



Planning &  
Infrastructure

**MAJOR PROJECT ASSESSMENT:  
Minmi, Newcastle /Link Road and  
Stockrington Concept Plan  
(MP10\_0090)**



Director-General's  
Environmental Assessment Report  
Section 75I of the  
*Environmental Planning and Assessment Act 1979*

April 2013

## ABBREVIATIONS

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CIV	Capital investment value
Department	Department of Planning & Infrastructure
DGRs	Director-General's Requirements
Director-General	Director-General of the Department of Planning & Infrastructure
EA	Environmental assessment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
MD SEPP	State Environmental Planning Policy (Major Development) 2005
Minister	Minister for Planning & Infrastructure
PAC	Planning Assessment Commission
Part 3A	Part 3A of the <i>Environmental Planning and Assessment Act 1979</i>
PEA	Preliminary environmental assessment
PFM	Planning focus meeting
PPR	Preferred project report
Proponent	Coal & Allied
RtS	Response to submissions

Cover Photograph: Minmi village

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Published April 2013

NSW Department of Planning & Infrastructure

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## EXECUTIVE SUMMARY

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This is a report on a concept plan application for a site at Minmi, Newcastle Link Road and Stockrington, in the Lower Hunter region under the transitional provisions for Part 3A of the *Environmental Planning and Assessment Act, 1979* (the Act).

### Current proposal

Coal & Allied (the proponent) is seeking concept plan approval for development of the site comprising:

- up to 3,300 dwellings within the 520 hectare development site, comprising a mix of dwelling types and an identified site with potential for 150 seniors living units
- supporting commercial / retail development of up to 8,000 sqm
- a 3 hectare site to accommodate a new primary school and a 1.3 hectare site to accommodate an expansion of the existing Minmi Public School
- a 24 hectare site for active recreation facilities
- dedication of 1,562 hectares of conservation lands to the NSW Government
- development of associated infrastructure
- torrens title subdivision to create separate lots for the conservation lands and development site to enable dedication of the conservation lands

The proponent also submitted a State significant site (SSS) study in support of rezoning of the site for residential, retail and commercial uses and environmental protection. The site was rezoned by way of an amendment to the *Cessnock Local Environmental Plan 2011*, *Lake Macquarie Local Environmental Plan 2004* and *Newcastle Local Environmental Plan 2012* on 1 March 2013.

The estimated capital investment value for the proposal is \$296 million.

### Previous applications

The proponent previously submitted concurrent concept plan, and SSS applications in 2007 for the same site. These applications were subsequently withdrawn by the proponent on 11 June 2010, in light of NSW Land and Environment Court proceedings which resulted in the invalidation of the former Minister's approvals relating to Catherine Hill Bay/ Gwandalan (Rose Property Group) and Huntlee.

### Consultation

The proposal was placed on public exhibition for 30 days from 2 March 2011 until 1 April 2011. A total of 23 submissions were received in response to the exhibition, including 18 submissions from government agencies and 5 public submissions. Key issues raised in the submissions are outlined below:

- biodiversity impacts including inadequacy of conservation offsets and loss of connectivity
- water quality
- mine subsidence
- heritage
- bushfire hazard
- urban design, built form and visual impacts
- lack of demand for additional housing
- social impacts and local infrastructure demands
- traffic and access and connectivity with the surrounding area
- topographic constraints
- utilities
- noise and odour impacts.

### **Preferred project report**

On the 6 June 2011 Coal & Allied amended the concept plan via a preferred project report, which also included a response to issues raised in submissions. The following changes to the concept plan were made by way of the preferred project report:

- relocation of the school site from the Link Road South Precinct to the Link Road North Precinct to address concerns raised by Department of Education and Communities regarding accessibility of the school site to the future population
- inclusion of a fire trail within the Link Road South precinct to address issues raised by Rural Fire Service
- provision of an additional potential access point from the proposed development to the Blue Gum Hills Regional Park, to the north east of the proposed seniors living site.

The proponent also lodged addendums to its preferred project report on 16 June 2011, 16 November 2011, 12 January 2012 and 7 March 2012, however these were to provide additional information and did not result in any changes to the concept plan proposal.

The Department's assessment is based on the proposal outlined in the response to submissions and preferred project report.

### **Voluntary planning agreement**

A voluntary planning agreement (VPA) was prepared to facilitate the transfer of 1,561 hectares of land to the NSW Government for conservation purposes and to make arrangements for associated remediation and reserve establishment works. The draft VPA was publicly notified alongside the concept plan and State significant site study. However, the draft VPA was subsequently amended to include provisions for further security in the form of bank guarantees, and was renotified from 17 August 2011 to 14 September 2011. The VPA was executed by the proponent, the Minister for the Environment, and the Minister for Planning and Infrastructure on 3 October 2012.

### **Assessment and determination**

The Department has assessed the merits of the proposal and is satisfied that the impacts of the proposed development have been addressed via the proponent's preferred project report and response to submissions, the Statement of Commitments and the Department's recommendations. The concept plan, with recommended modifications, is supported because it is generally consistent with the objectives of the *Lower Hunter Regional Strategy*, is an identified urban release area and contributes to the growth and dwelling targets for the subregion, as well as the biodiversity and conservation values of the region.

On these grounds, the Department is satisfied that the site is suitable for the proposed development and that the project will provide environmental, social and economic benefits to the region, subject to the recommended modifications to the concept plan. All statutory requirements have been met.

Nonetheless, the Department recommends that the following modifications to the concept plan:

- removal of the sports and recreation park, and a requirement that the proponent identifies an alternative location for additional sports and recreation facilities as part of the staging plan for Stage 3, to ensure that an appropriate site can be secured
- modifications to the proposed allocation of \$8 million towards local initiatives and facilities, and requirement that the proponent demonstrate that all items are over and above section 94 and State infrastructure contributions and do not include items which would otherwise be required to mitigate the impacts of the development
- retention of the full extent of the Duckenfield Colliery No. 1 Railway Branch Line heritage item, to provide a pedestrian / cycle pathway through to the proposed Workshop Park

- exclusion of the proposed urban design guidelines and a requirement that the proponent prepare updated urban design guidelines in consultation with the relevant council(s) prior to each stage.

In determining the concept plan, the Department recommends that all future development is subject to Part 4 of the Act, with the relevant council as the consent authority, or Part 5 of the Act, whichever is applicable. As such, the Department has identified further assessment requirements that future applications should address.

The Department also recommends that the Torrens title subdivision to enable the transfer of conservation lands requires no further assessment and that the Minister grants project approval for this component of the proposal in conjunction with the concept plan approval.

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## 1. BACKGROUND

### 1.1. Site location and context

The Minmi, Newcastle Link Road site (the Site) is located adjacent to the F3 Freeway near its intersection with the Newcastle Link Road at Minmi. The site is located approximately 18 kilometres from Newcastle Centre and 145 kilometres from Sydney (see Figure 1). The site, which is identified at Figure 2, comprises the following areas:

- a proposed development site of 520 hectares on the eastern side of the F3 Freeway surrounding the existing Minmi village and to the north and south of the Newcastle Link Road.
- proposed conservation lands of 1,561 hectares of land comprising 1,544 hectares at Stockrington on the western side of the F3 Freeway, and 17 hectares of land directly to the north of the proposed development site.

The proposed development site is located across Newcastle and Lake Macquarie local government areas, and the proposed conservation lands are located within the Newcastle, Lake Macquarie, and Cessnock local government areas.

The Newcastle Link Road provides the main access from the Newcastle Centre to the F3 Freeway. The proposed development site is accessed from the Newcastle Link Road via Woodford Street, Minmi Road North, and Minmi Road South.

The registered land titles which make up the proposed development site are listed as Part Lot 71 DP 1065169, Lot 351 DP 1108608, Lot 6 DP 1044574, Lot 2 DP 877349, Lot 3 DP 877349, and Lot 48 DP 115128.

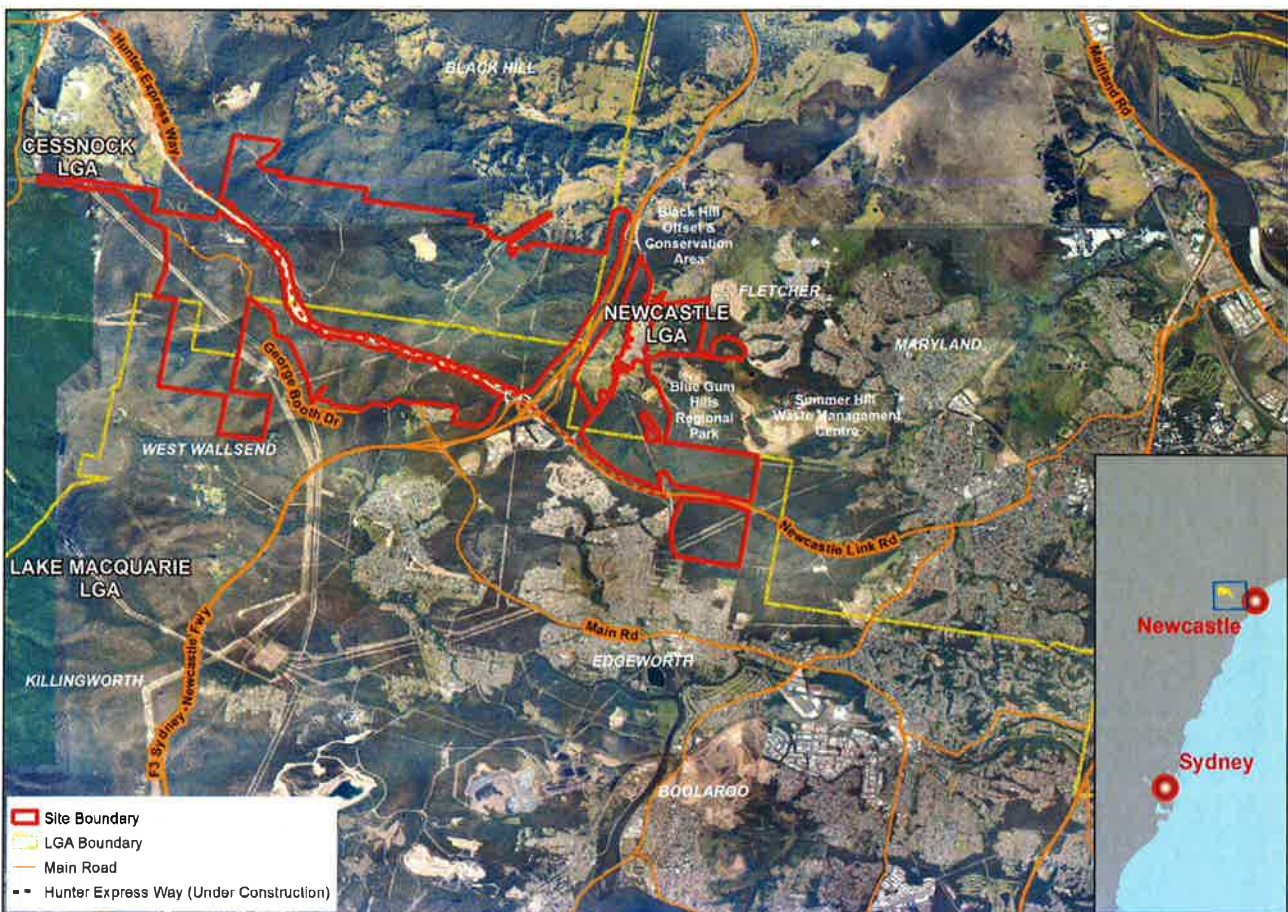
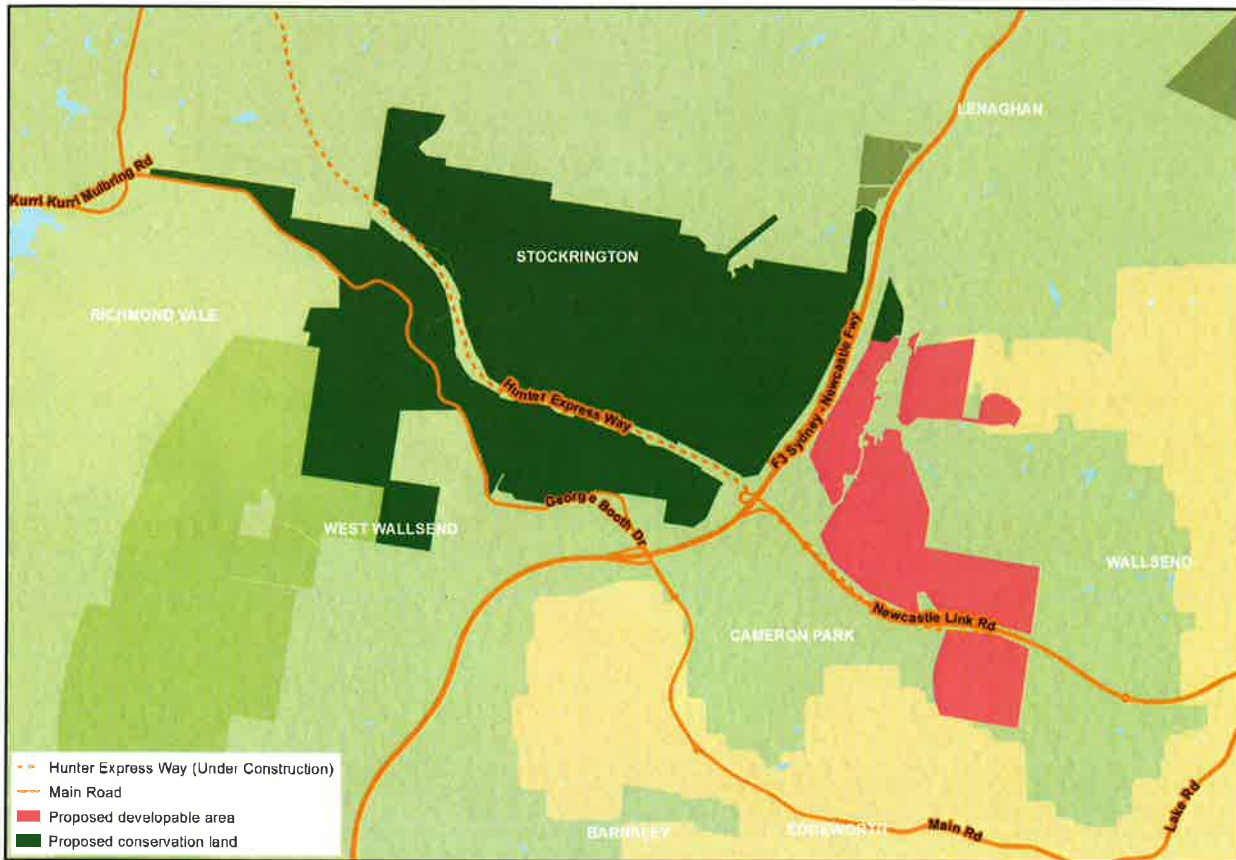


Figure 1: Site location- Regional Context



**Figure 2: Development site and conservation lands**

## 1.2. Site description

Large areas of the proposed development site are heavily vegetated and include very steep land in some areas, particularly along either side of the Newcastle Link Road. The site is underlain by coal mine workings in two seams, being the Young Wallsend and the Borehole seams. The site was once used by Coal & Allied for coal mining, however this land is now surplus to its core business needs and the lease for underground and surface mining has been relinquished.

