Exercise of Moolarben Call Option	7
6.4 Grant of Moolarben Put Option	7
6.5 Irrevocable offer	7
6.6 Exercise of Moolarben Put Option	7
7. EXERCISE OF AN OPTION	7
7.2 Transfer Form	7
7.3 Transfer of title of PPH Lots	8
7.4 Transfer of title of Moolarben Lots	8
7.5 Council to notify the Grantees	8
7.6 Transfer of Moolarben Lots where PPH or WCPL acquires the Sale Land	9
8. CONDITION OF NEW LOTS	9
8.1 Present condition	9
8.2 Purchaser's acceptance and acknowledgments	9
8.3 Council's warranty	10
9. GRANTEE ACCEPTS ENVIRONMENTAL LIABILITY	11
10. RELEASE	11
11. NO MERGER	11
12. MUTUAL OBLIGATIONS OF THE PARTIES	11
13. ELECTRONIC CONVEYANCING	11
14. STAMP DUTY AND COSTS	12
14.1 Stamp duty	12
15. GST	12

15.1	Amounts exclusive of GST.....	12
15.2	Payment of GST	12
15.3	Tax invoice	12
15.4	Indemnities and reimbursement	12
16.	NOTICES	12
16.1	Form	12
16.2	Delivery.....	13
16.3	When effective	13
16.4	When taken to be received.....	13
16.5	Receipt outside of business hours	14
17.	GENERAL	14
17.1	Assignment.....	14
17.2	Amendment of Deed	14
17.3	Governing Law	14
17.4	Jurisdiction	15
17.5	Giving effect to this Deed.....	15
17.6	Variation and waiver	15
17.7	Entire Deed.....	15
17.8	Operation of this Deed.....	15
17.9	Discretion in exercising rights.....	15
17.10	Enurement.....	15
17.11	Mitigation of damages	15
17.12	Force majeure	16
17.13	Counterparts.....	16

Schedule

1	Subdivision Plan	17
2	Call option notice.....	1
3	Put Option Notice.....	2
4	Road Closure Land	3

THIS DEED is made on

2021

BETWEEN:

- (1) **Mid-Western Regional Council** ABN 96 149 391 332 of 86 Market Street, Mudgee, NSW 2850 (the **Council**);
- (2) **Peabody Pastoral Holdings Pty Limited** ACN 141 206 368 of 100 Melbourne Street, South Brisbane, QLD 4104 (**PPH**);
- (3) **Wilpinjong Coal Pty Limited** ACN 104 594 694 of 100 Melbourne Street, South Brisbane, QLD 4101 (**WCPL**); and
- (4) **Moolarben Coal Mines Pty Limited** ACN 108 601 672 of 'Darling Park Tower 2', Level 18, 201 Sussex Street, Sydney NSW 2000 (**Moolarben**).

RECITALS:

- (A) The parties have entered into the Road Opening HOA.
- (B) The parties have entered into this Deed to address the transfer of ownership of different parts of the Road Closure Land if and when closed to:
 - (1) PPH; and
 - (2) Moolarben,(collectively, the **Grantees** and each a **Grantee**), as referred to in clause 2.2(b) of the Road Opening HOA.
- (C) Subject to the registration of the Subdivision Plan,
 - (1) Council has agreed to grant to:
 - (i) PPH, an option for PPH to take a transfer of the PPH Lots; and
 - (ii) Moolarben, an option for Moolarben or its Nominee to take a transfer of the Moolarben Lots;
 - (2) PPH has agreed to grant to Council an option to require PPH to take a transfer of the PPH Lots; and
 - (3) Moolarben has agreed to grant to Council an option to require Moolarben to take a transfer of the Moolarben Lots,on the terms of this Deed.

THE PARTIES AGREE AS FOLLOWS:

1. **INTERPRETATION**

1.1 **Definitions**

A word defined in the Road Opening HOA has the same meaning in this Deed except as defined below.

Authority means:

- (a) a government or government department or other body;

- (b) a governmental, semi-governmental or judicial person including a statutory corporation; or
- (c) a person (whether autonomous or not) who is charged with the administration of Law.

Approval means any approval, consent, permit, licence, endorsement, condition, plan or requirement (and any variations to them) which may be required by an Authority.

Call Option Period means the period beginning on the Registration Date and ending on the date that is 20 Business Days after the Registration Date.

Contamination means the presence in, on or under land of a substance (whether a solid, liquid or gas) 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 material harm to human health or to any other aspect of the Environment.

Conveyancing Rules means the rules made under section 12E of the *Real Property Act 1900* (NSW).

Crown Lands means the Crown Lands Division of the NSW Department of Industry.

Deed means this deed including all annexures and schedules.

Electronic Transaction means a dealing as defined in the *Real Property Act 1900* (NSW) which may be created and 'Digitally Signed' in an 'Electronic Workspace' (as those terms are defined in clause 30 of the Standard Conditions).

Environment means all components of the earth.

Environmental Law means any law (including the laws of tort, negligence and nuisance) relating to the Environment or Contamination (or both), including a law relating to land use, planning, environmental assessment, heritage, water catchments, pollution of air or waters, noise, soil or water contamination, chemicals and hazardous substances, the ozone layer, waste, dangerous goods, building regulation, occupation of buildings and fire safety, public health, occupational health and safety, noxious trades and any aspect of the protection of the Environment, or the enforcement or administration of any of those laws.

Environmental Liability means any obligation, expense, liability, cost, loss, order, penalty or fine incurred pursuant to any Environmental Law which would or could be imposed upon any person in connection with a New Lot for any reason including as a result of Contamination in connection with a New Lot.

GST has the meaning given to it in the GST Law.

GST Law has the meaning given to it in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Instrument means any required section 88B instrument which, upon registration, will create those easements, rights of way and covenants referred to on the Subdivision Plan or required as part of the Approval for the subdivision of the Road Closure Land, including, without limitation, any easement for access granted in favour of National Parks and Wildlife Service over part of the Road Closure Land.

Lot 100 means the land in Lot 100 DP755454.

LRS means NSW Land Registry Services or any replacement body.

Moolarben Call Option means the option to take transfer of the Moolarben Lots granted under clause 6.1 by Council to Moolarben.

Moolarben Call Option Fee means \$1.00 (exclusive of GST).

Moolarben Lots means those New Lots identified as the "Moolarben Lots" on the Subdivision Plan.

Moolarben Put Option means the option to require Moolarben to accept the transfer of the Moolarben Lots, granted under clause 6.4 by Moolarben to Council.

Moolarben Put Option Fee means \$1.00 (exclusive of GST).

Moolarben Transfer Date means the date that the Transfer Form for the transfer of the Moolarben Lots is registered at the LRS.

New Lots means the lots that are created on registration of the Subdivision Plan.

New Road (Lot 100) has the meaning given to it in clause 2.3(b)(iv).

Nominee means, if clause 7.6 applies, either PPH or WCPL (as relevant) that Moolarben nominates under clause 7.6 to take the transfer of the Moolarben Lots.

Option means (as the context requires), the PPH Call Option, PPH Put Option, Moolarben Call Option or Moolarben Put Option.

Option Notice means a written notice confirming exercise of the relevant Option substantially in the form of Schedule 2 for the PPH Call Option and Moolarben Call Option or substantially in the form of Schedule 3 for the PPH Put Option and Moolarben Put Option.

PPH Call Option means the option to take transfer of the PPH Lots granted under clause 5.1 by Council to PPH.

PPH Call Option Fee means \$1.00 (exclusive of GST).

PPH Lots means those New Lots identified as the "PPH Lots" on the Subdivision Plan.

PPH Put Option means the option to require PPH to accept the transfer of the PPH Lots granted under clause 5.4 by PPH to Council.

PPH Put Option Fee means \$1.00 (exclusive of GST)

PPH Transfer Date means the date that the Transfer Form for the transfer of the PPH Lots is registered at the LRS.

Put Option Period means the period beginning on day after the expiry of the Call Option Period and ending 20 Business Days after that date.

Registration Date means the later of:

- (a) the date that the Grantees receive notice from Council under clause 2.2(a)(iv) of the HOA that the existing sections of the Road that are located on the Road Closure Land have been closed; and
- (b) the date that the Grantees receive notice from Council that the Subdivision Plan and Instrument have been registered at the LRS.

Road (Lot 100) has the meaning given to it in clause 2.3(a).

Road Opening HOA means the Heads of Agreement for Opening New, Realigned Sections of Ulan-Wollar Road that was signed on 8 May 2019 and endorsed by the Council on 16 May 2019.

Standard Conditions means the NSW Law Society and Real Estate Institute of NSW Contract for the sale and purchase of land –2018 edition.

Subdivision Plan means the plan in Schedule 1 of this Deed.

Transfer Date means the PPH Transfer Date or the Moolarben Transfer Date, as relevant to the context.

Transfer Form means an LRS transfer form(s) for the transfer of:

- (a) the PPH Lots to PPH; or
- (b) the Moolarben Lots to Moolarben,

as applicable depending on the context.

1.2 **Rules for interpreting this Deed**

The rules in clauses 1.2-1.5 of the Road Opening HOA also apply in interpreting this Deed

2. **ACKNOWLEDGMENTS OF THE PARTIES**

2.1 **Purpose of this Deed**

The parties to this Deed acknowledge and agree that the purpose of this Deed is to make provision for the matters referred to clause 2.2(b) of the Road Opening HOA, namely, the transfer of ownership of different parts of the Road Closure Land, if and when closed to each of:

- (a) PPH; and
- (b) Moolarben.

2.2 **Capacity of the parties**

The parties acknowledge and agree that:

- (a) each party has entered into this Deed, and will exercise their respective rights, perform their respective obligations and otherwise give effect to the terms of this Deed, in good faith; and
- (b) each party has had the opportunity of obtaining independent accounting and legal advice prior to entering this Deed and does not rely upon any representation, promise or inducement made by another party to this Deed.

2.3 **Part of the Road on Lot 100**

- (a) The parties acknowledge and agree that, as at the date of this Deed, Crown Lands has confirmed that the part of the Road that passes through Lot 100 as at the date of this Deed (**Road (Lot 100)**) is not Crown public road.
- (b) On and from the date of this Deed:
 - (i) the parties to this deed agree that the Road (Lot 100) is not a public road;

- (ii) Council agrees that it will not object to PPH, WCPL or Moolarben carrying out or procuring the carrying out of mining or other operations on, under or over the Road (Lot 100), once the existing sections of the Road that are located on the Road Closure Land are closed (as contemplated by clause 2.2(a) of the Road Closure Deed),
- (iii) the Road Opening HOA is varied as follows:
 - (A) the definition of "Road Closure Land" is amended by inserting the following words at the end of that definition: "and for the avoidance of doubt, the Road Closure Land does not include Lot 100 in DP755454";
 - (B) the table in Schedule 1 is amended by removing the reference to Lot 100 in DP755454; and
 - (C) the plan in Schedule 2 is deleted and replaced with the plan in Schedule 4 to the Deed;
- (iv) WCPL must use best endeavours to procure the amendment of the title diagram relevant to Lot 100 and/or the title to Lot 100 to show that the public road within Lot 100 is the New Road (Lot 100) and not the Road (Lot 100); and
- (v) the Council must provide all assistance reasonably requested by WCPL to procure the amendment contemplated in clause 2.3(b)(iv).

3. **SUBDIVISION PLAN AND INSTRUMENT**

- (a) Each of the Grantees acknowledge that the Subdivision Plan or the Instrument may need to be amended in accordance with the terms of this Deed.
- (b) Subject to clause 3(c), after the date of this Deed, a party may only make alterations to the Subdivision Plan or the Instrument with the prior written consent of the other parties, which cannot be unreasonably withheld or delayed in relation to alterations:
 - (i) to ensure that the Subdivision Plan or Instrument (as relevant) complies with any Approvals, Laws, LRS requirements or Crown Lands requirements; or
 - (ii) to give effect to the intentions of the parties under this deed,
 and provided the parties' interests are not adversely affected by the alterations.
- (c) Consent is not required under clause 3(b) in respect of minor alterations to the Subdivision Plan or Instrument which relate to registration formalities.

4. **CLOSURE OF ROAD CLOSURE LAND**

4.1 **Closure of Road Closure Land and registration of Subdivision Plan**

As soon as practical after the existing sections of the Road that are located on the Road Closure Land are closed (as contemplated by clause 4.1 of the Road Opening HOA), Council must use best endeavours to procure the registration of the Subdivision Plan and Instrument.

4.2 **Certificates of title for New Lots**

- (a) Council must immediately notify the Grantees once it receives notice that the Subdivision Plan and Instrument have been registered.

- (b) Immediately after the Registration Date, the Council must apply to the LRS for certificates of title (whether electronic or paper) for the New Lots.

5. PPH CALL OPTION AND PPH PUT OPTION

5.1 Grant of PPH Call Option

- (a) In consideration of the payment of the PPH Call Option Fee by PPH to Council, Council grants to PPH an option for PPH to take a transfer of the PPH Lots.
- (b) Council acknowledges receipt of the PPH Call Option Fee.

5.2 Irrevocable offer

The PPH Call Option constitutes an irrevocable offer on the terms of this Deed by Council to transfer the PPH Lots to PPH and does not give rise to a conditional contract for the sale of the PPH Lots.

5.3 Exercise of PPH Call Option

PPH may exercise the PPH Call Option during the Call Option Period by giving to Council a properly completed Option Notice duly signed by PPH.

5.4 Grant of PPH Put Option

- (a) In consideration of the payment of the PPH Put Option Fee by Council to PPH, PPH grants an option to Council to require PPH to take a transfer of the PPH Lots.
- (b) PPH acknowledges receipt of the PPH Put Option Fee.

5.5 Irrevocable offer

The PPH Put Option constitutes an irrevocable offer on the terms of this Deed by PPH to take a transfer of the PPH Lots from Council and does not give rise to a conditional contract for the sale of the PPH Lots.

5.6 Exercise of PPH Put Option

Council may exercise the PPH Put Option during the Put Option Period by giving a completed Put Option Notice signed by Council to PPH.

6. MOOLARBEN CALL OPTION AND MOOLARBEN PUT OPTION

6.1 Grant of Moolarben Call Option

- (a) In consideration of the payment of the Moolarben Call Option Fee by Moolarben to Council, Council grants to Moolarben an option for Moolarben or the Nominee to take a transfer of the Moolarben Lots.
- (b) Council acknowledges receipt of the Moolarben Call Option Fee.

6.2 Irrevocable offer

The Moolarben Call Option constitutes an irrevocable offer on the terms of this Deed by Council to transfer the Moolarben Lots to Moolarben or the Nominee and does not give rise to a conditional contract for the sale of the Moolarben Lots.

6.3 Exercise of Moolarben Call Option

Moolarben may exercise the Moolarben Call Option during the Call Option Period by giving to Council a properly completed Option Notice duly signed by Moolarben (or, if clause 7.6 applies, the Nominee).

6.4 Grant of Moolarben Put Option

(a) In consideration of the payment of the Moolarben Put Option Fee by Council to Moolarben, Moolarben grants an option to Council to require Moolarben to take a transfer of the Moolarben Lots.

(b) Moolarben acknowledges receipt of the Moolarben Put Option Fee.

6.5 Irrevocable offer

The Moolarben Put Option constitutes an irrevocable offer on the terms of this Deed by Moolarben to take a transfer of the Moolarben Lots from Council and does not give rise to a conditional contract for the sale of the Moolarben Lots.

6.6 Exercise of Moolarben Put Option

Council may exercise the Moolarben Put Option during the Put Option Period by giving a completed Option Notice signed by Council to Moolarben.

7. EXERCISE OF AN OPTION

(a) If the PPH Call Option or PPH Put Option is exercised:

(i) Council must transfer to PPH, Council's right, title and interest in the PPH Lots for \$1.00 (if demanded in writing by the Council) on the PPH Transfer Date; and

(ii) PPH must accept that transfer.

(b) If the Moolarben Call Option or Moolarben Put Option is exercised:

(i) Council must transfer to Moolarben, Council's right, title and interest in the Moolarben Lots for \$1.00 (if demanded in writing by the Council) on the Moolarben Transfer Date; and

(ii) Moolarben must accept that transfer.

(c) If an Option is exercised, Council must ensure that legal title to the relevant New Lots passes to the relevant Grantee free of any mortgage or other encumbrance or interest other than encumbrances or interests in the Instrument or reservations or conditions in the crown grant.

7.2 Transfer Form

(a) As soon as practicable after the PPH Call Option or PPH Put Option is exercised, PPH must deliver to Council an executed and stamped Transfer Form in respect of the PPH Lots.

(b) As soon as practicable after the Moolarben Call Option or Moolarben Put Option is exercised, Moolarben must deliver to Council an executed and stamped Transfer Form in respect of the Moolarben Lots.

7.3 Transfer of title of PPH Lots

- (a) Subject to the exercise of the PPH Call Option or PPH Put Option, within [5] Business Days after the later of receipt by Council of:
 - (i) the certificates of title for the PPH Lots; and
 - (ii) the executed and stamped Transfer Form for the PPH Lots,Council must deliver to PPH:
 - (A) the original certificates of title for the PPH Lots;
 - (B) the Transfer Form for the PPH Lots, executed by the Council,and all risk in and title to the PPH Lots passes to PPH on and from the date the Transfer Form for the PPH Lots is registered.
- (b) PPH must use all reasonable endeavours to procure the registration of the Transfer Form for the PPH Lots upon or as soon as reasonably practicable after receiving the original certificates of title and Transfer Form from Council.

7.4 Transfer of title of Moolarben Lots

- (a) Subject to the exercise of the Moolarben Call Option or Moolarben Put Option, within 20 Business Days after the later of receipt by Council of:
 - (i) the certificates of title for the Moolarben Lots; and
 - (ii) receipt by Council of the executed and stamped Transfer Form for the Moolarben Lots,Council must deliver to Moolarben:
 - (A) the original certificates of title for the Moolarben Lots;
 - (B) the Transfer Form for the Moolarben Lots, executed by the Council,and all risk in and title to the Moolarben Lots passes to Moolarben on and from the date the Transfer Form for the Moolarben Lots is registered.
- (b) Moolarben must use all reasonable endeavours to procure the registration of the Transfer Form for the Moolarben Lots upon or as soon as reasonably practicable after receiving the certificates of title and Transfer Form from Council.

7.5 Council to notify the Grantees

- (a) Council must notify the Grantees promptly after it receives notice of:
 - (i) Crown Lands approving the closure of the Road Closure Land (if required by Law);
 - (ii) the publication of any notice in the NSW Government Gazette advertising the closure of the Road Closure Land; and
 - (iii) the issue of certificates of title for the New Lots by LRS.
- (b) Each Grantee must notify Council promptly after it receives notice of the registration of the relevant Transfer Form.

7.6 **Transfer of Moolarben Lots where PPH or WCPL acquires the Sale Land**

- (a) If PPH or WCPL acquire the Sale Land from Moolarben as contemplated by clause 3.2 of the Road Opening HOA at any time prior to the date that the Moolarben Call Option is exercised, the parties agree that Moolarben must nominate PPH or WCPL (as relevant) as the Nominee entitled to exercise the Moolarben Call Option.
- (b) Moolarben must promptly notify Council of any such nomination of PPH or WCPL as the Nominee.
- (c) If Moolarben nominates a Nominee under this clause 7.6, the Nominee has all of the rights of Moolarben in respect of the Moolarben Call Option (other than a right to appoint a Nominee) and must perform all obligations of Moolarben under this Deed.

8. **CONDITION OF NEW LOTS**

8.1 **Present condition**

Subject to the exercise of the relevant Option, each Grantee accepts the relevant New Lots in their current condition and state of repair as at the Transfer Date, subject to all infestations and dilapidation, latent or patent defects in or affecting the relevant New Lots, and otherwise on an 'as is, where is' basis (including with respect to any boundary or internal fences and other improvements).

8.2 **Purchaser's acceptance and acknowledgments**

- (a) Subject to the exercise of the relevant Option, each Grantee represents and warrants to the Council that, because of the Grantee's own inspection and enquiries, the Grantee:
 - (i) is satisfied as to the nature, quality, condition and state of repair of the relevant New Lots that it is accepting transfer of (including but not limited to each of the matters set out in clause 8.2(b));
 - (ii) accepts the relevant New Lots as is and subject to all defects (latent or patent) and all dilapidation and infestation; and
 - (iii) is satisfied about the purposes for which the relevant New Lots may be used and about all restrictions and prohibitions on their development.
- (b) Without limiting clauses 8.1 or 8.2(a), each Grantee acknowledges that the Council makes no statement, representation or warranty relating to (and that the Grantees have satisfied themselves as to) each of the following matters:
 - (i) the condition or state of repair of the New Lots or any improvements on the New Lots;
 - (ii) the existing or potential fitness or suitability of the New Lots for any purpose or the functionality of the New Lots;
 - (iii) the status of compliance with the requirements of any Law applicable to the New Lots and the existence of any outstanding notices or requirements of the Local Government or other Authority affecting the New Lots;
 - (iv) any financial return or income derived or to be derived from the New Lots;
 - (v) the value of the New Lots and their existing or potential profitability (including any independent valuations and reports provided by the Council);

- (vi) encumbrances affecting the New Lots;
- (vii) the presence of any sewer, manhole or vent on the New Lots;
- (viii) whether any New Lots are Contaminated;
- (ix) the existence of any asbestos-containing material at the New Lots;
- (x) the existence (or non-existence) of any Environmental Liability;
- (xi) planning restrictions (including all planning approvals, permits and consents) for the New Lots, the use to which the New Lots may be put and the development potential of the New Lots;
- (xii) whether or not the New Lots are affected by flooding;
- (xiii) the rights and privileges relating to the New Lots, including any restrictions on use or development;
- (xiv) whether or not the New Lots are affected by a proposal of an Authority for the realignment, expansion, widening, re-siting or altering the level or direction of any road or railway abutting, adjoining or adjacent to the land;
- (xv) whether or not any notice of resumption or intending resumption affecting the New Lots has been given;
- (xvi) whether or not all permissions, consents and approvals required from a relevant Authority for the construction or use of any part of any improvement on a New Lots has been obtained, or, having been obtained, have been complied with in all respects;
- (xvii) whether or not any requisitions, directions or recommendations have been delivered by any Authority in respect of the New Lots and, if delivered, have been complied with;
- (xviii) whether there are any notices or orders by any Authority, including a notice or order requiring work to be done or money spent in connection with the New Lots;
- (xix) whether or not any consents, approvals, permits or licences desirable or required to be held for the present use of the New Lots have been granted by a relevant Authority;
- (xx) any deeds or arrangements with the owners or occupiers of adjoining or nearby properties to the New Lots, including the terms of all easements and licences benefiting or affecting the New Lots;
- (xxi) the means or adequacy of access to the New Lots; or
- (xxii) any other matter (past, present, future or anticipated) relevant to the New Lots.

8.3 Council's warranty

Council warrants that, as at the date of this Deed, it has not received any notice, proposal, requisition, direction or recommendation from an Authority in respect of a New Lot, that has not been disclosed in writing to the Grantees.

