

black hill tank paddock &

preliminary environmental assessment

June 2010

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1 Introduction

This report has been prepared on behalf of Coal & Allied Industries Ltd (Coal & Allied), the owner of the Black Hill and Tank Paddock sites.

Coal & Allied propose to develop 183ha of Black Hill for use as employment lands with the 147ha Tank Paddock site proposed to be dedicated to the New South Wales Government (NSWG) for conservation. Other Coal & Allied owned sites in the Lower Hunter and Central Coast regions are the subject of separate Part 3A applications to the Department of Planning (DoP). Overall, Coal & Allied propose to dedicate approximately 3,260ha of Coal & Allied land to the NSWG to provide and enhance important conservation corridors identified in the Lower Hunter Regional Strategy (LHRS) and Lower Hunter Regional Conservation Plan (LHRCP).

The purpose of this report is to request that:

1. The Minister for Planning agree to consider the subject land at Black Hill and Tank Paddock as potential State Significant Sites (SSS) for rezoning/listing under Schedule 3 of State Environmental Planning Policy (Major Development) 2005 (Major Development SEPP) to facilitate the development of the Black Hill site for employment purposes and conservation and proposed dedication of Tank Paddock to NSWG.
2. The Minister for Planning form an opinion that the Black Hill and Tank Paddock proposal is of a kind described in Group 4 in Schedule 1 (classes of development) of State Environmental Planning Policy - Major Development (2005) (Major Development SEPP).
3. Provided the Minister forms the opinion that the project is one to which Part 3A of the Environmental Planning and Assessment Act, 1979 (EP&A Act) applies, the Minister authorise the proponent to submit a Concept Plan Application for the proposed development at Black Hill and Tank Paddock.
4. The Director General issue the Director General's Requirements to inform an Environmental Assessment to accompany the Concept Plan for the proposed development.
5. The Director General issues the requirements for a State Significant Site Study.

To support the request for the Director General's Requirements, this submission includes a Preliminary Environmental Assessment (PEA). This PEA identifies the relevant planning policies and provides a justification for the sites to be categorised as being of State or regional environmental planning significance, that Part 3A of the EP&A Act applies and for authorisation of the Concept Plan request. Finally, it provides a brief outline of the anticipated key issues of the proposed development and the approach to address these matters as part of the Environmental Assessment.

2 Background

Coal & Allied has been operating in the Hunter Valley for more than 150 years, with the earliest coal mining operations located in the East Maitland area dating back to 1844. Numerous mergers, expansions and acquisitions since then have led to Coal & Allied becoming a regionally significant mining company.

Since 2004 Coal & Allied has been majority owned and managed by Rio Tinto Coal Australia (RTCA). Coal & Allied today is one of the major coal producers in the Hunter Valley, employing around 1,500 people across three operations. With annual coal production of around 30 million tonnes, Coal & Allied continues to evolve as it strives to achieve a vision of being a safe and highly successful business valued by customers, employees, shareholders and the community.

Coal & Allied has seven separate holdings in the Lower Hunter totalling approximately 4,078 hectares. Three are located in the southern area comprising Catherine Hill Bay (Middle Camp), Nords Wharf and Gwandalan. Four are located in the northern area comprising Black Hill, Tank Paddock, Stockrington and Minmi (including land north and south of Link Road). The landholdings are located in four local government areas of Lake Macquarie, Wyong, Newcastle and Cessnock.

The northern lands are located approximately 20 kilometres west of Newcastle and are almost halfway between Newcastle and Cessnock. The Minmi land adjoins the existing Minmi township and is close to the emerging Glendale Town Centre and the Glendale/Cardiff renewal corridor identified in the Lower Hunter Regional Strategy. These lands are close to the F3 Freeway and Newcastle Link Road transportation corridors. The Minmi lands are adjacent to the Blue Gum Hills Regional Park and Hexham Swamp.

The Black Hill site is located at the intersection of the F3 Freeway and John Renshaw Drive. Tank Paddock and Stockrington are located east and west of F3 Freeway and fall within the Watagan-Stockton conservation corridors identified in the Lower Hunter Regional Strategy (LHRS) and Lower Hunter Regional Conservation Plan (LHRCP).

Catherine Hill Bay and Nords Wharf are located between Wallarah National Park and Munmorah State Conservation Area. Gwandalan adjoins Lake Macquarie State Conservation Area and Chain Valley Bay. Gwandalan is on the western side of Crangan Bay, Lake Macquarie and Nords Wharf is on the eastern side. Catherine Hill Bay is located on the east coast halfway between Swansea Heads and the Budgewoi Peninsula.

3 Site Description

3.1 Regional and Local Context

The Black Hill site is positioned within the City of Newcastle LGA, and is located approximately 150km north of Sydney and 20km west of Newcastle.

The LHRs identifies that an additional 66,000 jobs will need to be created to meet economic growth projections to 2031. Of this number, 25 per cent will be provided in 'employment lands', with the remaining 75 per cent to be delivered in commercial centres (60%) and other dispersed employment locations (15%). The Coal & Allied owned Black Hill site has been identified in the LHRs as proposed "employment land" and will contribute to the target employment figures of the LHRs for the Lower Hunter Region.

Tank Paddock forms part of the Watagan-Stockton corridor identified in the Lower Hunter Regional Conservation Plan. The Coal & Allied owned land at Tank Paddock that is proposed to be dedicated for conservation will play a significant role in securing in perpetual ownership the Watagan-Stockton Corridor. The proposed land dedication is a positive conservation step that will protect an important array of vegetation communities, flora and fauna species, and natural landscape assets, including threatened species and endangered ecological communities in the conservation lands. The environmental gain from the environmental land offset package is a once in a generation opportunity that will provide an enduring legacy for the community and future generations.

Tank Paddock is identified in the LHRs as part of the proposed conservation lands to be dedicated to the Government.

3.2 The Site

The Black Hill site is owned by Black Hill Land Pty Ltd, a wholly owned subsidiary of Coal & Allied Industries Ltd (Coal & Allied) and the land is legally described as Lot 30 in DP 870411. It is approximately 183 ha in area, and is rectangular in shape.

The Black Hill site is bound by John Renshaw Drive to the north and the F3 Freeway to the east. Largely rural and unoccupied lands bound the site to the south and west. The land is located in the City of Newcastle Local Government Area (LGA).

The Tank Paddock land that is proposed to be dedicated to NSW Government as conservation lands has a total area of approximately 147ha. The land is legally described as Lot 1 DP 1007615.