The areas of the development site surrounding the existing Minmi village are highly disturbed as a result of the past mining activities, with remnant vegetation predominantly located near watercourses. There are also a number of European heritage items in this area, including those associated with past mining activities.

The parts of the site to the south near Newcastle Link Road are relatively undisturbed, as this area was associated with underground mining only. This area includes a number of Aboriginal heritage sites particularly along the ridgeline and water courses. Vegetation has been cleared in some locations to accommodate transmission lines and fire access tracks.

Seven native vegetation communities have been identified across the development site, as set out below, covering around 73% of the development site. This includes three endangered ecological communities (EECs) which comprise around 26% of the development site:

- Lower Hunter Spotted Gum Ironbark Forest (EEC)
- Hunter Lowland Redgum Forest (EEC)
- Freshwater Wetland Complex (EEC)
- Coastal Plains Smooth-barked Apple Woodland
- Alluvial Tall Moist Forest
- Hunter Valley Moist Forest

- Coastal Foothills Spotted Gum Ironbark Forest.

The remainder of the development site (27%) was classified as either weeds and cleared areas, or dams.

Several water courses run through the development site. Back Creek and Minmi Creek, and their tributaries flow through the development site on the northern side of the Newcastle Link Road and on either side of the existing Minmi village, and drain to the north east to Hexham Swamp. Hexham swamp forms part of the Hunter River Estuary wetland system. Brush Creek flows through the development site on the southern side of Newcastle Link Road and drains to the south.

The proposed conservation lands are predominantly densely vegetated comprising the same vegetation communities as the development site, as well as Subtropical Rainforest (EEC).

The conservation lands also incorporate a number of listed heritage items associated with collieries and the former Richmond Vale Railway.

### **1.3. Surrounding land uses**

The development site surrounds the existing Minmi village, which comprises predominantly residential development (see Figure 1). The existing population of Minmi is approximately 730 people.

To the west of the development site is the F3 Freeway, and beyond that is densely vegetated land which is proposed to be dedicated to the NSW Government for conservation purposes as part of the concept plan proposal. To the east of the site is the Blue Gum Hills Regional Park and the Summerhill Waste Management Centre, and beyond that the residential suburbs of Maryland and Wallsend.

To the north east of the site is the recently subdivided residential area of Fletcher. Further beyond that is the Hexham Swamp, which forms part of the Hunter Estuary National Park. To the north of the site is heavily vegetated land known as Tank Paddock, which forms part of a separate concept plan proposal by Coal & Allied for Black Hill. Tank Paddock is also proposed to be dedicated as conservation land.

To the south of the development site is the residential suburb of Cameron Park. An industrial estate is also located to the south west of the development site, on the southern side of Newcastle Link Road, and between Cameron Park Drive and the F3 Freeway.

### **1.4. Site history**

Prior to European settlement the Pambalong people inhabited the Hexham Swamp region. They were thought to be a sub-group of the Awabakal people of Lake Macquarie.

The Minmi area was first used by Europeans as a cattle station in the 1830s. In the mid 1800s, following the discovery of coal, the area developed around the coal mining industry. Around this time the Minmi to Hexham railway line was constructed, followed by two branch lines to link collieries at Minmi. Houses in the Minmi village were constructed to accommodate mining workers. The mining industry rapidly declined during the early 1900 and with the mine closing in 1925. Open cut mining commenced in Minmi in the 1950s, and site was taken over by Coal & Allied in 1985, with mining operations continuing until 1988. The dwellings in the Minmi village were sold into private ownership between 1959 and 1980. In the early 1990s the area to the east of the town was developed with single storey dwellings.

### **1.5. Previous applications**

The proponent previously submitted concurrent concept plan, and State significant site (SSS) applications in 2007 for the Northern Estates sites at Minmi, Newcastle Link Road and Black Hill.

This followed a Memorandum of Understanding which was entered into in 2006 between the NSW Government and the proponent providing for the dedication of land within the Lower Hunter for conservation, and development of other land including land at Minmi and Black Hill.

The applications were, subsequently withdrawn by the proponent on 11 June 2010. This was in light of NSW Land and Environment Court proceedings which resulted in the invalidation of the former Minister's approvals relating to Catherine Hill Bay/ Gwandalan (Rose Property Group) and Huntlee, which were also subject to Memoranda of Understanding. Following a review of the court proceedings, the Department advised Coal & Allied that it considered that the Minister could not determine the applications. The Memorandum of Understanding was subsequently rescinded by way of a Deed of Termination.

## 2. PROPOSED PROJECT

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### 2.1. Concept plan

The concept plan submitted by the proponent seeks approval for development of its land at Minmi, Newcastle Link Road comprising:

- development of up to 3,300 dwellings within the 520 hectare development site, comprising a mix of dwelling types and an identified site with potential for 150 seniors living units
- supporting commercial / retail development of up to 8,000 sqm
- a 3 hectare site to accommodate a new primary school and a 1.3 hectare site to accommodate an expansion of the existing Minmi Public School
- a 24 hectare site for active recreation facilities
- dedication of 1,562 hectares of conservation lands to the NSW Government
- development of associated infrastructure
- Torrens title subdivision to create separate lots for the conservation lands and development site to enable dedication of the conservation lands.

The estimated capital investment value for the proposal is \$296 million.

Coal & Allied has not sought approval for a specific lot or road layout. An indicative lot and road layout has been prepared to demonstrate how the proposed dwelling yield could be achieved on the site. The concept plan is shown at Figure 3 and at Appendix A.

Coal & Allied has also identified five indicative development stages which are identified in Figure 4 and at Appendix A. Further details on each stage are provided below.

#### **Minmi east precinct (Stage 1)**

The Minmi east precinct comprises approximately 80 hectares of land which links the existing Minmi village with new development estates to the north east. The eastern portion of Minmi East has significant constraints associated with previous mining activity. Proposed development in this location comprises:

- a 2.4 hectare mixed use 'high street' centre comprising 2-3 storey retail / commercial development, envisaged to accommodate a small supermarket and supporting retail and commercial
- approximately 397 dwellings, including higher density two and three storey townhouses adjacent to Minmi Road
- a 24 hectare active recreation area along Back Creek comprising 4 soccer / rugby fields (which can also be used as two cricket ovals), 4 netball courts and 4 tennis courts
- a neighbourhood park adjacent to the high street centre, and a 0.78 hectare park surrounding an existing lake
- riparian corridors along Back Creek and another minor waterway
- passive open space to the east of the precinct on land which is subject of high pothole risk associated with former mining activities.

#### **Link Road south precinct (Stage 2)**

The Link Road south precinct comprises approximately 101 hectares to the south of the Newcastle Link Road. The precinct is located adjacent to the existing residential areas of Cameron Park. Development in this precinct is constrained by steep topography, particularly to the north and west. An electricity easement also traverses the site from south west to north east. Proposed development in this location comprises:

- approximately 575 dwellings
- a neighbourhood park
- a landscape buffer along Newcastle Link Road and a number of riparian corridors along Brush Creek and its tributaries.

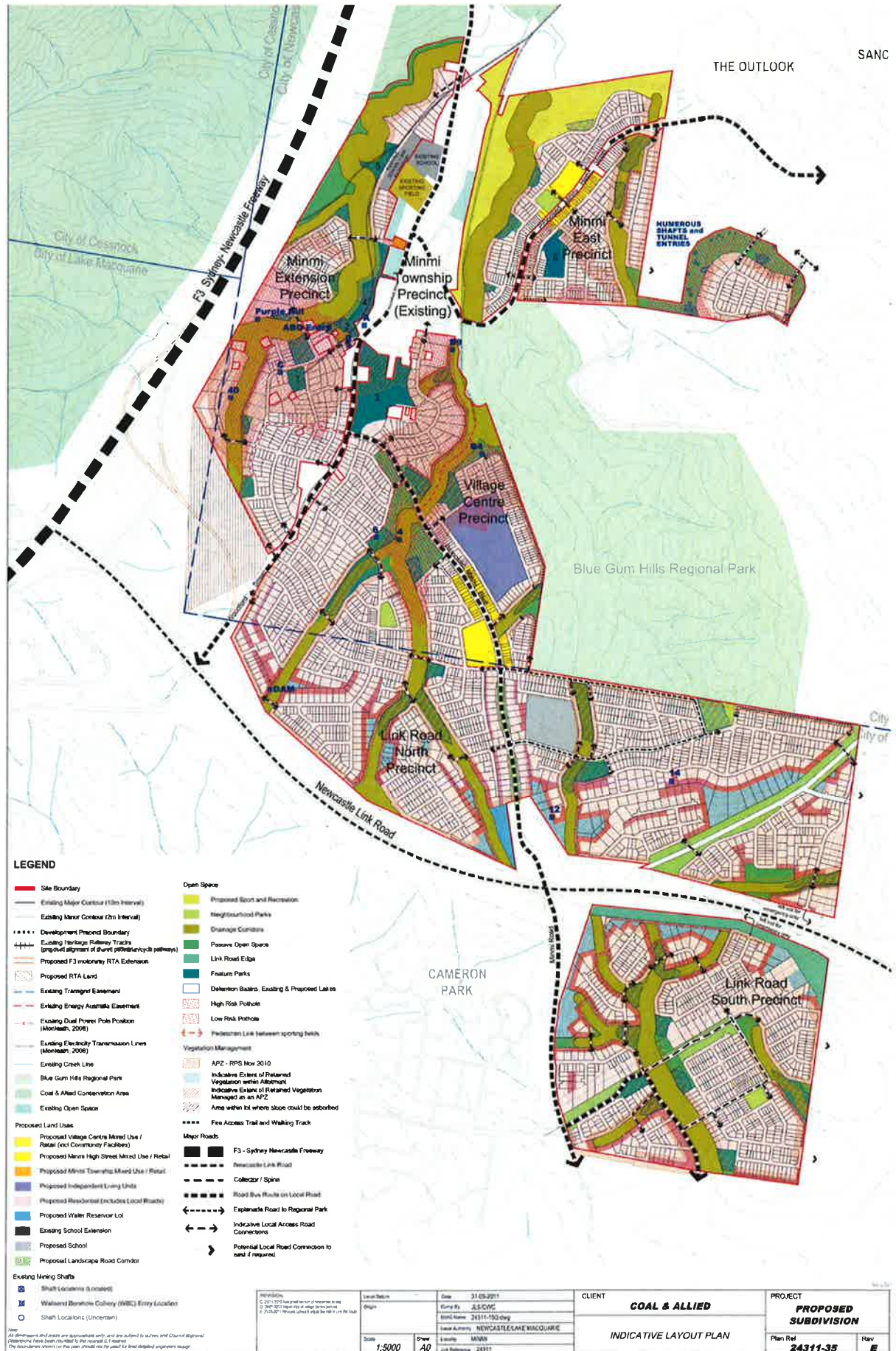


Figure 3: Concept plan (preferred project report) – see also Appendix A

### **Minmi extension precinct (Stage 3)**

The Minmi extension Precinct comprises approximately 87 hectares of land to the west and south of the existing Minmi village. Areas of the site are significantly constrained as a result of mine subsidence, and riparian land and flooding associated with Minmi Creek.

The site also includes a number of heritage items. Proposed development in this location comprises:

- approximately 253 dwellings
- a 1.3 hectares site to accommodate the future expansion of the Minmi Public School;
- open space associated with European heritage including workshop park (approximately 0.6 hectares) and garden house park (approximately 5 hectares), and Coke Oven Park (approximately 0.4 hectares)
- riparian corridors along Minmi Creek and its tributaries
- a pedestrian / cycleway along a heritage railway corridor, predominantly located within open space.

### **Village centre precinct (Stage 4)**

The village centre precinct comprises approximately 45 hectares of land adjacent to the Blue Gum Hills Regional Park. The Precinct is centrally located within the development site. The land is relatively flat in comparison to other areas of the development site but has significant mine subsidence constraints, restricting the majority of development to single storey.

Proposed development in this location comprises:

- a 4 hectare mixed use village centre comprising a full size supermarket and supporting retail and commercial development
- 418 dwellings, including a site proposed to accommodate approximately 150 seniors housing independent living units adjacent to the village centre
- riparian corridors along Back Creek and its tributaries.

### **Link Road north precinct (Stage 5)**

The Link Road North precinct comprises approximately 200 hectares on the northern side of the Newcastle Link Road and the west of Woodford Street. The precinct is constrained with steep slopes and Aboriginal heritage located along the ridgeline. Proposed development in this location comprises:

- approximately 1,594 dwellings, predominantly traditional single dwellings lots and larger lots generally within areas of steep topography
- a 3 hectare site to accommodate a new primary school
- passive open space along the ridge line to accommodate Aboriginal heritage, and other small neighbourhood parks
- riparian corridors along Minmi Creek and Back Creek and their tributaries.