9. **GRANTEE ACCEPTS ENVIRONMENTAL LIABILITY**

On and from the Transfer Date, the relevant Grantee (to the fullest extent permitted by Law):

- (a) accepts all Environmental Liability in respect of the New Lots that it is accepting transfer of, whether arising before, on or after the relevant Transfer Date;
- (b) must, at its cost, comply with the requirements of any Environmental Law in respect of the relevant New Lots and the requirements of any Authority relating to any Environmental Liability incurred in respect of the relevant New Lots;
- (c) must not, at any time, take any action or make any Claim against the Council for any Environmental Liability incurred in respect of the relevant New Lots;
- (d) unconditionally releases and forever discharges the Council from any Environmental Liability incurred in respect of the relevant New Lots; and
- (e) indemnifies the Council against all loss, injury, liability, damage, cost, Claim or other detriment suffered or incurred by the Council in respect of any Environmental Liability incurred as a result of Contamination of the relevant New Lots caused after the relevant Transfer Date.

10. **RELEASE**

- (a) On and from PPH Transfer Date, PPH releases the Council from any Claim which arises either directly or indirectly from or which relates to the condition of the PPH Lots before the PPH Transfer Date.
- (b) On and from Moolarben Transfer Date, Moolarben releases the Council from any Claim which arises either directly or indirectly from or which relates to the condition of the Moolarben Lots before the Moolarben Transfer Date.

11. **NO MERGER**

Clauses **Error! Reference source not found.** and 8 to 10 (inclusive) do not merge on the relevant Transfer Date.

12. **MUTUAL OBLIGATIONS OF THE PARTIES**

The parties acknowledge and agree that each will act without undue delay but subject to its resources in implementing this Deed.

13. **ELECTRONIC CONVEYANCING**

If:

- (a) the Conveyancing Rules require the transfer of the New Lots as contemplated by this Deed to be conducted as an Electronic Transaction; and
- (b) clause 30.2 of the Standard Conditions does not apply,

then, unless the parties otherwise agree, the transfer of the New Lots is to be conducted as an Electronic Transaction in accordance with clause 30 of the Standard Conditions, as if that clause is set out in full in this Deed, with such amendments necessary to reflect the transfer of the relevant New Lots to each of PPH and Moolarben, as contemplated by this Deed.

14. **STAMP DUTY AND COSTS**

14.1 **Stamp duty**

- (a) PPH must pay any stamp duty incurred in respect of the PPH Call Option, PPH Put Option and transfer of the PPH Lots to PPH.
- (b) Moolarben must pay any stamp duty incurred in respect of the Moolarben Call Option, Moolarben Put Option and transfer of the Moolarben Lots to Moolarben.
- (c) The Council must provide all assistance reasonably requested by a Grantee in respect of the valuation of any New Lot before the Transfer Date, at the Grantee's cost.

15. **GST**

15.1 **Amounts exclusive of GST**

Unless otherwise expressly stated, all amounts payable under or in connection with this Deed are stated exclusive of GST.

15.2 **Payment of GST**

If GST is or will be payable on a supply made under or in connection with this Deed the recipient must:

- (a) pay to the supplier an amount equal to any GST for which the supplier is liable on any supply by the supplier under this Deed, without deduction or set-off of any other amount; and
- (b) make that payment as and when the consideration or part of it must be paid or provided. If the recipient does not pay the GST at that time, then it must pay the GST within seven days of a written request by the supplier for payment of the GST.

15.3 **Tax invoice**

Each party making a taxable supply under this Deed must issue a tax invoice to the other party for each taxable supply at or before the time it makes the taxable supply.

15.4 **Indemnities and reimbursement**

If a party is obliged to make a payment under an indemnity or is required to reimburse a party for a cost (for example a party's obligation to pay another party's legal costs) on which that other party must pay GST, the indemnity or reimbursement is for the cost plus all GST (except any GST for which that party can obtain an input tax credit).

16. **NOTICES**

16.1 **Form**

- (a) All notices, demands, certificates, consents, approvals, waivers and other communications in connection with this Deed must be in writing and signed by the sender (if an individual) or an authorised officer of the sender.
- (b) Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

16.2 **Delivery**

- (a) All notices required by this Deed or otherwise shall be given in writing and shall be sent by one party to the other parties by either email or post.
- (b) All notices shall be sent to the other party at the address set out below or to such other address, facsimile number or email address as one party may from time to time notify the other parties in writing:

The Council:

86 Market Street
Mudgee NSW 2850

council@midwestern.nsw.gov.au

PPH:

100 Melbourne Street, South Brisbane, QLD 4101

Ian Flood – iflood@peabodyenergy.com

WCPL:

100 Melbourne Street, South Brisbane, QLD 4101

Ian Flood – iflood@peabodyenergy.com

Moolarben:

'Darling Park Tower 2', Level 18, 201 Sussex Street, Sydney NSW 2000

Notices@yancoal.com.au and:

Graham Chase – Graham.Chase@yancoal.com.au

- (c) If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

16.3 **When effective**

Communications take effect from the time they are received or taken to be received under clause 16.4 (whichever happens first).

16.4 **When taken to be received**

Subject to clause 16.5, communications are taken to be received:

- (a) if delivered in person, when it has been left at the relevant receiving party's address as set out in clause 16.2 of this Deed, as applicable;
- (b) if sent by express post, 3 days after posting; or
- (c) if sent by email:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

16.5 Receipt outside of business hours

Despite anything else in this clause 16, if communications are received or taken to be received under clause 16.4 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in clause 16.2 of this Deed, as applicable, as the address of the recipient and the time of receipt is the time in that place (or any new address of the recipient notified in writing to the other parties from time to time).

17. GENERAL

17.1 Assignment

(a) No party may assign, novate or otherwise transfer their rights or obligations under this Deed without the other parties' consent, which must not be unreasonably withheld or delayed.

(b) Moolarben must not sell, assign or otherwise transfer its interest in any one or more of the following titles without Council's consent:

- (i) Lot 50 in DP755454;
- (ii) Lot 122 in DP 755454; and
- (iii) Lot 59 in DP 755454,

(the **Moolarben Titles**), which consent must not be withheld if the purchaser enters into a deed of novation with the Council and the other parties to this Deed, under which the purchaser agrees to comply with Moolarben's obligations under this Deed to the extent that a Moolarben Lot falls within a Moolarben Title.

(c) WCPL must not sell, assign or otherwise transfer its interest in any one or more of the following titles without Council's consent:

- (i) Lot 41 in DP 583255; and
- (ii) Lot 100 in DP755454,

(the **WCPL Titles**), which consent must not be withheld if the purchaser enters into a deed of novation with the Council and the other parties to this Deed, under which the purchaser agrees to comply with WCPL's obligations under this Deed to the extent that a PPH Lot falls within a WCPL Title.

17.2 Amendment of Deed

No modification, variation or amendment of this Deed will be of any force unless such modification, variation or amendment is in writing and has been signed by each of the parties.

17.3 Governing Law

This Deed is governed by the Law in force in New South Wales.

17.4 **Jurisdiction**

Each party submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

17.5 **Giving effect to this Deed**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this Deed.

17.6 **Variation and waiver**

The exercise of a right partially or on one occasion does not prevent any further exercise of that right in accordance with the terms of this Deed. Neither a forbearance to exercise a right nor a delay in the exercise of a right operates as an election between rights or a variation of the terms of this Deed.

17.7 **Entire Deed**

This Deed and the Road Opening HOA constitute the entire agreement of the parties about the subject matter hereof and supersedes all previous agreements, understandings and negotiations on that subject matter.

17.8 **Operation of this Deed**

- (a) Any right that a person may have under this Deed is in addition to, and does not replace or limit, any other right that the person may have.
- (b) If the whole or any part of a provision of this Deed is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction to the extent severance is possible without defeating the intentions of the parties as properly ascertained from the terms of this Deed. If so, the remainder of this Deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected.

17.9 **Discretion in exercising rights**

A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this Deed expressly states otherwise.

17.10 **Enurement**

Subject to the provisions of this Deed, this Deed will be binding upon and enure to the benefit of each party's respective successors and assigns who become such in accordance with the terms of this Deed.

17.11 **Mitigation of damages**

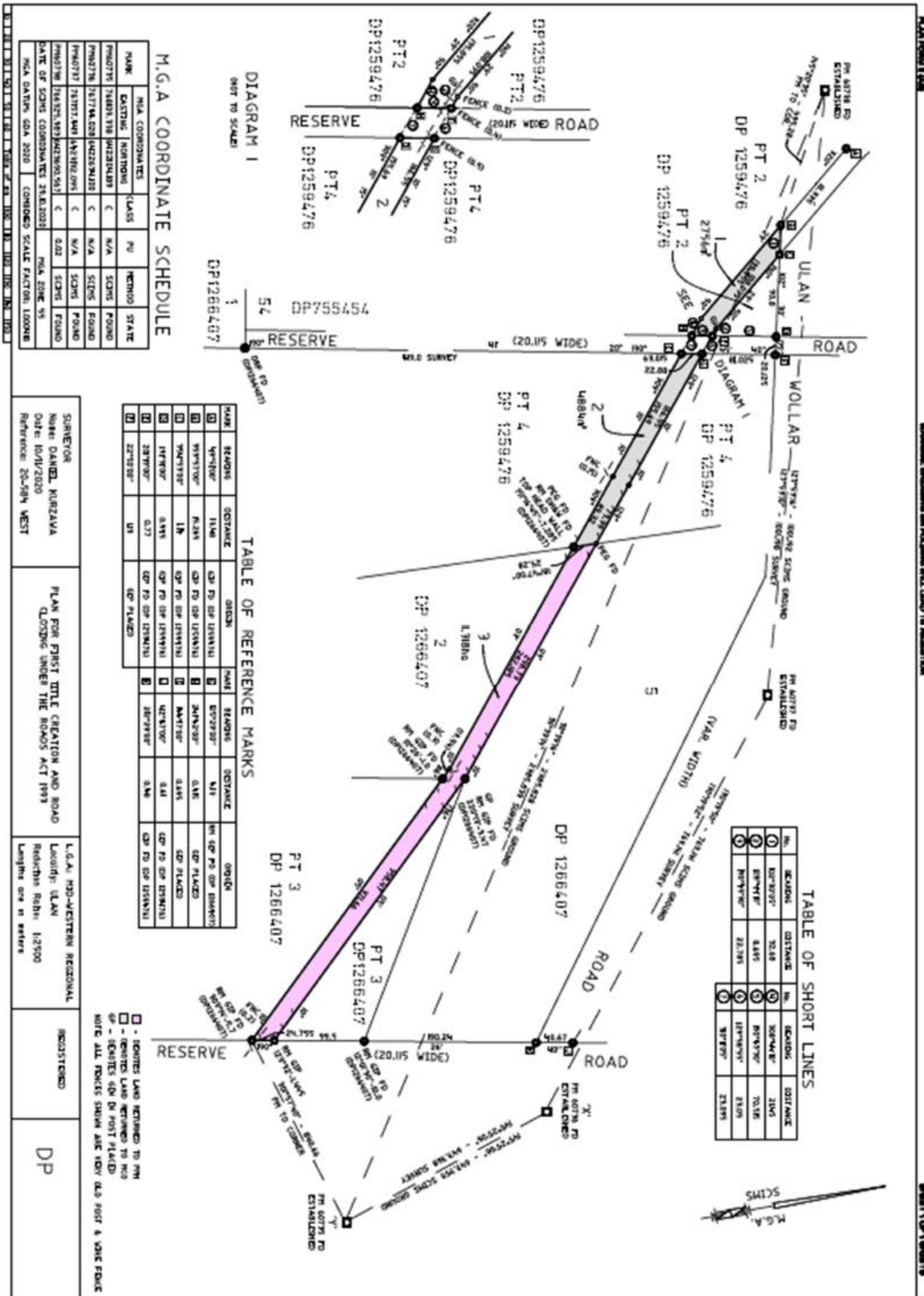
- (a) Each party will have the duty to mitigate any losses it may suffer by reason of the breach of another party of any provision of this Deed including, by way of taking reasonable steps as requested by another party to enforce any rights it may have against third parties, within a reasonable time of having become aware of such breach.
- (b) A party's conduct in performing its duty to mitigate under clause 17.11(a) does not constitute acceptance of the other party's breach or repudiation or a surrender by operation of Law.

17.12 Force majeure

- (a) No party to this Deed shall be liable to another for any loss or damage of any nature whatsoever incurred or suffered as a result of any failures or delays in performance due to any cause or circumstance beyond its control including, but not limited to, any failures or delays in performance caused by any acts of God or public enemy, riots, strikes, civil disobedience or interference by civil or military authorities or a pandemic (**Force Majeure Event**).
- (b) If a party seeks to rely upon the provisions of clause 17.12(a), it shall advise the other parties as early as reasonably practicable of the anticipated or actual Force Majeure Event and the Force Majeure Event's expected effect on the party's performance under this Deed and promptly keep the other parties informed with respect to any changes regarding the effect of the Force Majeure Event on the party's performance hereunder.

17.13 Counterparts

This Deed may be executed in counterparts. Delivery of a counterpart of this Deed by email attachment constitutes an effective mode of delivery.



SCHEDULE 2

Call option notice

To: **Mid-Western Regional Council** ABN 96 149 391 332 (Council)
86 Market Street, Mudgee, NSW 2850

A word defined in the Road Closure Transfer Deed dated [*insert date of this Deed*] has the same meaning in this option exercise notice.

[*insert name*] ACN [*insert ACN*] [as nominee of **Moolarben Coal Mines Pty Limited** ACN 108 601 672] [*delete if Option Notice for PPH Lots or clause 7.6 does not apply*] exercises [the PPH Call Option granted under clause 5.1 of the Road Closure Transfer Deed dated [*insert date of this Deed*] to require Council to transfer the PPH Lots] **OR** [the Moolarben Call Option granted under clause 6.1 of the Road Closure Transfer Deed dated [*insert date of this Deed*] to require Council to transfer the Moolarben Lots]. [*delete as appropriate*]

Dated:

[*insert relevant execution block*]

SCHEDULE 3

Put Option Notice

To: **[insert name]** ACN **[insert ACN]**
[insert address]

A word defined in the Road Closure Transfer Deed dated **[insert date of this Deed]** has the same meaning in this option exercise notice.

Mid-Western Regional Council ABN 96 149 391 332 (**Council**) exercises [the PPH Put Option granted under clause 5.4 of the Road Closure Transfer Deed dated **[insert date of this Deed]** to require PPH to take a transfer of the PPH Lots] **OR** [the Moolarben Put Option granted under clause 6.4 of the Road Closure Transfer Deed dated **[insert date of this Deed]** to require Moolarben to take a transfer of the Moolarben Lots]. **[delete as appropriate]**

Dated:

SIGNED for and on behalf of **MID-WESTERN REGIONAL COUNCIL ABN 96 149 391 332** by its duly authorised representative in the presence of:

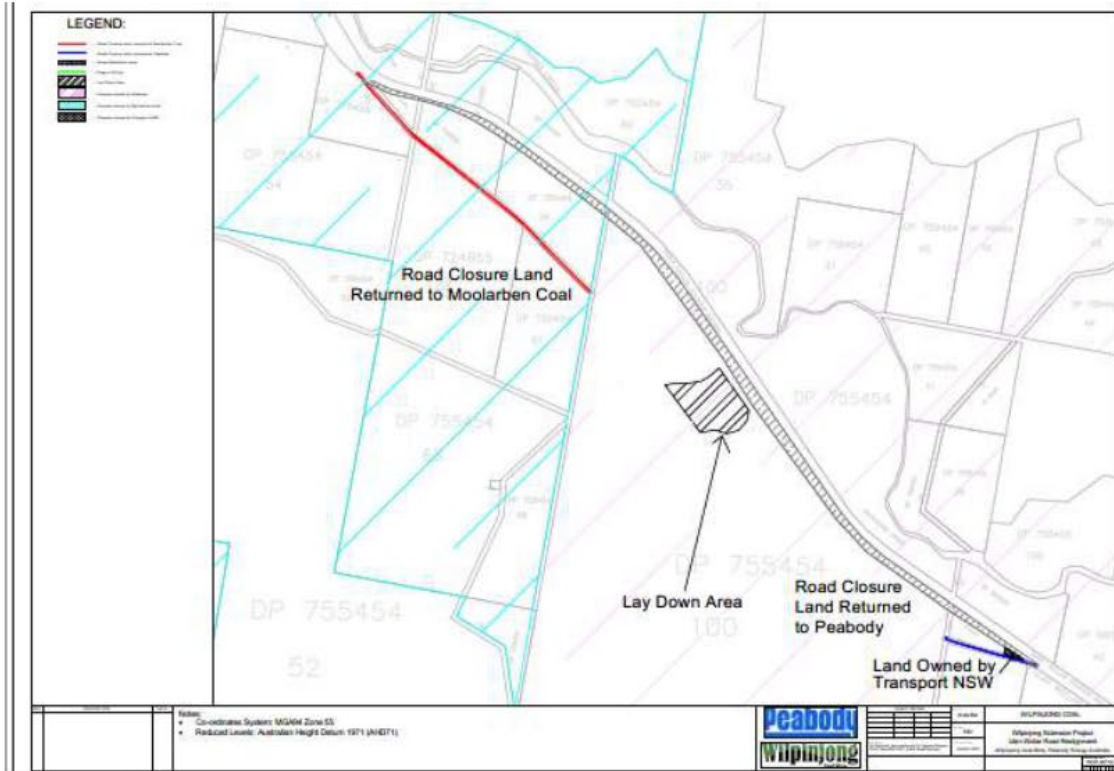
Signature of party

Signature of witness

Name

SCHEDULE 4

Road Closure Land



EXECUTED AS A DEED BY THE PARTIES.

SIGNED for and on behalf of **MID-WESTERN REGIONAL COUNCIL ABN 96 149 391 332** by its duly authorised representative in the presence of:

Signature of party

Signature of witness

Name

EXECUTED by **PEABODY PASTORAL HOLDINGS PTY LIMITED ACN 141 206 368** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director

Name

Name

EXECUTED by **WILPINJONG COAL PTY LTD ACN 104 594 694** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director

Name

Name

EXECUTED by **MOOLARBEN COAL MINES PTY LIMITED ACN 108 601 672** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director

Name

Name

Road Closure Land Transfer Deed

Mid-Western Regional Council

ABN 96 149 391 332

Peabody Pastoral Holdings Pty Ltd

ACN 141 206 368

Wilpinjong Coal Pty Ltd

ACN 104 594 694

Moolarben Coal Mines Pty Limited

ACN 108 601 672

2020

CONTENTS

CLAUSE	PAGE
1. INTERPRETATION.....	1
1.1 Definitions	1
1.2 Rules for interpreting this Deed	4
2. ACKNOWLEDGMENTS OF THE PARTIES.....	4
2.1 Purpose of this Deed.....	4
2.2 Capacity of the parties	4
3. SUBDIVISION PLAN AND INSTRUMENT.....	5
4. CLOSURE OF ROAD CLOSURE LAND	5
4.1 Closure of Road Closure Land and registration of Subdivision Plan	5
4.2 Certificates of title for New Lots	6
5. PPH CALL OPTION AND PPH PUT OPTION	6
5.1 Grant of PPH Call Option.....	6
5.2 Irrevocable offer	6
5.3 Exercise of PPH Call Option	6
5.4 Grant of PPH Put Option	6
5.5 Irrevocable offer	6
5.6 Exercise of PPH Put Option.....	6
6. MOOLARBEN CALL OPTION AND MOOLARBEN PUT OPTION	6
6.1 Grant of Moolarben Call Option.....	6
6.2 Irrevocable offer	7
6.3 Exercise of Moolarben Call Option	7
6.4 Grant of Moolarben Put Option.....	7
6.5 Irrevocable offer	7
6.6 Exercise of Moolarben Put Option	7
7. EXERCISE OF AN OPTION.....	7
7.2 Transfer Form.....	7
7.3 Transfer of title of PPH Lots.....	8
7.4 Transfer of title of Moolarben Lots	8
7.5 Council to notify the Grantees	8
7.6 Transfer of Moolarben Lots where PPH or WCPL acquires the Sale Land	9
8. CONDITION OF NEW LOTS	9
8.1 Present condition	9
8.2 Purchaser’s acceptance and acknowledgments	9
9. GRANTEE ACCEPTS ENVIRONMENTAL LIABILITY.....	11
10. RELEASE	11
11. NO MERGER.....	11
12. MUTUAL OBLIGATIONS OF THE PARTIES.....	11
13. ELECTRONIC CONVEYANCING.....	11
14. STAMP DUTY AND COSTS.....	12
14.1 Stamp duty	12
14.2 Costs	Error! Bookmark not defined.
15. GST.....	12

15.1	Amounts exclusive of GST.....	12
15.2	Payment of GST.....	12
15.3	Tax invoice.....	12
15.4	Indemnities and reimbursement	12
16.	NOTICES	12
16.1	Form.....	12
16.2	Delivery.....	13
16.3	When effective.....	13
16.4	When taken to be received	13
16.5	Receipt outside of business hours.....	14
17.	GENERAL.....	14
17.1	Amendment of Deed	14
17.2	Governing Law.....	14
17.3	Jurisdiction.....	15
17.4	Giving effect to this Deed	15
17.5	Variation and waiver	15
17.6	Entire Deed	15
17.7	Operation of this Deed	15
17.8	Discretion in exercising rights.....	15
17.9	Enurement.....	15
17.10	Mitigation of damages.....	15
17.11	Force majeure	16
17.12	Counterparts	16

Schedule

1	Subdivision Plan	17
2	Call option notice	1
3	Put Option Notice.....	2
4	Road Closure Land	3

THIS DEED is made on 2019

BETWEEN:

- (1) **Mid-Western Regional Council** ABN 96 149 391 332 of 86 Market Street, Mudgee, NSW 2850 (the **Council**);
- (2) **Peabody Pastoral Holdings Pty Limited** ACN 141 206 368 of 100 Melbourne Street, South Brisbane, QLD 4104 (**PPH**);
- (3) **Wilpinjong Coal Pty Limited** ACN 104 594 694 of 100 Melbourne Street, South Brisbane, QLD 4101 (**WCPL**); and
- (4) **Moolarben Coal Mines Pty Limited** ACN 108 601 672 of 'Darling Park Tower 2', Level 18, 201 Sussex Street, Sydney NSW 2000 (**Moolarben**).

RECITALS:

- (A) The parties have entered into the Road Opening HOA.
- (B) The parties have entered into this Deed to address the transfer of ownership of different parts of the Road Closure Land if and when closed to:
 - (1) PPH; and
 - (2) Moolarben,(collectively, the **Grantees** and each a **Grantee**), as referred to in clause 2.2(b) of the Road Opening HOA.
- (C) Subject to the registration of the Subdivision Plan,
 - (1) Council has agreed to grant to:
 - (i) PPH, an option for PPH to take a transfer of the PPH Lots; and
 - (ii) Moolarben, an option for Moolarben or its Nominee to take a transfer of the Moolarben Lots;
 - (2) PPH has agreed to grant to Council an option to require PPH to take a transfer of the PPH Lots; and
 - (3) Moolarben has agreed to grant to Council an option to require Moolarben to take a transfer of the Moolarben Lots,on the terms of this Deed.