The key aspects of the Black Hill site are:

- The site is zoned 7(c) Environmental Investigation Zone under the Newcastle LEP 2003.
- The existing industrial use of part of the site by Boral Asphalt is prohibited by the current 7(c) Environmental Investigation zoning in the Newcastle LEP 2003. It is understood to have been established lawfully and benefits from existing use rights.
- The vast majority of the remainder of the site is highly vegetated. However, there are some cleared areas associated with the site's former uses. An above ground water supply pipeline adjoins the northern boundary and currently constrains vehicular access from John Renshaw Drive, although it is noted that Hunter Water Corporation currently plan to replace this section of pipe with a new underground pipe.
- An existing mining consent over the Black Hill site will defer development until post 30 June 2013.
- The F3 Freeway provides access to the subject site at Black Hill. Neither John Renshaw Drive along the northern boundary nor the F3 Freeway to the east provides formal footpaths, kerbs and gutters. A private road provides access to the Boral Asphalt site off the F3 Freeway. Potential

SITE DESCRIPTION

access to and from the site can be made via the F3 Freeway on the eastern boundary and John Renshaw Drive on the northern boundary.

The Tank Paddock site has recently been rezoned from 7(c) Environmental Investigation Zone to 7(b) Environmental Protection Zone under the Newcastle LEP 2003.

4 Description of the proposal

4.1 Overview

It is requested that the Director General issue the requirements for a comprehensive environmental assessment to accompany a proposal for the listing of the Black Hill site and Tank Paddock site as a State Significant Site under Schedule 3 of the Major Development SEPP and for the lodgement of a concurrent Part 3A Concept Plan application for Black Hill and Tank Paddock.

4.2 Concept Plan Application

The Concept Plan for the development of employment lands at Black Hill seeks approval for the following:

- Dedication of 147ha of conservation land to the NSWG that is identified in the LHRS and LHRCP, comprising approximately 100% of the Tank Paddock site.
- Indicative development staging.
- The provision of associated infrastructure.
- The use of the Black Hill site as 'employment lands' for a range of employment generating activities, including:
 - Depot;
 - Extractive Industry;
 - Food and drink premises;
 - Freight transport facility;
 - Hazardous storage establishment;
 - Industry;
 - Industrial retail outlets;
 - Light industry;
 - Mining;
 - Neighbourhood shops.
 - Office premises (ancillary to industrial use);
 - Passenger transport facilities;
 - Service station;
 - Standard industry;
 - Take away food or drink premises;
 - Timber and building supplies;
 - Transport depot;
 - Truck depot;
 - Vehicle repair station; and

- Warehouse or distribution centre.
- As well as supporting social infrastructure for the emerging workforce (concentrated in a central area for supporting facilities identified on the Concept Plan), including:
 - Business premises;
 - Child care centre;
 - Community facility;
 - Health consulting rooms;
 - Hotel accommodation;
 - Medical centre;
 - Recreation area;
 - Recreation facility (indoor); and
 - Restaurant.

Approval is not sought for subdivision or individual buildings on the site.

Approval will not be sought under the Concept Plan for a specific lot or road layout. An indicative lot and road layout will indicate how the maximum dwelling yield of 90 dwellings could be achieved on the site.

Similarly, approval is not sought under Concept Plan for subdivision or construction of individual buildings. However, Urban Design Guidelines will be prepared as part of the Concept Plan which will provide appropriate objectives and controls to which future development must adhere.

It is proposed to dedicate 100% of the Tank Paddock site for conservation purposes as part of the Major Project Application via a Voluntary Planning Agreement (VPA) between Coal & Allied and the NSWG in accordance with s.93F of the Environmental Planning & Assessment Act, 1979 (EP&A Act).

The proposed Concept Plan seeks to facilitate employment development that is not permissible under the existing planning provisions and therefore a state significant site listing/rezoning is proposed under the Major Development SEPP. This will provide the statutory mechanism for approval of the Concept Plan and associated future development. This is discussed in section 4.3.

A Plan showing the proposed development areas and conservation areas is shown at **Figure 1**. The proposed Concept Plan for the site is shown at **Figure 2**.

DESCRIPTION OF THE PROPOSAL



Figure 1 – Proposed Development and Conservation Areas

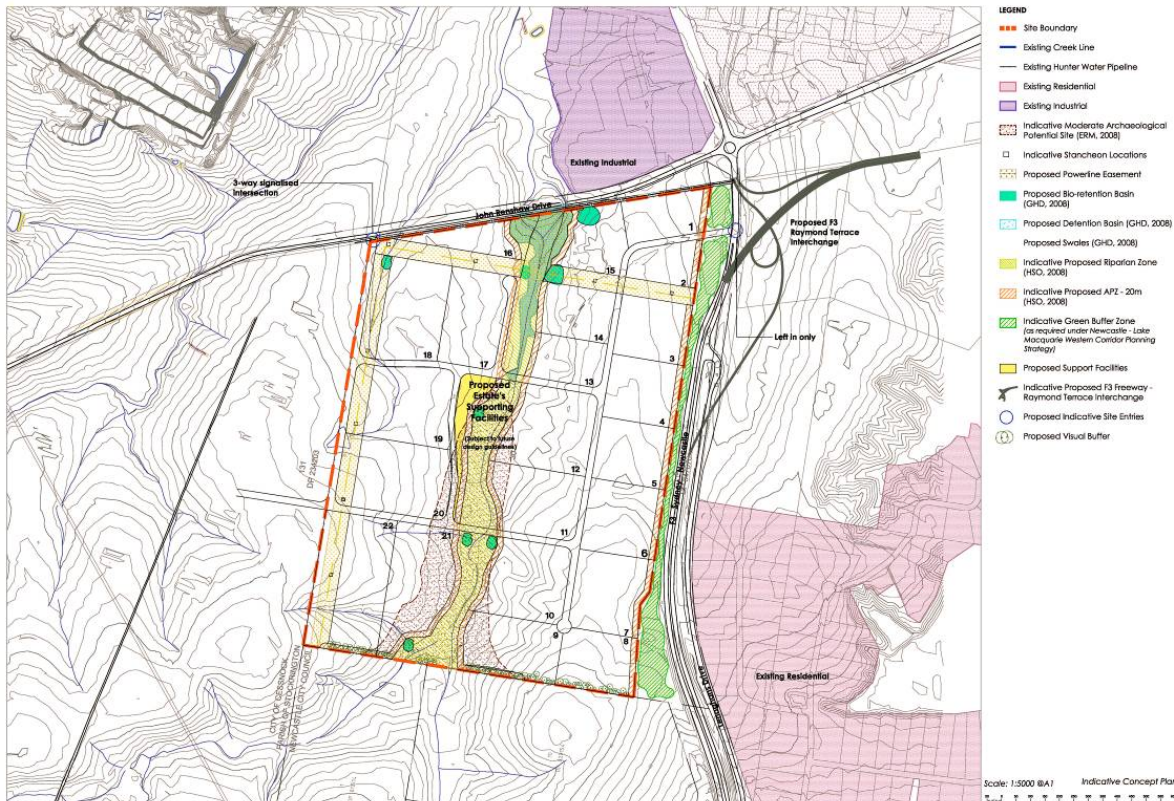


Figure 2 – Proposed Black Hill Concept Plan

4.3 State Significant Site Listing

It is proposed that the entire Black Hill and Tank Paddock sites be rezoned/listed as a 'State Significant Site' (SSS) in Schedule 3 of State Environmental Planning Policy (Major Development) 2005. A draft Schedule 3 listing will be prepared with the Concept Plan Application. The proposed zoning involves:

- A single IN1 General Industrial zoning across the Black Hill site. Refer to Section 4.2 for specific uses proposed for the site under the IN1 zone.
- A 'core supporting facilities area' shown in a central area on the Zoning Map, in which additional supporting uses will be permissible with development consent.
- A single E1 National Parks and Nature Reserves zoning across the Tank Paddock site.

A single IN1 General Industrial zone across the entire Black Hill site is proposed at this stage for the following reasons:

- Future detailed subdivision planning is required to finalise the lot layout and positioning of boundaries, meaning that flexibility within the zoning is required at this stage.
- It is untimely to identify the final breakdown, scale, mix and precise location of land uses at this stage as an existing mining consent under the Black Hill site will defer development on the site until post 30 June 2013.
- The final scale, mix and siting of uses, including supporting facilities would be subject to future project applications or Part 4 development applications. The assessment of these applications will ensure land uses are compatible.
- Viney Creek will not be surveyed until after future mining subsidence has concluded. This may affect the final creek bed alignment. There is therefore no benefit in surveying the Creek bed in its current alignment. Consequently, the fact that the final Viney Creek bed alignment may be subject to change is a strong reason for zoning the entire site IN1 at present, with potential for an E2 zone to cover the riparian corridor in future once the final alignment is known.

It is proposed that the Schedule 3 amendment to the SEPP introduce a new statutory planning framework that includes:

- Aims and objectives for each site;
- Zoning and permissible uses;
- Key development controls; and
- The future consent/approval regime.

5 Relevant Planning Instruments and Controls

The project has already been referred to the Commonwealth, Department of the Environment, Water Heritage and the Arts pursuant to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) provisions and has not been declared a “controlled action”. No further referrals are required for this project under the EPBC Act.

5.1 Relevant Planning Provisions & Policies

The following current and draft state, regional and local planning controls and policies apply to the site:

- Lower Hunter Regional Strategy;
- Lower Hunter Regional Conservation Plan 2006;
- Hunter Regional Environmental Plan 1989 (Heritage);
- State Environmental Planning Policy (SEPP) Major Development ;
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007;
- SEPP 26 – Littoral Rainforests;
- SEPP 44 - Koala Habitat Protection;
- SEPP 55 - Remediation of Land;
- SEPP Infrastructure (2007);
- Newcastle Local Environmental Plan 2003;
- Draft Newcastle Lake Macquarie – Western Corridor Planning Strategy;
- Draft NSW Centres Policy;
- Review of Infrastructure Contributions Planning Circular PS08-017; and
- Planning for Bushfire Protection 2006.

5.2 Existing Zoning Provisions

The Newcastle LEP 2003 applies to the Black Hill site and currently zones the site as a 7(c) Environmental Investigation Zone.

The Objectives of the Zone are as follows:

- *To provide for the development of land for purposes which will not, or will be unlikely to, prejudice its possible future development for urban purposes or its environmental conservation.*
- *To conserve the rural or bushland character, and the biodiversity values or other conservation values, of the land.*

Employment uses are prohibited within the zone. Thus whilst the zoning acknowledges the potential future use of the land for urban purposes, the proposed employment uses are not permissible under the current controls.

Tank Paddock is currently zoned 7(b) Environmental Protection. Although Tank Paddock, which is proposed to be dedicated to NSWG is currently zoned for environmental protection it is also in private ownership. Consequently these lands cannot be protected in accordance with NPWS best practice and it is quite possible that the zoning and use of the land will be subject to change over time. If however the land is rezoned to the highest conservation zoning available under the Standard Instrument –

Principal LEP (E1 National Parks and Nature Reserves) and dedicated to NSWG it will be locked away permanently and protected in perpetuity. This is a significant gain to the community.

As discussed, the proposed Concept Plan seeks to facilitate employment generating uses at the Black Hill site which are not permissible under the existing planning provisions, therefore the State Significant Site listing/rezoning is proposed under the Major Development SEPP. This approach will provide the statutory mechanism for approval of the Concept Plan and associated future development and will rezone Tank Paddock to a higher level of conservation status.

5.3 Lower Hunter Regional Strategy

The purpose of the LHRS is to ensure that adequate land is available and appropriately located to sustainably accommodate the projected housing and employment needs of the region's population over the next 25 years. It is the principal document upon which Environmental Planning Instruments (EPIs) and major land use and development decisions in the Lower Hunter should be based.

The NSWG released the final LHRS on 17 October 2006. It is understood that Cabinet re-endorsed it in December 2009. The LHRS plans for population growth of 160,000 people by the year 2031 and the creation of up to 66,000 new jobs over the same period.

The Black Hill site is specifically designated as proposed employment land and is strategically located at the intersection of the F3 Freeway and John Renshaw Drive, providing excellent road access in all directions. The benefits of this location are recognised in the LHRS which notes that employment lands at Black Hill contribute to the viability of a future Freight Hub Precinct in the locality.

The Black Hill site will therefore assist in achieving the forecast employment growth in the Lower Hunter Region.

The proposed dedication and rezoning of the 147 hectare Tank Paddock site to the south for the highest conservation purposes will be an important contribution to the Environment and Natural Resources Outcomes and Actions in the LHRS. This contribution is crucial in achieving the state government's objective of securing major conservation corridors which is an integral element to the LHRS.

5.4 Lower Hunter Regional Conservation Plan

The LHRCP provides a focus for conservation efforts by 2031 by identifying priority biodiversity areas in the Lower Hunter. The conservation land to be dedicated to the NSWG will provide and enhance vitally important conservation corridors identified in the LHRCP. The securing, protection and management of conservation corridors is a key focus of the LHRCP. The proposed dedication of Tank Paddock for conservation purposes as an offset for the proposed development of the Black Hill site is crucial in achieving the State Government's objective of conserving in perpetuity the green conservation corridor that links the Watagans and Yengo National Parks with the coastal plains of the Tomago Sandbeds, Stockton Bight and Port Stephens.