## **2.2. Preferred project report**

On the 6 June 2011 Coal & Allied amended the concept plan via a preferred project report, which also included a response to the issues raised in submissions received during the exhibition period. The following changes to the concept plan were made by way of the preferred project report:

- relocation of the school site from the Link Road South Precinct to the Link Road North Precinct to address concerns raised by Department of Education and Communities regarding accessibility of the school site to the future population
- inclusion of a fire trail within the Link Road South precinct to address issues raised by Rural Fire Service
- provision of an additional potential access point from the proposed development to the Blue Gum Hills Regional Park to the north east of the proposed seniors living site.

In addition the proponent made some minor amendments to some figures to clarify matters raised in the submissions, and provided an updated statement of commitments.

An updated heritage study was also provided on 16 June 2011 by way of an addendum to the preferred project report. This updated report includes details of additional consultation which was carried out with Aboriginal stakeholders, in response to issues raised by the Office of Environment and Heritage.

The proponent made further amendments to the preferred project report on 16 November 2011, 12 January 2012 and 7 March 2012, however this was to provide additional information requested by the Department and no further changes were made to the proposal.

The Department's assessment is based on the proposal outlined in the response to submissions and preferred project report.



**Figure 4: Indicative development staging (preferred project report) – see also Appendix A**

## 2.4 Voluntary planning agreement

A voluntary planning agreement (VPA) has been prepared to facilitate the transfer of 1,561 hectares of land to the NSW Government for conservation purposes and to make arrangements for associated remediation and reserve establishment works.

The draft VPA was publicly notified alongside the concept plan and State significant site study. However, the draft VPA was subsequently amended to include provisions for further security in the form of bank guarantees. There were no changes to the previously notified draft VPA to the level or nature of the contributions sought to be provided. The amended draft VPA was notified from 17 August 2011 to 14 September 2011.

The VPA was executed by the proponent, the Minister for the Environment and the Minister for Planning and Infrastructure on 3 October 2012.

## 2.5 Project Need and Justification

The proposal is consistent with and will support the implementation of the *Lower Hunter Regional Strategy* and the companion *Lower Hunter Regional Conservation Plan* as outlined below.

### The Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy has been prepared by the NSW Government to guide growth in the Lower Hunter to 2031. The strategy identifies future development areas, settlement patterns and conservation outcomes. The strategy identifies the site as proposed urban development and proposed conservation land. The proposal is entirely consistent with the strategy and will contribute to the target set out in the strategy for 115,000 additional dwellings to meet expected demand to 2031. The associated dedication of conservation lands will contribute to the protection and management of the Watagan Ranges to Port Stephens conservation corridor and consolidation of the Watagans to Stockton habitat linkage, which is a key focus of the *Lower Hunter Regional Strategy*.

It is noted that the Department is reviewing the *Lower Hunter Regional Strategy* and recently released *The Lower Hunter over the next 20 years: A Discussion Paper*. The discussion paper is seeking community feedback on how to plan for jobs, housing, transport and infrastructure to meet the future growth of the area.

Feedback on the discussion paper will be used to help develop a draft Lower Hunter Regional Strategy, which will be released for public comment, prior to any new strategy being adopted for the area.

### Lower Hunter Regional Conservation Plan

Under the Lower Hunter Regional Conservation Plan, the consolidation of the Watagan Ranges to Port Stephens habitat linkage is identified as the most significant conservation priority in the Lower Hunter region. The corridor links the southern sandstone ranges and the coastal heaths and wetlands of Port Stephens and would enable a range of benefits for biodiversity. The proposed offset lands, to be dedicated as part of the concept plan proposal, represent a significant contribution in achieving the link.

### Newcastle - Lake Macquarie Western Corridor Planning Strategy

The *Newcastle – Lake Macquarie Western Corridor Planning Strategy* applies to land within Lake Macquarie and Newcastle local government areas to the east of the F3 Freeway from Beresfield in the north to Killingworth in the south, and incorporates the proposed development site. The

strategy identifies the proposed development sites as a residential investigation. The strategy identifies further planning principles, development criteria and infrastructure requirements necessary to implement the actions of the Lower Hunter Regional Strategy for the western corridor. The proposal is considered to be consistent with the strategy including the neighbourhood planning principles. Of particular relevance to the proposed development is the requirement to provide a green entry statement along Newcastle Link Road, which is discussed further within section 5.1.3 of this report. Provision of infrastructure to support the site has also been considered and addressed within section 5.2 of this assessment.

### **3. STATUTORY CONTEXT**

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#### **3.1 Major project**

On 7 July 2010, the Minister for Planning declared, by way of an order under Section 75B(1) of the *Environmental Planning and Assessment Act 1979* (the Act), that the proposed development is development to which Part 3A of the Act applies (being development of State and regional environmental planning significance), and authorised the submission of a concept plan. Consequently, the proposal is subject to Part 3A of the Act and the Minister is the approval authority.

Part 3A of the EP&A Act, as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A to the Act, continues to apply to transitional Part 3A projects. Director-General's environmental assessment requirements (DGRs) have been issued in respect of this proposal and the environmental assessment report was lodged prior to 1 October 2011. The project is therefore a transitional Part 3A project.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove of the carrying out of the project under section 75P of the Act.

#### **3.3 State significant site study**

On 7 July 2010, the former Minister agreed to commence the process of investigating the inclusion of the site in Schedule 3 of the *State Environmental Planning Policy (Major Development) 2005* (Major Development SEPP) to rezone the site for residential, commercial, and conservation purposes to facilitate the proposed concept plan.

The proponent also submitted a State significant site study which recommends the listing of the site in Schedule 3 of the Major Development SEPP. The State significant site study sought to rezone the site to R2 Low Density Residential, B2 Local Centre, and E1 National Parks and Nature Reserves. These zones are based on the *Standard Instrument (Local Environmental Plans) Order 2006*.

It is the Department's policy, that where the NSW Government is not expected to have an ongoing approval role for future development that a proposed State significant site be rezoned by way of amendment of the relevant council's local environmental plan (LEP) where possible.

The Site was rezoned on 1 March 2013, by way of an amendment to *Cessnock Local Environmental Plan 2011*, *Lake Macquarie Local Environmental Plan 2004* and *Newcastle Local Environmental Plan 2012*. Newcastle and Cessnock LEPs were amended to rezone the development site and conservation lands, primarily through mapping amendments, with relevant zoning provisions including land use tables from each LEP adopted. In relation to the area of the site within Lake Macquarie LGA, the LEP was amended to list the site in a standalone section.

It is noted that the LEPs include a provision which requires a development control plan to be prepared for the site prior to any development approval. It is noted that in accordance with the transitional provisions for Part 3A, under section 75M of the Act, any concept plan approval would satisfy the obligation to prepare a development control plan.

### 3.3 Permissibility

Under the Cessnock, Lake Macquarie and Newcastle LEPs the following zones apply to the site (see Figure 5):

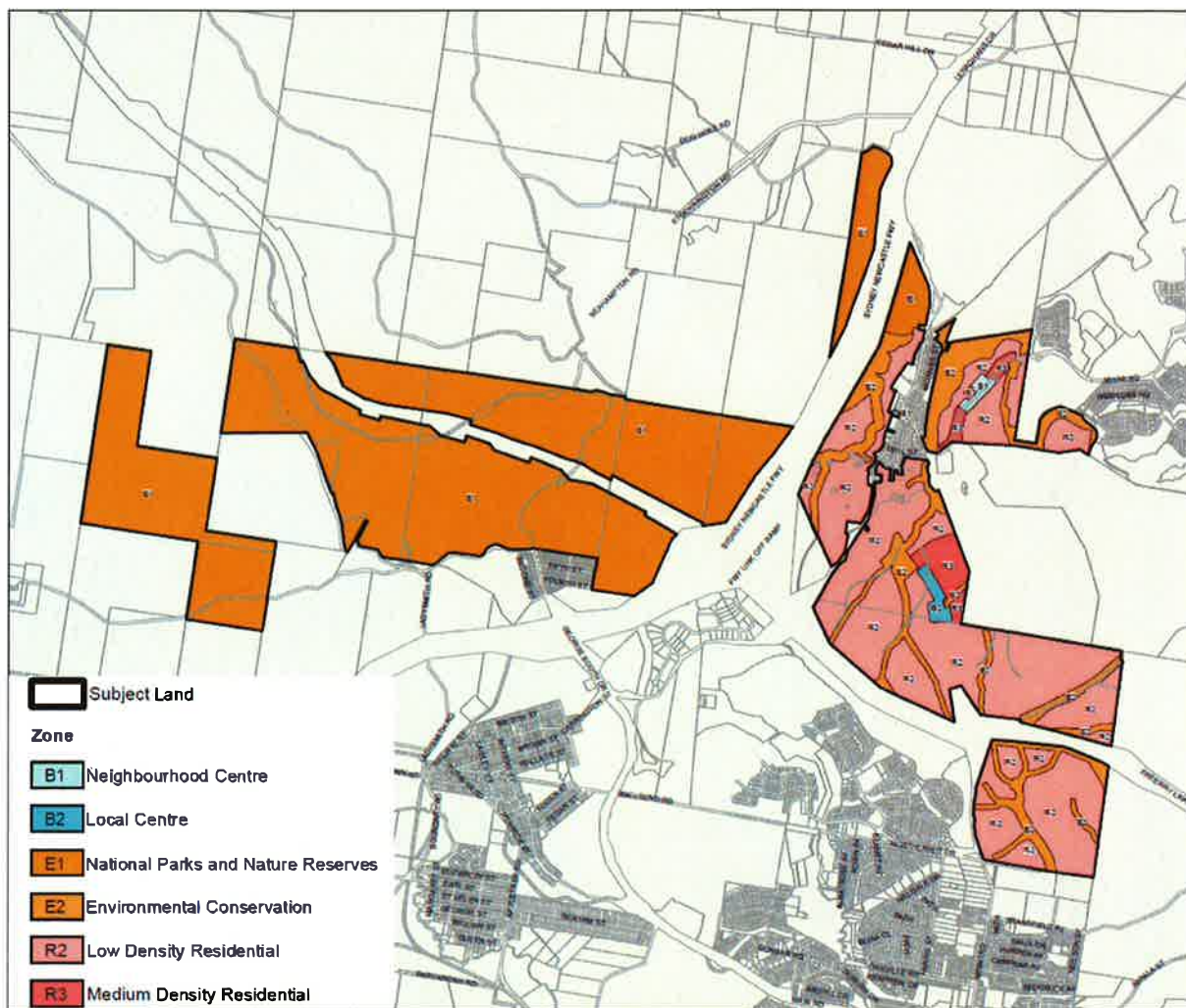
- *R2 Low Density Residential* – This zone applies to the areas of the development site which are proposed to be developed as detached and semi-detached dwellings.
- *R3 Medium Density Residential* – This zone applies to the areas of the development site which are adjacent to the proposed commercial centres, and are proposed to be developed for smaller dwelling types, including semi detached, and attached housing.
- *B1 Neighbourhood Centre* – This zone applies to the 2.4 hectare High Street Centre which is proposed to comprise a small supermarket (400 sqm) and specialty retail. In addition, this zone applies to a 0.2 hectare area of land which is located between a proposed access road, and the existing Minmi village commercial area.
- *B2 Local Centre* – This zone applies to the 4 hectare Village Centre which is proposed to comprise a full size supermarket (3,200 sqm) and supporting retail / commercial.
- *E1 National Parks and Nature Reserves* – This zone applies to the 1,562 hectare conservation lands.
- *E2 Environmental Conservation* – This zone applies to areas within the development site which are to be retained for the ecological values, predominantly being riparian corridors.

The proposed concept plan is permissible under the LEPs.

### 3.4 Environmental Planning Instruments

The Department's consideration of relevant SEPPs and EPIs are provided in Appendix F, including:

- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44)*
- *State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)*
- *Hunter Regional Environmental Plan 1989 (Heritage)*
- *State Environmental Planning Policy Major Development 2005*
- *Lake Macquarie Local Environmental Plan 2004*
- *Newcastle Local Environmental Plan 2012*
- *Cessnock Local Environmental Plan 2011*



**Figure 5: Zoning under the Cessnock, Lake Macquarie and Newcastle LEP**

### 3.5 Objects of the EP&A Act

The objects of any statute provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. The Minister's consideration and determination of a project application under Part 3A of the Act must be informed by the relevant provisions of the Act, consistent with the objects of the Act.

The Department has considered the Objects of the Act in the assessment of the concept plan. The balancing of the proposal in relation to the Objects is provided in section 5 of this report.

#### 3.5.1 Ecologically Sustainable Development Principles

The Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of the principles outlined below.

##### ***Precautionary Principle***

The environmental assessment is supported by technical and environmental reports which conclude that the proposal's impacts can be successfully mitigated. Potential environmental impacts have been identified and addressed. No irreversible or serious environmental impacts have been identified. The concept plan approval requires additional information at

each stage of development to ensure the proposal's extent and nature is fully documented and opportunities are provided for proposed mitigation and management measures to minimise the impact of the development.

### **Inter-Generational Equity**

Through implementation of the concept plan and associated environmental management practices, the environment will be protected for future generations. The benefits of the proposal include the dedication of approximately 1,562 hectares of land to the State Government for conservation purposes, securing regionally significant wildlife corridors.

### **Conservation of Biological Diversity and Ecological Integrity**

It is considered that the proposed protection of native vegetation within land to be dedicated as conservation land will maintain or improve biodiversity values and the long-term viability of a local species, populations and ecological communities and their habitat. It will also contribute to the protection of locally occurring endangered ecological communities. The Department's consideration of impacts on the ecological/biodiversity values of the area are discussed in more detail in section 5.3.1.

### **Improved Valuation, Pricing and Incentive Mechanisms**

The cost of measures to mitigate and manage, on an ongoing basis, any potential impact of the proposed development of the site, has been incorporated into the CIV. Thus, the developer will bear the cost of these measures. It is difficult to assign a monetary value to environmental assets that have not been commodified for commercial use.

Further assessment of ESD principles is also provided in subsequent sections of this report.