THE PARTIES AGREE AS FOLLOWS:

1. **INTERPRETATION**

1.1 **Definitions**

A word defined in the Road Opening HOA has the same meaning in this Deed except as defined below.

Authority means:

- (a) a government or government department or other body;

- (b) a governmental, semi-governmental or judicial person including a statutory corporation; or
- (c) a person (whether autonomous or not) who is charged with the administration of Law.

Approval means any approval, consent, permit, licence, endorsement, condition, plan or requirement (and any variations to them) which may be required by an Authority.

Call Option Period means the period beginning on the Registration Date and ending on the date that is 20 Business Days after the Registration Date.

Contamination means the presence in, on or under land of a substance (whether a solid, liquid or gas) 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 material harm to human health or to any other aspect of the Environment.

Conveyancing Rules means the rules made under section 12E of the *Real Property Act 1900* (NSW).

Crown Lands means the Crown Lands Division of the NSW Department of Industry.

Deed means this deed including all annexures and schedules.

Electronic Transaction means a dealing as defined in the *Real Property Act 1900* (NSW) which may be created and 'Digitally Signed' in an 'Electronic Workspace' (as those terms are defined in clause 30 of the Standard Conditions).

Environment means all components of the earth.

Environmental Law means any law (including the laws of tort, negligence and nuisance) relating to the Environment or Contamination (or both), including a law relating to land use, planning, environmental assessment, heritage, water catchments, pollution of air or waters, noise, soil or water contamination, chemicals and hazardous substances, the ozone layer, waste, dangerous goods, building regulation, occupation of buildings and fire safety, public health, occupational health and safety, noxious trades and any aspect of the protection of the Environment, or the enforcement or administration of any of those laws.

Environmental Liability means any obligation, expense, liability, cost, loss, order, penalty or fine incurred pursuant to any Environmental Law which would or could be imposed upon any person in connection with a New Lot for any reason including as a result of Contamination in connection with a New Lot.

GST has the meaning given to it in the GST Law.

GST Law has the meaning given to it in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Instrument means any required section 88B instrument which, upon registration, will create those easements, rights of way and covenants referred to on the Subdivision Plan or required as part of the Approval for the subdivision of the Road Closure Land, including, without limitation, any easement for access granted in favour of National Parks and Wildlife Service over part of the Road Closure Land.

Lot 100 means the land in Lot 100 DP755454.

LRS means NSW Land Registry Services or any replacement body.

Moolarben Call Option means the option to take transfer of the Moolarben Lots granted under clause 6.1 by Council to Moolarben.

Moolarben Call Option Fee means \$1.00 (exclusive of GST).

Moolarben Lots means those New Lots identified as the "Moolarben Lots" on the Subdivision Plan.

Moolarben Put Option means the option to require Moolarben to accept the transfer of the Moolarben Lots, granted under clause 6.4 by Moolarben to Council.

Moolarben Put Option Fee means \$1.00 (exclusive of GST).

Moolarben Transfer Date means the date that the Transfer Form for the transfer of the Moolarben Lots is registered at the LRS.

New Lots means the lots that are created on registration of the Subdivision Plan.

New Road (Lot 100) has the meaning given to it in clause **Error! Reference source not found.**

Nominee means, if clause 7.6 applies, either PPH or WCPL (as relevant) that Moolarben nominates under clause 7.6 to take the transfer of the Moolarben Lots.

Option means (as the context requires), the PPH Call Option, PPH Put Option, Moolarben Call Option or Moolarben Put Option.

Option Notice means a written notice confirming exercise of the relevant Option substantially in the form of Schedule 2 for the PPH Call Option and Moolarben Call Option or substantially in the form of Schedule 3 for the PPH Put Option and Moolarben Put Option.

PPH Call Option means the option to take transfer of the PPH Lots granted under clause 5.1 by Council to PPH.

PPH Call Option Fee means \$1.00 (exclusive of GST).

PPH Lots means those New Lots identified as the "PPH Lots" on the Subdivision Plan.

PPH Put Option means the option to require PPH to accept the transfer of the PPH Lots granted under clause 5.4 by PPH to Council.

PPH Put Option Fee means \$1.00 (exclusive of GST)

PPH Transfer Date means the date that the Transfer Form for the transfer of the PPH Lots is registered at the LRS.

Put Option Period means the period beginning on day after the expiry of the Call Option Period and ending [20] Business Days after that date.

Registration Date means the later of:

- (a) the date that the Grantees receive notice from Council under clause 2.2(a)(iv) of the HOA that the existing sections of the Road that are located on the Road Closure Land have been closed; and
- (b) the date that the Grantees receive notice from Council that the Subdivision Plan and Instrument have been registered at the LRS.

Road (Lot 100) has the meaning given to it in clause **Error! Reference source not found.**

Road Opening HOA means the Heads of Agreement for Opening New, Realigned Sections of Ulan-Wollar Road that was signed on 8 May 2019 and endorsed by the Council on 16 May 2019.

Standard Conditions means the NSW Law Society and Real Estate Institute of NSW Contract for the sale and purchase of land –2018 edition.

Subdivision Plan means the plan in Schedule 1 of this Deed.

Transfer Date means the PPH Transfer Date or the Moolarben Transfer Date, as relevant to the context.

Transfer Form means an LRS transfer form(s) for the transfer of:

- (a) the PPH Lots to PPH; or
 - (b) the Moolarben Lots to Moolarben,
- as applicable depending on the context.

1.2 **Rules for interpreting this Deed**

The rules in clauses 1.2-1.5 of the Road Opening HOA also apply in interpreting this Deed

2. **ACKNOWLEDGMENTS OF THE PARTIES**

2.1 **Purpose of this Deed**

The parties to this Deed acknowledge and agree that the purpose of this Deed is to make provision for the matters referred to clause 2.2(b) of the Road Opening HOA, namely, the transfer of ownership of different parts of the Road Closure Land, if and when closed to each of:

- (a) PPH; and
- (b) Moolarben.

2.2 **Capacity of the parties**

The parties acknowledge and agree that:

- (a) each party has entered into this Deed, and will exercise their respective rights, perform their respective obligations and otherwise give effect to the terms of this Deed, in good faith; and
- (b) each party has had the opportunity of obtaining independent accounting and legal advice prior to entering this Deed and does not rely upon any representation, promise or inducement made by another party to this Deed.

2.3 **Part of the Road on Lot 100**

- (a) The parties acknowledge and agree that, as at the date of this Deed, Crown Lands has confirmed that the part of the Road that passes through Lot 100 as at the date of this Deed (**Road (Lot 100)**) is not Crown public road.

- (b) On and from the date of this Deed:
 - (i) the parties to this deed agree that the Road (Lot 100) is not a public road;
 - (ii) Council agrees that it will not object to PPH, WCPL or Moolarben carrying out or procuring the carrying out of mining or other operations on, under or over the Road (Lot 100), once the existing sections of the Road that are located on the Road Closure Land are closed (as contemplated by clause 2.2(a) of the Road Closure Deed),
 - (iii) the Road Opening HOA is varied as follows:
 - (A) the definition of "Road Closure Land" is amended by inserting the following words at the end of that definition: "and for the avoidance of doubt, the Road Closure Land does not include Lot 100 in DP755454";
 - (B) the table in Schedule 1 is amended by removing the reference to Lot 100 in DP755454; and
 - (C) the plan in Schedule 2 is deleted and replaced with the plan in Schedule 4 to the Deed;
 - (iv) WCPL must use best endeavours to procure the amendment of the title diagram relevant to Lot 100 and/or the title to Lot 100 to show that the public road within Lot 100 is the New Road (Lot 100) and not the Road (Lot 100); and
 - (v) the Council must provide all assistance reasonably requested by WCPL to procure the amendment contemplated in clause 2.3(b)(iv).

3. **SUBDIVISION PLAN AND INSTRUMENT**

- (a) Each of the Grantees acknowledge that the Subdivision Plan or the Instrument may need to be amended in accordance with the terms of this Deed.
- (b) Subject to clause 3(c), after the date of this Deed, a party may only make alterations to the Subdivision Plan or the Instrument with the prior written consent of the other parties, which cannot be unreasonably withheld or delayed in relation to alterations:
 - (i) to ensure that the Subdivision Plan or Instrument (as relevant) complies with any Approvals, Laws, LRS requirements or Crown Lands requirements; or
 - (ii) to give effect to the intentions of the parties under this deed,and provided the parties' interests are not adversely affected by the alterations.
- (c) Consent is not required under clause 3(b) in respect of minor alterations to the Subdivision Plan or Instrument which relate to registration formalities.

4. **CLOSURE OF ROAD CLOSURE LAND**

4.1 **Closure of Road Closure Land and registration of Subdivision Plan**

As soon as practical after the existing sections of the Road that are located on the Road Closure Land are closed (as contemplated by clause 4.1 of the Road Opening HOA),

Council must use best endeavours to procure the registration of the Subdivision Plan and Instrument.

4.2 Certificates of title for New Lots

- (a) Council must immediately notify the Grantees once it receives notice that the Subdivision Plan and Instrument have been registered.
- (b) Immediately after the Registration Date, the Council must apply to the LRS for certificates of title (whether electronic or paper) for the New Lots.

5. PPH CALL OPTION AND PPH PUT OPTION

5.1 Grant of PPH Call Option

- (a) In consideration of the payment of the PPH Call Option Fee by PPH to Council, Council grants to PPH an option for PPH to take a transfer of the PPH Lots.
- (b) Council acknowledges receipt of the PPH Call Option Fee.

5.2 Irrevocable offer

The PPH Call Option constitutes an irrevocable offer on the terms of this Deed by Council to transfer the PPH Lots to PPH and does not give rise to a conditional contract for the sale of the PPH Lots.

5.3 Exercise of PPH Call Option

PPH may exercise the PPH Call Option during the Call Option Period by giving to Council a properly completed Option Notice duly signed by PPH.

5.4 Grant of PPH Put Option

- (a) In consideration of the payment of the PPH Put Option Fee by Council to PPH, PPH grants an option to Council to require PPH to take a transfer of the PPH Lots.
- (b) PPH acknowledges receipt of the PPH Put Option Fee.

5.5 Irrevocable offer

The PPH Put Option constitutes an irrevocable offer on the terms of this Deed by PPH to take a transfer of the PPH Lots from Council and does not give rise to a conditional contract for the sale of the PPH Lots.

5.6 Exercise of PPH Put Option

Council may exercise the PPH Put Option during the Put Option Period by giving a completed Put Option Notice signed by Council to PPH.

6. MOOLARBEN CALL OPTION AND MOOLARBEN PUT OPTION

6.1 Grant of Moolarben Call Option

- (a) In consideration of the payment of the Moolarben Call Option Fee by Moolarben to Council, Council grants to Moolarben an option for Moolarben or the Nominee to take a transfer of the Moolarben Lots.
- (b) Council acknowledges receipt of the Moolarben Call Option Fee.

6.2 Irrevocable offer

The Moolarben Call Option constitutes an irrevocable offer on the terms of this Deed by Council to transfer the Moolarben Lots to Moolarben or the Nominee and does not give rise to a conditional contract for the sale of the Moolarben Lots.

6.3 Exercise of Moolarben Call Option

Moolarben may exercise the Moolarben Call Option during the Call Option Period by giving to Council a properly completed Option Notice duly signed by Moolarben (or, if clause 7.6 applies, the Nominee).

6.4 Grant of Moolarben Put Option

(a) In consideration of the payment of the Moolarben Put Option Fee by Council to Moolarben, Moolarben grants an option to Council to require Moolarben to take a transfer of the Moolarben Lots.

(b) Moolarben acknowledges receipt of the Moolarben Put Option Fee.

6.5 Irrevocable offer

The Moolarben Put Option constitutes an irrevocable offer on the terms of this Deed by Moolarben to take a transfer of the Moolarben Lots from Council and does not give rise to a conditional contract for the sale of the Moolarben Lots.

6.6 Exercise of Moolarben Put Option

Council may exercise the Moolarben Put Option during the Put Option Period by giving a completed Option Notice signed by Council to Moolarben.

7. EXERCISE OF AN OPTION

(a) If the PPH Call Option or PPH Put Option is exercised:

(i) Council must transfer to PPH, Council's right, title and interest in the PPH Lots for \$1.00 (if demanded in writing by the Council) on the PPH Transfer Date; and

(ii) PPH must accept that transfer.

(b) If the Moolarben Call Option or Moolarben Put Option is exercised:

(i) Council must transfer to Moolarben, Council's right, title and interest in the Moolarben Lots for \$1.00 (if demanded in writing by the Council) on the Moolarben Transfer Date; and

(ii) Moolarben must accept that transfer.

(c) If an Option is exercised, Council must ensure that legal title to the relevant New Lots passes to the relevant Grantee free of any mortgage or other encumbrance or interest other than encumbrances or interests in the Instrument or reservations or conditions in the crown grant.

7.2 Transfer Form

(a) As soon as practicable after the PPH Call Option or PPH Put Option is exercised, PPH must deliver to Council an executed and stamped Transfer Form in respect of the PPH Lots.

- (b) As soon as practicable after the Moolarben Call Option or Moolarben Put Option is exercised, Moolarben must deliver to Council an executed and stamped Transfer Form in respect of the Moolarben Lots.

7.3 **Transfer of title of PPH Lots**

- (a) Subject to the exercise of the PPH Call Option or PPH Put Option, within [5] Business Days after the later of receipt by Council of:
 - (i) the certificates of title for the PPH Lots; and
 - (ii) the executed and stamped Transfer Form for the PPH Lots,Council must deliver to PPH:
 - (A) the original certificates of title for the PPH Lots;
 - (B) the Transfer Form for the PPH Lots, executed by the Council,and all risk in and title to the PPH Lots passes to PPH on and from the date the Transfer Form for the PPH Lots is registered.
- (b) PPH must use all reasonable endeavours to procure the registration of the Transfer Form for the PPH Lots upon or as soon as reasonably practicable after receiving the original certificates of title and Transfer Form from Council.

7.4 **Transfer of title of Moolarben Lots**

- (a) Subject to the exercise of the Moolarben Call Option or Moolarben Put Option, within 20 Business Days after the later of receipt by Council of:
 - (i) the certificates of title for the Moolarben Lots; and
 - (ii) receipt by Council of the executed and stamped Transfer Form for the Moolarben Lots,Council must deliver to Moolarben:
 - (A) the original certificates of title for the Moolarben Lots;
 - (B) the Transfer Form for the Moolarben Lots, executed by the Council,and all risk in and title to the Moolarben Lots passes to Moolarben on and from the date the Transfer Form for the Moolarben Lots is registered.
- (b) Moolarben must use all reasonable endeavours to procure the registration of the Transfer Form for the Moolarben Lots upon or as soon as reasonably practicable after receiving the certificates of title and Transfer Form from Council.

7.5 **Council to notify the Grantees**

- (a) Council must notify the Grantees promptly after it receives notice of:
 - (i) Crown Lands approving the closure of the Road Closure Land (if required by Law);
 - (ii) the publication of any notice in the NSW Government Gazette advertising the closure of the Road Closure Land; and
 - (iii) the issue of certificates of title for the New Lots by LRS.

- (b) Each Grantee must notify Council promptly after it receives notice of the registration of the relevant Transfer Form.

7.6 Transfer of Moolarben Lots where PPH or WCPL acquires the Sale Land

- (a) If PPH or WCPL acquire the Sale Land from Moolarben as contemplated by clause 3.2 of the Road Opening HOA at any time prior to the date that the Moolarben Call Option is exercised, the parties agree that Moolarben must nominate PPH or WCPL (as relevant) as the Nominee entitled to exercise the Moolarben Call Option.
- (b) Moolarben must promptly notify Council of any such nomination of PPH or WCPL as the Nominee.
- (c) If Moolarben nominates a Nominee under this clause 7.6, the Nominee has all of the rights of Moolarben in respect of the Moolarben Call Option (other than a right to appoint a Nominee) and must perform all obligations of Moolarben under this Deed.

8. CONDITION OF NEW LOTS

8.1 Present condition

Subject to the exercise of the relevant Option, each Grantee accepts the relevant New Lots in their current condition and state of repair as at the Transfer Date, subject to all infestations and dilapidation, latent or patent defects in or affecting the relevant New Lots, and otherwise on an 'as is, where is' basis (including with respect to any boundary or internal fences and other improvements).

8.2 Purchaser's acceptance and acknowledgments

- (a) Subject to the exercise of the relevant Option, each Grantee represents and warrants to the Council that, because of the Grantee's own inspection and enquiries, the Grantee:
 - (i) is satisfied as to the nature, quality, condition and state of repair of the relevant New Lots that it is accepting transfer of (including but not limited to each of the matters set out in clause 8.2(b));
 - (ii) accepts the relevant New Lots as is and subject to all defects (latent or patent) and all dilapidation and infestation; and
 - (iii) is satisfied about the purposes for which the relevant New Lots may be used and about all restrictions and prohibitions on their development.
- (b) Without limiting clauses 8.1 or 8.2(a), each Grantee acknowledges that the Council makes no statement, representation or warranty relating to (and that the Grantees have satisfied themselves as to) each of the following matters:
 - (i) the condition or state of repair of the New Lots or any improvements on the New Lots;
 - (ii) the existing or potential fitness or suitability of the New Lots for any purpose or the functionality of the New Lots;
 - (iii) the status of compliance with the requirements of any Law applicable to the New Lots and the existence of any outstanding notices or requirements of the Local Government or other Authority affecting the New Lots;
 - (iv) any financial return or income derived or to be derived from the New Lots;

- (v) the value of the New Lots and their existing or potential profitability (including any independent valuations and reports provided by the Council);
- (vi) encumbrances affecting the New Lots;
- (vii) the presence of any sewer, manhole or vent on the New Lots;
- (viii) whether any New Lots are Contaminated;
- (ix) the existence of any asbestos-containing material at the New Lots;
- (x) the existence (or non-existence) of any Environmental Liability;
- (xi) planning restrictions (including all planning approvals, permits and consents) for the New Lots, the use to which the New Lots may be put and the development potential of the New Lots;
- (xii) whether or not the New Lots are affected by flooding;
- (xiii) the rights and privileges relating to the New Lots, including any restrictions on use or development;
- (xiv) whether or not the New Lots are affected by a proposal of an Authority for the realignment, expansion, widening, re-siting or altering the level or direction of any road or railway abutting, adjoining or adjacent to the land;
- (xv) whether or not any notice of resumption or intending resumption affecting the New Lots has been given;
- (xvi) whether or not all permissions, consents and approvals required from a relevant Authority for the construction or use of any part of any improvement on a New Lots has been obtained, or, having been obtained, have been complied with in all respects;
- (xvii) whether or not any requisitions, directions or recommendations have been delivered by any Authority in respect of the New Lots and, if delivered, have been complied with;
- (xviii) whether there are any notices or orders by any Authority, including a notice or order requiring work to be done or money spent in connection with the New Lots;
- (xix) whether or not any consents, approvals, permits or licences desirable or required to be held for the present use of the New Lots have been granted by a relevant Authority;
- (xx) any deeds or arrangements with the owners or occupiers of adjoining or nearby properties to the New Lots, including the terms of all easements and licences benefiting or affecting the New Lots;
- (xxi) the means or adequacy of access to the New Lots; or
- (xxii) any other matter (past, present, future or anticipated) relevant to the New Lots.

8.3 **Council's warranty**

Council warrants that, as at the date of this Deed, it has not received any notice, proposal, requisition, direction or recommendation from an Authority in respect of a New Lot, that has not been disclosed in writing to the Grantees.

9. **GRANTEE ACCEPTS ENVIRONMENTAL LIABILITY**

On and from the Transfer Date, the relevant Grantee (to the fullest extent permitted by Law):

- (a) accepts all Environmental Liability in respect of the New Lots that it is accepting transfer of, whether arising before, on or after the relevant Transfer Date;
- (b) must, at its cost, comply with the requirements of any Environmental Law in respect of the relevant New Lots and the requirements of any Authority relating to any Environmental Liability incurred in respect of the relevant New Lots;
- (c) must not, at any time, take any action or make any Claim against the Council for any Environmental Liability incurred in respect of the relevant New Lots;
- (d) unconditionally releases and forever discharges the Council from any Environmental Liability incurred in respect of the relevant New Lots; and
- (e) indemnifies the Council against all loss, injury, liability, damage, cost, Claim or other detriment suffered or incurred by the Council in respect of any Environmental Liability incurred as a result of Contamination of the relevant New Lots caused after the relevant Transfer Date.

10. **RELEASE**

- (a) On and from PPH Transfer Date, PPH releases the Council from any Claim which arises either directly or indirectly from or which relates to the condition of the PPH Lots before the PPH Transfer Date.
- (b) On and from Moolarben Transfer Date, Moolarben releases the Council from any Claim which arises either directly or indirectly from or which relates to the condition of the Moolarben Lots before the Moolarben Transfer Date.

11. **NO MERGER**

Clauses **Error! Reference source not found.** and 8 to 10 (inclusive) do not merge on the relevant Transfer Date.

12. **MUTUAL OBLIGATIONS OF THE PARTIES**

The parties acknowledge and agree that each will act without undue delay but subject to its resources in implementing this Deed.

13. **ELECTRONIC CONVEYANCING**

If:

- (a) the Conveyancing Rules require the transfer of the New Lots as contemplated by this Deed to be conducted as an Electronic Transaction; and
- (b) clause 30.2 of the Standard Conditions does not apply,

then, unless the parties otherwise agree, the transfer of the New Lots is to be conducted as an Electronic Transaction in accordance with clause 30 of the Standard Conditions, as if that clause is set out in full in this Deed, with such amendments necessary to reflect the transfer of the relevant New Lots to each of PPH and Moolarben, as contemplated by this Deed.

14. **STAMP DUTY AND COSTS**

14.1 **Stamp duty**

- (a) PPH must pay any stamp duty incurred in respect of the PPH Call Option, PPH Put Option and transfer of the PPH Lots to PPH.
- (b) Moolarben must pay any stamp duty incurred in respect of the Moolarben Call Option, Moolarben Put Option and transfer of the Moolarben Lots to Moolarben.
- (c) The Council must provide all assistance reasonably requested by a Grantee in respect of the valuation of any New Lot before the Transfer Date, at the Grantee's cost.

15. **GST**

15.1 **Amounts exclusive of GST**

Unless otherwise expressly stated, all amounts payable under or in connection with this Deed are stated exclusive of GST.

15.2 **Payment of GST**

If GST is or will be payable on a supply made under or in connection with this Deed the recipient must:

- (a) pay to the supplier an amount equal to any GST for which the supplier is liable on any supply by the supplier under this Deed, without deduction or set-off of any other amount; and
- (b) make that payment as and when the consideration or part of it must be paid or provided. If the recipient does not pay the GST at that time, then it must pay the GST within seven days of a written request by the supplier for payment of the GST.

15.3 **Tax invoice**

Each party making a taxable supply under this Deed must issue a tax invoice to the other party for each taxable supply at or before the time it makes the taxable supply.