5.5 Draft Newcastle Lake Macquarie Western Corridor Planning Strategy

Identified as regionally significant under the LHRS, the Western Corridor stretches from Beresfield to Killingworth, and has land in both Newcastle and Lake Macquarie Local Government Areas, including the Black Hill site. The draft Newcastle – Lake Macquarie Western Corridor Planning Strategy (draft Western Corridor Planning Strategy) was released in October 2008. A revised consultation draft of the Western Corridor Planning Strategy was issued by DoP in April 2009 and placed on public exhibition.

The draft Western Corridor Planning Strategy, once finalised, will help implement the LHRS by identifying the key planning principles and known infrastructure requirements for the western corridor to guide future urban expansion and conservation outcomes.

The planning principles and infrastructure requirements will be key considerations in the preparation of environmental studies that support applications for rezoning under Parts 3 and 3A of the EP&A Act. The planning strategy will also assist landowners and developers in coordinating the urban structure elements and infrastructure for a site.

This draft Western Corridor Planning Strategy recognises a potential 1500 hectares of employment lands in the north (Black Hill) and south (West Wallsend and Killingworth) of the corridor that will provide additional employment opportunities to further strengthen the Hunter Region economy.

There is a strong environmental focus in the planning principles, with the preservation of vegetation corridors, sustainability and heritage conservation all to be considered in future development in the Corridor. A key feature of the draft Western Corridor Planning Strategy is the Watagans to Stockton Green Corridor that runs through the centre of the Western Corridor.

An assessment against each of the development criteria and planning principles listed in the draft Western Corridor Strategy will be undertaken in the Environmental Assessment for Black Hill and Tank Paddock to illustrate its suitability for future employment and conservation purposes. In summary, the development of the Black Hill site for employment purposes and proposed dedication of Tank Paddock for conservation purposes is consistent with the planning principles contained in the draft Western Corridor Planning Strategy as it will:

- Facilitate a major contribution to economic development within the Newcastle LGA in a recognised employment location. The site is specifically designated as employment land under the LHRS and is strategically located at the intersection of the F3 Freeway and John Renshaw Drive, providing immediate road connectivity.
- Result in the dedication of 147ha of land to NSWG for conservation purposes, which will help secure the conservation corridor between the Watagan Ranges and Stockton Bight.
- Provide a riparian green buffer to Viney Creek and vegetated buffers to the eastern and southern boundaries.

6 Requirements of Environmental Planning & Assessment Act 1979 and Major Development SEPP 2005

6.1 Class of Development/Capital Investment Value

Schedule 1, Clause 11 of the Major Development SEPP lists the types or classes of development that may be considered as Part 3A projects.

The relevant type or class for this project is listed in '*Group 5 - Other manufacturing industries, distribution and storage facilities*' and as provided below:

Development that employs 100 or more people or with a capital investment value of more than \$30 million for the purpose of:

- Laboratory, research or development facilities, or
- Medical products, or
- Printing or publishing, or
- Textile, clothing, footwear or leather manufacturing, or
- Furniture manufacturing, or
- Machinery or equipment manufacturing, or
- The vehicle, defence or aerospace industry, or
- Vessel or boat building.
- Development for the purpose of container storage facilities, or storage or distribution centres, with a capital investment value of more than \$30 million.

The Capital Investment Value (CIV) for the proposed development of the Black Hill estate as defined in the Major Development SEPP has been determined by Davis Langdon Pty Ltd and their assessment of the CIV for the project is \$695.7million.

Once operational, it is estimated that the proposed development of Black Hill will deliver up to 3,000 direct full time equivalent jobs and will support a further 7,600 jobs in the wider economy resulting from multiplier effects. A copy of the advice from the Quantity Surveyor is included at **Appendix A**.

The proposal is therefore clearly of a kind that satisfies the definition of 'Other manufacturing industries, distribution and storage facilities'.

6.2 Demonstration of Planning Merit

Given the size and complexity of the proposal, a Concept Plan for Black Hill and Tank Paddock would enable key site parameters associated with land use, infrastructure delivery and timing, and environmental conservation to be resolved up front, with subsequent detailed stages being submitted for approval as the site develops progressively.

Under the provisions of the Environmental Planning and Assessment Regulation 2000, the Minister has discretion to determine whether or not to authorise a Concept Plan to be accepted under Part 3A of the EP&A Act if any part of the project would otherwise be prohibited by an environmental planning instrument.

In this case, the Concept Plan proposal for employment generating development is currently prohibited.

Therefore, to assist the Minister's consideration of the proposal to submit a Concept Plan for the site, Sections 5.3, 5.4 and 5.5 of this report seek to demonstrate the planning merits of the project having regard to the relevant strategic planning policies.

6.3 State and Regional Planning Significance

The DoP's 'Guideline for State Significant Sites under the Major Development SEPP', provides that when considering whether a site can be categorised as being of State significance, the Minister will consider whether the site meets one or more of the following criteria:

(a) be of regional or state importance because it is in an identified strategic location (in a State or regional strategy), its importance to a particular industry sector, or its employment, infrastructure, service delivery or redevelopment significance in achieving government policy objectives; or

(b) be of regional or state environmental conservation or natural resource importance in achieving State or regional objectives. For example protecting sensitive wetlands or coastal areas; or

(c) be of regional or state importance in terms of amenity, cultural, heritage, or historical significance in achieving State or regional objectives. For example sensitive redevelopment of heritage precincts; or

(d) need alternative planning or consent arrangements where:

(i) added transparency is required because of potential conflicting interests.

(ii) more than one local council is likely to be affected.

It is considered that development of Black Hill and the dedication of conservation lands at Tank Paddock directly meets criteria (a), (b) and (d).

6.3.1 Criterion (a) of the SSS Guidelines

Criterion (a) of the SSS Draft Guidelines states that a site can be categorised as being of state significance if the Minister considers it to be of regional or state importance because it is in an identified strategic location (in a State or regional strategy), its importance to a particular industry sector, or its employment, infrastructure, service delivery or redevelopment significance in achieving government policy objectives.

The Coal & Allied owned lands at Black Hill and Tank Paddock have been recognised for their State and regional significance based on their inclusion in the Lower Hunter Regional Strategy (LHRS) for urban development and conservation.

The land proposed to be rezoned at Black Hill for employment purposes is capable of providing approximately 800,000 sqm gross floor area of employment uses on the site. Importantly, once operational, it is estimated that the proposed development of Black Hill will deliver up to 3,000 direct full time equivalent jobs and will support a further 7,600 jobs in the wider economy resulting from multiplier effects. This will help achieve the LHRS employment targets to accommodate a projected 66,000 new jobs in the Region by 2031 and ensure an adequate supply of employment land in the Region.