## **3.6 The Director General's Report / Statement of Compliance**

The Director-General's report to the Minister for the proposed project satisfies the relevant criteria under section 75I of the Act and clause 8B of the *Environmental Planning and Assessment Regulation 2000* as detailed in Table 1.

**Table 1: Section 75I(2) and Clause 8B Criteria**

<b>Section 75I(2) criteria</b>	<b>Response</b>
Copy of the proponent's environmental assessment (EA) and any preferred project report;	The proponent's EA and preferred project report are located in the report appendices.
Any advice provided by public authorities on the project;	Copies of the submissions provided by public authorities on the project are located in the report appendices.
Copy of any report of a planning assessment commission in respect of the project;	No review has been required by the Planning Assessment Commission.
Copy of or reference to the provisions of any State Environmental Planning Policy (SEPP) that substantially govern the carrying out of the project;	Each relevant SEPP that substantially governs the carrying out of the project is identified in <b>Appendix F</b> , including an assessment of the impact of the SEPP on the development proposal.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division;	An assessment of the development relative to the prevailing environmental planning instruments is provided in <b>Section 3</b> and <b>Appendix F</b> of this report.

<b>Section 75I(2) criteria</b>	<b>Response</b>
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate;	The environmental assessment of the concept plan application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The proposal has adequately addressed the Director General's requirements. The Department advised the proponent that the EA adequately addressed the DGRs on 15 February 2011.
<b>Clause 8B criteria</b>	<b>Response</b>
An assessment of the environmental impact of the project.	An assessment of the environmental impact of the proposal is discussed in <b>Section 5</b> of this report.
Any aspect of the public interest that the Director-General considers relevant to the project.	The public interest is considered in <b>Sections 5, and 6</b> of this report, and addressed by the statement of commitments and Conditions of Approval.
The suitability of the site for the project.	The site is considered suitable for the development as discussed in <b>Section 5</b> of the report.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in <b>Section 4</b> of this report.

In accordance with section 75I of the EP&A Act, the Department is satisfied that the Director-General's environmental assessment requirements have been complied with.

### 3.7 Commonwealth Legislation

The proponent determined that the proposal could have a significant impact on a matter of national environmental significance. Accordingly, the proposal was referred to the then Commonwealth Department of the Environment, Water, Heritage and the Arts under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The Commonwealth Department of the Environment, Water, Heritage and the Arts determined that the proposed development is not a controlled action under the EPBC Act, and as such does not require further assessment by the Minister for Environment, Heritage and the Arts.

## 4. CONSULTATION AND ISSUES RAISED

### 4.1. Public Exhibition

Section 75H(3) of the Act requires that after the environmental assessment (EA) has been accepted by the Director-General, the Director-General must, in accordance with any guidelines published in the Gazette, make the EA publicly available for at least 30 days.

In accordance with section 75H(3) of the Act, the EA was exhibited from 2 March 2011 until 1 April 2011. Advertisements for the public exhibition were placed in the Sydney Morning Herald, and Newcastle Herald. Copies of the environmental assessment, and accompanying State significant site study and voluntary planning agreement were made available for public viewing at Department of Planning and Infrastructure offices at Newcastle and Sydney, Lake Macquarie City Council, Newcastle City Council, Edgeworth Library and on the Department's website. The Department also sent letters to public authorities and owners and occupiers of land surrounding the site to inform them of the proposal and exhibition details.

A total of 23 submissions were received in response to the exhibition, including 18 submissions from government agencies and 5 public submissions.

It is noted that following the exhibition period, the VPA was amended in response to Land and Environment Court proceedings. The amended VPA was publicly notified in accordance with section 93G(1) of the Act from 17 August 2011 to 16 September 2011. Public notices were placed in the Sydney Morning Herald, Newcastle Herald and the Gosford Central Coast Express Advocate.

One additional submission was received in response to the subsequent exhibition period.

Issues raised in submissions received during exhibition are discussed in further detail below.

### 4.2. Issues raised by the public

There were 5 public submissions received regarding the proposal. One submission supported the proposal, three raised concerns about certain aspects of the proposal and one submission objected to the proposal.

A summary of the key issues raised in the public submissions is provided in Table 2.

**Table 2: Summary of public submissions**

Topic	Issue raised
Biodiversity	<ul style="list-style-type: none"> <li>Impacts on biodiversity values of the site, and loss of native vegetation</li> <li>Conflict with UN Biodiversity Treaty</li> <li>That the conservation lands are currently afforded protection by the existing zoning provisions</li> <li>The reduction in environmental offsets against the proposed development that has resulted from 305 hectares of the Coal &amp; Allied Stockrington lands being sold to RTA to offset the impacts of the Hunter Expressway</li> <li>Loss of connectivity between Hexham Swamp and Blue Gum Hills Regional Park as a result of the location of the proposed playing fields and housing. Removal of approximately 30 dwellings between the eastern boundary of the Minmi East Precinct and the adjacent riparian corridor would improve connectivity</li> </ul>
Housing Supply	<ul style="list-style-type: none"> <li>Development supported as it would contribute to affordable housing supply.</li> </ul>
Traffic and access	<ul style="list-style-type: none"> <li>Concerns about access to the site, and exacerbation of existing congestion.</li> </ul>

Topic	Issue raised
Land ownership	<ul style="list-style-type: none"> <li>• Questioned legality of Coal &amp; Allied's ownership of the site.</li> </ul>
Interface with adjoining site	<ul style="list-style-type: none"> <li>• Adjoining landowner (Xstrata) requested involvement to ensure appropriate edge conditions along the boundary between Coal &amp; Allied and Xstrata land to ensure a mutually beneficial planning outcome (Eastern boundary of Link Road South and Link Road North precincts).</li> </ul>

The above issues are addressed in section 5 of the report below.

#### 4.3. Submissions from Government Agencies

Submissions were received in response to the public exhibition from 16 State Government Agencies (including service providers), and two local government agencies, as set out below:

- Office of Environment and Heritage (formerly Department of Environment, Climate Change, and Water)
- NSW Office of Water
- Transport for NSW (formerly Transport NSW)
- Roads and Maritime Services (formerly Roads Traffic Authority)
- Department of Education and Communities (formerly Department of Education and Training)
- NSW Ministry of Health (formerly NSW Health)
- The Building Liveable Communities in the Lower Hunter Steering Group (Chaired by NSW Ministry of Health)
- NSW Department of Primary Industries (formerly NSW Department of Industry and Investment)
- Mine Subsidence Board
- NSW Rural Fire Service
- Ambulance Service of NSW
- NSW Police Force
- Hunter Central Rivers Catchment Management Authority
- Hunter Water Corporation
- Ausgrid
- Transgrid
- Lake Macquarie City Council
- Newcastle City Council

Lake Macquarie City Council objected to the proposal as it considers that Council has already identified adequate land to accommodate the projected growth for the region without the need for the Minmi, Newcastle Link Road development. This is discussed further within section 5.1.1.

Lake Macquarie Council also had a number of other concerns about certain aspects of the proposal which are discussed in further detail in section 5.

Newcastle Council's submission noted that the proposal is largely consistent with the Newcastle – Lake Macquarie Western Corridor Strategy, but that Council does not support certain aspects of the proposal. In particular Council objects to the proposed location of the active recreation facilities at the north of the development. The Department's consideration of this matter is outlined in section 5.2.3. Council also raised a number of other concerns regarding certain aspects of the proposal. These matters are discussed further within the section 5.

NSW Department of Primary Industries advised that it has no objection to the proposed development provided that underground mining remains permissible. This is considered to

be a matter for the State significant site rezoning and accordingly is addressed in the submission relating to the rezoning.

The NSW Rural Fire Service advised that an additional fire trail is required to link the northern boundary of the Link Road South Precinct with a proposed fire trail at the north west of that precinct. This fire trail was identified in the preferred project report and Rural Fire Service advised that this met its requirements.

Rural Fire Service also objected to the location of an isolated cluster of development at the east of the Minmi East precinct as adequate access / egress had not been identified. The proponent has identified two access points to this isolated cluster of development via adjoining properties.

Rural Fire Service also raised a number of other concerns which can be addressed at the development assessment stage. These matters are discussed further in section 5.9.

Department of Education and Communities objected to the proposed location of the school site within the Link Road South precinct. The site was subsequently relocated to the Link Road North precinct to the satisfaction of Department of Education and Communities. This matter is discussed further in section 5.2.1.

Submissions received from other agencies outlined conditions which they consider should be imposed on any concept plan approval, as discussed in Section 5.

## 5. ASSESSMENT

After consideration of the environmental assessment, submissions, response to submissions report, and preferred project report, the Department has identified the following key issues associated with the proposal that require further consideration:

- land use, urban design and built form
- infrastructure contributions
- biodiversity
- soils and water
- mine subsidence
- traffic and access
- heritage
- noise and odour
- bushfire management
- subdivision of conservation lands
- utility infrastructure
- access to local facilities.

These matters are addressed in detail below.

### 5.1 Land use, urban design and built form

#### 5.1.1 Proposed land uses and lot layout

The proposal seeks to develop 520 hectares of land for residential purposes over five separate precincts, and dedicate 1,562 hectares of land for conservation purposes. An outline of the proposed development within each precinct is provided in section 2.1. A summary of the mix of dwellings proposed to be provided in each precinct is detailed in Table 3. The mix of lot types is indicative only, with the final mix to be considered through the subsequent development applications for subdivision.

**Table 3: Mix of lot types**

Lot Type	Lot Size Range (sqm)	Link Road South Precinct	Link Road North Precinct	Village Centre Precinct	Minmi Extension Precinct	Minmi East Precinct	Total
Townhouse	220-299	15	11	38	0	36	100
Small Courtyard	300-469	251	552	103	16	101	1023
Large Courtyard	470-525	59	183	24	21	63	350
Traditional	525-799	132	464	49	72	148	865
Lifestyle	800+	158	400	18	147	89	812
Independent living units	N/A	0	0	150	0	0	150
<b>Total</b>		<b>615</b>	<b>1610</b>	<b>382</b>	<b>256</b>	<b>437</b>	<b>3300</b>

The proposal includes up to 8,000 sqm of commercial floor space across two centres. The high street centre comprises 2.4 hectares of land for mixed use development and is envisaged to accommodate a small supermarket (400 sqm) and supporting retail. The village centre comprises 4 hectares of land for mixed use development including a full size supermarket (3,200 sqm) and supporting retail and commercial development. The proponent provided a retail assessment which concluded that approximately 8,000 sqm of commercial

floor space is required to support the proposed development, with 1,000 sqm of retail floor space required by 2016, with a further 6,000 sqm of retail floor space required by 2025. A further 500 – 1,000 sqm of small commercial office type uses could also be supported, within the larger village centre.

Both Newcastle and Lake Macquarie councils have advised that they support the proposed dedication of conservation land at Stockrington, but that they have concerns about the proposed development.

Newcastle Council's submission highlighted that the proposal is broadly consistent with the Newcastle – Lake Macquarie Western Corridor Planning Strategy, but objected to a number of aspects of the proposal. In particular council has concerns about the overall scale of development as well as aspects of the subdivision layout, environmental impacts and urban form.

Newcastle Council also considers the proposed commercial areas should be given further consideration in the context of the hierarchy of centres in the Newcastle local government area.

Lake Macquarie Council raised the following concerns about the proposed land uses, that:

- the proposed development it is beyond the capability of the site
- adequate biodiversity corridors and riparian corridors have not been identified
- steep slopes should not be developed, and should be retained for conservation
- the proposed green entry statement along Newcastle Link Road is inadequate.

Lake Macquarie Council also does not consider that there is adequate demand to justify the proposed development.

Both councils raised concerns about the location of proposed open space, which is discussed further within section 5.2.3.

#### Department's consideration

The proposed land uses are consistent with the Lower Hunter Regional Strategy and Lower Hunter Regional Conservation Plan, and are permissible with consent under the relevant LEPs.

The Department considers that the release of land in this location is justified on the basis that it is consistent with the Lower Hunter Regional Strategy and Lower Hunter Regional Conservation Plan, and that it is consistent with the Government's policy direction of increasing the supply of land to ensure that there is sufficient supply of housing to assist in addressing housing affordability. Further the proposal would deliver a significant public benefit through the protection in perpetuity of 1,562 hectares of conservation land.

The Department is largely satisfied by the proposed distribution of land uses within the proposed development site and considers that there is an appropriate mix of lot sizes to provide housing choice. However, there are a number of concerns about the indicative lot and local road layout. These matters relate to issues such as bushfire hazard, topographic constraints, and location and distribution of open space, and will need to be addressed through subsequent applications. These matters are discussed within the relevant sections of this report. Accordingly, the recommended instrument of approval includes a modification to clarify that the indicative lot layout and indicative road layout are not approved as part of the concept plan.

It is considered that the proposed 8,000 sqm of commercial floor space would largely service the local needs to the existing Minmi village and the proposed development and would not

adversely impact on surrounding commercial centres, or undermine the councils' centres strategies.

It is noted that urban design guidelines have been prepared to guide future development and the Department's assessment of the guidelines is provided in section 5.1.4. Based on the guidelines being revised, the Department is satisfied that the guidelines will ensure an appropriate mix of lot sizes to provide housing choice.

### 5.1.2 Topography

Lake Macquarie Council does not support development on steep slopes, and considers that this land should be included in a conservation zone. Council did not provide details on what it would consider acceptable, however the *Lake Macquarie Development Control Plan No 1* sets the suitability of certain slopes for residential development which is summarised in *Table 4*.

**Table 4: Lake Macquarie DCP topography and development suitability**

Slope	Development suitability
Less than 1:5 (20%)	Residential subdivision
1:5 to 1:4 (20-25%)	Selective residential development generally of low density on lots larger than 450 sqm.
Greater than 1:4 (25%)	No form of disturbance is recommended.

The proponent has set out options for how dwellings can be accommodated on steep slopes, including using split level dwellings, houses stepped down the slope and pole construction. *Lake Macquarie Development Control Plan No 1* also sets out specific development controls on dwelling construction on steep slopes, including maximum requirements for cut and fill.