15.4 **Indemnities and reimbursement**

If a party is obliged to make a payment under an indemnity or is required to reimburse a party for a cost (for example a party's obligation to pay another party's legal costs) on which that other party must pay GST, the indemnity or reimbursement is for the cost plus all GST (except any GST for which that party can obtain an input tax credit).

16. **NOTICES**

16.1 **Form**

- (a) All notices, demands, certificates, consents, approvals, waivers and other communications in connection with this Deed must be in writing and signed by the sender (if an individual) or an authorised officer of the sender.

- (b) Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

16.2 Delivery

- (a) All notices required by this Deed or otherwise shall be given in writing and shall be sent by one party to the other parties by either email or post.
- (b) All notices shall be sent to the other party at the address set out below or to such other address, facsimile number or email address as one party may from time to time notify the other parties in writing:

The Council:

86 Market Street
Mudgee NSW 2850

council@midwestern.nsw.gov.au

PPH:

100 Melbourne Street, South Brisbane, QLD 4101

Ian Flood – iflood@peabodyenergy.com

WCPL:

100 Melbourne Street, South Brisbane, QLD 4101

Ian Flood – iflood@peabodyenergy.com

Moolarben:

'Darling Park Tower 2', Level 18, 201 Sussex Street, Sydney NSW 2000

Notices@yancoal.com.au and:

Graham Chase – Graham.Chase@yancoal.com.au

- (c) If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

16.3 When effective

Communications take effect from the time they are received or taken to be received under clause 16.4 (whichever happens first).

16.4 When taken to be received

Subject to clause 16.5, communications are taken to be received:

- (a) if delivered in person, when it has been left at the relevant receiving party's address as set out in clause 16.2 of this Deed, as applicable;
- (b) if sent by express post, 3 days after posting; or
- (c) if sent by email:
 - (i) when the sender receives an automated message confirming delivery; or

- (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

16.5 **Receipt outside of business hours**

Despite anything else in this clause 16, if communications are received or taken to be received under clause 16.4 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in clause 16.2 of this Deed, as applicable, as the address of the recipient and the time of receipt is the time in that place (or any new address of the recipient notified in writing to the other parties from time to time).

17. **GENERAL**

17.1 **Assignment**

- (a) No party may assign, novate or otherwise transfer their rights or obligations under this Deed without the other parties' consent, which must not be unreasonably withheld or delayed.
- (b) Moolarben must not sell, assign or otherwise transfer its interest in any one or more of the following titles without Council's consent:
 - (i) Lot 50 in DP755454;
 - (ii) Lot 122 in DP 755454; and
 - (iii) Lot 59 in DP 755454,

(the **Moolarben Titles**), which consent must not be withheld if the purchaser enters into a deed of novation with the Council and the other parties to this Deed, under which the purchaser agrees to comply with Moolarben's obligations under this Deed to the extent that a Moolarben Lot falls within a Moolarben Title.

- (c) WCPL must not sell, assign or otherwise transfer its interest in any one or more of the following titles without Council's consent:
 - (i) Lot 41 in DP 583255; and
 - (ii) Lot 100 in DP755454,

(the **WCPL Titles**), which consent must not be withheld if the purchaser enters into a deed of novation with the Council and the other parties to this Deed, under which the purchaser agrees to comply with WCPL's obligations under this Deed to the extent that a PPH Lot falls within a WCPL Title.

17.2 **Amendment of Deed**

No modification, variation or amendment of this Deed will be of any force unless such modification, variation or amendment is in writing and has been signed by each of the parties.

17.3 **Governing Law**

This Deed is governed by the Law in force in New South Wales.

17.4 Jurisdiction

Each party submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

17.5 Giving effect to this Deed

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this Deed.

17.6 Variation and waiver

The exercise of a right partially or on one occasion does not prevent any further exercise of that right in accordance with the terms of this Deed. Neither a forbearance to exercise a right nor a delay in the exercise of a right operates as an election between rights or a variation of the terms of this Deed.

17.7 Entire Deed

This Deed and the Road Opening HOA constitute the entire agreement of the parties about the subject matter hereof and supersedes all previous agreements, understandings and negotiations on that subject matter.

17.8 Operation of this Deed

- (a) Any right that a person may have under this Deed is in addition to, and does not replace or limit, any other right that the person may have.
- (b) If the whole or any part of a provision of this Deed is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction to the extent severance is possible without defeating the intentions of the parties as properly ascertained from the terms of this Deed. If so, the remainder of this Deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected.

17.9 Discretion in exercising rights

A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this Deed expressly states otherwise.

17.10 Enurement

Subject to the provisions of this Deed, this Deed will be binding upon and enure to the benefit of each party's respective successors and assigns who become such in accordance with the terms of this Deed.

17.11 Mitigation of damages

- (a) Each party will have the duty to mitigate any losses it may suffer by reason of the breach of another party of any provision of this Deed including, by way of taking reasonable steps as requested by another party to enforce any rights it may have against third parties, within a reasonable time of having become aware of such breach.

- (b) A party's conduct in performing its duty to mitigate under clause 17.11(a) does not constitute acceptance of the other party's breach or repudiation or a surrender by operation of Law.

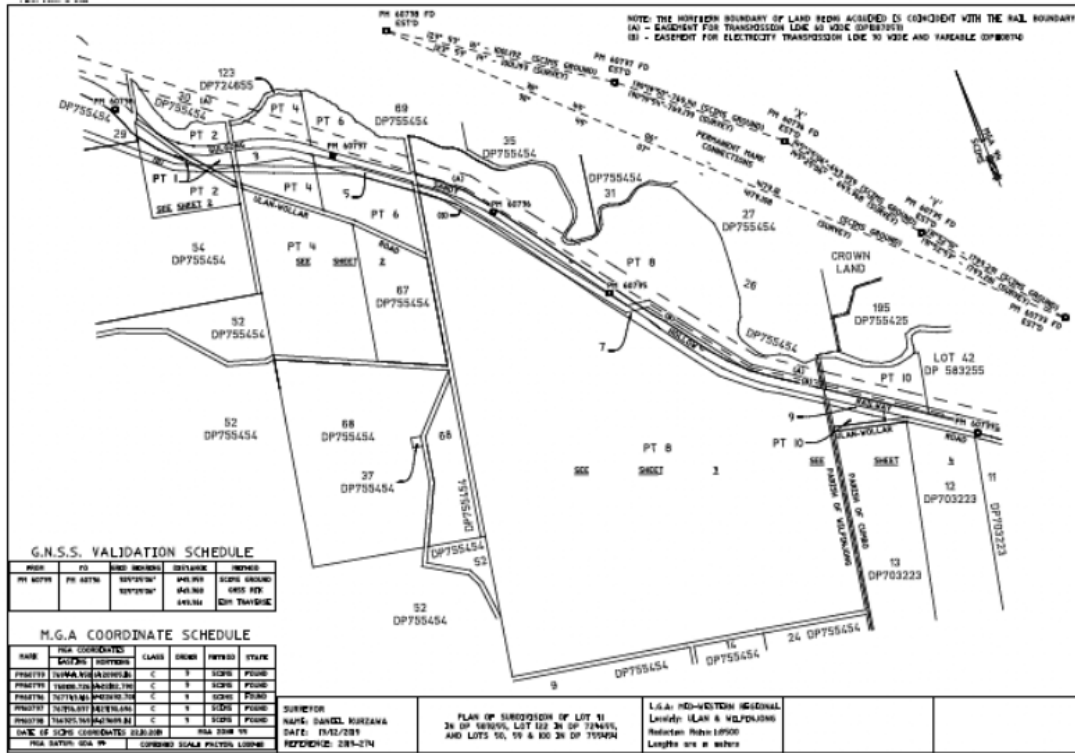
17.12 Force majeure

- (a) No party to this Deed shall be liable to another for any loss or damage of any nature whatsoever incurred or suffered as a result of any failures or delays in performance due to any cause or circumstance beyond its control including, but not limited to, any failures or delays in performance caused by any acts of God or public enemy, riots, strikes, civil disobedience or interference by civil or military authorities or a pandemic (**Force Majeure Event**).
- (b) If a party seeks to rely upon the provisions of clause 17.12(a), it shall advise the other parties as early as reasonably practicable of the anticipated or actual Force Majeure Event and the Force Majeure Event's expected effect on the party's performance under this Deed and promptly keep the other parties informed with respect to any changes regarding the effect of the Force Majeure Event on the party's performance hereunder.

17.13 Counterparts

This Deed may be executed in counterparts. Delivery of a counterpart of this Deed by email attachment constitutes an effective mode of delivery.

SCHEDULE 1
Subdivision Plan



SCHEDULE 2

Call option notice

To: **Mid-Western Regional Council** ABN 96 149 391 332 (Council)
86 Market Street, Mudgee, NSW 2850

A word defined in the Road Closure Transfer Deed dated [*insert date of this Deed*] has the same meaning in this option exercise notice.

[*insert name*] ACN [*insert ACN*] [as nominee of **Moolarben Coal Mines Pty Limited** ACN 108 601 672] [*delete if Option Notice for PPH Lots or clause 7.6 does not apply*] exercises [the PPH Call Option granted under clause 5.1 of the Road Closure Transfer Deed dated [*insert date of this Deed*] to require Council to transfer the PPH Lots] **OR** [the Moolarben Call Option granted under clause 6.1 of the Road Closure Transfer Deed dated [*insert date of this Deed*] to require Council to transfer the Moolarben Lots]. [*delete as appropriate*]

Dated:

[*insert relevant execution block*]

SCHEDULE 3

Put Option Notice

To: **[insert name]** ACN **[insert ACN]**
[insert address]

A word defined in the Road Closure Transfer Deed dated **[insert date of this Deed]** has the same meaning in this option exercise notice.

Mid-Western Regional Council ABN 96 149 391 332 (**Council**) exercises [the PPH Put Option granted under clause 5.4 of the Road Closure Transfer Deed dated **[insert date of this Deed]** to require PPH to take a transfer of the PPH Lots] **OR** [the Moolarben Put Option granted under clause 6.4 of the Road Closure Transfer Deed dated **[insert date of this Deed]** to require Moolarben to take a transfer of the Moolarben Lots]. **[delete as appropriate]**

Dated:

SIGNED for and on behalf of **MID-WESTERN REGIONAL COUNCIL ABN 96 149 391 332** by its duly authorised representative in the presence of:

Signature of party

Signature of witness

Name

EXECUTED AS AN DEED BY THE PARTIES.

SIGNED for and on behalf of **MID-WESTERN REGIONAL COUNCIL ABN 96 149 391 332** by its duly authorised representative in the presence of:

Signature of party

Signature of witness

Name

EXECUTED by **PEABODY PASTORAL HOLDINGS PTY LIMITED ACN 141 206 368** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director

Name

Name

EXECUTED by **WILPINJONG COAL PTY LTD ACN 104 594 694** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director

Name

Name

EXECUTED by **MOOLARBEN COAL MINES PTY LIMITED ACN 108 601 672** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director

Name

Name

DRAFT



Final: 8 May 2019

Heads of Agreement for opening of new, realigned sections of Ulan-Wollar Road

Mid-Western Regional Council

ABN 96 149 391 332

Peabody Pastoral Holdings Pty Ltd

ACN 141 206 368

Wilpinjong Coal Pty Ltd

ACN 104 594 694

Moolarben Coal Mines Pty Limited

ACN 108 601 672



2019

CONTENTS

CLAUSE	PAGE
1. INTERPRETATION	1
1.1 Definitions	1
1.2 Rules for interpreting this Agreement.....	3
1.3 Non-Business Days	4
1.4 Multiple parties	4
1.5 The rule about "contra proferentem"	4
2. ACKNOWLEDGMENTS OF THE PARTIES	4
2.1 Purpose of this Agreement.....	4
2.2 Conditions precedent	4
2.3 Proposed closure of existing sections of Ulan-Wollar Road is not affected by this Agreement	5
2.4 Capacity of the parties	5
3. OPENING OF NEW, REALIGNED SECTIONS OF ULAN-WOLLAR ROAD	6
3.1 Land exchange	6
3.2 Acquisition of land owned by Moolarben	6
4. OBLIGATIONS OF THE PARTIES.....	6
4.1 Council's covenants	6
4.2 PPH, WCPL and Moolarben covenants.....	7
4.3 Council to be responsible for erosion and sediment control and rehabilitation of Lay Down Area or any other Land which is used for stockpiling or removal purposes	8
4.4 Mutual obligations of the parties.....	8
5. RELEASE AND INDEMNITY	8
5.1 Releases given by the Council	8
5.2 Indemnities given by the Council.....	8
6. TERM	8
6.1 Term of this Agreement	8
7. NOTICES	9
7.1 Form	9
7.2 Delivery	9
7.3 When effective	9
7.4 When taken to be received	9
7.5 Receipt outside of business hours	10
8. GENERAL.....	10
8.1 Amendment of Agreement.....	10
8.2 Governing Law	10
8.3 Jurisdiction	10
8.4 Giving effect to this Agreement	10
8.5 Variation and waiver	10
8.6 Entire agreement	11
8.7 Operation of this Agreement	11
8.8 Discretion in exercising rights	11
8.9 Enurement	11
8.10 Mitigation of damages.....	11
8.11 Force majeure.....	11
8.12 Counterparts	12

Schedule

1	Schedule of Land and Ownership Details	13
2	Road Dedication Land, Road Closure Land and Lay Down Area	14
3	Moolarben Sale Land.....	15

THIS AGREEMENT is made on

16 May

2019

BETWEEN:

- (1) **Mid-Western Regional Council** ABN 96 149 391 332 of 86 Market Street, Mudgee, NSW 2850 (the **Council**);
- (2) **Peabody Pastoral Holdings Pty Limited** ACN 141 206 368 of 100 Melbourne Street, South Brisbane, QLD 4101 (**PPH**);
- (3) **Wilpinjong Coal Pty Limited** ACN 104 594 694 of 100 Melbourne Street, South Brisbane, QLD 4101 (**WCPL**);
- (4) **Moolarben Coal Mines Pty Limited** ACN 108 601 672 of 'Darling Park Tower 2', Level 18, 201 Sussex Street, Sydney NSW 2000 (**Moolarben**).

RECITALS:

- (A) WCPL is the proponent of a State significant development known as the Wilpinjong Extension Project, which was granted development consent under the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) being the SSD Consent on 24 April 2017 and may be subject to modification, from time-to-time.
- (B) As part of the SSD Consent granted for the Wilpinjong Extension Project, WCPL obtained approval for the realignment of Ulan-Wollar Road (the **Road**).
- (C) The Road is a Council Public Road in respect of which the Council is the Roads Authority for the purposes of the *Roads Act 1993* (**Roads Act**).
- (D) The process for re-alignment of the Road involves:
 - (1) the opening and dedication of new, realigned sections of the Road in accordance with the Roads Act, the EP&A Act and the SSD Consent; and
 - (2) the closing of the existing sections of the Road that are to be the subject of realignment in accordance with the Roads Act, the EP&A Act and the SSD Consent.
- (E) The land on which the new, realigned sections of the Road are to be located is owned by either Moolarben, WCPL or TfNSW.
- (F) This Agreement records the parties' agreement in respect of the opening and dedication of the new, realigned sections of the Road in accordance with the Roads Act, the EP&A Act, the SSD Consent and this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

Agreement means this Agreement.

Business Day means a day that is not a Saturday, a Sunday or a public holiday or bank holiday in New South Wales.

Claims means any claims, proceedings, expenses, costs (including legal costs on a full indemnity basis), damages, losses and other liabilities.

Commencement Date means the date on which this Agreement is executed by all parties to this Agreement.

Council means the Mid-Western Regional Council.

Council Public Road means a Public Road in respect of which the Council is the Roads Authority.

Early Works mean the works on the Road Dedication Land the subject of contract 3744 between WCPL and Council including variation 1 dated 8 January 2019.

EP&A Act means the *Environmental Planning and Assessment Act 1979* (NSW), including any associated regulations or environmental planning instruments.

Force Majeure Event has the meaning described in clause 8.11(a) of this Agreement.

Land means the land which is subject to this Agreement, as identified in **Schedule 1** to this Agreement.

Law means:

- (a) all legislation (including subordinate or delegated legislation or statutory instruments of any kind, including regulatory approvals or authorisations granted under legislation) of Australia or New South Wales;
- (b) common law and equity; or
- (c) any policy, guideline, official directive or request of any government agency or regulatory body, including a stock exchange within Australia, with which the relevant party is legally required to comply.

Lay Down Area means that area of the Land which is owned by PPH or WCPL and is identified as constituting the lay down area in **Schedule 2** of this Agreement.

PPH means Peabody Pastoral Holdings Pty Limited.

Public Road has the same meaning as given to the same phrase by the Roads Act.

Moolarben means Moolarben Coal Mines Pty Limited.

Road means the Ulan-Wollar Road.

Roads Act means the *Roads Act 1993* (NSW), including any associated regulations.

Roads Authority has the same meaning as that given to the same phrase by the Roads Act.

Road Closure Land means the land on which the existing sections of the Road that are a Council Public Road, which are to be the subject of realignment, are currently located, as identified in **Schedule 2** to this Agreement.

Road Dedication Land means the parts of the Land on which the new, realigned sections of the Road are to be located, as identified in **Schedule 2** to this Agreement.

Sale Land means the part of the Land shown coloured in purple in **Schedule 3** to this Agreement that is owned by Moolarben (as identified in **Schedule 1** to this Agreement) and which PPH or WCPL may acquire from Moolarben.

SSD Consent means the development consent SSD 6764 granted for the Wilpinjong Extension Project by the NSW Planning Assessment Commission, as delegate for the NSW Minister for Planning, on 24 April 2017.

Term has the meaning described in clause 6.1 of this Agreement.

TfNSW means Transport for NSW.

TfNSW Land means that part of the Road Dedication Land owned by TfNSW at the date of this Agreement which is to be acquired by Council as a condition precedent.

WCPL means Wilpinjong Coal Pty Limited.

Wilpinjong Extension Project means the development that is authorised by the SSD Consent as an extension of the existing Wilpinjong Coal Mine, including all associated authorised development.

1.2 **Rules for interpreting this Agreement**

The following rules also apply in interpreting this Agreement, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
- (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document or agreement (including this Agreement), or a provision of a document or agreement (including that Agreement), is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this Agreement or to any other document or agreement includes a successor in title, permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in Law of the person;
 - (v) a schedule, annexure or clause is to a schedule, annexure or clause of this Agreement, and a reference in a schedule or an annexure to a clause is to a clause of that schedule or annexure;
 - (vi) a time is to Sydney time;
 - (vii) anything (including a right, obligation or concept) includes each part of it; and
 - (viii) this Agreement includes all schedules and annexures contained in or attached to this Agreement.
- (b) A word which suggests one gender includes the other genders.
- (c) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (d) The words "include", "including", "for example" or "such as" are not used as, nor are they to be interpreted as, words of limitation and, when introducing an

example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.

- (e) A reference to **information** is to information of any kind in any form or medium, whether formal or informal, written or unwritten, for example, computer software or programs, concepts, data, drawings, ideas, knowledge, procedures, source codes or object codes, technology or trade secrets.

1.3 **Non-Business Days**

If the day on or by which a person must do something under this Agreement is not a Business Day:

- (a) if the act involves a payment that is due on demand, the person must do it on or by the next Business Day; and
- (b) in any other case, the person must do it on or by the previous Business Day.

1.4 **Multiple parties**

If a party to this Agreement is made up of more than one person, or a term is used in this Agreement to refer to more than one party:

- (a) an obligation of those persons is joint and several;
- (b) a right of those persons is held by each of them severally; and
- (c) any other reference to that party or that term is a reference to each of those persons separately, so that (for example), a representation, warranty or undertaking is given by each of them separately.

1.5 **The rule about "contra proferentem"**

This Agreement is not to be interpreted against the interests of a party merely because that party prepared this Agreement or some provision of it or because that party relies on a provision of this Agreement to protect itself.

2. **ACKNOWLEDGMENTS OF THE PARTIES**

2.1 **Purpose of this Agreement**

The parties to this Agreement acknowledge and agree that the purpose of this Agreement is to facilitate the opening and dedication of new, realigned sections of the Road in accordance with the Roads Act, the EP&A Act, the SSD Consent and the terms of this Agreement.

Schedule 1 to this Agreement outlines the folio identifiers and ownership of the Land which is subject to this Agreement.

Schedule 2 to this Agreement identifies the Road Dedication Land.

2.2 **Conditions precedent**

The provisions of this document, other than clauses 1 (interpretation), this clause 2, clause 5 (release and indemnity), clause 6 (term), clause 7 (notices) and clause 8 (general), do not become binding unless and until all of the following Conditions Precedent are satisfied:

- (a) the Council has, pursuant to Part 4, Division 3 of the Roads Act:

- (i) proposed the closure of the existing sections of the Road that are located on the Road Closure Land in accordance with section 38A of the Roads Act;
 - (ii) given notice of the proposed closure of the existing sections of the Road that are located on the Road Closure Land in accordance with section 38B of the Roads Act;
 - (iii) considered any submissions received by it in relation to the proposed closure of the existing sections of the Road that are located on the Road Closure Land in accordance with section 38D of the Roads Act; and
 - (iv) the Council has, after undertaking the task referred to in condition 2.2(a)(iii) of this Agreement, determined that it intends subject to section 38D(2) of the Roads Act to close the existing sections of the Road that are located on the Road Closure Land and notifies the other parties to this Agreement of this fact in writing.
- (b) the parties have entered into or executed another agreement in relation to the Road Closure Land which, provides for the transfer of ownership of different parts of the Road Closure Land if and when closed to:
- (i) PPH or WCPL; and
 - (ii) Moolarben.

The parts of the Road Closure Land to be transferred to either PPH or WCPL, and Moolarben, respectively are identified in **Schedule 2** to this Agreement.

- (c) the Road Dedication Land (other than the TfNSW Land) is opened as a Council Public Road in accordance with the Roads Act; and
- (d) Council has acquired the TfNSW Land in accordance with Law (including the *Land Acquisition (Just Terms Compensation) Act 1991* as applicable) and also opened it as a Council Public Road and been compensated for all of its reasonable costs in that regard by PPH or WCPL.

2.3 **Proposed closure of existing sections of Ulan-Wollar Road is not affected by this Agreement**

The parties acknowledge and agree that:

- (a) nothing in this Agreement requires or otherwise binds the Council to exercise its functions under Part 4, Division 3 of the Roads Act in any particular manner whatsoever, including to close the sections of the Road which are located on the Road Closure Land; and
- (b) the Council is, in its absolute discretion, entitled to exercise its powers under Part 4, Division 3 of the Roads Act in any manner it sees fit.

2.4 **Capacity of the parties**

The parties acknowledge and agree that:

- (a) the Road is a Council Public Road;
- (b) the Land which is the subject of this Agreement is owned by WCPL, Moolarben and TfNSW in accordance with **Schedule 1** to this Agreement, and each of WCPL and Moolarben gives a warranty that it is the registered proprietor of the relevant

parcels of Land for which each is respectively identified as the relevant owner in **Schedule 1**;

- (c) each party has entered into this Agreement, and will exercise their respective rights, perform their respective obligations and otherwise give effect to the terms of this Agreement, in good faith; and
- (d) each party has had the opportunity of obtaining independent accounting and legal advice prior to entering this Agreement and does not rely upon any representation, promise or inducement made by another party to this Agreement.