It is important to note that a substantial land parcel owned by Coal & Allied to the south of Black Hill and north of Minmi (Tank Paddock – 147ha) will be dedicated to the NSW Government (NSWG) for conservation purposes. This site is a regionally significant parcel of land given its size, location and endangered ecological communities. The 147ha of land identified for conservation has regional ecological value that provides substantial areas of contiguous vegetation providing an important component of the vitally important Watagan Ranges to Stockton conservation corridor.

The securing, protection and management of conservation corridors is a key focus of both the LHRS and the companion LHRCP. The proposed development of Black Hill and associated proposed dedication of 147ha of land at Tank Paddock for permanent conservation is crucial in achieving the state government's objective of securing major green corridors, most notably the Watagan to Stockton corridor. This is quite clearly of significant regional and state importance.

In our opinion, the proposal for the Black Hill and Tank Paddock sites clearly satisfies criterion (a) of the SSS Guidelines.

6.3.2 Criterion (b) of the SSS Guidelines

Criterion (b) of the SSS Guidelines states that a site can be categorised as being of state significance if the Minister considers the site to be of regional or state environmental conservation or natural resource importance in achieving State or regional objectives.

As stated, the expansion, protection and management of corridors is a key focus of the LHRS and the companion LHRCP. Two major green corridors have been identified running through the Region, namely the Watagan to Stockton Corridor and the Wallarah Peninsula Corridor. These are extensive corridors of land with high environmental value which will be managed for conservation purposes. The corridors align with existing public reserves, some of which will be expanded. Relevantly to the Black Hill and Tank Paddock sites, the Watagan to Stockton Corridor is to be protected and enhanced so that it forms a long-term connection between the rugged sandstone areas of the south-west and the wetlands and coastal plain to the north and east.

100% of Tank Paddock (147ha) is proposed to be dedicated to the NSWG as 'conservation land'. This land provides an important component of the Watagan to Stockton Corridor. Coal & Allied is also proposing to dedicate approximately 2,264ha of Minmi/Link Road and Stockrington (less 300ha of biodiversity offset land to be transferred to RTA and then to DECCW) to the NSWG as 'conservation land' as part of a separate Part 3A application. The Coal & Allied land dedications will clearly help expand and enhance the biodiversity and conservation values of the Watagan to Stockton Corridor, which is entirely consistent with the LHRS and the companion LHRCP.

The proposed dedication of land to NSWG will also ensure this land will be protected from inappropriate development by locking away this land as 'conservation land' in public ownership and perpetuity. The environmental gain from this proposal is a once in a generation opportunity that will provide an enduring legacy for the community. The proposed substantial dedication of 147ha of conservation land (Tank Paddock) to the NSWG by Coal & Allied is clearly of state and regional significance.

Importantly the proposal will also result in the protection of riparian zones and potential areas of Aboriginal significance.

In our opinion, the proposal for the Black Hill and Tank Paddock sites clearly satisfies criterion (b) of the SSS Draft Guidelines.

6.3.3 Criterion (d) of the SSS Guidelines

Criterion (d) of the SSS Guidelines states that a site can be categorised as being of state significance if the Minister considers that the site needs alternative planning or consent arrangements where:

- Added transparency is required because of potential conflicting interests
- More than one local council is likely to be affected.

Alternative planning consent arrangements are necessary because the Black Hill and Tank Paddock sites form an important part of an overall environmental land offset package for the Lower Hunter by Coal & Allied, which includes seven Coal & Allied owned sites in the Lower Hunter and spans four local government areas (Wyong, Newcastle, Lake Macquarie and Cessnock Councils). This creates complications given the likely differing views of Council's as to how and whether or not the proposals for each site should proceed. Separate consent arrangements are unlikely to enable an appropriate conservation and land use framework to be achieved in a timely, effective and efficient manner. All of the Coal & Allied sites, including Black Hill and Tank Paddock, need to be considered in a regional context rather than a council-by council basis to allow for the coordinated protection of priority areas of biodiversity. This will result in a more targeted conservation action, than an uncoordinated approach to the sites.

It is therefore important that Black Hill and Tank Paddock are considered in a coordinated manner to achieve permanent conservation and preservation of the Watagan to Stockton Corridor. Given that the

overall environmental land offset package proposed for the Lower Hunter by Coal & Allied spans four (4) local government areas, the environmental gains to the community would not be achieved if each site was separately considered by the individual Councils.

In our opinion, the proposal for the Black Hill and Tank Paddock sites clearly satisfies criterion (d) of the SSS Guidelines.

In summary, the proposal for the Black Hill and Tank Paddock sites clearly meets the criteria of the SSS Guidelines as outlined above. The listing of the site on Schedule 3 of SEPP Major Development will facilitate the orderly use, development and conservation of regionally important sites of environmental and social significance to the State.

7 Preliminary Environmental Assessment

This section of the report has been prepared to assist the Director General in identifying the likely general and key environmental issues to be addressed as part of the project.

7.1 Strategic Justification

As stated the LHRS identifies the site for proposed urban development and proposed conservation land dedications. The proposal is entirely consistent with the LHRS.

The Environmental Assessment to accompany the Concept Plan will provide adequate strategic justification for the proposal. The proposal for the Black Hill and Tank Paddock sites will assist in providing the forecast employment growth in the Lower Hunter.

The securing, protection and management of conservation corridors is a key focus of both the LHRS and the companion LHRCP. The proposed dedication of 147ha of lands at Tank Paddock is crucial in achieving the State Government's objective of securing major conservation corridors identified in the LHRS and LHRCP, most notably the Watagan to Stockton corridor.

7.2 Compliance with Statutory Plans

The Environmental Assessment to accompany the Concept Plan will consider all the relevant Acts, Regulations, State and Regional Environmental Planning Polices, Regional Strategies and Plans, applicable planning instruments, relevant legislation and policies.

The current local planning policies affecting Black Hill prohibit the proposed development of employment generating uses. A new planning regime is therefore required to facilitate the development of the site for this purpose. The Concept Plan will be lodged concurrently with an application for an amendment to Schedule 3 of the Major Development SEPP to rezone/list the Black Hill and Tank Paddock sites as State Significant Sites.

7.3 Urban Design and Built Form

The proposed development will complement the existing employment uses at Holmwood Business Park uses beyond the site to the north of John Renshaw Drive.

Urban Design Guidelines will be prepared as part of the Concept Plan which will provide appropriate objectives and controls to which future development must adhere. Given the anticipated timeframe for the development of the estate, which is projected to occur within five years of the commencement of mining under the site and the fact that the final use of the site is unknown at this stage, it is most appropriate to provide guidelines that are flexible to enable a range of industrial and ancillary activities to be undertaken on the site, whilst still being consistent with the objectives of the EP&A Act 1979. The guidelines will ensure that development will complement existing surrounding land uses and the dedicated conservation lands. A Draft Statement of Commitments will also be prepared which will commit future employment development to adhere to the Urban Design Guidelines.