Newcastle Council also has concerns about the slope of some proposed local roads. This is considered further in section 5.6.

#### Department's consideration

The Department has prepared a slope analysis which overlays land over 20% slope with the indicative lot layout (Figure 6). This confirms that residential lots are proposed within areas with greater than 25% slope, and that lots less than 450 sqm are proposed in areas of greater than 20% slope.

It is unlikely that the councils would wish to own and manage all land which is greater than 25% slope. Accordingly, it is appropriate that slopes of greater than 25% are incorporated within residential lots but that a dwelling footprint must be able to be accommodated on land with less than 25% slope, and that a vehicular access to the dwelling be able to be provided of a grade of not greater than 25%. Further it is considered that on all land greater than 20% slope, that lots be no smaller than 450 sqm.

It is recommended that the concept plan approval should include a further assessment requirement requiring that these matters are addressed with each development application for subdivision, unless otherwise agreed to by council.

The general principles put forward by the proponent for construction on steep slopes are supported, however detailed development controls are required to guide the development of land on steep slopes. This is discussed further in section 5.1.4.

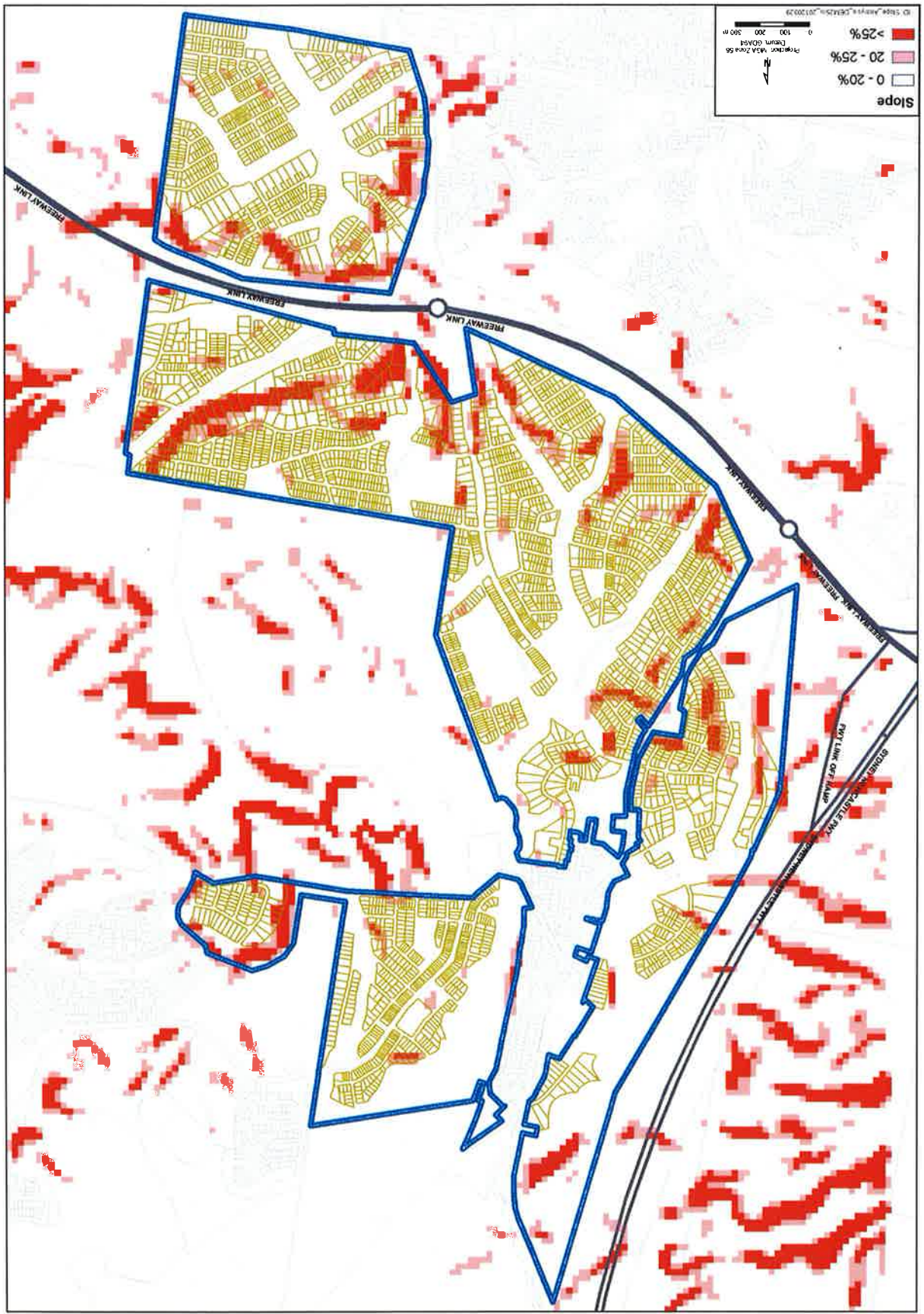


Figure 6: Slope analysis

### 5.1.3 Visual impacts

The proponent has provided an assessment of the impact of the proposal on views from the surrounding area, including from Blue Gum Hills Regional Park, the proposed conservation lands, and the existing Minmi village. The visual assessment largely concluded that view impacts would be mitigated by:

- placement of large lots, and retention of vegetation on steep slopes
- retention of, and continued growth of vegetation within riparian corridors
- existing vegetation along the F3 freeway and Newcastle Link Road corridors
- application of slope responsive dwellings on areas of steep slope
- landscape buffering along lower density areas of Woodford Street, and the proposed Minmi Boulevard
- vegetation to be retained within bushfire asset protection zones.

Further, the proponent considers that view impacts would be further softened as street trees, and vegetation planting with individual lots matures.

The *Newcastle-Lake Macquarie Western Corridor Strategy* sets out a requirement for the existing 'green entry' visual statement along the Newcastle Link Road to be retained. The proponent has identified a 40 metre buffer within the development site along the southern side of the Newcastle Link Road. The proponent has not identified a buffer on the north side of Newcastle Link Road but considers that an adequate buffer is provided within the existing road reserve. The proponent has provided cross sections which identify that the distance within the road reserve between the road corridor (allowing for future widening from 4 to 6 lanes) and the boundary of the development site ranges from 33 metres to 130 metres.

An assessment of the impact on views from the locally listed heritage Court House has also been carried out as part of the heritage impact assessment. This is discussed in further detail in section 5.7.1.

Lake Macquarie Council considers that the urban design guidelines do not provide a sufficient level of detail in terms of visual impacts and impacts on cultural and natural landscape settings, and that the proposal does not address the requirements of the *Lake Macquarie Development Control Plan No 1*, and the *Lake Macquarie Scenic Management Guidelines*. Council also has the following concerns about the visual impacts of the proposal:

- both Newcastle Link Road and Minmi Road are important entry points into Lake Macquarie local government area. The proponent should demonstrate the visual impacts from these locations are acceptable through provision of 3D photomontage
- the visual impact assessment does not provide clear justification for the proposed location of development character types and building heights
- visual amenity within the development site should also be considered, in particular of streetscapes and open space areas
- the visual impact assessment should consider the impacts of proposed noise walls
- the proposal makes little or no provision for green entry statements along Newcastle Link Road.

#### Department's consideration

The proposed approach to managing visual impacts is considered appropriate for this stage of the assessment process. Noting that the lot layout is indicative only, the Department considers that there are opportunities to further consider view impacts through the subsequent assessment stages, and through the development of detailed development controls. This is discussed further in section 5.1.4.

The proponent has also identified proposed noise walls along Newcastle Link Road, Minmi Road, and Woodford Street. The Department considers that these roads are important entry points to both Newcastle and Minmi village and that provision of noise walls would result in a poor visual and urban design outcome, and accordingly should not be supported. Traffic

noise impacts would need to be addressed through provision of adequate buffers, and other design and attenuation measures. This is discussed further in section 5.8.

The Department also considers that the visual amenity of the public domain will need to be addressed prior to lodgement of subsequent applications. This is discussed further in section 5.1.4.

#### **5.1.4 Proposed urban design guidelines**

The proponent has provided urban design guidelines comprising:

- concept design guidelines identifying the proposed distribution of land uses, indicative lot layout, proposed character areas, and a staging plan
- public domain guidelines including indicative design of some proposed parks and open space, typical road cross sections, riparian corridor cross sections, indicative public domain finishes, and an indicative plant list
- detailed private domain design guidelines for Stage 1 (Minmi East precinct) including built form and building envelope controls for future development within this precinct.

The proponent's statement of commitments includes a requirement that future development is to comply with the urban design guidelines.

Lake Macquarie Council raised a number of concerns about the proposed urban design guidelines which are summarised below:

- the urban design guidelines provide insufficient controls to manage impacts to views, and landscape site analysis does not provide a clear evidence for the proposed locations of various development character types and building heights
- that a site specific development control plan or area plan should be prepared to be assessed and approved by Council.

Both Lake Macquarie and Newcastle Councils raised concerns about aspects of the typical road cross sections outlined in the urban design guidelines. These matters are discussed further in section 5.6 of this report.

#### Department's consideration

The Department concurs that the urban design guidelines would not adequately guide future development on the site. Accordingly, it is recommended that the concept plan is modified such that the urban design guidelines are not approved.

Prior to the development of each stage detailed urban design guidelines would be required to be developed for that stage. It is considered that these should be in a form in which they could be adopted as a standalone part of the relevant council's development control plan at some stage in the future. The urban design guidelines should address the following matters:

- an updated indicative lot layout and access plan for that stage
- built form and building envelope controls, including for commercial and mixed use development where relevant
- controls for development of buildings on steep slopes (i.e. > 15%)
- details on how cut and fill is to be minimised and requirements for retaining structures including maximum heights and design approach, acceptable materials, and associated landscaping
- requirements for retention of vegetation within individual lots, having regard for any requirements of *Planning for Bushfire Protection 2006*
- demonstrate how the controls have responded to the visual environment and will minimise visual impacts from surrounding areas
- requirements for visual impact assessment
- controls to manage the urban design impact of lots which face major roads such as Woodford Street or Minmi Boulevard, but are accessed from a service road. This should

include requirements for how the dwelling addresses each of the road frontages, fencing controls along the major road, and provision of vegetated buffers within the road reserve and/or within individual lots

- private open space and landscaping requirements including specific requirements for deep soil zones, and a detailed species selection list
- site fencing requirements
- demonstrate how necessary storm water infrastructure can be accommodated on individual lots, in particular small lots.

It is noted that more detailed private domain design guidelines for Stage 1 (Minmi East precinct) have been prepared. Whilst these include built form and building envelope controls for the development of future dwellings, they do not address many of the aspects outlined above. It is considered that these urban design guidelines would also need to be revised to address these additional matters.

The Department is generally supportive of the building envelope controls outlined by in the detailed private domain guidelines for Minmi East. However, it is noted that for townhouse lots site cover is proposed to be a maximum of 70%. This is higher than the site cover control of 60% for lots of this size under *State Environmental Planning Policy (Exempt and Complying Development Controls) 2009*, and under the Lake Macquarie Development Control Plan. Newcastle Council's development control plans to not apply a site cover control. Accordingly, it is considered appropriate that a 60% maximum site cover control is applied to townhouse lots. This is also included as a requirement to be addressed through preparation of detailed urban design guidelines with each stage.

Further consideration should be given to landscaping and treatment of the public domain. As such, it is recommended that prior to any development application for subdivision a landscaping and public domain plan should be required to have been prepared for that stage in consultation with Council and including:

- all areas proposed open space within that stage (see section 5.2.3)
- proposed treatments for open space and all other aspects of the public domain
- a strategy for retention of trees on the site
- proposed landscaping of swales, detention basins, roadside verge and other public domain areas, including species selection
- management arrangements, including to achieve necessary fuel loads, for bushfire asset protection zones within any vegetated public domain areas and compliance with Planning for Bushfire Protection 2006 and the Rural Fire Service standards
- proposed management arrangements for public domain areas.

The matters discussed above are addressed as further assessment requirements on the recommended instrument of concept plan approval.

## **5.2 Infrastructure contributions**

### **5.2.1 State infrastructure contributions**

The NSW Department of Planning & Infrastructure has developed a draft Special Infrastructure Contributions Plan for delivery of State and regional infrastructure for the Lower Hunter, which was exhibited in early 2011. If adopted, the draft plan would apply to the Minmi, Newcastle Link Road site.

The proponent has committed to paying State infrastructure contributions in accordance with the rate current at the time of future development applications, noting that this would be offset against any agreed land dedications and works in kind. The proponent notes that the relevant rate will be the subject of future negotiations with the Department of Planning &

Infrastructure pending the outcome of draft *Lower Hunter Special Infrastructure Contributions Plan*.

The proponent also notes that it has identified land within the development site for future education facilities which it considers could be offset against any future contribution rate. This comprises a 1.3 hectare site for the expansion of the existing Minmi Public School and a 3 hectare site for a new primary school in the Link Road South precinct. DEC raised that the proposed school site does not meet its requirements as it has other existing and proposed facilities to the south of the Newcastle Link Road, and that there is a need to provide an additional school to service proposed development north of the Newcastle Link Road. Coal & Allied subsequently relocated the school site to the satisfaction of DEC.

#### Department's consideration

The Department supports the proposed approach to the payment of contributions as proposed by the proponent. If the draft *Lower Hunter Special Infrastructure Contributions Plan* is not adopted prior to development of the site proceeding, Coal & Allied would be required to enter into a voluntary planning agreement for State infrastructure contributions with the Minister for Planning & Infrastructure.

The Draft amendment to the Major Development's SEPP to rezone the site includes a clause requiring the proponent to demonstrate that satisfactory arrangements have been made for State contributions prior to approval being granted for a subdivision for urban purposes within the R2 Low Density Residential, R3 Medium Density Residential, B1 Local Centre, or B2 Neighbourhood Centre zones. Additionally, the recommended instrument of approval requires the proponent to submit a staging plan for each stage that includes details of the delivery of State infrastructure contributions (including details of the school site and existing school expansion). Accordingly, the Department is satisfied that this matter has been adequately addressed, and there are adequate provisions to ensure that State infrastructure contributions are considered prior to any development on site.