3. **OPENING OF NEW, REALIGNED SECTIONS OF ULAN-WOLLAR ROAD**

3.1 **Land exchange**

The parties to this Agreement acknowledge, and the Council, PPH, WCPL and Moolarben agree that, in consideration of WCPL and Moolarben causing the opening of the Road Dedication Land (other than the TfNSW Land) as a Council Public Road, the Council will, subject to clauses 2.2 and 2.3 and following closure under clause 4.2 of this Agreement, transfer ownership of different parts of the Road Closure Land to

- (a) PPH or WCPL; and
- (b) Moolarben,

in accordance with the agreement referred to in clause 2.2(b).

The parts of the Road Closure Land to be transferred to either PPH or WCPL, and Moolarben, respectively are identified in **Schedule 2** to this Agreement.

3.2 **Acquisition of land owned by Moolarben**

The parties to this Agreement acknowledge that PPH or WCPL may, in PPH's or WCPL's discretion, negotiate and ultimately acquire the Sale Land which is, or will be, owned by Moolarben and subject to this Agreement.

In the event that PPH or WCPL acquires the Sale Land which is owned by Moolarben and subject to this Agreement prior to the conditions precedent in clause 2.2 being satisfied:

- (a) the parties agree that Moolarben's rights, obligations and interests in relation to the Sale Land under this Agreement will be automatically transferred or assigned to PPH or WCPL (as the case may be) on and from the date PPH or WCPL (as the case may be) has acquired ownership of the Sale Land from Moolarben; and
- (b) clause 3.1 of this Agreement will not apply to Moolarben in relation to the Sale Land and, for the avoidance of doubt, all references to Moolarben in the context of the Sale Land in clause 3.1 are to be treated as having been deleted from this Agreement.

4. **OBLIGATIONS OF THE PARTIES**

4.1 **Council's covenants**

To achieve the objectives of this Agreement, the parties agree that the Council will, on behalf of the other parties to this Agreement, undertake the following tasks in connection with the Road Dedication Land:

- (a) the Council will:

- (i) physically occupy any part of the Road Dedication Land for the purpose of carrying out works required by this Agreement; and
 - (ii) may, with the written consent (not to be unreasonably withheld) of the relevant owner of the Land concerned, physically occupy any other part of the Land for the purpose of carrying out works associated with this Agreement;
- (b) the Council will:
- (i) construct the new, realigned sections of the Road (other than the Early Works) on the Road Dedication Land; and
 - (ii) carry out any associated works such as vegetation clearing, removal of unsuitable material, installation of drainage, replacement of suitable road base material, road sealing, road marking and road signage,
- to the standards required by the Council, if any, and in accordance with Law and the SSD Consent.

Once construction of the new, realigned sections of the Road are complete on the Road Dedication Land, the Council is, subject to section 38D(2)(b) of the Roads Act, to cause a notice to be published in the Gazette in accordance with section 38D of the Roads Act closing the existing sections of the Road that are located on the Road Closure Land.

4.2 **PPH, WCPL and Moolarben covenants**

To achieve the objectives of this Agreement, PPH, WCPL and Moolarben agrees to undertake (either collectively or individually, as the case may be) the following tasks in connection with the Road Dedication Land:

- (a) PPH or WCPL will bear all reasonable costs incurred by the Council in discharging its tasks in accordance with clause 4.1 and 4.2 of this Agreement and satisfying the conditions precedent, including, but without limitation:
 - (i) the costs of constructing and completing the new, realigned sections of the Road in accordance with clause 4.1 of this Agreement;
 - (ii) all of its legal and other out of pocket costs incurred in connection with this Agreement.
- (b) PPH or WCPL will, at PPH's or WCPL's own cost and upon satisfaction of all conditions precedent in clause 2.2 of this Agreement, install new boundary fencing around the Road Dedication Land, such fencing to be of a similar or the same standard as the current boundary fencing that exists around the Road Closure Land;
- (c) PPH or WCPL will endeavour to provide suitable road base material to the Council for construction of the new, realigned sections of the Road on the Road Dedication Land and, upon receipt of that material, the Council will accept all responsibility for the use of that material in the construction work it undertakes pursuant to clause 4.1 of this Agreement;
- (d) PPH, WCPL and Moolarben will allow the Council's personnel and contractors reasonable access to the Road Dedication Land across their Land for the purposes of all work the Council needs to undertake pursuant to clause 4.1 of this Agreement;
- (e) PPH and WCPL agree that the Council, subject to clause 4.3 below, may utilise:

- (i) the Lay Down Area; or
- (ii) any other part of PPH and WCPL's Land (upon being given written consent to do so by PPH or WCPL, such consent not to be unreasonably withheld),

for the purpose of stockpiling or removal of materials whilst construction work on the Road Dedication Land is being undertaken.

4.3 **Council to be responsible for erosion and sediment control and rehabilitation of Lay Down Area or any other Land which is used for stockpiling or removal purposes**

The Council agrees that it will be responsible for all erosion and sediment control and rehabilitation of the Lay Down Area to the standard of the Lay Down Area that exists as at the date on which all conditions precedent referred to in clause 2.2 of this Agreement are satisfied.

4.4 **Mutual obligations of the parties**

The parties acknowledge and agree that each will act without undue delay but subject to its resources in implementing this Agreement.

5. **RELEASE AND INDEMNITY**

5.1 **Releases given by the Council**

The Council releases PPH, WCPL and Moolarben and each of the other parties' respective employees, contractors and agents from any Claims to the extent that such Claims:

- (a) are attributable to the work undertaken by the Council in accordance with this Agreement; and
- (b) arise in respect of loss or damage to any property, or injury to or death of any person.

5.2 **Indemnities given by the Council**

The Council agrees to indemnify and keep indemnified PPH, WCPL and Moolarben and each of the other parties' respective employees, contractors and agents against all Claims to the extent arising out of or resulting from any negligent acts, omissions or defaults on the part of the Council, its employees, contractors or agents in the work undertaken by the Council on the Land as required by this Agreement, whether:

- (a) incurred directly by PPH, WCPL or Moolarben or claimed against PPH, WCPL or Moolarben by third parties;
- (b) arising in contract, tort (including negligence), under legislation or otherwise; or
- (c) arising from loss of, or damage to, any property, injury to or death of any person, or otherwise.

6. **TERM**

6.1 **Term of this Agreement**

Subject to clause 2.2, this Agreement shall come into force on the Commencement Date and shall remain in full force until the date on which the Road Closure Land is transferred in accordance with clause 3.1, unless otherwise agreed in writing.

7. **NOTICES**

7.1 **Form**

- (a) All notices, demands, certificates, consents, approvals, waivers and other communications in connection with this Agreement must be in writing and signed by the sender (if an individual) or an authorised officer of the sender.
- (b) Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

7.2 **Delivery**

- (a) All notices required by this Agreement or otherwise shall be given in writing and shall be sent by one party to the other parties by either email or post.
- (b) All notices shall be sent to the other party at the address set out below or to such other address, facsimile number or email address as one party may from time to time notify the other parties in writing:

The Council:

86 Market Street
Mudgee NSW 2850

council@midwestern.nsw.gov.au

PPH:

100 Melbourne Street, South Brisbane, QLD 4101]

Ian Flood – iflood@peabodyenergy.com

WCPL:

100 Melbourne Street, South Brisbane, QLD 4101

Ian Flood – iflood@peabodyenergy.com

Moolarben:

'Darling Park Tower 2', Level 18, 201 Sussex Street, Sydney NSW 2000

Notices@yancoal.com.au and:

Graham Chase – Graham.Chase@yancoal.com.au

- (c) If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

7.3 **When effective**

Communications take effect from the time they are received or taken to be received under clause 7.4 (whichever happens first).

7.4 **When taken to be received**

Subject to clause 7.5, communications are taken to be received:

- (a) if delivered in person, when it has been left at the relevant receiving party's address as set out in clause 7.2 of this Agreement, as applicable;
- (b) if sent by express post, 3 days after posting; or
- (c) if sent by email:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

7.5 **Receipt outside of business hours**

Despite anything else in this clause 7, if communications are received or taken to be received under clause 7.4 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in clause 7.2 of this Agreement, as applicable, as the address of the recipient and the time of receipt is the time in that place (or any new address of the recipient notified in writing to the other parties from time to time).

8. **GENERAL**

8.1 **Amendment of Agreement**

No modification, variation or amendment of this Agreement will be of any force unless such modification, variation or amendment is in writing and has been signed by each of the parties.

8.2 **Governing Law**

This Agreement is governed by the Law in force in New South Wales.

8.3 **Jurisdiction**

Each party submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

8.4 **Giving effect to this Agreement**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this Agreement.

8.5 **Variation and waiver**

The exercise of a right partially or on one occasion does not prevent any further exercise of that right in accordance with the terms of this Agreement. Neither a forbearance to exercise a right nor a delay in the exercise of a right operates as an election between rights or a variation of the terms of this Agreement.

8.6 **Entire agreement**

This Agreement constitutes the entire agreement of the parties about the subject matter hereof and supersedes all previous agreements, understandings and negotiations on that subject matter.

8.7 **Operation of this Agreement**

- (a) Any right that a person may have under this Agreement is in addition to, and does not replace or limit, any other right that the person may have.
- (b) If the whole or any part of a provision of this Agreement is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction to the extent severance is possible without defeating the intentions of the parties as properly ascertained from the terms of this Agreement. If so, the remainder of this Agreement has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected.

8.8 **Discretion in exercising rights**

A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this Agreement expressly states otherwise.

8.9 **Enurement**

Subject to the provisions of this Agreement, this Agreement will be binding upon and enure to the benefit of each party's respective successors and assigns who become such in accordance with the terms of this Agreement.

8.10 **Mitigation of damages**

- (a) Each party will have the duty to mitigate any losses it may suffer by reason of the breach of another party of any provision of this Agreement including, by way of taking reasonable steps as requested by another party to enforce any rights it may have against third parties, within a reasonable time of having become aware of such breach.
- (b) A party's conduct in performing its duty to mitigate under clause 8.10(a) does not constitute acceptance of the other party's breach or repudiation or a surrender by operation of Law.

8.11 **Force majeure**

- (a) No party to this Agreement shall be liable to another for any loss or damage of any nature whatsoever incurred or suffered as a result of any failures or delays in performance due to any cause or circumstance beyond its control including, but not limited to, any failures or delays in performance caused by any acts of God or public enemy, riots, strikes, civil disobedience or interference by civil or military authorities (**Force Majeure Event**).
- (b) If a party seeks to rely upon the provisions of clause 8.11(a), it shall advise the other parties as early as reasonably practicable of the anticipated or actual Force Majeure Event and the Force Majeure Event's expected effect on the party's performance under this Agreement and promptly keep the other parties informed with respect to any changes regarding the effect of the Force Majeure Event on the party's performance hereunder.

8.12 Counterparts

This Agreement may be executed in counterparts. Delivery of a counterpart of this document by email attachment constitutes an effective mode of delivery.

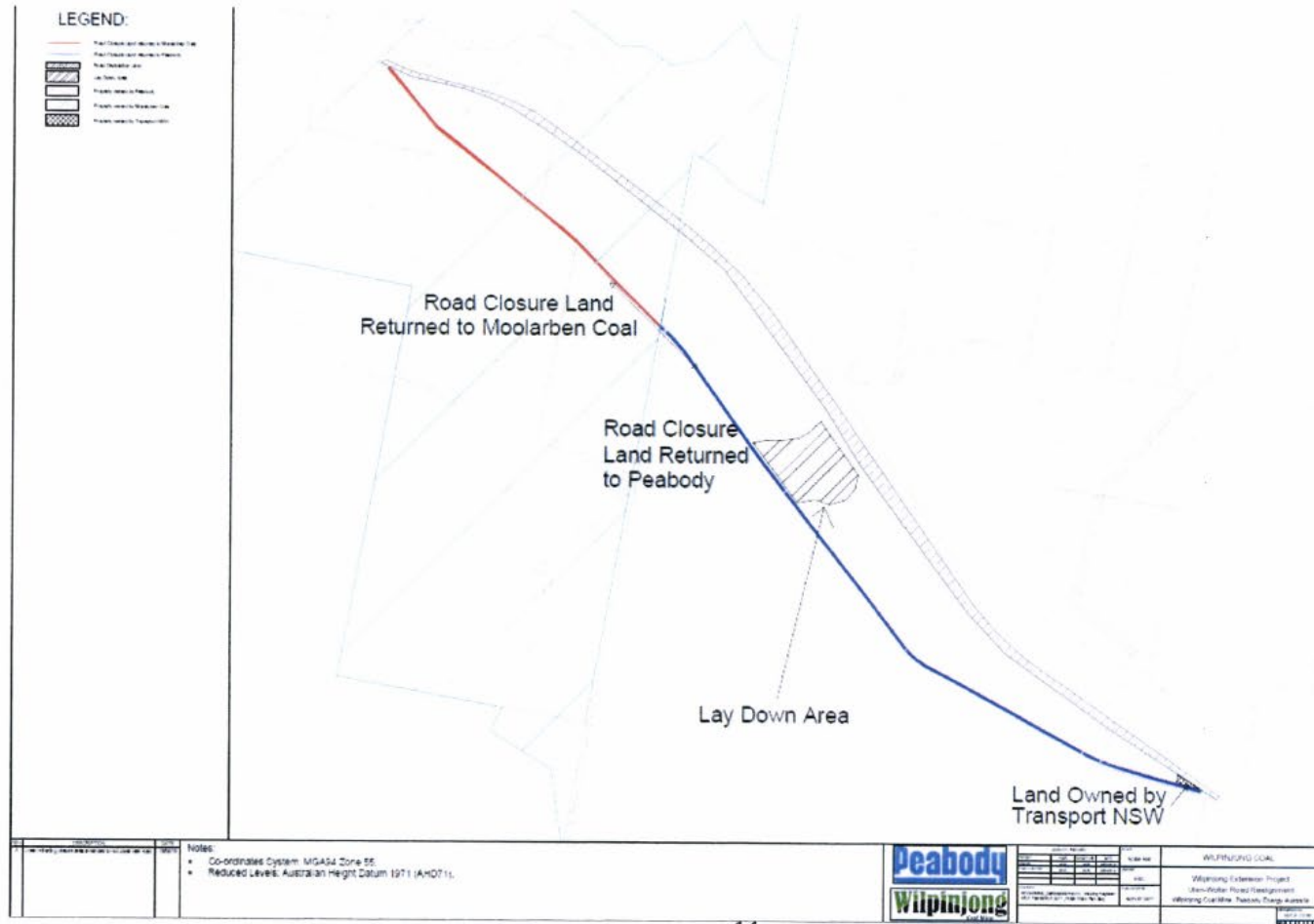
SCHEDULE 1

Schedule of Land and Ownership Details

Ulan-Wollar road realignment	DP	LOT	Land Owner
Stage 1	755454	50	Moolarben Coal Mines Pty Ltd
	724655	122	Moolarben Coal Mines Pty Ltd
	755454	59	Moolarben Coal Mines Pty Ltd
	755454	100	Wilpinjong Coal Pty Ltd
	583255	41	Wilpinjong Coal Pty Ltd
	Lot 1 in plan of land resumed for railway purposes Government Gazette No 3027 Folio 135; C903535		Transport for NSW - currently leased to ARTC

SCHEDULE 2

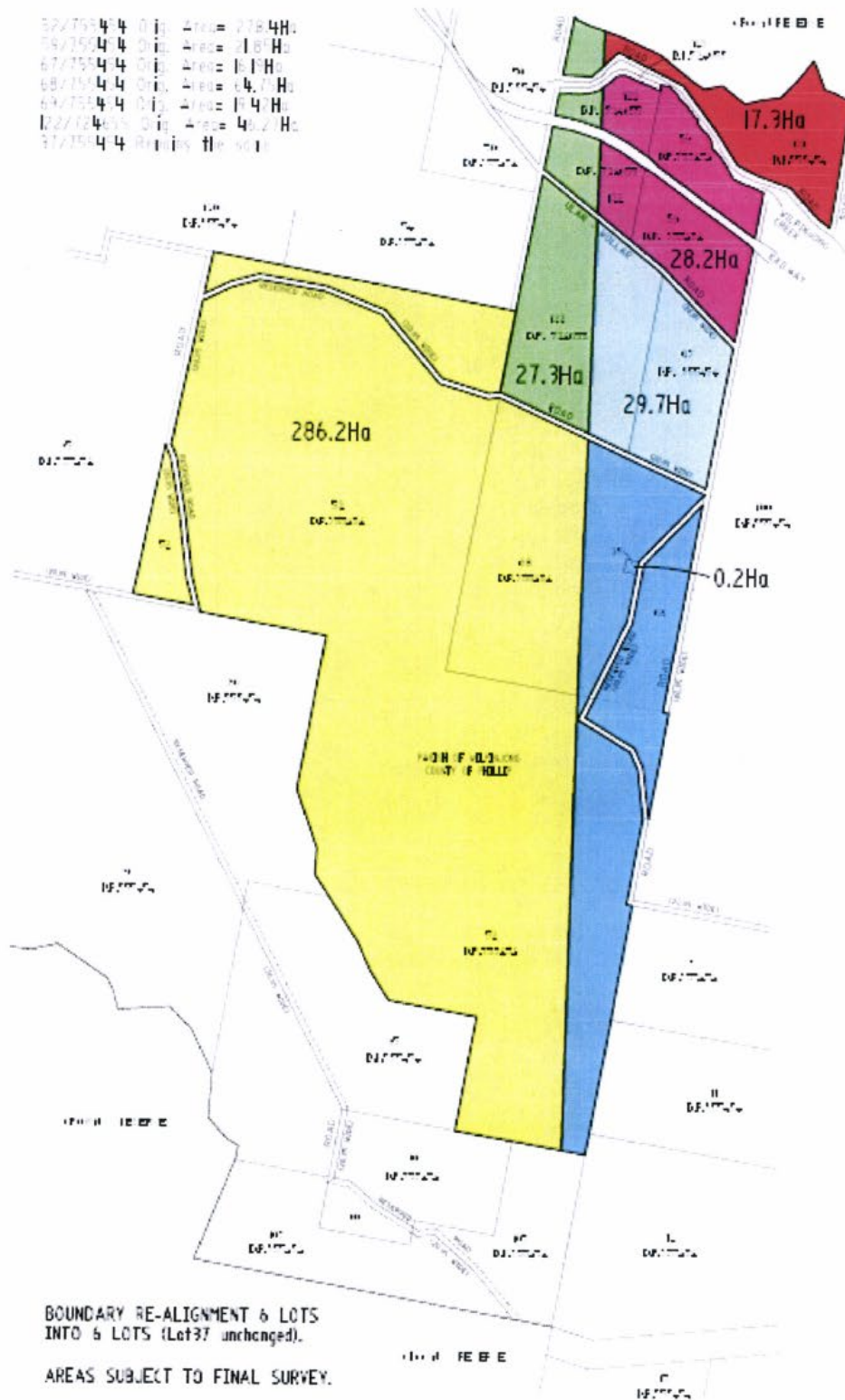
Road Dedication Land, Road Closure Land and Lay Down Area



SCHEDULE 3

Moolarben Sale Land

52/75444	0.1	Area = 238.4Ha
59/75444	0.1	Area = 218.1Ha
67/75444	0.1	Area = 16.1Ha
68/75444	0.1	Area = 14.7Ha
69/75444	0.1	Area = 19.4Ha
122/75444	0.1	Area = 49.2Ha
37/75444	Remains the same	




EXECUTED AS AN AGREEMENT BY THE PARTIES.

SIGNED for and on behalf of **MID-WESTERN REGIONAL COUNCIL ABN 96 149 391 332** by its duly authorised representative in the presence of:



Signature of party



Signature of witness

Mette Sutton

Name

EXECUTED by **PEABODY PASTORAL HOLDINGS PTY LIMITED ACN 141 206 368** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director

Name

Name

EXECUTED by **WILPINJONG COAL PTY LTD ACN 104 594 694** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director

Name

Name

EXECUTED by **MOOLARBEN COAL MINES PTY LIMITED ACN 108 601 672** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director

Name

Name

EXECUTED AS AN AGREEMENT BY THE PARTIES.

SIGNED for and on behalf of **MID-WESTERN REGIONAL COUNCIL ABN 96 149 391 332** by its duly authorised representative in the presence of:

Signature of party

Signature of witness

Name

EXECUTED by **PEABODY PASTORAL HOLDINGS PTY LIMITED ACN 141 206 368** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director

Name

Name

EXECUTED by **WILPINJONG COAL PTY LTD ACN 104 594 694** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director

Name

Name

EXECUTED by **MOOLARBEN COAL MINES PTY LIMITED ACN 108 601 672** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):



Signature of director

Reinhold Schmidt

Name



Signature of director

Lei Zhang

Name

EXECUTED AS AN AGREEMENT BY THE PARTIES.

SIGNED for and on behalf of **MID-WESTERN REGIONAL COUNCIL ABN 96 149 391 332** by its duly authorised representative in the presence of:

Signature of party

Signature of witness

Name

EXECUTED by **PEABODY PASTORAL HOLDINGS PTY LIMITED ACN 141 206 368** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):



Signature of director

Steven John Hedges

Name

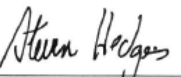


Signature of director

GEOFFREY DAVID HARVEY

Name

EXECUTED by **WILPINJONG COAL PTY LTD ACN 104 594 694** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):



Signature of director

Steven John Hedges

Name



Signature of director

GEOFFREY DAVID HARVEY

Name

EXECUTED by **MOOLARBEN COAL MINES PTY LIMITED ACN 108 601 672** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Name

Signature of director

Name

Heads of Agreement for opening of new, realigned sections of Ulan-Wollar Road

Mid-Western Regional Council

ABN 96 149 391 332

Peabody Pastoral Holdings Pty Ltd

ACN 141 206 368

Wilpinjong Coal Pty Ltd

ACN 104 594 694

Moolarben Coal Mines Pty Limited

ACN 108 601 672



2019

CONTENTS

CLAUSE	PAGE
1. INTERPRETATION	1
1.1 Definitions	1
1.2 Rules for interpreting this Agreement.....	3
1.3 Non-Business Days	4
1.4 Multiple parties	4
1.5 The rule about "contra proferentem"	4
2. ACKNOWLEDGMENTS OF THE PARTIES	4
2.1 Purpose of this Agreement.....	4
2.2 Conditions precedent	4
2.3 Proposed closure of existing sections of Ulan-Wollar Road is not affected by this Agreement	5
2.4 Capacity of the parties	5
3. OPENING OF NEW, REALIGNED SECTIONS OF ULAN-WOLLAR ROAD.....	6
3.1 Land exchange	6
3.2 Acquisition of land owned by Moolarben	6
4. OBLIGATIONS OF THE PARTIES.....	6
4.1 Council's covenants	6
4.2 PPH, WCPL and Moolarben covenants.....	7
4.3 Council to be responsible for erosion and sediment control and rehabilitation of Lay Down Area or any other Land which is used for stockpiling or removal purposes	8
4.4 Mutual obligations of the parties.....	8
5. RELEASE AND INDEMNITY	8
5.1 Releases given by the Council	8
5.2 Indemnities given by the Council.....	8
6. TERM	8
6.1 Term of this Agreement	8
7. NOTICES	9
7.1 Form	9
7.2 Delivery	9
7.3 When effective.....	9
7.4 When taken to be received	9
7.5 Receipt outside of business hours.....	10
8. GENERAL.....	10
8.1 Amendment of Agreement.....	10
8.2 Governing Law	10
8.3 Jurisdiction	10
8.4 Giving effect to this Agreement	10
8.5 Variation and waiver.....	10
8.6 Entire agreement	11
8.7 Operation of this Agreement	11
8.8 Discretion in exercising rights	11
8.9 Enurement	11
8.10 Mitigation of damages.....	11
8.11 Force majeure.....	11
8.12 Counterparts	12

Schedule

1	Schedule of Land and Ownership Details	13
2	Road Dedication Land, Road Closure Land and Lay Down Area	14
3	Moolarben Sale Land.....	15

THIS AGREEMENT is made on 16 May 2019

BETWEEN:

- (1) **Mid-Western Regional Council** ABN 96 149 391 332 of 86 Market Street, Mudgee, NSW 2850 (the **Council**);
- (2) **Peabody Pastoral Holdings Pty Limited** ACN 141 206 368 of 100 Melbourne Street, South Brisbane, QLD 4101 (**PPH**);
- (3) **Wilpinjong Coal Pty Limited** ACN 104 594 694 of 100 Melbourne Street, South Brisbane, QLD 4101 (**WCPL**);
- (4) **Moolarben Coal Mines Pty Limited** ACN 108 601 672 of 'Darling Park Tower 2', Level 18, 201 Sussex Street, Sydney NSW 2000 (**Moolarben**).