7.4 Compatibility with Lower Hunter Freight Hub and other employment/industrial zones

The Black Hill site was initially identified by the Premier's Department as a potential option for a Lower Hunter Freight Hub. Discussions with DoP have subsequently confirmed that the Coal & Allied land at Black Hill is not the preferred site for a freight hub following the Federal Government decision to proceed with the Hunter Expressway.

The proposed use of the Black Hill site as employment lands will however contribute to the viability of a future freight hub in the locality.

The proposed development will also complement the existing employment uses at Holmwood Business Park beyond the site to the north of John Renshaw Drive.

7.5 Visual Impact

The visual impact of the proposed development of the Black Hill site will be considered in the preparation of the Concept Plan, particularly from the F3 Freeway, John Renshaw Drive and adjoining employment lands.

The site is currently screened along its major public frontages, the F3 Freeway and John Renshaw Drive by a combination of topographical features and vegetation. Views into the site occur at the intersection between the F3 Freeway and the electricity easement that runs through the site.

Views of the site from the F3 Freeway and the adjacent rural-residential zone to the east are obscured by a vegetated slope that runs along the entire boundary length. Along John Renshaw Drive the site boundary is set back from the road on the far side of a pipe line corridor providing an un-vegetated zone of separation to the development. Views into the site from the south and west are currently limited by the extensive vegetation on the site.

The proposed Concept Plan provides an appropriate vegetated boundary to the east and south in accordance with the Western Corridor Planning Strategy. This will ensure that visibility of future development is limited.

7.6 Biodiversity

An Ecological Assessment Report will be submitted with the Concept Plan, which will address the following:

- Assess the impact of the proposed rezoning and land clearing on existing native flora and fauna, on the site and surrounding areas. The assessment must be conducted in accordance with the Department of Environment, Climate Change and Water (DECCW's) "*Threatened Species Assessment Guidelines*" (DECC Aug 2007) and include a field study.
- Describe the actions that would be taken to avoid or mitigate impacts on biodiversity, threatened species, their habitat and ecological corridors.
- Identify proposed riparian areas and future management options.
- Address the requirements of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

Although the proposed development of employment uses at Black Hill will result in the removal of intact vegetation, the Viney Creek riparian corridor will be protected. The proposed riparian corridor will provide for habitat connectivity for highly mobile fauna.

The proposed dedication of conservation land at Tank Paddock will preserve a large vegetated area that is linked to other similar areas, which together with Tank Paddock, have been recognised as fundamentally important to achieving long term regional biodiversity outcomes in the Lower Hunter region as outlined within the LHRS and the LHRCP. The importance of the conservation of Tank Paddock and its proposed transfer to the NSWG will result in maintaining a vegetation corridor from Hexham Swamp and the Hunter Estuary to the Watagan Mountains and the Sugarloaf Range. This large tract of native vegetation will provide habitat for a wide variety of native flora and fauna.

Given that measures have been taken to avoid any development in particularly sensitive areas where practical and considering the large area of conservation land that is proposed to be set aside as part of the proposed development, overall it is considered that the proposal will provide positive ecological outcomes across the entire Black Hill and Tank Paddock sites. For further details refer to **Appendix B**.

The Environmental Assessment will include rigorous field survey and associated reporting that complies with relevant guiding policy and legislation in a suitable scientific format.

7.7 Conservation Lands and Conservation Corridors

Coal & Allied propose to dedicate 100% of the Tank Paddock landholdings to NSWG for conservation. The Environmental Assessment will address the extent, location and timing of the proposed dedication of conservation land.

7.8 Geotechnical

A Geotechnical, Contamination and Mine Subsidence Report will be submitted with the Concept Plan, which will:

- Assess the capability of the land for the proposed development including with respect to erosion potential, slope stability, sodicity and salinity and the presence of potential and actual acid sulphate soils if any;
- Identify the potential for subsidence, hazards associated with subterranean gases and contamination and other associated risks for development;
- Identify the impacts of the development of the proposal and conservation offsets on the future recovery of resources of coal and coal-seam methane below the site and outline required actions, management and mitigation measures.

The Geotechnical, Mine Subsidence and Contamination Report will provide details on whether contaminated soils are likely to be disturbed during the proposed works and what measures are to be adopted to protect human health and the environment, and if necessary remediate or dispose of the contaminated material.

The site has been subject to disturbance from former construction activities and as such is likely to contain uncontrolled filling. The site may also contain chitter/coal reject which is potentially combustible. Therefore, a preliminary contamination assessment will be provided in accordance with SEPP 55 and relevant DECCW Guidelines, in order to provide the following information:

- Presence of contaminated soils;
- Additional investigation requirements;
- Remedial measures required, if any, to protect human health and the environment with respect to the proposed development.

The potential for hazards associated with subterranean gases will also be assessed.

The site is proposed to be subject to underground mining operations by Abel Mine. An assessment will be provided with respect to the potential of the proposed mining to affect the proposed surface development. The assessment will include:

- Expected extent and magnitude of subsidence;
- Effect of potential subsidence on development if development occurs prior to mining;
- Timing of subsidence;
- Effect of potential subsidence on development if development occurs following mining.

It should be noted that there is a statutory requirement for Donaldson Coal to undertake an assessment of these matters as part of the approval process for the Subsidence Management Plan for the Abel Mine.

The potential for future methane extraction below the site will also be assessed.

These issues will all be assessed and general guidelines provided for appropriate management of the issues with respect to the proposed development. For further details refer to **Appendix C**.

7.9 Sustainability and Ecologically Sustainable Development (ESD)

An ESD Report will be prepared to support the Concept Plan for Black Hill and Tank Paddock. The report will demonstrate that the project can commit to principles of ESD including water reuse, waste minimisation, minimisation of energy use and car dependency.

An Energy Savings Action Plan will also be prepared to support the Concept Plan for Black Hill and will include the following:

- An Energy Management Plan;
- A Water Management Plan; and
- A Car Management Plan.

For further details refer to **Appendix D**.