### **5.2.2 Local infrastructure contributions – section 94**

#### Section 94 Contributions

The proponent, through its statement of commitments has agreed to pay contributions in accordance with *Lake Macquarie City Wide Section 94 Contributions Plan (2004 as amended)*, *Newcastle City Council Development Contributions Plan 1 2006 (Blue Gum Hills Catchment)* and *Newcastle City Council Development Contributions Plan No. 4 2006 (Transport Facilities in Blue Gum Hills)*. The proponent considers that contributions would be delivered through a combination of dedication of land, works in kind, and cash contributions.

Noting that the local government area boundary between Lake Macquarie and Newcastle local government areas is proposed to be revised, the proponent has committed to paying contributions on a lot yield per local government area basis. The proponent proposes that the local contributions would comprise:

- Open space and recreation facilities, including multipurpose sports fields, with land to be developed as works in kind and dedicated to council with each stage.
- Monetary contributions towards a BMX track or skate park or other agreed regional facility.
- Contributions for community facilities, being a community hall or centre that can accommodate flexible uses.
- Contributions towards section 94 management.
- Traffic contributions.

The proponent intends to enter into voluntary planning agreements with the respective councils to include the timing of payments, and management of open space and facilities to be dedicated. The proponent has proposed to manage open space and community facilities

for five years or until the relevant stage is completed, which is the later, prior to transfer to the relevant council.

Lake Macquarie Council raised the following concerns about the proposed local infrastructure contributions:

- Council already has plans to locate new sporting facilities at Cameron Park and augment existing facilities at Edgeworth, to the south of the development site. On this basis, contributions from development for active recreation facilities within Lake Macquarie local government area should be directed to these facilities rather than the proposed sports and recreation park in Newcastle local government area.
- Council does not support the rates of provision used by the proponent to determine the demand for community and recreation facilities. Council generally considers that the rates of provisions in the draft *Development Contributions Guidelines* (Department of Planning & Infrastructure) are appropriate.
- Council acknowledged that local contributions can be resolved at a later stage but noted that where infrastructure is to be located on site land would need to be allocated at the concept plan stage to ensure facilities can be delivered.

Newcastle Council has noted that its existing contributions plans which apply to the proposed development site do not envisage the proposed development. Council advised that these plans are currently under review, and that it considers that further discussions are required prior to determination of the concept plan to ensure that the demands for community facilities are understood and can be secured at the appropriate time. Council also had the following comments on the proposed local infrastructure:

- The proposed location of the sports and recreation park is not supported. This issue is discussed further in section 5.2.3.
- Council considers that the recreation facility demands of stage 1 can be accommodated through an upgrade of existing playing fields within Minmi village, and through spare capacity associated with the recently completed recreation facilities within the Sanctuary Estate development to the north east of the Minmi East precinct. Council is considering the necessary upgrades to the existing facilities at Minmi, as part of its section 94 review.
- There is a need for a new community facility to meet the needs of the future population, and this should be located within one of the proposed commercial centres. Council nominated a rate of 201 sqm per 1,000 population as an appropriate benchmark. Consideration also needs to be given to the timing for delivery of this facility, to ensure that incoming residents in earlier stages of development have access to community facilities.

#### Department's consideration

The Department has outlined appropriate rates of provision for the proposed development based on the Department's *draft Development Contributions Guidelines* as shown in Table 5, overleaf.

For active recreation facilities these rates are based on proposed development within Stages 3, 4 and 5 only, on the basis that the respective councils consider that existing and proposed recreation facilities within nearby suburbs can accommodate demand from Stage 1 and 2.

**Table 5: Expected demand for community facilities at Minmi, Newcastle Link Road**

Rate of Provision - draft Development Contributions Guidelines (DP&I)	Demand	Total proposed by Coal & Allied
<b>Active Recreation Facilities (North of Newcastle Link Road)</b>		
Cricket ovals: 1:2,500 persons Cricket nets: N/A	Cricket ovals: 2.6 Cricket nets: N/A	Cricket ovals: 2
Sports fields Hockey: 1:5,000 persons Rugby league: 1:3,000 person Soccer: 1:5,000 persons (Average 1:1,364)	Sports fields Hockey: 1.3 Rugby: 2.2 Soccer: 1.3 Total: 4.8	<u>Sports fields</u> Hockey fields: 0 Rugby league fields: 2 Soccer fields: 2 Total: 4
Netball: 1:3,000 persons Basketball: 1:1,800 persons (Average 1:1,125)	Netball: 2.2 Basketball: 3.6 Total: 5.8	Netball / basketball courts: 3
Tennis courts: 1:1,800 persons	Tennis courts: 3.6	Tennis courts: 4
<b>Playgrounds / Neighbourhood Parks</b>		
1 playgrounds / 500 dwellings, or 400m from each dwelling	North of Link Road: 5.4 South of Link Road: 1.2	Total of 9 local parks, however location, distribution and suitability needs to be demonstrated. Level of provision of playgrounds is not provided.
<b>Skate Parks</b>		
Small 1:6,000 persons	1.3	The proponent has committed to providing a cash contribution towards a skate park or BMX track off site.
<b>Community facilities</b>		
Small: 1:3,500 – 6,000 persons	1.3 – 2.3 Small facilities	1 to 2 facilities (proposed floor space not identified)

**Assumptions:**

- Total Minmi, Newcastle Link Road development – 3,300 dwellings / 9720 population
- Development within Stages 3,4 & 5 - 2,248 dwellings / 6,564 population
- Population figures are based on 3.0 people per single dwelling and 1.8 people per independent living unit

Noting that section 94 contributions cannot be levied at concept plan stage, the Department considers that further negotiations between the councils and the proponent are required.

The recommended instrument of approval includes a requirement for the proponent to prepare a staging plan prior to commencement of development within any stage outlining the schedule for delivery of all contributions, including local infrastructure contributions. The proponent would also be required to identify where contributions are to be delivered as works in kind and/or dedication of land, and outline management arrangements for land and infrastructure proposed to be dedicated to council. The nature and level of provision of any facilities is to meet the requirements of the relevant council(s).

Further consideration of the provision of the various types of facilities is provided below.

**Active recreation facilities**

As discussed in more detail in section 5.2.3, the sports and recreation facilities proposed by the proponent are not supported.

Given that the respective councils are satisfied that the active recreation facility needs for Stage 1 and Stage 2 can be accommodated through existing and proposed facilities, it is considered that additional land for active recreation facilities should be identified prior to any

development being approved beyond Stage 2 (Link Road South). This will ensure that an appropriate land area can be secured.

Accordingly it is recommended that the staging plan for Stage 3 should identify an alternative location to accommodate active recreation facilities to meet demand for stages 3, 4 and 5. Suitable land for these facilities is to be identified within the development area, unless alternative arrangements can be made to accommodate these facilities within close proximity to the development site through negotiations within the relevant council(s). This matter is addressed as a further assessment requirement within the recommended concept plan approval.

### **Playgrounds / neighbourhood parks**

Both councils have raised concern about the distribution and configuration of the various local parks identified on the concept plan. Further consideration will need to be given to the location and distribution of local parks and playgrounds with each stage, with all open space to be agreed to with the relevant council. The recommended instrument of approval includes a requirement for the proponent to prepare a landscaping and public domain plan for each stage in consultation with the relevant council, including identifying all areas of open space within that stage.

### **Skate park**

It is considered appropriate that the proponent should provide a skate park as part of its local infrastructure contributions. This facility should be located on site unless a suitable site within close proximity to the development site can be identified through negotiations within the relevant council(s). The site should be identified prior to any development beyond Stage 2 (Link Road South) to ensure that appropriate land is secured. This is addressed as a further assessment requirement on the recommended concept plan approval.

### **Community facilities**

The proponent has committed to providing contributions for community facilities for a community hall / centre or similar building that may accommodate flexible uses. The proponent has not identified a site for a community facility, however the proponent's social infrastructure assessment recommends provision of two multi-purpose community facilities, one within the High Street Centre, and one within the Village Centre. The Department considers that the number and location of community facilities should be negotiated with the councils, having consideration for the timing of delivery to ensure that incoming residents have timely access to facilities and should be resolved prior to any development occurring on site. Any community facility should be located within the high street or village centre. The recommended concept plan approval therefore includes a requirement for the staging plan for Stage 1 to include details of the level of provision and location of community facilities for the entire development.

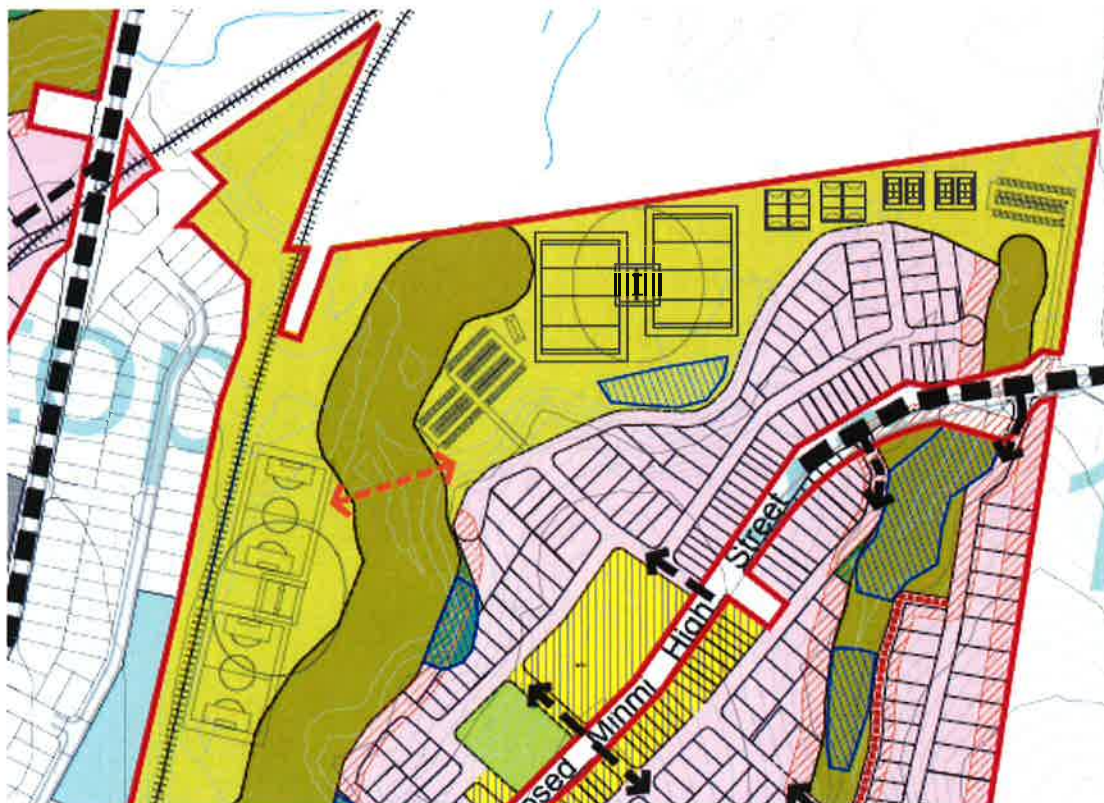
### **5.2.3 Distribution and ownership of open space**

Coal & Allied has set out a proposed network of open space across the development site. Table 6 provides a summary of the proposed open space and respective land area.

**Table 6: Breakdown of open space**

<b>Open space type</b>	<b>Land area – excluding detention basins and existing lake (ha)</b>
Sports and recreation park (x1)	14.8
Neighbourhood parks (x3)	2.0
Feature parks (x6)	8.5
Riparian corridors	64.0
Passive open space (including steep slopes, pothole risk areas, heritage open space, and asset protection zones)	25.7
Link road edge visual buffer	5.34
<b>Total</b>	<b>120.3</b>

The layout of the proposed sports and recreation park is identified in Figure 7.



**Figure 7: Sports and recreation park**

Coal & Allied has proposed that all open space be transferred to the respective council for ongoing ownership and management, with the exception of an area of passive open space and riparian corridor predominantly located within the village centre precinct, which is subject of high pothole risk. This area is proposed to be retained by Coal & Allied.

Both councils have raised concerns about the proposed open space areas. Lake Macquarie Councils concerns are summarised below:

- The proposed location of recreation facilities within the sports and recreation park on the site of the archaeological heritage Chinese gardens is not supported. Council considers that this land should be developed as a community garden.
- Two neighbourhood parks should be located within the Lake Macquarie local government area north of the Link Road North precinct. Only one is included in the current proposal, with the majority of the land proposed for a detention basin. On this basis council suggested an alternative location for this park.
- Council has some concerns about the proposed location and treatment of the neighbourhood park within the Link Road south precinct, including the size of pathway locations and size of playground facilities.
- All local parks are required to be a minimum of 0.5 hectares of usable space free of constraints including detention basins, drainage, power lines, significant vegetation, mining shafts, high pothole rise, and bushfire asset protection zones. Local parks should be generally square in shape, with good street frontage for passive surveillance, and accessible.
- Further detail is required on the proposed treatment and landscaping of all public domain areas.
- Riparian areas and identified passive open space areas which are constrained by steep slopes, heritage, pothole risk, bushfire asset protection zones and detention basins are

not considered to be usable open space and as such should not be zoned RE1 Public Recreation.

- Council may accept ownership of riparian corridors, provided they are designed in accordance with Council's Biodiversity Planning Policy & Guidelines for Rezoning Proposals, and meet Office of Water's requirements for riparian corridors.
- Council does not accept ownership of the buffer to the south of Newcastle Link Road.

Newcastle Council advised that riparian corridors, and passive open space are not considered to be useable open space, and dedication to council is not supported. Council also has some concerns about the locations and suitability of some of the neighbourhood and local parks.

Newcastle Council does not support the proposed location of the sports and recreation park, on the basis of its location within a riparian corridor (Back Creek), with significant flooding constraints. Council has also advised that the land is within the Hunter River flood storage area, and that it is opposed to any filling of land within the storage area. Council's preferred location for a sports and recreation park is adjacent to the village centre and new school site.