RECITALS:

- (A) WCPL is the proponent of a State significant development known as the Wilpinjong Extension Project, which was granted development consent under the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) being the SSD Consent on 24 April 2017 and may be subject to modification, from time-to-time.
- (B) As part of the SSD Consent granted for the Wilpinjong Extension Project, WCPL obtained approval for the realignment of Ulan-Wollar Road (the **Road**).
- (C) The Road is a Council Public Road in respect of which the Council is the Roads Authority for the purposes of the *Roads Act 1993* (**Roads Act**).
- (D) The process for re-alignment of the Road involves:
 - (1) the opening and dedication of new, realigned sections of the Road in accordance with the Roads Act, the EP&A Act and the SSD Consent; and
 - (2) the closing of the existing sections of the Road that are to be the subject of realignment in accordance with the Roads Act, the EP&A Act and the SSD Consent.
- (E) The land on which the new, realigned sections of the Road are to be located is owned by either Moolarben, WCPL or TfNSW.
- (F) This Agreement records the parties' agreement in respect of the opening and dedication of the new, realigned sections of the Road in accordance with the Roads Act, the EP&A Act, the SSD Consent and this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

Agreement means this Agreement.

Business Day means a day that is not a Saturday, a Sunday or a public holiday or bank holiday in New South Wales.

Claims means any claims, proceedings, expenses, costs (including legal costs on a full indemnity basis), damages, losses and other liabilities.

Commencement Date means the date on which this Agreement is executed by all parties to this Agreement.

Council means the Mid-Western Regional Council.

Council Public Road means a Public Road in respect of which the Council is the Roads Authority.

Early Works mean the works on the Road Dedication Land the subject of contract 3744 between WCPL and Council including variation 1 dated 8 January 2019.

EP&A Act means the *Environmental Planning and Assessment Act 1979* (NSW), including any associated regulations or environmental planning instruments.

Force Majeure Event has the meaning described in clause 8.11(a) of this Agreement.

Land means the land which is subject to this Agreement, as identified in **Schedule 1** to this Agreement.

Law means:

- (a) all legislation (including subordinate or delegated legislation or statutory instruments of any kind, including regulatory approvals or authorisations granted under legislation) of Australia or New South Wales;
- (b) common law and equity; or
- (c) any policy, guideline, official directive or request of any government agency or regulatory body, including a stock exchange within Australia, with which the relevant party is legally required to comply.

Lay Down Area means that area of the Land which is owned by PPH or WCPL and is identified as constituting the lay down area in **Schedule 2** of this Agreement.

PPH means Peabody Pastoral Holdings Pty Limited.

Public Road has the same meaning as given to the same phrase by the Roads Act.

Moolarben means Moolarben Coal Mines Pty Limited.

Road means the Ulan-Wollar Road.

Roads Act means the *Roads Act 1993* (NSW), including any associated regulations.

Roads Authority has the same meaning as that given to the same phrase by the Roads Act.

Road Closure Land means the land on which the existing sections of the Road that are a Council Public Road, which are to be the subject of realignment, are currently located, as identified in **Schedule 2** to this Agreement.

Road Dedication Land means the parts of the Land on which the new, realigned sections of the Road are to be located, as identified in **Schedule 2** to this Agreement.

Sale Land means the part of the Land shown coloured in purple in **Schedule 3** to this Agreement that is owned by Moolarben (as identified in **Schedule 1** to this Agreement) and which PPH or WCPL may acquire from Moolarben.

SSD Consent means the development consent SSD 6764 granted for the Wilpinjong Extension Project by the NSW Planning Assessment Commission, as delegate for the NSW Minister for Planning, on 24 April 2017.

Term has the meaning described in clause 6.1 of this Agreement.

TfNSW means Transport for NSW.

TfNSW Land means that part of the Road Dedication Land owned by TfNSW at the date of this Agreement which is to be acquired by Council as a condition precedent.

WCPL means Wilpinjong Coal Pty Limited.

Wilpinjong Extension Project means the development that is authorised by the SSD Consent as an extension of the existing Wilpinjong Coal Mine, including all associated authorised development.

1.2 Rules for interpreting this Agreement

The following rules also apply in interpreting this Agreement, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
- (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document or agreement (including this Agreement), or a provision of a document or agreement (including that Agreement), is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this Agreement or to any other document or agreement includes a successor in title, permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in Law of the person;
 - (v) a schedule, annexure or clause is to a schedule, annexure or clause of this Agreement, and a reference in a schedule or an annexure to a clause is to a clause of that schedule or annexure;
 - (vi) a time is to Sydney time;
 - (vii) anything (including a right, obligation or concept) includes each part of it; and
 - (viii) this Agreement includes all schedules and annexures contained in or attached to this Agreement.
- (b) A word which suggests one gender includes the other genders.
- (c) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (d) The words "include", "including", "for example" or "such as" are not used as, nor are they to be interpreted as, words of limitation and, when introducing an

example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.

- (e) A reference to **information** is to information of any kind in any form or medium, whether formal or informal, written or unwritten, for example, computer software or programs, concepts, data, drawings, ideas, knowledge, procedures, source codes or object codes, technology or trade secrets.

1.3 **Non-Business Days**

If the day on or by which a person must do something under this Agreement is not a Business Day:

- (a) if the act involves a payment that is due on demand, the person must do it on or by the next Business Day; and
- (b) in any other case, the person must do it on or by the previous Business Day.

1.4 **Multiple parties**

If a party to this Agreement is made up of more than one person, or a term is used in this Agreement to refer to more than one party:

- (a) an obligation of those persons is joint and several;
- (b) a right of those persons is held by each of them severally; and
- (c) any other reference to that party or that term is a reference to each of those persons separately, so that (for example), a representation, warranty or undertaking is given by each of them separately.

1.5 **The rule about "contra proferentem"**

This Agreement is not to be interpreted against the interests of a party merely because that party prepared this Agreement or some provision of it or because that party relies on a provision of this Agreement to protect itself.

2. **ACKNOWLEDGMENTS OF THE PARTIES**

2.1 **Purpose of this Agreement**

The parties to this Agreement acknowledge and agree that the purpose of this Agreement is to facilitate the opening and dedication of new, realigned sections of the Road in accordance with the Roads Act, the EP&A Act, the SSD Consent and the terms of this Agreement.

Schedule 1 to this Agreement outlines the folio identifiers and ownership of the Land which is subject to this Agreement.

Schedule 2 to this Agreement identifies the Road Dedication Land.

2.2 **Conditions precedent**

The provisions of this document, other than clauses 1 (interpretation), this clause 2, clause 5 (release and indemnity), clause 6 (term), clause 7 (notices) and clause 8 (general), do not become binding unless and until all of the following Conditions Precedent are satisfied:

- (a) the Council has, pursuant to Part 4, Division 3 of the Roads Act:

- (i) proposed the closure of the existing sections of the Road that are located on the Road Closure Land in accordance with section 38A of the Roads Act;
 - (ii) given notice of the proposed closure of the existing sections of the Road that are located on the Road Closure Land in accordance with section 38B of the Roads Act;
 - (iii) considered any submissions received by it in relation to the proposed closure of the existing sections of the Road that are located on the Road Closure Land in accordance with section 38D of the Roads Act; and
 - (iv) the Council has, after undertaking the task referred to in condition 2.2(a)(iii) of this Agreement, determined that it intends subject to section 38D(2) of the Roads Act to close the existing sections of the Road that are located on the Road Closure Land and notifies the other parties to this Agreement of this fact in writing.
- (b) the parties have entered into or executed another agreement in relation to the Road Closure Land which, provides for the transfer of ownership of different parts of the Road Closure Land if and when closed to:
- (i) PPH or WCPL; and
 - (ii) Moolarben.
- The parts of the Road Closure Land to be transferred to either PPH or WCPL, and Moolarben, respectively are identified in **Schedule 2** to this Agreement.
- (c) the Road Dedication Land (other than the TfNSW Land) is opened as a Council Public Road in accordance with the Roads Act; and
- (d) Council has acquired the TfNSW Land in accordance with Law (including the *Land Acquisition (Just Terms Compensation) Act 1991* as applicable) and also opened it as a Council Public Road and been compensated for all of its reasonable costs in that regard by PPH or WCPL.

2.3 Proposed closure of existing sections of Ulan-Wollar Road is not affected by this Agreement

The parties acknowledge and agree that:

- (a) nothing in this Agreement requires or otherwise binds the Council to exercise its functions under Part 4, Division 3 of the Roads Act in any particular manner whatsoever, including to close the sections of the Road which are located on the Road Closure Land; and
- (b) the Council is, in its absolute discretion, entitled to exercise its powers under Part 4, Division 3 of the Roads Act in any manner it sees fit.

2.4 Capacity of the parties

The parties acknowledge and agree that:

- (a) the Road is a Council Public Road;
- (b) the Land which is the subject of this Agreement is owned by WCPL, Moolarben and TfNSW in accordance with **Schedule 1** to this Agreement, and each of WCPL and Moolarben gives a warranty that it is the registered proprietor of the relevant

parcels of Land for which each is respectively identified as the relevant owner in **Schedule 1**;

- (c) each party has entered into this Agreement, and will exercise their respective rights, perform their respective obligations and otherwise give effect to the terms of this Agreement, in good faith; and
- (d) each party has had the opportunity of obtaining independent accounting and legal advice prior to entering this Agreement and does not rely upon any representation, promise or inducement made by another party to this Agreement.

3. **OPENING OF NEW, REALIGNED SECTIONS OF ULAN-WOLLAR ROAD**

3.1 **Land exchange**

The parties to this Agreement acknowledge, and the Council, PPH, WCPL and Moolarben agree that, in consideration of WCPL and Moolarben causing the opening of the Road Dedication Land (other than the TfNSW Land) as a Council Public Road, the Council will, subject to clauses 2.2 and 2.3 and following closure under clause 4.2 of this Agreement, transfer ownership of different parts of the Road Closure Land to

- (a) PPH or WCPL; and
- (b) Moolarben,

in accordance with the agreement referred to in clause 2.2(b).

The parts of the Road Closure Land to be transferred to either PPH or WCPL, and Moolarben, respectively are identified in **Schedule 2** to this Agreement.

3.2 **Acquisition of land owned by Moolarben**

The parties to this Agreement acknowledge that PPH or WCPL may, in PPH's or WCPL's discretion, negotiate and ultimately acquire the Sale Land which is, or will be, owned by Moolarben and subject to this Agreement.

In the event that PPH or WCPL acquires the Sale Land which is owned by Moolarben and subject to this Agreement prior to the conditions precedent in clause 2.2 being satisfied:

- (a) the parties agree that Moolarben's rights, obligations and interests in relation to the Sale Land under this Agreement will be automatically transferred or assigned to PPH or WCPL (as the case may be) on and from the date PPH or WCPL (as the case may be) has acquired ownership of the Sale Land from Moolarben; and
- (b) clause 3.1 of this Agreement will not apply to Moolarben in relation to the Sale Land and, for the avoidance of doubt, all references to Moolarben in the context of the Sale Land in clause 3.1 are to be treated as having been deleted from this Agreement.

4. **OBLIGATIONS OF THE PARTIES**

4.1 **Council's covenants**

To achieve the objectives of this Agreement, the parties agree that the Council will, on behalf of the other parties to this Agreement, undertake the following tasks in connection with the Road Dedication Land:

- (a) the Council will:

- (i) physically occupy any part of the Road Dedication Land for the purpose of carrying out works required by this Agreement; and
 - (ii) may, with the written consent (not to be unreasonably withheld) of the relevant owner of the Land concerned, physically occupy any other part of the Land for the purpose of carrying out works associated with this Agreement;
- (b) the Council will:
- (i) construct the new, realigned sections of the Road (other than the Early Works) on the Road Dedication Land; and
 - (ii) carry out any associated works such as vegetation clearing, removal of unsuitable material, installation of drainage, replacement of suitable road base material, road sealing, road marking and road signage,
- to the standards required by the Council, if any, and in accordance with Law and the SSD Consent.

Once construction of the new, realigned sections of the Road are complete on the Road Dedication Land, the Council is, subject to section 38D(2)(b) of the Roads Act, to cause a notice to be published in the Gazette in accordance with section 38D of the Roads Act closing the existing sections of the Road that are located on the Road Closure Land.

4.2 **PPH, WCPL and Moolarben covenants**

To achieve the objectives of this Agreement, PPH, WCPL and Moolarben agrees to undertake (either collectively or individually, as the case may be) the following tasks in connection with the Road Dedication Land:

- (a) PPH or WCPL will bear all reasonable costs incurred by the Council in discharging its tasks in accordance with clause 4.1 and 4.2 of this Agreement and satisfying the conditions precedent, including, but without limitation:
 - (i) the costs of constructing and completing the new, realigned sections of the Road in accordance with clause 4.1 of this Agreement;
 - (ii) all of its legal and other out of pocket costs incurred in connection with this Agreement.
- (b) PPH or WCPL will, at PPH's or WCPL's own cost and upon satisfaction of all conditions precedent in clause 2.2 of this Agreement, install new boundary fencing around the Road Dedication Land, such fencing to be of a similar or the same standard as the current boundary fencing that exists around the Road Closure Land;
- (c) PPH or WCPL will endeavour to provide suitable road base material to the Council for construction of the new, realigned sections of the Road on the Road Dedication Land and, upon receipt of that material, the Council will accept all responsibility for the use of that material in the construction work it undertakes pursuant to clause 4.1 of this Agreement;
- (d) PPH, WCPL and Moolarben will allow the Council's personnel and contractors reasonable access to the Road Dedication Land across their Land for the purposes of all work the Council needs to undertake pursuant to clause 4.1 of this Agreement;
- (e) PPH and WCPL agree that the Council, subject to clause 4.3 below, may utilise:

- (i) the Lay Down Area; or
- (ii) any other part of PPH and WCPL's Land (upon being given written consent to do so by PPH or WCPL, such consent not to be unreasonably withheld),

for the purpose of stockpiling or removal of materials whilst construction work on the Road Dedication Land is being undertaken.

4.3 **Council to be responsible for erosion and sediment control and rehabilitation of Lay Down Area or any other Land which is used for stockpiling or removal purposes**

The Council agrees that it will be responsible for all erosion and sediment control and rehabilitation of the Lay Down Area to the standard of the Lay Down Area that exists as at the date on which all conditions precedent referred to in clause 2.2 of this Agreement are satisfied.

4.4 **Mutual obligations of the parties**

The parties acknowledge and agree that each will act without undue delay but subject to its resources in implementing this Agreement.

5. **RELEASE AND INDEMNITY**

5.1 **Releases given by the Council**

The Council releases PPH, WCPL and Moolarben and each of the other parties' respective employees, contractors and agents from any Claims to the extent that such Claims:

- (a) are attributable to the work undertaken by the Council in accordance with this Agreement; and
- (b) arise in respect of loss or damage to any property, or injury to or death of any person.

5.2 **Indemnities given by the Council**

The Council agrees to indemnify and keep indemnified PPH, WCPL and Moolarben and each of the other parties' respective employees, contractors and agents against all Claims to the extent arising out of or resulting from any negligent acts, omissions or defaults on the part of the Council, its employees, contractors or agents in the work undertaken by the Council on the Land as required by this Agreement, whether:

- (a) incurred directly by PPH, WCPL or Moolarben or claimed against PPH, WCPL or Moolarben by third parties;
- (b) arising in contract, tort (including negligence), under legislation or otherwise; or
- (c) arising from loss of, or damage to, any property, injury to or death of any person, or otherwise.

6. **TERM**

6.1 **Term of this Agreement**

Subject to clause 2.2, this Agreement shall come into force on the Commencement Date and shall remain in full force until the date on which the Road Closure Land is transferred in accordance with clause 3.1, unless otherwise agreed in writing.

7. **NOTICES**

7.1 **Form**

- (a) All notices, demands, certificates, consents, approvals, waivers and other communications in connection with this Agreement must be in writing and signed by the sender (if an individual) or an authorised officer of the sender.
- (b) Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

7.2 **Delivery**

- (a) All notices required by this Agreement or otherwise shall be given in writing and shall be sent by one party to the other parties by either email or post.
- (b) All notices shall be sent to the other party at the address set out below or to such other address, facsimile number or email address as one party may from time to time notify the other parties in writing:

The Council:

86 Market Street
Mudgee NSW 2850

council@midwestern.nsw.gov.au

PPH:

100 Melbourne Street, South Brisbane, QLD 4101]

Ian Flood – iflood@peabodyenergy.com

WCPL:

100 Melbourne Street, South Brisbane, QLD 4101

Ian Flood – iflood@peabodyenergy.com

Moolarben:

'Darling Park Tower 2', Level 18, 201 Sussex Street, Sydney NSW 2000

Notices@yancoal.com.au and:

Graham Chase – Graham.Chase@yancoal.com.au

- (c) If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

7.3 **When effective**

Communications take effect from the time they are received or taken to be received under clause 7.4 (whichever happens first).

7.4 **When taken to be received**

Subject to clause 7.5, communications are taken to be received:

- (a) if delivered in person, when it has been left at the relevant receiving party's address as set out in clause 7.2 of this Agreement, as applicable;
- (b) if sent by express post, 3 days after posting; or
- (c) if sent by email:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

7.5 **Receipt outside of business hours**

Despite anything else in this clause 7, if communications are received or taken to be received under clause 7.4 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in clause 7.2 of this Agreement, as applicable, as the address of the recipient and the time of receipt is the time in that place (or any new address of the recipient notified in writing to the other parties from time to time).

8. **GENERAL**

8.1 **Amendment of Agreement**

No modification, variation or amendment of this Agreement will be of any force unless such modification, variation or amendment is in writing and has been signed by each of the parties.

8.2 **Governing Law**

This Agreement is governed by the Law in force in New South Wales.

8.3 **Jurisdiction**

Each party submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

8.4 **Giving effect to this Agreement**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this Agreement.

8.5 **Variation and waiver**

The exercise of a right partially or on one occasion does not prevent any further exercise of that right in accordance with the terms of this Agreement. Neither a forbearance to exercise a right nor a delay in the exercise of a right operates as an election between rights or a variation of the terms of this Agreement.

8.6 **Entire agreement**

This Agreement constitutes the entire agreement of the parties about the subject matter hereof and supersedes all previous agreements, understandings and negotiations on that subject matter.

8.7 **Operation of this Agreement**

- (a) Any right that a person may have under this Agreement is in addition to, and does not replace or limit, any other right that the person may have.
- (b) If the whole or any part of a provision of this Agreement is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction to the extent severance is possible without defeating the intentions of the parties as properly ascertained from the terms of this Agreement. If so, the remainder of this Agreement has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected.

8.8 **Discretion in exercising rights**

A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this Agreement expressly states otherwise.

8.9 **Enurement**

Subject to the provisions of this Agreement, this Agreement will be binding upon and enure to the benefit of each party's respective successors and assigns who become such in accordance with the terms of this Agreement.

8.10 **Mitigation of damages**

- (a) Each party will have the duty to mitigate any losses it may suffer by reason of the breach of another party of any provision of this Agreement including, by way of taking reasonable steps as requested by another party to enforce any rights it may have against third parties, within a reasonable time of having become aware of such breach.
- (b) A party's conduct in performing its duty to mitigate under clause 8.10(a) does not constitute acceptance of the other party's breach or repudiation or a surrender by operation of Law.

8.11 **Force majeure**

- (a) No party to this Agreement shall be liable to another for any loss or damage of any nature whatsoever incurred or suffered as a result of any failures or delays in performance due to any cause or circumstance beyond its control including, but not limited to, any failures or delays in performance caused by any acts of God or public enemy, riots, strikes, civil disobedience or interference by civil or military authorities (**Force Majeure Event**).
- (b) If a party seeks to rely upon the provisions of clause 8.11(a), it shall advise the other parties as early as reasonably practicable of the anticipated or actual Force Majeure Event and the Force Majeure Event's expected effect on the party's performance under this Agreement and promptly keep the other parties informed with respect to any changes regarding the effect of the Force Majeure Event on the party's performance hereunder.

8.12 **Counterparts**

This Agreement may be executed in counterparts. Delivery of a counterpart of this document by email attachment constitutes an effective mode of delivery.