7.10 Traffic and Transport

Hyder has reviewed the available data and anticipates that the following traffic issues are likely to form the basis of future examination of traffic and transport for the Black Hill development. They are:

- Journey to Work data indicates that 90% of work related trips to and from Black Hill are currently made by private car.
- No public bus services are available at present to service Black Hill. With the proposed development of the Black Hill estate, a peak period bus service may be viable between Black Hill and nearby railway station at Beresfield.
- Traffic data indicates John Renshaw Drive carried approximately 7,600 vehicles per day with around 10% heavy vehicles. On the F3 Freeway the weekday traffic was 32,000 vehicles per day with about 18% heavy vehicles.
- Following the Hunter Expressway approval, RTA is now proposing to construct the new freeway from the Newcastle Link Road interchange on the F3 Freeway, to the New England Highway at Branxton. The project involves 40 km of new high standard dual carriageway road. The project will be delivered under two separate packages of works, and will be opened as one project on completion of both packages of works. It is anticipated that this new freeway will open to traffic by 2013. The construction of the Hunter Expressway will redistribute traffic on the John Renshaw Drive, F3 Freeway and Newcastle Link Road corridors.
- Traffic on F3 Freeway and John Renshaw Drive is expected to change significantly in the future due to cumulative background growth in the Lower Hunter and the proposed Hunter Expressway, F3 to Raymond Terrace Link.

The issues identified above will be addressed as part of the Environmental Assessment. A Traffic Study will be prepared to accompany the Concept Plan in accordance with RTA's Guide To Traffic Generating Developments that includes (but is not limited to) the following:

- Impacts on regional road networks during construction and operation;
- Traffic management and proposed access from the wider road network as well as the opportunities and constraints of alternative vehicular access points;
- Measures to introduce and promote public transport usage and mode share;
- Proposed pedestrian and cycle access within and to the site that connects to all relevant transport services and key off-site locations;
- Traffic signal and intersection upgrades underpinned by an intersection analysis and micro-simulation model; and

- Road design to cater for heavy vehicles associated with freight movements.

For further details refer to **Appendix D**.

7.11 Noise Impact

An Acoustic Report will be submitted with the Concept Plan which will demonstrate that there are no unacceptable impacts from noise. A review of acoustic constraints and opportunities for Black Hill will be undertaken to consider noise emission from external sources potentially impacting the proposed 'employment lands' of the Black Hill site including:

- F3 Sydney-Newcastle Freeway – a 'freeway / arterial road' as defined by the NSW *Environmental Criteria for Road Traffic Noise*, to the east of the site;
- John Renshaw Drive – an 'arterial road' as defined by the NSW *Environmental Criteria for Road Traffic Noise*, to the north of the site;
- Donaldson Open Cut Coal Mine, approx 700 metres to the north west of the site;
- Abel Underground Mine, access to which will be obtained from the Donaldson Open Cut Mine above; and
- Business Park to the north of John Renshaw Drive. However, the Business Park is unlikely to generate noise impact onto the site.

In addition to external noise sources impacting the site, future use of the Black Hill site may potentially impact surrounding noise sensitive areas. The surrounding noise sensitive areas, which will be considered in the assessment, include:

- The existing rural land to the west of the site; and
- The existing rural-residential area to the east of the site and across the F3 Sydney-Newcastle Freeway.

For further details refer to **Appendix F**.

7.12 Air Quality

An Air Quality Assessment will be submitted with the Concept Plan, which will investigate the potential air quality impacts associated with the proposed development on Coal & Allied land. This will assess the odour and air quality impacts of the nearby existing and proposed coal mines as well as the impact from any proposed industrial / commercial development on the subject land, including potential coal-bed methane extraction. For further details refer to **Appendix G**.

It is understood that the current Mining Operations Plan for Donaldson Open Cast Mine (DOCM) expires in the year 2012. The development of the Black Hill Estate is not expected until post June 2013. Therefore, air quality impacts from the DOCM might not be of concern. However if there are delays in this timing, potential impacts could arise.

The primary pollutants emitted to air during the coal extraction process associated with the proposed Abel Underground Mine, are potentially dust and gaseous (e.g. various odorous volatile organic compounds, methane) emissions. These emissions would potentially be emitted to atmosphere via the mine ventilation shaft. Other sources of air emissions include; loading coal to the raw coal stockpile; wind erosion from stockpiles; and dust loss from the conveyor system.

The proposed Black Hill development could itself be a source of industrial or commercial air emissions. Furthermore, if coal-bed methane extraction occurs on the subject land residual emissions of methane could occur.

7.13 Heritage

A Heritage Impact Assessment (HIA) will be prepared and submitted with the Concept Plan in accordance with NSW Heritage Office guidelines. The HIA will assess the heritage significance of the site and area and any impacts the proposed development may have upon this significance. The HIA will address the requirements set out in DECCW's "*Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation*".

The desk-top literature review and searches undertaken by ERM regarding Aboriginal heritage impacts for this development conclude that:

- The proposed development will not have any impact on the recorded Aboriginal sites located near the project application area; and
- The likelihood of the proposed development area containing additional sites is considered low to moderate, however it is possible that artefacts and scarred trees may occur in close proximity to Viney Creek in the less disturbed portion and may be impacted by development.

The project application area does not contain any European heritage values and further investigation into this aspect is not warranted.

In summary, the Concept Plan will be sensitively designed to address potential heritage impacts of the proposed development. The HIA to be prepared for Black Hill and Tank Paddock will survey the site (specifically around Viney Creek), to determine if Aboriginal sites occur. In the event that sites are located, appropriate mitigation should be determined aiming to avoid impact on Aboriginal heritage where possible. For further details refer to **Appendix H**.

7.14 Surface Water and Groundwater Quality

A detailed Water Sensitive Urban Design, Flooding and Stormwater Management Report will be prepared to support the Concept Plan that will:

- Identify drainage and stormwater management issues including riparian areas that respect creeks and the topography of the site, on site detention of stormwater, water sensitive urban design (WSUD) and drainage infrastructure.
- Provide details in relation to the short and long term management of water quality and ecosystem health during construction and the life of the development, including the formation of buffer zones.
- Develop suitable Flood Planning Levels for the development and demonstrate consistency with the NSW Floodplain Development manual: the management of flood liable land (2005) and the DECC Floodplain Risk Management Guideline – practical Consideration of Climate Change.

Viney Creek flows through the site from south to north, bisecting the site. Viney Creek flows under John Renshaw Drive and eventually discharges into Woodberry Swamp, a wetland system of the Hunter River estuary. A smaller creek drains along the western boundary of the site, also draining under John Renshaw Drive.

The geomorphic features of Viney Creek appear relatively intact. However, there are areas of disturbance such as a crossing constructed for maintenance of the electricity infrastructure within the easement. The crossing acts as a small weir, pooling water upstream. The channel is widened in this location and there is significant invasion by weed species.