#### Department's consideration

Through its preferred project report, the proponent provided additional information on the proposed location of the sports facilities including on the level and frequency of inundation. Based on this advice it is considered that fields would only be appropriate on the western side of Back Creek, subject to further consideration of flood impacts. However given that Newcastle Council does not support this location at all, and that there is adequate existing facilities to support development within stages 1 and 2, it is recommended that the location of the proposed sports facilities are not approved. This is addressed as a modification to the concept plan on the recommended instrument of approval.

This land could still be dedicated as passive open space / biodiversity corridor if agreed to by Newcastle Council. It is recommended that the staging plan for stage 1 should identify management arrangements for this land. The proposed zone for this land, E2 Environmental Conservation, permits recreation facilities to be carried out with consent. However, such facilities are not approved as part of the concept plan and would be subject of further approval. Through any such approval process, consideration would need to be given to impacts on the archaeological remains associated with the former Chinese gardens (as discussed in section 5.7.2), and any flooding impacts.

An alternative site would need to be identified to accommodate other playing fields required for stages 3, 4 and 5 through negotiation with Council. Requirements for the identification of an alternative site have been discussed previously in section 5.2.2 of this report.

In relation to the ownership of open space, all dedications should be required to be negotiated with the relevant council. Where land is not accepted by the relevant council the proponent must identify suitable future ownership and management arrangements. This would be addressed through the staging plan recommended to be required for each stage.

It is expected that the location and distribution of proposed local and neighbourhood parks will need to be reconsidered during the detailed design stage to meet the requirements of the councils. It is recommended that this is addressed through the preparation of a landscape and public domain plan prior to commencement of each stage in consultation with the relevant council(s). This is discussed further in section 5.1.5.

Further consideration on the level of provision of open space is provided in section 5.2.2 of this report.

### 5.2.4 Local infrastructure contributions – \$8 million allocation

The proponent has allocated \$8 million for the delivery of social infrastructure and initiatives. This contribution is not proposed to be offset against the section 94 contribution requirements. Priorities for funding under the \$8 million allocation were identified through a design charette process held in 2007 with community representatives and organisations, and State and local government agencies. Table 7 outlines the initiatives and infrastructure proposed to be funded under the \$8 million allocation.

**Table 7 Initiatives proposed under the \$8 million**

Infrastructure / initiative	Proposed timing	Cost
<b>Grant Scheme</b>		
<ul style="list-style-type: none"> <li>Subsidies or grants for sustainable development</li> </ul>	Based on \$2,500 per dwelling for the first 2,000 dwellings at contract settlement.	\$4,400,000
<ul style="list-style-type: none"> <li>Scheme for special needs, affordable and disabled housing</li> </ul>	100 homes at \$7,500 per dwelling payable on issue of construction certificate.	\$700,000
<ul style="list-style-type: none"> <li>Scheme for 'community bus/subsidy for bus services in initial stages (additional to any council / Transport for NSW levies)</li> </ul>	Allocation to be agreed with Transport for NSW from the date of occupation of 50% of stage 1 for a period of five years.	\$650,000
<b>Community</b>		
<ul style="list-style-type: none"> <li>Sponsorship of local sporting teams</li> </ul>	Funding of \$25,000 per annum across a number of local sporting teams for a ten year period commencing on completion of the first 50 dwellings.	\$250,000
<b>Community Infrastructure/Sustainability</b>		
<ul style="list-style-type: none"> <li>Contribute to the replacement or expansion of the existing progress hall in Minmi (6 star sustainability rating)</li> </ul>	Multipurpose community centre proposed to be included in Stage 1 development.	\$1,000,000
<ul style="list-style-type: none"> <li>Trailer to be provided to local councils with equipment for Landcare</li> </ul>	Allocation following dedication of Stockrington conservation land.	\$10,000
<ul style="list-style-type: none"> <li>Enhancement of school facilities subject to discussions with Department of Education and Communities</li> </ul>	By agreement with Department of Education and Communities these funds could be allocated following the dedication of the Stockrington conservation land.	\$40,000
<ul style="list-style-type: none"> <li>Funding towards linkages with facilities in Blue Gum Hills Regional Park subject to discussions with council(s) and other developers</li> </ul>	To be aligned with linkages proposed in relevant development stages.	\$50,000
<b>European Heritage</b>		
<ul style="list-style-type: none"> <li>Funding of non-indigenous heritage studies and publications, such as archive heritage studies.</li> </ul>	Commence allocation to agreed studies following dedication of conservation land.	\$35,000
<ul style="list-style-type: none"> <li>Conservation program for the coal wagon in the public school grounds</li> </ul>	Commence allocation to agreed studies following dedication of conservation land.	\$15,000
<b>Indigenous Heritage</b>		
<ul style="list-style-type: none"> <li>Contribution towards an Indigenous interpretive centre, possibly within community centre</li> </ul>	Allocated when location for interpretive centre determined.	\$100,000
<ul style="list-style-type: none"> <li>Display of Awabakal cultural heritage</li> </ul>	With the provision of the interpretive centre.	\$10,000
<ul style="list-style-type: none"> <li>Funding towards indigenous heritage studies and publications to be agreed with traditional owners</li> </ul>	Commence allocation to agreed studies following dedication of conservation land.	\$20,000
<ul style="list-style-type: none"> <li>Funding towards Aboriginal education person</li> </ul>	Funding of \$20,000 per annum for five years from dedication of conservation land.	\$100,000

Infrastructure / initiative	Proposed timing	Cost
<ul style="list-style-type: none"> <li>Public/aboriginal art on water tank, with approval from the Hunter Water</li> </ul>	Determined by the timing of the construction of the water tank.	\$20,000
Traffic/Access		
<ul style="list-style-type: none"> <li>Contribution towards missing cycleway links subject to discussions with Councils and other developers</li> </ul>	To align with the councils' approval of regional cycle ways which link with the proposed development site. Funds are to be allocated with the relevant stage which links to each regional cycle way.	\$500,000
<ul style="list-style-type: none"> <li>Subregional review of strategy for cycling/walkways, subject to discussions with Department of Planning &amp; Infrastructure with respect to the Western Corridors Strategy</li> </ul>	Subject to timing of councils and Office of Environment and Heritage.	\$50,000
Environment		
<ul style="list-style-type: none"> <li>Contribution to wildlife crossing on Link Road</li> </ul>	Coordinated with works on the Link Road associated with the Hunter Expressway, and consequent works associated with the Newcastle Link Road.	\$50,000
	<b>TOTAL</b>	<b>\$8,000,000</b>

Newcastle Council advised that it would like to be involved in discussions regarding the allocation of the money, and had concerns that the funds should not be used towards any local infrastructure which would otherwise be required to be funded through local infrastructure contributions, or would be required as a condition of consent. Council is also concerned that the proponent is not proposing to index the fund over the life of the project.

Lake Macquarie Council also considers that some of the initiatives relate to infrastructure which would be required to be funded to support the development, including upgrading of an existing multi-purpose community centre, enhancement of school facilities, and provision of cycle paths and wildlife crossings. Lake Macquarie Council also raised the following concerns about the proposed \$8,000,000 allocation:

- Adequate consultation on the items has not been carried out with council officers or residents of the nearby suburb of Cameron Park.
- The allocation of \$50,000 to facilities and connections within Blue Gum Hills Regional Park is not adequate, and at least \$800,000 would be required to deliver a shared pathway through the park.

#### Department's consideration

The Department supports the \$8 million dollar allocation in principle, but does not support the following infrastructure items:

- The replacement or expansion of the existing Minmi Community Centre, as community facilities are required to be funded under section 94.
- Subregional review of strategy for cycling / walkways, subject to discussions with the Department of Planning & Infrastructure with respect to the Western Corridor Strategy, for the reasons discussed below.

Newcastle Council has recently prepared the draft Newcastle Cycling Strategy & Action Plan, and the Lake Macquarie Draft Cycling Strategy 2011-2021 is currently on exhibition until 14 February 2012. Further, there is no requirement under the Western Corridor Strategy to carry out a subregional review of cycle ways / walkways, and the Department has no current plans to do so. The Department considers that provision of pedestrian pathways and cycle ways within the site requires further consideration, including having regard for how this integrates with the councils' draft cycle strategies, but that this should be addressed as a further assessment requirement on the concept plan approval, rather than being funded under the

\$8 million allocation. Pedestrian and cycle access is considered further in section 5.6.3 of this report.

The Department considers that the proponent should be required to reallocate funds associated with these items in consultation with council and to the satisfaction of the Department of Planning & Infrastructure prior to lodgement of any subsequent development application for subdivision. This is addressed as a modification on the recommended instrument of approval.

The Department in principle supports all other items identified subject to further information being provided prior to development. Accordingly, the recommended instrument of approval also includes a requirement for the proponent to prepare a staging plan prior to each stage of development, including outlining items under the \$8 million allocation which would be delivered with that stage. The staging plan would also be required to demonstrate that the contributions under the \$8 million allocation are over and above section 94 and State infrastructure contribution requirements, and do not include any initiatives that would also be required to mitigate the impacts of the proposed development. Any contributions or dedications to a council, a public authority, or a community group would be subject of the agreement of that organisation. Any contributions which are deemed unsuitable would need to be re-allocated to alternative infrastructure and initiatives.

### 5.3 Biodiversity

#### 5.3.1 Flora and Fauna

An ecological assessment was commissioned by Coal & Allied to support the concept plan. The key findings of the report are outlined below.

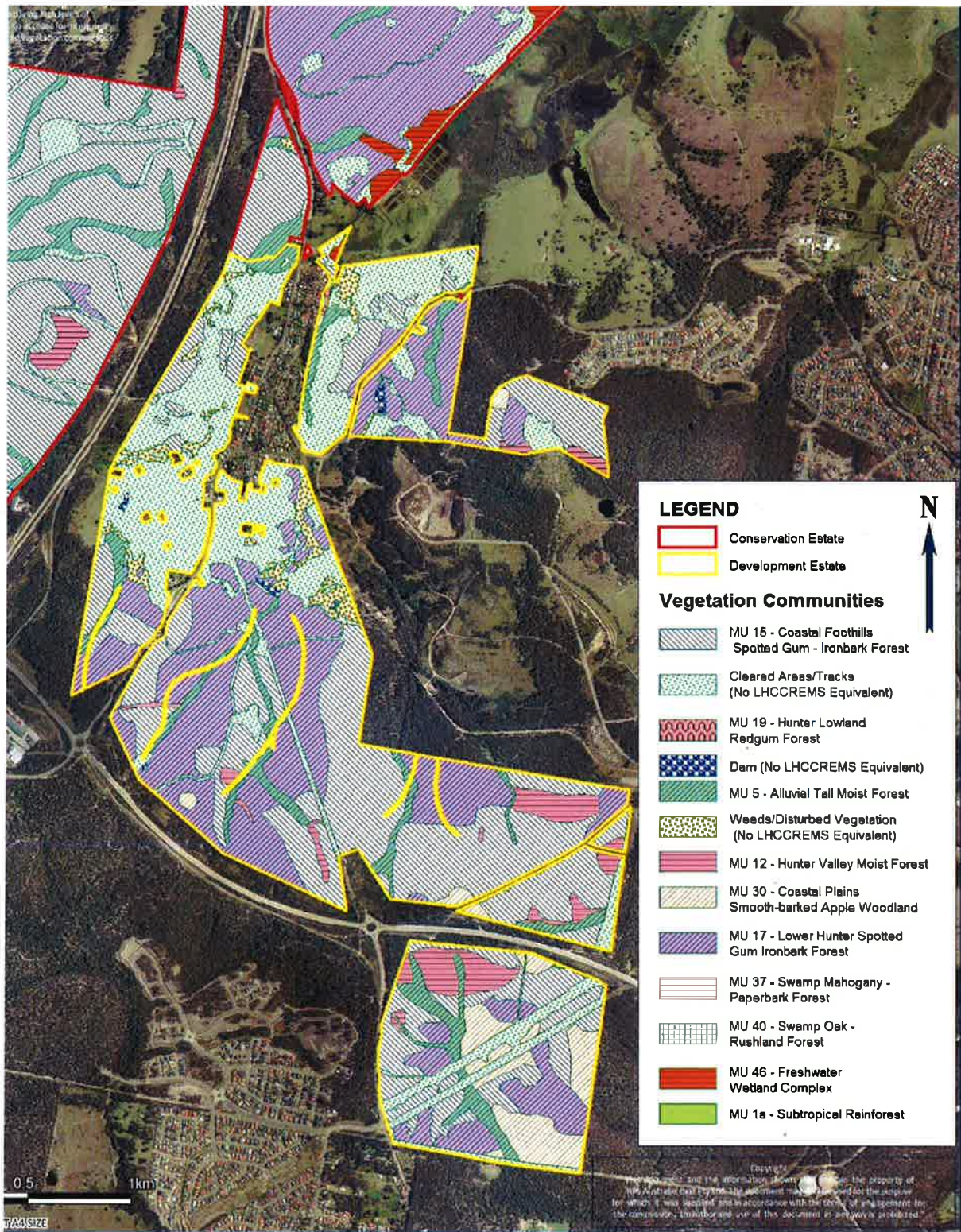
Seven native vegetation communities have been identified across the development site, covering around 73% of the development site. This includes three endangered ecological communities (EECs) which comprise around 26% of the development site. The remainder of the development site (27%) was classified as either weeds and cleared areas, or dams.

The proposed conservation lands are predominantly densely vegetated comprising the same vegetation communities as the development site, as well as one additional EEC.

The area of EECs within the proposed development site, and proposed to be protected within the conservation lands is outlined in Table 8, and illustrated at Figure 8.