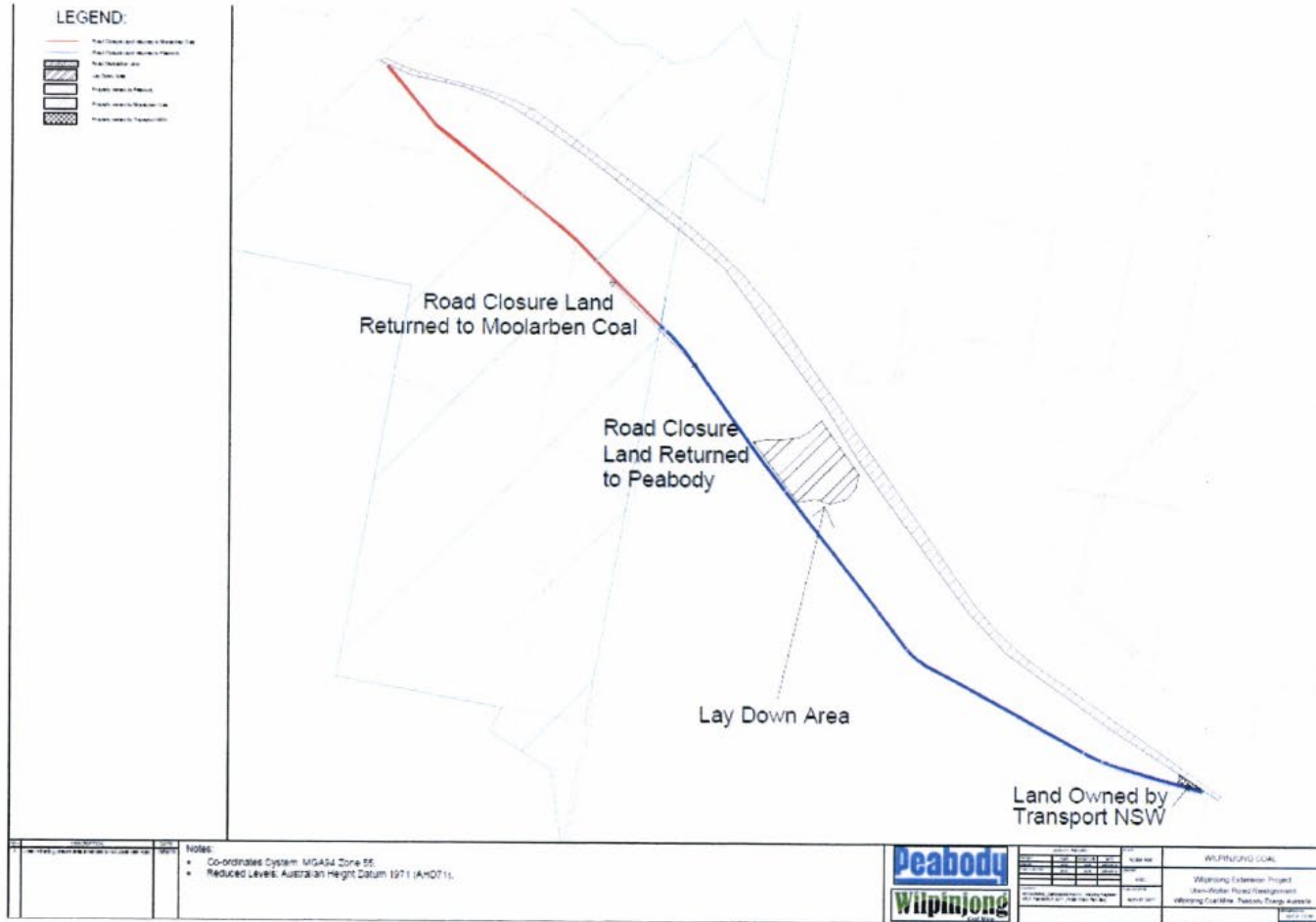
SCHEDULE 1

Schedule of Land and Ownership Details

Ulan-Wollar road realignment	DP	LOT	Land Owner
Stage 1	755454	50	Moolarben Coal Mines Pty Ltd
	724655	122	Moolarben Coal Mines Pty Ltd
	755454	59	Moolarben Coal Mines Pty Ltd
	755454	100	Wilpinjong Coal Pty Ltd
	583255	41	Wilpinjong Coal Pty Ltd
	Lot 1 in plan of land resumed for railway purposes Government Gazette No 3027 Folio 135; C903535		Transport for NSW - currently leased to ARTC

SCHEDULE 2

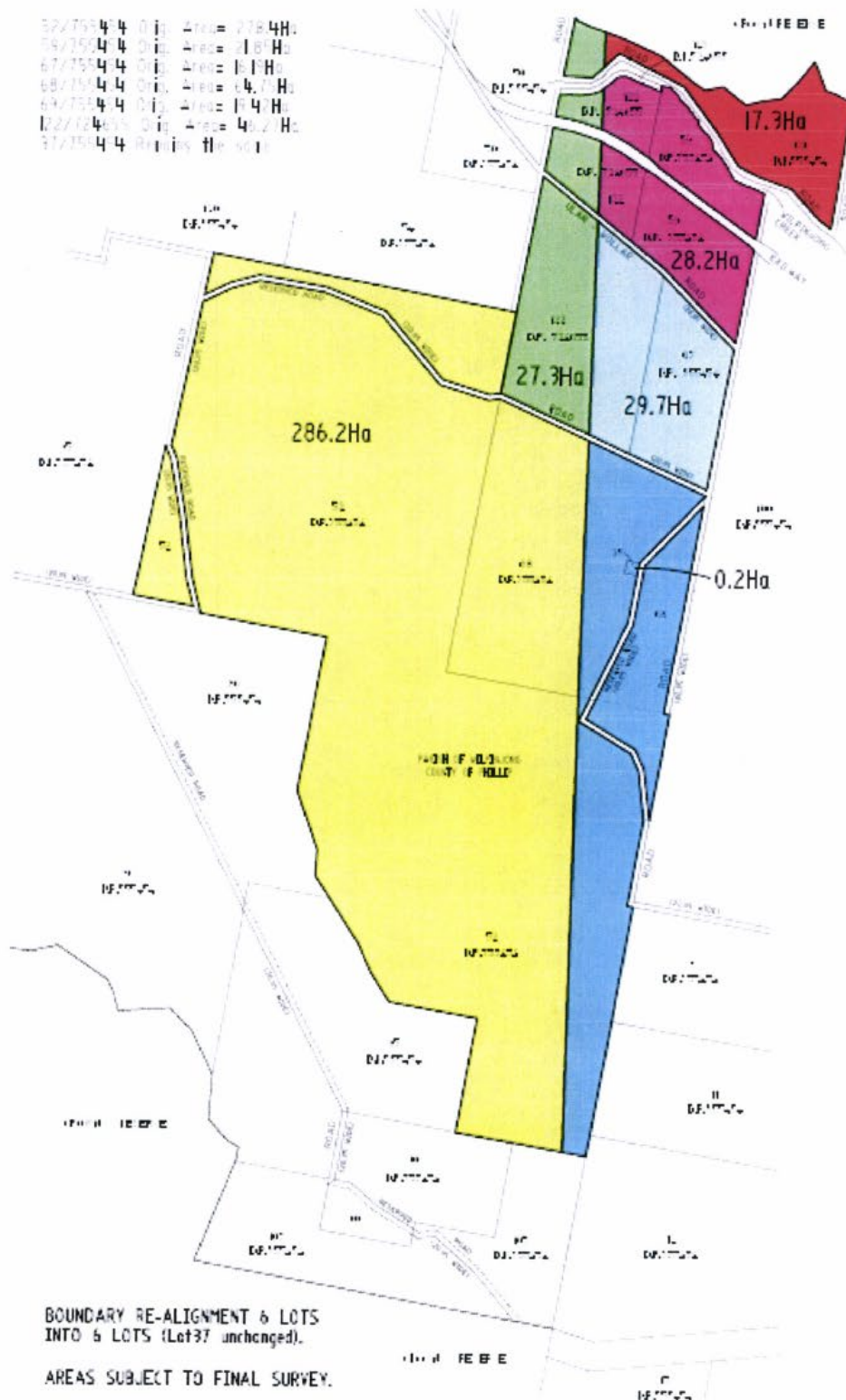
Road Dedication Land, Road Closure Land and Lay Down Area



SCHEDULE 3

Moolarben Sale Land

52/75544 0 j. Area = 278.4Ha
 59/75544 4 0 j. Area = 11.8Ha
 67/75544 4 0 j. Area = 11.1Ha
 68/75544 4 0 j. Area = 14.7Ha
 69/75544 4 0 j. Area = 19.4Ha
 122/75544 4 0 j. Area = 40.7Ha
 37/75544 4 0 j. Area = 11.4Ha



EXECUTED AS AN AGREEMENT BY THE PARTIES.

SIGNED for and on behalf of **MID-WESTERN REGIONAL COUNCIL ABN 96 149 391 332** by its duly authorised representative in the presence of:



Signature of party



Signature of witness

Mette Sutton

Name

EXECUTED by **PEABODY PASTORAL HOLDINGS PTY LIMITED ACN 141 206 368** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director

Name

Name

EXECUTED by **WILPINJONG COAL PTY LTD ACN 104 594 694** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director

Name

Name

EXECUTED by **MOOLARBEN COAL MINES PTY LIMITED ACN 108 601 672** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director

Name

Name

EXECUTED AS AN AGREEMENT BY THE PARTIES.

SIGNED for and on behalf of **MID-WESTERN REGIONAL COUNCIL ABN 96 149 391 332** by its duly authorised representative in the presence of:

Signature of party

Signature of witness

Name

EXECUTED by **PEABODY PASTORAL HOLDINGS PTY LIMITED ACN 141 206 368** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director

Name

Name

EXECUTED by **WILPINJONG COAL PTY LTD ACN 104 594 694** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director

Name

Name

EXECUTED by **MOOLARBEN COAL MINES PTY LIMITED ACN 108 601 672** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):



Signature of director



Signature of director

Reinhold Schmidt

Lei Zhang

Name

Name

EXECUTED AS AN AGREEMENT BY THE PARTIES.

SIGNED for and on behalf of **MID-WESTERN REGIONAL COUNCIL ABN 96 149 391 332** by its duly authorised representative in the presence of:

Signature of party

Signature of witness

Name

EXECUTED by **PEABODY PASTORAL HOLDINGS PTY LIMITED ACN 141 206 368** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):



Signature of director

Steven John Hedges

Name



Signature of director
GEOFFREY DAVID HARVEY

Name

EXECUTED by **WILPINJONG COAL PTY LTD ACN 104 594 694** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):



Signature of director

Steven John Hedges

Name



Signature of director
GEOFFREY DAVID HARVEY

Name

EXECUTED by **MOOLARBEN COAL MINES PTY LIMITED ACN 108 601 672** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

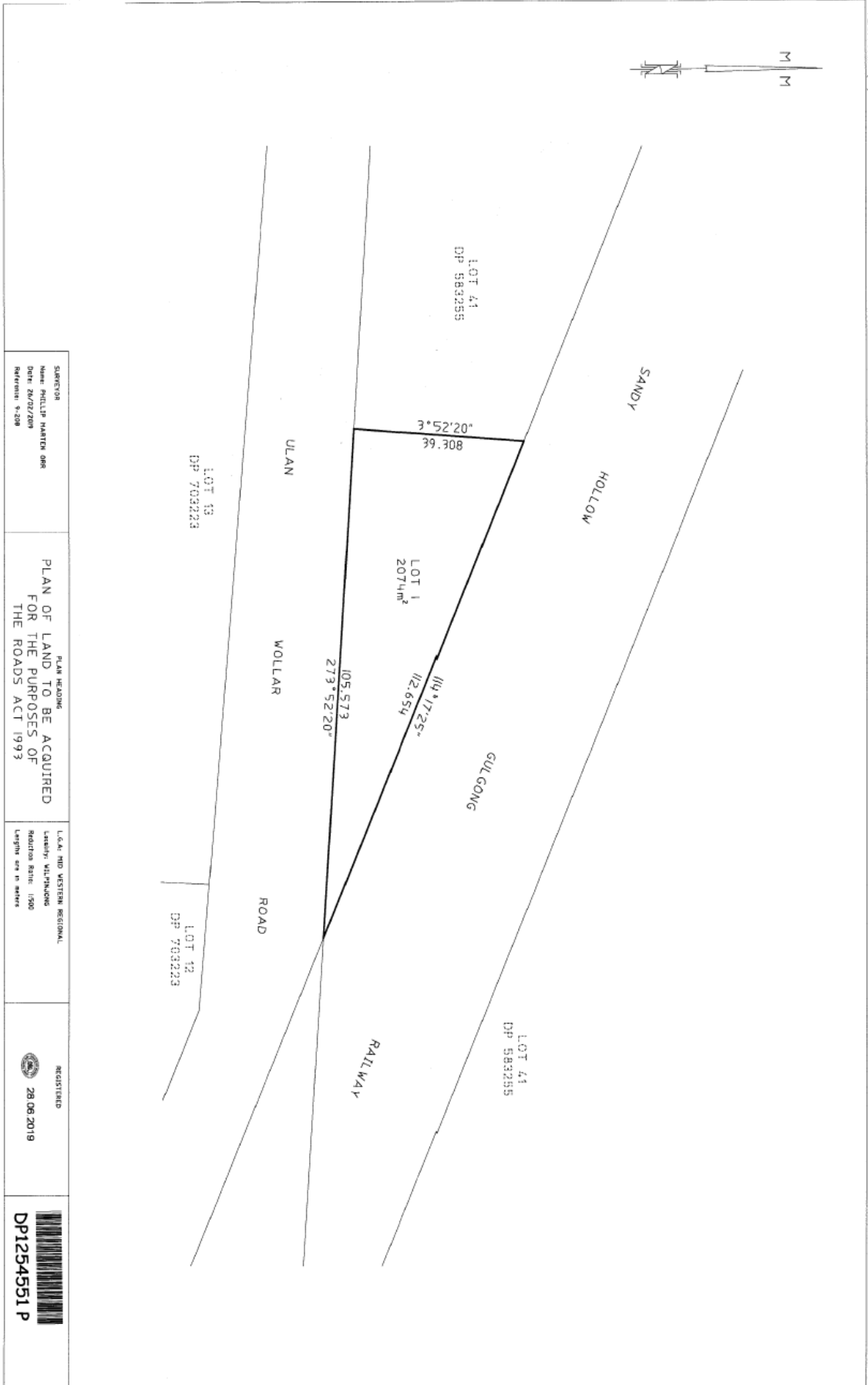
Signature of director

Name

Signature of director

Name


Req:R590359 /Doc:DP 1254551 P /Rev:28-Jun-2019 /Sts:SC.OK /Pgs:ALL /Prt:01-Jul-2019 17:20 /Seq:1 of 3
 Ref:19-0061 /Src:M




PLAN FORM 2 (A3)

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

SHEET 1 OF 1 SHEETS

PLAN FORM 6 (2017)	DEPOSITED PLAN ADMINISTRATION SHEET	Sheet 1 of 2 sheet(s)
Office Use Only Registered:  28.06.2019 Title System: TORRENS	e Use Only  DP1254551 S	
PLAN OF LAND TO BE ACQUIRED FOR THE PURPOSES OF THE ROADS ACT 1993	LGA: MID-WESTERN REGIONAL Locality: WILPINJONG Parish: WILPINJONG County: PHILLIP	
<p style="text-align: center;">Survey Certificate</p> I, PHILLIP MARTEN ORR of O'RYAN GEOSPATIAL a surveyor registered under the <i>Surveying and Spatial Information Act 2002</i> , certify that: *(a) The land shown in the plan was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2017</i> , is accurate and the survey was completed on or *(b) The part of the land shown in the plan (*being* excluding **) was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2017</i> , the part surveyed is accurate and the survey was completed on, 20/11/18 the part not surveyed was compiled in accordance with that Regulation, or *(c) The land shown in this plan was compiled in accordance with the <i>Surveying and Spatial Information Regulation 2017</i> . Datum Line: Type: *Urban*/Rural The terrain is *Level-Undulating / *Steep-Mountainous. Signature:  Dated: 24/5/19 Surveyor Identification No: 1803 Surveyor registered under the <i>Surveying and Spatial Information Act 2002</i> *Strike out inappropriate words. **Specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey.	<p style="text-align: center;">Crown Lands NSW/Western Lands Office Approval</p> <p style="text-align: center;">I, (Authorised Officer) in approving this plan certify that all necessary approvals in regard to the allocation of the land shown herein have been given.</p> <p style="text-align: center;">Signature:</p> <p style="text-align: center;">Date:</p> <p style="text-align: center;">File Number:</p> <p style="text-align: center;">Office:</p> <p style="text-align: center;">Subdivision Certificate</p> <p style="text-align: center;">I, *Authorised Person/*General Manager/*Accredited Certifier certify that the provisions of s.109J of the <i>Environmental Planning and Assessment Act 1979</i> have been satisfied in relation to the proposed subdivision, new road or reserve set out herein.</p> <p style="text-align: center;">Signature:</p> <p style="text-align: center;">Accreditation number:</p> <p style="text-align: center;">Consent Authority:</p> <p style="text-align: center;">Date of endorsement:</p> <p style="text-align: center;">Subdivision Certificate number:</p> <p style="text-align: center;">File number:</p> <p style="text-align: center;">*Strike through if inapplicable.</p>	
Plans used in the preparation of survey/compilation. DP 190549 DP 583255	Statements of intention to dedicate public roads, create public reserves and drainage reserves, acquire/resume land. LOT 1 IS REQUIRED FOR AND FOLLOWING ACQUISITION IS INTENDED TO BE DEDICATED AS PUBLIC ROAD UNDER SECTION 10 OF THE ROADS ACT 1993.	
Surveyor's Reference: 9 - 208	Signatures, Seals and Section 88B Statements should appear on PLAN FORM 6A	

Req:R590359 /Doc:DP 1254551 P /Rev:28-Jun-2019 /Sts:SC.OK /Pgs:ALL /Prt:01-Jul-2019 17:20 /Seq:3 of 3
 Ref:19-0061 /Src:M

PLAN FORM 6A (2017) DEPOSITED PLAN ADMINISTRATION SHEET Sheet 2 of 2 sheet(s)											
Registered:  28.06.2019	Office Use Only DP1254551 Office Use Only										
PLAN OF LAND TO BE ACQUIRED FOR THE PURPOSES OF THE ROADS ACT 1993											
Subdivision Certificate number: Date of Endorsement:	This sheet is for the provision of the following information as required: <ul style="list-style-type: none"> • A schedule of lots and addresses - See 60(c) <i>SSI Regulation 2017</i> • Statements of intention to create and release affecting interests in accordance with section 88B <i>Conveyancing Act 1919</i> • Signatures and seals- see 195D <i>Conveyancing Act 1919</i> • Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets. 										
SCHEDULE OF ADDRESS											
<table border="1" style="width:100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width: 10%;">LOT</th> <th style="width: 15%;">STREET No.</th> <th style="width: 30%;">STREET NAME</th> <th style="width: 15%;">STREET TYPE</th> <th style="width: 30%;">LOCALITY</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>1091</td> <td>ULAN-WOLLAR</td> <td>ROAD</td> <td>WILPINJONG NSW 2850</td> </tr> </tbody> </table>		LOT	STREET No.	STREET NAME	STREET TYPE	LOCALITY	1	1091	ULAN-WOLLAR	ROAD	WILPINJONG NSW 2850
LOT	STREET No.	STREET NAME	STREET TYPE	LOCALITY							
1	1091	ULAN-WOLLAR	ROAD	WILPINJONG NSW 2850							
If space is insufficient use additional annexure sheet											
Surveyor's Reference: 9 - 208											

Deed of Compulsory Acquisition by Agreement

Section 29

Land Acquisition (Just Terms Compensation) Act 1991

This Deed is made the _____ day of
2020~~2021~~

Between

Mid-Western Regional Council ABN 96 149 391 332 of 86 Market Street, Mudgee NSW 2850 (**Authority**)

and

Transport for NSW ABN 18 804 239 602 of 18 Lee Street, Chippendale NSW 2008, a Corporation constituted under the *Transport Administration Act 1988* (**TfNSW**)

and

Australian Rail Track Corporation Ltd ACN 081 455 754 of 11 Sir Donald Bradman Drive, Keswick Terminal SA 5035, a Corporation constituted under the *Corporations Act 2001* and owned by the Commonwealth Government of Australia (**ARTC**)

Background

- A. As at the date of this Deed, the freehold interest in the Land is owned by TfNSW (the **TfNSW Interest**).
- B. As at the date of this Deed ARTC holds a leasehold interest over the Land (the **ARTC Interest**). Together, the ARTC Interest and the RailCorp Interest are referred to as the Acquired Interest.
- C. Pursuant to sections 177 and 178 of the *Roads Act 1993* (NSW), the Authority may acquire land by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) ("**the Just Terms Act**") for the purpose of exercising its functions. The Authority is an authority of the State for the purpose of the Just Terms Act.
- D. The Acquired Interest is required for road works (as defined in the *Roads Act 1993* (NSW)).
- E. The Authority and TfNSW and ARTC have agreed pursuant to section 29 of the Just Terms Act to:
 - (i) the Acquisition by the Authority; and
 - (ii) payment of the Compensation Sum in full satisfaction of all liabilities, costs and

-2-

Claims, including statutory interest, arising from or in connection with the Acquisition.

- F. The Acquired Interest will vest in the Authority on the date of publication of an Acquisition Notice in the NSW Government Gazette in accordance with Part 2 Division 2 of the Just Terms Act.
- G. TfNSW's, ARTC's and the Authority's agreement in relation to the Acquisition is set out in this deed (**Deed**).
- H. This Deed is made in accordance with, and in satisfaction of, section 29 of the Just Terms Act and sets out the terms on which the parties have agreed on all relevant matters concerning the Acquisition and the compensation to be paid for the Acquisition.

Operative Part:

1. Interpretation

1.1 Definitions:

Acquired Interest means both the TfNSW Interest and the ARTC Interest in the Land specified in **Part A** of **Schedule 1** but excluding any interest in the Land specified in **Part B** of **Schedule 1**.

Acquisition means compulsory acquisition of the Acquired Interest by the Authority with TfNSW's and ARTC's consent in accordance with section 29 of the Just Terms Act by the publication of the Acquisition Notice (and **Acquire** and **Acquires** have a corresponding meaning).

Acquisition Date means the date on which the Acquisition Notice is published in the NSW Government Gazette.

Acquisition Notice means an acquisition notice under the Just Terms Act by which the Authority effects the Acquisition.

ARTC Interest means the leasehold interest over the Land held by ARTC, and forming part of the Acquired Interest.

Business Day means a day other than a Saturday, Sunday or public holiday in New South Wales.

Claim includes a claim, right, demand, entitlement, suit, liability, proceeding, cause of action or right of action of any sort, including for compensation.

Clean-up Notice means any Order or any agreement entered into with any Governmental Agency under an Environmental Law, whether imposed as a condition of any planning approval or otherwise, in respect of the remediation of any Contamination on or from the Land, as amended, varied, modified or re-issued under an Environmental Law.

Compensation Sum means the amount of \$1,037 (excluding GST), payable to TfNSW for the market value of the TfNSW Interest. It is noted that there is no compensation payable for the ARTC Interest. It is further noted that the Compensation Sum does not include legal costs which the Authority has agreed to pay to ARTC and TfNSW in association with the Acquisition.

Contamination means the presence in, on or under land of a substance (whether a solid, liquid or gas) at a concentration above the concentration at which the substance is normally present on, in or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or to any other aspect of the Environment. For the purpose of this definition a substance may present a risk of harm either on its own or by reason of the presence of or interaction with another substance or aspect of the Environment, structure or other matter.

Environment means all components of the earth, including:

- (a) land, air and water;
- (b) any layer of the atmosphere;
- (c) any organic or inorganic matter;
- (d) any living organism; and
- (e) natural or man-made or modified features or structures,

and includes ecosystems and all elements of the biosphere.