The Environmental Assessment will deal with climate change and flooding. Flooding of Viney Creek and the western tributary is a risk that needs to be considered and managed, in accordance with the NSW Floodplain Development Manual, 2005. Flooding would be associated with a number of the tributaries draining towards and through the site. A Flood Study will define existing flood regimes and will determine flood levels extents, flow velocities. In particular the flood study will define flooding for the 100-year ARI event to inform development levels and other infrastructure requirements and the Probable Maximum Flood to define flood liable land and inform flood evacuation planning. The flood

study will be prepared in accordance with the NSW Floodplain Development Manual 2005 and will consider Climate Change impacts on rainfall peaks and volume together with sea level rise impacts on downstream backwater flooding.

A Water Sensitive Urban Design (WSUD) and Stormwater Management Assessment will be submitted with the Concept Plan which will quantify and identify the management facilities to manage stormwater from the site, before discharge to the receiving environment. The study will also demonstrate that the design criteria and appropriate guidelines are met, and present a plan for management of stormwater runoff. For further details refer to **Appendix I**.

In addition, the Environmental Assessment will consider the existing groundwater flow regimes on site and the potential impacts of the development on groundwater flow and quality. For further details refer to **Appendix C and I**.

7.15 Bushfire Risk Assessment

A Bushfire Threat Assessment will be submitted with the Concept Plan, which will demonstrate compliance with the current version of Planning for Bush Fire Protection and Australian Standard 3959 (Building in Bush Fire Prone Areas). It will also identify ongoing management arrangements of any proposed Asset Protection Zones (APZs).

Site planning will therefore take into consideration bushfire planning principles to minimise the overall risk to life and property, consistent with the relevant guidelines and specifications. These principles will be reflected in the design of the overall Concept Plan with specific measures such as the location and extent of APZs determined. For further details refer to **Appendix J**.

7.16 Utilities and Infrastructure

A Utilities and Infrastructure Report will be prepared to support the Concept Plan for Black Hill that:

- Identifies that the site can be adequately serviced in terms of water supply, sewerage services, stormwater management, gas, electricity, communication services and fire suppression facilities.

Preliminary investigations have identified that electricity will be supplied to the site from either the existing zone substation at Beresfield or a new zone substation constructed near the development.

The site drains to Morpeth Sewerage Treatment Plant (STP) via a series of sewer pump stations (SPSs). It is likely that significant upgrades will be required to the SPS network to accommodate flows from the development.

The existing potable water network surrounding the development site is expected to have sufficient capacity to service the proposed development.

There are existing gas mains present adjacent to the site. However, gas is typically only reticulated once a request from a potential customer is received.

Key Service Authorities will be consulted as part of the Environmental Assessment to identify and assess issues relating to:

- Existing infrastructure and capacity;
- Current proposals for upgrade and/or augmentation of existing infrastructure;
- Requirements for infrastructure upgrade/duplication; and
- Staging of the proposed development and impacts upon any existing capacity and/or proposed upgrades to infrastructure.

The Concept Plan will be accompanied by Draft Statement of Commitments which will detail the scope and timing of contribution for or delivery of necessary infrastructure and other matters. For further details refer to **Appendix K**.

7.17 Social Infrastructure

A Social Infrastructure Assessment report will be provided to support the Concept Plan. It will provide details of how adequate social infrastructure to meet the day to day needs of the working population will be provided on site.

The Social Infrastructure Report will develop a comprehensive schedule of social infrastructure requirements for the site. The scale of provision will consider the size of the existing community, the size, nature and staging of the proposed development and cumulative impacts of other current developments in the area.

The likely scope of a planning agreement and/or developer contributions between Coal & Allied, Council and other agencies for matters such as community, regional and local infrastructure, public transport provision, social infrastructure and facilities either onsite or within the LGA will also be detailed. The Social Infrastructure Report will assist in informing the appropriate provisions or contributions required. For further details refer to **Appendix L**.

7.18 Planning Agreements/Developer Contributions

A Draft Statement of Commitments will be prepared to support the Concept Plan detailing the various contributions, additional studies, ownership / maintenance of public domain etc. that the proponent commits to undertake in association with the project. This may involve the implementation of various Voluntary Planning Agreements (VPAs) between Coal & Allied, NSWG, other agencies and relevant Councils for matters such as community, regional and local infrastructure.

7.19 Site Suitability

The suitability of the Black Hill estate as employment lands will be demonstrated by the range of technical assessments identified above to inform the proposed rezoning of the site and Concept Plan design.

Environmental investigations to date demonstrate that all potential adverse impacts of the project can be sustainably managed, resulting in significant social, environmental and economic benefits. Notwithstanding this, the environmental, social and economic factors arising from the project will be addressed in detail in the Concept Plan.

7.20 Staging

Consideration will be given to the staging of the proposed development at Black Hill in the Environmental Assessment. The number of lots and extent of staging for release areas will be largely dictated by the service infrastructure requirements as well as responding to market forces.

8 Conclusion

In conclusion Coal & Allied request that the Minister for Planning consider listing the subject land at Black Hill and Tank Paddock as a State Significant Site (SSS) on Schedule 3 of the Major Development SEPP to introduce new zoning and planning controls for the site.

In accordance with Clause 6 of the Major Development SEPP and under the provisions of Part 3A of the EP& A Act, Coal & Allied formally seek the Minister's confirmation that the proposal is to be declared a Major Development, and that authorisation be given to submit a Concept Plan application.

Coal & Allied also requests that the Director General issue Environmental Assessment Requirements for the proposal to assist in the preparation of the Environmental Assessment documentation for a Concept Plan approval and a State Significant Study.

This PEA report has been prepared to provide the Department of Planning with an understanding of the project and how it satisfies strategic planning policy. As identified in this report, the proposal satisfies a number of the key directions and actions of the LHRS and LHRCP.

The proposal for the Black Hill and Tank Paddock sites will achieve substantial conservation outcomes through the proposed dedication of 147ha of conservation land.

In summary, the proposed Black Hill and Tank Paddock project will:

- Facilitate development of up to 183 hectares of employment land at Black Hill, a location that has been identified by the NSWG in the LHRS as being of strategic importance for employment creation linked to the development of a freight handling hub for the region.
- Stimulate a wide range of employment generating uses and supporting activities.
- Incorporate a riparian green buffer and visual buffer zone as part of a committed approach to Ecologically Sustainable Development.
- Achieve consistency with all relevant strategic planning guidelines for the region, and deliver significant economic development benefits for the Lower Hunter Region.
- Dedicate 147ha Tank Paddock to NSWG for conservation.

In summary, the project is of clear significance to the region and state in terms of its significant delivery of environmental gain from the environmental land offset package and the implementation of the objectives of the LHRS and LHRCP. For these reasons, we conclude that there is sufficient planning merit and community benefit for the Minister to consider listing the site as a State Significant Site, determine that Part 3A of the EP&A Act applies, authorise the proponent to prepare a Concept Plan application and issue Director General's requirements.

CONCLUSION

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