Environmental Condition means, in relation to the Land:

- (a) the condition of any aspect of the Environment of the Land, or of any land in the vicinity of that land, including, the presence of any Contamination in, on, under, over, emanating from or migrating to or from the Land or that area;
- (b) the condition or presence of any structures or improvements on or in the Land;
- (c) the presence of asbestos or other hazardous substances on or in the Land or the improvements on the Land; or
- (d) the presence of any underground storage systems or tanks.

Environmental Law means any Law that regulates or applies to an aspect of the Environment, whether made or in force before, on or after the Acquisition Date.

Government Agency means any:

- (a) government, government department, government agency or government authority;

-4-

- (b) governmental, semi-governmental, municipal, judicial, quasi-judicial, administrative or fiscal entity or person carrying out any statutory authority or function; or
- (c) other entity or person (whether autonomous or not) having powers or jurisdiction under any statute, regulation, ordinance, by-law, order or proclamation, or the common law.

GST means any goods and services tax imposed by legislation enacted by the Commonwealth of Australia including tax imposed by the GST Act and the related imposition Acts of the Commonwealth.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Interest in land has the same meaning as it has in the Just Terms Act and the word **Interest** means such an Interest in land.

Land means Lot 1 in DP 1254551 (being Part Railway Land, 1091 Ulan Wollar Road, Wilpingjong NSW 2850, being former Lot 1 DP 190549).

Law includes:

- (a) any law, statute, regulation, ordinance, by-law, order or proclamation, and the common law; and
- (b) any authorisation, ruling, judgment, order, decree or other requirement of any Government Agency.

LRS means the NSW Land Registry Services.

Nominee means any of ARTC's or TfNSW's employees, officers, agents, representatives, invitees, consultants and contractors, and includes John Holland Rail Pty Limited.

Order means any direction, notice, declaration, order, demand or other requirement of a Government Agency or court issued under an Environmental Law (including under the *Contaminated Land Management Act 1997* (NSW), *Protection of the Environment Operations Act 1997* (NSW) or *Environmental Planning and Assessment Act 1979* (NSW)).

Plan of Proposed Acquisition means the plan set out in **Schedule 2**.

Pollution has the same meaning as in the *Protection of the Environment Operations Act 1997* (NSW).

Sunset Date means the date which is 12 months after the date of this Deed.

Rail Body means ARTC or TfNSW and any of its successors and assigns, or any person who is at any time authorised by TfNSW to use or occupy the Railway for Railway Activities.

Railway means the guided system for transportation of passengers or freight or both (whether or not passengers, freight or both are being transported) on a railway track within the Railway Corridor.

Railway Activities means the establishment, operation, maintenance and/or expansion of the Railway including:

- (a) the operation of passenger or freight trains;
- (b) the operation, testing, renewal, repair, maintenance and upgrading of infrastructure facilities necessary or desirable for the efficient operation of passenger or freight trains;
- (c) the carrying out of functions as a rail infrastructure owner (within the meaning of the *Transport Administration Act 1988* (NSW));
- (d) the provision of access and network control services;
- (e) the development maintenance and upgrading of railway stations or access or facilities for the public to access such stations; and/or
- (f) “railway operations” as that term is defined in the *Rail Safety National Law* (NSW) No 82.

Railway Corridor means all land which is owned, leased or occupied by the Authority, or another statutory rail body and which is adjacent to or near the Land, including:

- (a) land which is usually separated from public access by an embankment, ditch, cutting, natural feature or fence and includes air space above such land and all earth below; and
- (b) any easements, licences or any beneficial legal interest in land used in relation to the Railway Activities.

1.2 Terms and references

In this Deed:

- (a) headings are for convenience only and do not affect interpretation;
- (b) a reference to a party includes the party’s executors, administrators, successors and permitted assigns;
- (c) if a party consists of more than one person this Deed binds them jointly and each of them severally;
- (d) a party which is a trustee is bound both personally and in its capacity as a trustee;
- (e) no rule of construction applies to the disadvantage of the party preparing this Deed on the basis that it prepared or put forward this Deed or any part of it,

-6-

and unless the context indicates a contrary intention:

- (f) the expression “**person**” includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (g) a reference to one gender includes the other genders;
- (h) a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it;
- (i) a reference to TfNSW includes any of its employees, invitees and contractors;
- (j) words importing the singular include the plural (and vice versa);
- (k) references to clauses, schedules, exhibits, attachments or annexure are references to clauses, schedules, exhibits, attachments and annexure to or of this Deed, and a reference to this Deed includes any schedule, exhibit, attachment or annexure to this Deed;
- (l) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (m) if an act must be done on a specified day which is not a Business Day, the act must be done instead on the next Business Day;
- (n) the word “**includes**” in any form and similar expressions are not words of limitation; and
- (o) a reference to “\$” or “**dollar**” is to Australian currency.

1.3 Severability

If at any time any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Deed; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Deed.

1.4 No merger

The warranties, indemnities, undertakings, agreements and continuing obligations in this Deed do not merge on completion of the transactions contemplated by this Deed.

1.5 Governing law and jurisdiction

- (a) This Deed is governed and will be construed according to the laws of New South Wales.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating in any way to this Deed.
- (c) Each party irrevocably waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, where that venue falls within **clause 1.5(b)**.

2. Compulsory Acquisition by the Authority

2.1 The Authority, TfNSW and ARTC:

- (a) agree that the Authority will compulsorily acquire the Acquired Interest in accordance with the Just Terms Act;
- (b) agree that this Deed is an agreement setting out all relevant matters concerning the Acquisition of the Interest and the compensation to be paid for the Acquisition of the Acquired Interest as referred to in section 29 of the Just Terms Act;
- (c) acknowledge that they have agreed on all relevant matters for the purposes of section 29 of the Just Terms Act;
- (d) agree that, as provided for in sub-section 29(4) of the Just Terms Act, the provisions of Division 1 of Part 2 (Pre-acquisition procedures) and Part 3 (Compensation for acquisition of land) of that Act do not apply to the Acquisition;
- (e) agree that the compensation payable by the Authority (inclusive of statutory interest) arising from or in connection with the Acquisition shall be limited to the Compensation Sum; and
- (f) agree that no compensation is payable by the Authority in respect of the ARTC Interest, subject to this Deed.

-8-

- 2.2 As soon as practicable after the Acquisition Date, the Authority must notify TfNSW and ARTC in writing of the publication of the Acquisition Notice.
- 2.3 The Authority must pay the Compensation Sum to TfNSW in accordance with **clause 11**.
- 2.4 TfNSW for itself and for every person claiming through TfNSW at any time hereby releases the Authority unconditionally and forever from:
- (a) any right or entitlement of TfNSW or any person claiming through TfNSW;
 - (a) any liability, duty or obligation of the Authority to TfNSW or any person claiming through TfNSW; and
 - (b) every Claim,
- arising from or in connection with any further compensation, in addition to the payment to TfNSW of the Compensation Sum, pursuant to the Just Terms Act (monetary or otherwise) that would be payable to TfNSW or any person claiming through TfNSW in connection with the Acquisition or the public purpose for which the Acquisition has been carried out.
- 2.5 ARTC for itself and for every person claiming through ARTC at any time hereby releases the Authority unconditionally and forever from:
- (a) any right or entitlement of ARTC or any person claiming through ARTC;
 - (b) any liability, duty or obligation of the Authority to ARTC or any person claiming through ARTC; and
 - (c) every Claim,
- arising from or in connection with any further compensation, in addition to the payment to ARTC of its legal fees in accordance with clause 7.1(a), pursuant to the Just Terms Act (monetary or otherwise) that would be payable to ARTC or any person claiming through ARTC in connection with the Acquisition or the public purpose for which the Acquisition has been carried out.

3. Environmental Condition of the Land

- 3.1 The Authority acknowledges that TfNSW and ARTC disclose that:
- (a) the Land may be affected by Contamination;
 - (b) there may be non-compliance with Environmental Laws in relation to the Land; and
 - (c) work may be required to investigate and remove Contamination from the Land or remediate the Land.
- 3.2 The Authority acknowledges and agrees that it has relied upon its own enquiries and that it has not relied on any information provided by TfNSW, ARTC, a Nominee

or any other person on behalf of TfNSW in respect of the Environmental Condition of the Land. All representations and warranties in respect of such matters whether express or implied are to the fullest extent permissible at law expressly negated and released by this clause.

3.3 On and from the Acquisition Date the Authority assumes all (including TfNSW's and ARTC's) responsibility and liability for and associated with:

- (a) Contamination that has been or may be present in, on or under, or emanating from, or which has migrated to or from, the Land; and
- (b) all Contaminants in any improvements on the Land.

3.4 The Authority:

- (a) indemnifies TfNSW, ARTC and the Nominee against any Claim made against TfNSW, ARTC and/or the Nominee and against any cost, loss, expense, liability, duty or obligation suffered or incurred by TfNSW, ARTC and/or the Nominee, after the Acquisition Date; and
- (b) for itself and each person claiming through the Authority releases TfNSW, ARTC and the Nominee from any Claim by the Authority or any person claiming through the Authority,

to the extent the Claim, cost, loss, expense, liability, duty or obligation arises out of or in connection with:

- (a) the Environmental Condition of the Land at any time;
- (b) any breach of an Environmental Law at any time in connection with the Land;
- (c) any Contamination or Pollution present in, on or under or emanating from, or migrating onto or through the Land at any time being Contamination or Pollution that occurred or was caused or existed prior to or on the Acquisition Date;
- (d) any Order in connection with the Land at any time; or
- (e) any breach of **clause 3.3** by the Authority.

3.5 **Clause 3.4** applies to the benefit of each of the Nominees even though the Nominees are not signatories to this Deed. To the extent necessary to give effect to these provisions and render them enforceable, TfNSW and ARTC to the extent permitted by law enter into **clause 3.4** as trustee for each of the Nominees and TfNSW and ARTC hold the benefit of **clause 3.4** on trust for, and may enforce **clause 3.4** directly against the Authority on behalf of, each of the Nominees.

3.6 The consent of any of the Nominees is not required for any amendment to or waiver of rights under this Deed.

3.7 Without limiting any other provision of this **clause 3**, in the event that TfNSW and/or ARTC is served with a Clean-Up Notice in respect of any Contamination after the

-10-

Acquisition Date, TfNSW and/or ARTC must promptly forward a copy of the Clean-Up Notice to the Authority, and the Authority must comply with that Clean-Up Notice in accordance with the requirements of the Clean-Up Notice and any relevant Environmental Law as if the Authority had been served with the Clean-Up Notice and the Authority must not make any objection or Claim for compensation in relation to the Clean-Up Notice.

- 3.8 The Authority must provide all assistance reasonably required by TfNSW and/or ARTC in defending any Claims which may be commenced against TfNSW and/or ARTC with respect to:
- (a) any Contamination in, on, under or emanating from the Land or any improvement on it; and
 - (b) any alleged breach or non-compliance with any requirements under any Environmental Law.

4. Undertaking

- 4.1 The Authority confirms and undertakes that the Interests in the Land referred to in **Part B of Schedule 1**, if registered, are excluded from the Acquisition and will remain registered on title to the Land on and from the Acquisition Date.
- 4.2 If the Interests in the Land referred to in **Part B of Schedule 1** are not registered on the title of the Land at the Acquisition Date, the Authority undertakes to register those interests as soon as reasonably practicable after they are provided to the Authority in registrable form.
- 4.3 TfNSW and ARTC confirm that as at the Date of this Deed, no other person has an Interest in the Land, whether registered or not, except as specifically disclosed in **Schedule 3**.
- 4.4 TfNSW and ARTC confirm that if following the date of this Deed and prior to the Acquisition Date, if TfNSW or ARTC discover that any person not specifically disclosed in **Schedule 3** has an Interest in the Land, TfNSW or ARTC will promptly inform the Authority.

5. Whole agreement

- 5.1 This Deed contains the whole of the agreement of the parties in relation to the Acquisition and no alleged amendment or addition to it (except where the same is evidenced in writing and signed by the delegate of TfNSW and ARTC) will be binding on TfNSW and ARTC as the case may be.
- 5.2 Each party has entered into this Deed without relying on any representation by any other person or party purporting to represent that person or party.

6. Waiver

- 6.1 A party's delay or failure to exercise a power or right does not operate as a waiver of that power or right or any duty, obligation or liability of the other party.
- 6.2 The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.
- 6.3 A waiver is not effective unless it is in writing.
- 6.4 A waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

7. Costs and disbursements

- 7.1 The Authority agrees to pay:
 - (a) TfNSW's and ARTC's reasonable legal costs and disbursements in connection with the negotiation, preparation and execution of this Deed;
 - (b) all costs associated with:
 - (i) surveying the Land;
 - (ii) the valuation of the Land;
 - (c) all registration fees payable to LRS;
 - (d) for everything it must do under or in connection with this Deed, unless this Deed provides otherwise; and
 - (e) all duty on or arising in connection with this Deed (if any).
- 7.2 **Clause 7.1** survives the expiry or termination of this Deed.

8. Counterparts

This Deed may be executed in any number of counterparts. Each counterpart is an original but the counterparts together are one and the same Deed.

9. Further Assurance

As between the parties, the parties agree that they will at their own cost do all things (including executing all documents) necessary and desirable to give full effect to this Deed although not specifically provided for.

10. Bar to proceedings

This Deed may be pleaded and tendered by the Authority in relation to any Claim brought or made in relation to the payment of compensation for each and every head of compensation under the Just Terms Act, in connection with the Acquisition or the public purpose for which the Acquisition has been carried out, as an absolute bar to that Claim.

11. Payment of the Compensation Sum

- 11.1 The Authority must pay the Compensation Sum to TfNSW on or before the date that is 5 Business Days after the Acquisition Date.
- 11.2 The Authority must pay reasonable legal costs to TfNSW and ARTC in accordance with clause 7.1 within 5 days of the provision of those invoices to the Authority.
- 11.3 Payment of the monies in accordance with this clause 11 will be paid by the Authority to TfNSW and ARTC by electronic funds transfer.

12. Sunset Date

- 12.1 In the event that the Acquisition does not occur by the Sunset Date, TfNSW may terminate this Deed by notice in writing to the Authority at any time after the Sunset Date.
- 12.2 If TfNSW gives notice to the Authority pursuant to **clause 12.112.1**, then this Deed terminates on the date of TfNSW's notice and the monies referred to in **clause 11.3** is not payable by the Authority to TfNSW.

13. Survival and enforcement of indemnities

- 13.1 Each indemnity in this Deed is a continuing obligation, separate and independent from the other obligations of the parties and survives termination of this Deed.
- 13.2 It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity conferred by this Deed.

14. No future claims for compensation

- 14.1 It is the intention of the parties that the payment of the Compensation Sum, and reasonable legal costs in accordance with **clause 7.1**, under this Deed is full and complete compensation of TfNSW (for every head of compensation under the Just Terms Act) in connection with the Acquisition and the public purpose for which the Acquisition has been carried out, such that no future owner of the Land or any other person who from time to time has an Interest in the Land shall have any further entitlement to compensation in respect of those matters for which compensation has been paid under this Deed to TfNSW.
- 14.2 It is the intention of the parties that the payment of reasonable legal costs to ARTC in accordance with **clause 7.1** under this Deed is full and complete compensation of ARTC (for every head of compensation under the Just Terms Act) in connection with the Acquisition and the public purpose for which the Acquisition has been carried out, such that no future owner of the Land or any other person who from time to time has an Interest in the Land shall have any further entitlement to compensation in respect of those matters for which compensation has been paid under this Deed to ARTC.

15. GST

15.1 In this **clause 15**:

- (a) unless the context otherwise requires, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* (**GST Act**) has the meaning given to it in that Act;
 - (b) a reference to a GST liability or input tax credit entitlement of a party includes a reference to a GST liability or input tax credit entitlement of the representative member of any GST group of which that party is a member; and
 - (c) for the avoidance of doubt, GST includes any notional GST, input tax credit or tax equivalent payable in accordance with clause 17 of Schedule 1 of the *Intergovernmental Agreement Implementation (GST) Act 2000 (NSW)* or Division 177 of the GST Act.
- 15.2 For the purposes of this Deed where the expression GST inclusive is used in relation to an amount payable or other consideration to be provided for a supply under the Deed, the amount or consideration will not be increased on account of any GST payable on that supply.
- 15.3 Any consideration to be paid or provided for a supply made under or in connection with the Deed unless specifically described in the Deed as GST inclusive, does not include an amount on account of GST.

-14-

- 15.4 Despite any other provision in the Deed, if a party (GST Supplier) makes a supply under or in connection with the Deed on which GST is imposed (not being a supply the consideration for which is specifically described in the Deed as GST inclusive):
- (a) the consideration payable or to be provided for that supply under the Deed but for the application of this clause (**GST exclusive consideration**) is increased by, and the recipient of the supply (Recipient) must also pay to the GST Supplier, an amount equal to the GST payable by the GST Supplier on that supply (**GST Amount**); and
 - (b) the GST Amount must be paid to the GST Supplier by the Recipient without set-off, deduction or requirement for demand, at the same time that the first part of any GST exclusive consideration is payable or to be provided for that supply.
- 15.5 If a payment to a party under this Deed is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party is entitled for that loss, cost or expense. That party is assumed to be entitled to a full input tax credit unless it proves, before the date on which the payment must be made, that its entitlement is otherwise.
- 15.6 If a payment under this Deed is calculated by reference to or as a specified percentage of an amount or revenue, that payment shall be calculated by reference to or as a specified percentage of the amount or revenue exclusive of any GST component.
- 15.7 The Recipient need not pay the GST Amount until the GST Supplier has given the Recipient a tax invoice for the supply to which the payment relates.
- 15.8 The GST Supplier must give the Recipient an adjustment note for an adjustment arising from an adjustment event relating to a taxable supply made under or in connection with this Deed as soon as the GST Supplier becomes aware of the adjustment event.

16. Notices

Any notice, demand, consent or other communication (a **Notice**) given or made under this Deed:

- (a) must be in writing and signed by an authorised officer or delegate of the sender;
- (b) must be delivered to the intended recipient by hand, express post or email to the address or email address below or the address or email address last notified in accordance with this **clause 16** by the intended recipient to the sender:

- (i) to TfNSW Senior Property Manager – Country Rail
Contracts
Transport for NSW
Address: Level 3, 237 Wharf Road
Newcastle NSW 2300
Email:
- (ii) to ARTC **[insert contact details]**
Address:
Email:
- (iii) to the Authority The General Manager

Address: 86 Market street, Mudgee,
NSW

Email: council@midwestern.nsw.gov.au

(c) will be taken to be duly given or made:

- (i) in the case of delivery by hand, when delivered; and
- (ii) if sent by express post, on the fifth (5) Business Day after posting; or
- (iii) if transmitted by email on the first to occur of:
 - (A) receipt by the sender of an email acknowledgement from the recipient's information system showing that the notice has been delivered to the recipient's email address; and
 - (B) the time that the notice enters an information system which is under the control of the recipient,

but if the result is that a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent or is later than 4pm (local time) it will be taken to have been duly given or made at the start of business on the next Business Day in that place.

-16-

EXECUTED AS A DEED

SIGNED SEALED AND DELIVERED)
for and on behalf of **Transport for**)
NSW ABN 18 804 239 602 by the)
authorised delegate in the presence of:)

.....
Signature of Delegate

.....
....
Signature of witness

.....
Name of Delegate

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.....
Name of witness
Insert name/execution clause)
)
)

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.....

SIGNED SEALED AND DELIVERED)
for and on behalf of **Australian Rail**)
Track Corporation Limited ABN 75)
081 455 754 in the presence of:)

.....
Signature of Delegate

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....
Signature of witness

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Name of Delegate

.....
.....
Name of witness

SIGNED SEALED AND DELIVERED)
for and on behalf of **Mid-Western**)
Regional Council)
ABN 96 149 391 332 by a duly)
authorised delegate and in the)
presence of:

.....
Signature of General Manager

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....
Signature of witness

.....
Name of Delegate

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....
Name of witness

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-18-

SCHEDULE 1

Description of Interests in the Land (pursuant to clause 1.1 and 4.1)

PART A. Acquired Interest

"The Land (being 2,074 m²) as described in the Plan of Proposed Acquisition as set out in Schedule 2, and including any Interests in that Land other than as specified in Part B of this Schedule 1."

PART B. Exclusion from Acquired Interest

This Part B sets out terms of the Positive Covenants intended to be created pursuant to Section 88B of the *Conveyancing Act 1919* (NSW).

1 Positive Covenant for Drainage

The Authority must ensure that all ~~existing and~~ future drainage works on the Land are directed into the appropriate ~~council and/or water authority~~ approved drainage system and must ensure that no person does any act or thing on the Land whereby stormwater, surface run-off or drainage passes over through or under the Land onto TfNSW's adjoining land, or track work or improvements of any kind of TfNSW (even if on land not owned by TfNSW) except through such works as are existing as at the date of this covenant or as may subsequently be approved in writing by TfNSW in its absolute discretion.

Name of person empowered to release, vary or modify easement, restriction, or positive covenant:

TfNSW is empowered to release, vary or modify this positive covenant.

2 Positive Covenant for Fencing

2.1 Erection of fence

If there is no fence between the boundary of the Land and the Railway Corridor, the Authority must at its own expense erect a fence, to the satisfaction of TfNSW, along the boundary of the Land and the adjoining Railway Corridor (**Boundary Fence**). The Authority, anyone on behalf of the Authority or any successor in title of the Authority, must not require TfNSW to contribute to the cost of the Boundary Fence. The Authority must notify TfNSW promptly after the Boundary Fence has been erected.

2.2 Notice of non-compliance

If the Authority does not comply with clause 2.1, TfNSW may give the Authority a notice requiring the Authority to comply with clause 2.1 within 30 days from the date of TfNSW's notice. If the Authority does not comply with TfNSW's notice given under this clause 2.2, TfNSW may, at the Authority's cost and expense, erect the Boundary Fence.

2.3 Access

If TfNSW exercises its rights under clause 2.2, the Authority must permit TfNSW, and TfNSW's Nominees, access to the Land at all reasonable times for the purposes of erecting the Boundary Fence.

2.4 Indemnity

The Authority indemnifies TfNSW and the Rail Body for any and all Claims incurred by TfNSW or the Rail Body which may arise out of or in connection with the erection of the Boundary Fence or a breach of this covenant by the Authority, including any Claim in connection with any of the matters referred to in this covenant including in respect of Claims based on death, injury, loss or damage to any person or property and including those arising under or based in common law.

2.5 Release of TfNSW from liability

The Authority releases and forever discharges TfNSW and the Rail Body from and against any Claim arising directly or indirectly out of or in connection with any of the matters the subject of clause 2.

2.6 Maintenance of Boundary Fence

The Authority must maintain the Boundary Fence and keep the Boundary Fence in good repair and condition.

-20-

SCHEDULE 2

Plan of Proposed Acquisition

| Section 29 Deed [September 2020 – LTL Comments 23-01-20 Final for Council Approval – June 2021](#)

| [ME_164941267_1ME__1](#)

SCHEDULE 3

Disclosed Interests in the Land (clause 4)

| Section 29 Deed [September 2020 – LTL Comments 23.04.20 Final for Council Approval – June 2021](#)

| [ME 164941267 1ME—4](#)