**Table 8: Summary of endangered ecological communities**

Vegetation type	Total Area (ha)	Development site (ha)	Conservation lands (ha)
Lower Hunter Spotted Gum Ironbark Forest (EEC)	318.46	136.80 (43%)	181.66 (57%)
Hunter Lowland Redgum Forest (EEC)	12.19	0.39 (3%)	11.80 (97%)
Freshwater Wetland Complex (EEC)	0.37	0.37 (100%)	0
Subtropical Rainforest (EEC)	11.53	0	11.53 (100%)
<b>Total</b>	<b>342.55</b>	<b>137.56 (40%)</b>	<b>204.99 (60%)</b>



**Figure 8: Vegetation communities within the proposed development site**

The report noted that the majority, if not all, of the Lower Hunter Spotted Gum Iron Bark Forest (136.80ha) and the Hunter Lowland Redgum Forest (0.39ha) within the development site would be removed as a result of the proposal. The report noted that whilst the Freshwater Wetland Complex which is located at the northern extent of the development site would be retained there is potential for adverse impacts as a result of residential development to the south east. However, the report concluded that this could be mitigated

through provision of appropriate sediment and erosion controls during the construction phase.

One threatened flora species was identified during targeted surveys being *Tetratheca juncea*. A total of ten *Tetratheca juncea* plant clumps were identified within the development site, all of which would be removed as a result of the development. However, 350 plant clumps were identified which would be retained within the conservation lands.

Five threatened fauna species were identified during the targeted surveys being: Koala, Squirrel Glider, Grey-headed Flying-fox, Little Bentwing-bat, and the East Coast Freetail-bat. A further 12 threatened fauna species are considered to have a moderate or greater opportunity of occurring within the site on at least an intermittent basis due to existence of potential habitat. The assessment concluded that the impact of the proposed development on these threatened fauna species would be minimal as large areas of potential habitat would be retained with the conservation area, with only small areas of habitat to be cleared within the development site.

The proponent also carried out an assessment of *State Environmental Planning Policy No. 44 – Koala Habitat Protection* (SEPP 44). As a result of a single koala being observed during the fauna survey, further targeted surveys were carried out, however no further sightings or secondary indications of koalas was recorded. The assessment concluded that the site is considered to be potential koala habitat, but that it is not core koala habitat as it was considered that the koala sighted is not part of a significant koala population.

The ecological assessment also made a number of recommendations which relate to the proposed development to mitigate the impacts of the proposed development on biodiversity values, as summarised below:

- Clearing of vegetation should be minimised, in particular for areas of EEC and riparian corridors
- Mature and/or hollow bearing trees to be retained wherever feasible
- Species selection for future landscaping works and seed stock for re-vegetation should be limited to locally occurring native species, and should include regionally significant species and preferred Swift Parrott and Koala foraging habitat trees where possible
- Appropriate vegetation, habitat and bushfire management plans should be included in an overarching environmental management plan.

The assessment also recommended protocols that should be established to mitigate clearing and construction impacts on native flora and fauna.

The proponent has committed to preparing a vegetation and habitat management plan, to be implemented for each stage of the development.

The Newcastle City Council has commented on the Biodiversity aspect of the proposal and has concern over the following issues:

- Council's Green Corridors and Landscape Precinct Plan identifies land at Minmi as contributing to its green corridors.
- The offset ratio for Lower Hunter Spotted Gum Iron Bark Forest is inadequate.
- Council considers that compensatory tree planting should be carried out in accordance with Newcastle Development Control Plan.
- Consideration should be given to relocating clumps of *Tetratheca juncea*.

Lake Macquarie Council considers that the following measures should be applied within the development site to reduce biodiversity impacts:

- Retention of Alluvial Tall Moist Forest within drainage lines on the site, with provision of appropriate buffers;
- A representative sample of Coastal Foothills Spotted Gum Ironbark Forest should be conserved and linked to other areas of native vegetation.
- Impact on vegetation species at the edge of their natural range should be avoided.
- Critical resources for large forest owls should be retained such as large hollows, nests or roosting resources.
- The proposed offsetting strategy does not meet the offsetting principles of the Lower Hunter Regional Conservation Plan.

The OEH advised that the proposal is satisfactory in terms of meeting the requirements for biodiversity, and the proposed offsets proposed are in compliance with the OEH's offsetting principles as set out in the *Lower Hunter Regional Conservation Plan*.

#### Department's consideration

The Department concurs with the OEH's position that the dedication of the proposed conservation lands will adequately offset potential impacts on flora and fauna arising from the proposal. It would also contribute to the protection of the Stockton to Watagan conservation corridor identified in the Lower Hunter Regional Conservation Plan. As such the Department is satisfied that the proposal would not significantly impact upon threatened species, communities and populations listed under the *Threatened Species Conservation Act 1995*.

However, to ensure that biodiversity impacts are minimised where possible during the construction phase it is recommended that the proponent be required to provide the following with each development application for subdivision, with any procedures and strategies identified to be carried into a Vegetation and Habitat Management Plan to be completed prior to commencement of any works on the Site:

- details on strategies to avoid and minimise clearing and disturbance of vegetation, and to retain endangered ecological communities, threatened species and their habitat, riparian vegetation (including Alluvial Tall Moist Forest) and mature and/or hollow bearing trees where possible. This should include consideration of the design of roads and stormwater devices
- management measures for minimising impacts on fauna during subdivision works including the implementation of appropriate tree clearing protocols.

As outlined in section 5.1.5, the Department considers that prior to any development application for subdivision a landscaping and public domain plan should be prepared for that stage. This should also identify appropriate species selection for landscaping works, including being limited to locally occurring native species, including regionally significant species and preferred Swift Parrott and Koala foraging habitat trees where possible. This is included as a further assessment requirement on the recommended instrument of approval.

#### **5.3.2 Biodiversity corridors**

Newcastle and Lake Macquarie consider that the proposal does not maintain important native vegetation corridors, and that the proposal would result in inadequate connectivity with Blue Gum Hills Regional Park, including to Hexham Swamp to the north. The councils consider that riparian corridors and buffer along the Newcastle Link Road could be expanded to provide better biodiversity connectivity. Lake Macquarie Council also considers that connectivity should be provided across the Newcastle Link Road and as well as roads within the development site.

The OEH acknowledges that the proposal is likely to result in loss of biodiversity values within the locality, including loss of local wildlife corridors. The OEH also acknowledges that the proposed riparian corridors are unlikely to function as viable biodiversity corridors. However, OEH considers that these impacts will be offset by the dedication of conservation lands.

### Department's consideration

The Department concurs with the OEH's position that the impacts associated with loss of Biodiversity connectivity can be adequately offset by the proposed dedication of conservation lands. In addition, the Department has recommended that the concept plan be modified to remove the proposed sports and recreation park along Back Creek, with the land proposed to be zoned E2 Environmental Conservation. This is discussed further in section 5.1.3. The protection of this area of land will substantially increase the width of the biodiversity corridor linking the Blue Gum Hills Regional Park to the north toward the Tank Paddock conservation lands (proposed to be dedicated for conservation as part of Coal & Allied's employment lands proposal at Black Hill), and the Hunter Wetlands National Park.

### **5.3.3 Impacts on Blue Gum Hills Regional Park**

The OEH has highlighted that biodiversity values, existing infrastructure and future management regime associated with the Blue Gum Hills Regional Park will be placed under substantially increased pressure as a result of the proposed development. The OEH considers that measures are required to mitigate any construction impacts on the regional park.

### Department's consideration

To ensure that Biodiversity impacts are minimised during the construction phase it is recommended that the proponent be required to provide details regarding the management of the interface between the development site and Blue Gum Hills Regional Park, including appropriate environmental controls to minimise any potential impacts. Management procedures should be prepared in consultation with OEH. Information provided should include, but not be limited to, boundary establishment, sediment controls, location and management of construction materials. Procedures and strategies identified are to be carried into a Vegetation and Habitat Management Plan to be completed prior to commencement of any works on the Site. This is included as a further assessment requirement on the recommended instrument of approval.

It is also noted that the indicative subdivision layout identifies perimeter roads around the Blue Gum Hills Regional Park. It is considered that these will further mitigate impacts on the park.

### **5.3.4 Riparian Corridors**

The site is dissected by various riparian corridors, including Back Creek, Minmi Creek, Brush Creek and their tributaries. The proponent has identified a network of riparian corridors within its proposed development site to accommodate these waterways. These comprise a 20m, 40m or 60m core riparian zone depending on the nature of the waterway with a 10m buffer on each side in all instances. In almost all cases the proponent proposes to transfer the ownership of these corridors to the relevant council for ongoing management. The proponent advises that all asset protection zones and open space areas would be outside the riparian corridors, but that the riparian corridors would accommodate walking and cycling paths.

NSW Office of Water (NOW) made the following comments in relation to riparian corridors:

- it supports the proposed riparian zones, subject to any development application demonstrating consistency with to *Water Management Act 2000*.
- Road and service infrastructure crossings should be designed in accordance with the NOW Guidelines for Controlled Activities. In particular it is noted that a number of road crossings are also intended to form part of the stormwater detention management for the site which is inconsistent with the guidelines.

- All stormwater detention basins and quality control structures should be located outside the riparian corridors.

To address the above matters NOW considers that any development applicant should demonstrate consistency with the NOW Guidelines for Controlled Activities (August 2010).

Newcastle Council considered that the 20m riparian corridors should be increased to 40m, with a 10m buffer on either side. The Council comments that it has this minimum requirement to similar development in the western corridor.

Lake Macquarie Council advises that it may support ownership of the riparian corridors in accordance with the requirements of its Biodiversity Planning Policy & Guidelines for LEP Rezoning Proposals, provided that the areas comply with the NOW Guidelines for riparian corridors, and in accordance with any other requirements of council.

Newcastle Council advises that it does not support the dedication of riparian lands and watercourse to council, and that alternative management arrangements for these areas should be identified.

#### Department's consideration

The Department considers that adequate riparian corridors have been identified, but that through the development application for subdivision the proponent should be required to demonstrate that all works within riparian corridors including stormwater infrastructure and crossings for roads and services meet the requirements of the relevant NOW guidelines for works within riparian corridors. This is included as a further assessment requirement on the recommended approval.

It is also considered that any dedication of riparian corridors would be subject to the relevant council's agreement. Where the relevant council does not agree to take ownership of this land alternative ownership and management arrangements would need to be identified. This may include incorporating the riparian land within a community title arrangement or within individual lots.

Future ownership of land is discussed further in section 5.1.3.

To ensure impacts on waterways and riparian vegetation are mitigated during the construction phase, each development application for subdivision should be required to include details of the management of the interface between the development site, and riparian land.

## **5.4 Soils and water**

### **5.4.1 Flooding and climate change**

The proponent's assessment has identified that in the upper reaches of the catchment, floodplains are largely confined within the deeply incised creek channels. In the lower reaches, a significant floodplain exists where the waterway opens up towards Hexham Swamp. The extent of the probable maximum flood level (PMF) is only marginally larger than the 100 year flood extent due to the steep terrain. The assessment concluded that 100 year flood level is primarily accommodated within riparian corridors, with the exception of a few isolated areas in the northern precincts and minor tributaries where the 100 year flood level extends into the development footprint (approximately 100 lots would be affected across the development site). In these areas minor filling would be required to ensure that roadways and dwelling footprints remain flood free. It was recommended that a flood planning level of the 100 year flood level plus a 0.5m freeboard should be adopted.

In terms of climate change impacts, the assessment predicts that in 2100 flood levels would have increases by 0.3m to 0.7m depending on the site location. The assessment recommended that these increases should be considered in final floor levels.

The proponent's assessment also considered flood evacuation requirements and concluded that an evacuation strategy should be prepared during the design phase, to provide for evacuation of all areas within the PMF.

Newcastle Council has raised a number of concerns about the accuracy of the flooding analysis carried out by the proponent including that:

- Only local flash flooding has been considered and that there is insufficient information to determine if parts of the land could be affected by the Hunter River or ocean flooding, including associated with sea level rise.
- Two metre contours have been used as the basis for the flood modelling, when more accurate digital elevation models are available. Council considers that more accurate data should be used for the final design.

Newcastle Council also raised concern about evacuation of proposed public land given the rapid rise times associated with flooding in this location.

#### Department's consideration

The Department considers that an adequate level of flood modelling has been provided for assessment of the concept plan. The Department is satisfied that the site has sufficient space and locations to assemble during flood events and that flooding can be managed through subsequent subdivision and development applications.

In particular the Department considers that the flood modelling should be updated based on survey accurate terrain information (i.e. digital elevation model) and to demonstrate any flooding effects associated with the Hunter River and ocean levels including any impacts associated with sea level rise. The flood modelling would also need to consider the potential impacts of climate change on flood hazard. This would be required to be provided as part of any future development application for subdivision.

In addition the Department considers that:

- any future development applications for subdivision should also demonstrate that all dwellings can be located above the flood planning level (100 year flood plus 0.5m freeboard)
- that safe evacuation can be provided from all dwellings and public land below the probable maximum flood level, through consultation with the relevant council and State Emergency Services.

These requirements have been incorporated into the recommended instrument of approval.

#### **5.4.2 Stormwater management**

The proponent has prepared a water sensitive urban design strategy which comprises the following stormwater management measures:

- On-lot treatment of stormwater quantity and quality, before discharge to the road stormwater system;
- In flatter areas vegetated swales along the identified main flood flow routes, consisting of open channel systems which are used to remove sediment and suspended solids;
- Precinct scale co-located detention / bio-retention basins to treat the quantity and quality of stormwater flows.

In steeper areas it is proposed that smaller bio-retention basins are used upstream of local road crossings. In other areas the basins would be located offline, discharging to riparian corridors.

NSW Office of Water (NOW) does not support the location of on-line detention and bio-retention basins including those which are integrated with road crossings. NOW considers that this approach is inconsistent with its guidelines and recommends that the subdivision layout is amended to relocate these structures outside the riparian corridor.

Newcastle Council has stated that whilst the concept design for stormwater management meets council's requirements for water quantity and quality control, that a number of the detention / retention basins are poorly located within watercourses or on land proposed as open space. Council considers that further consideration of the water sensitive urban design structures would be required by council prior to it accepting their dedication.

Lake Macquarie Council is also concerned about the extent of stormwater control devices located within riparian areas.

The Department has had further discussions with Lake Macquarie Council which indicates that on-lines basins (i.e. an end of line solution constructed on a creek or drain) such as that proposed by Coal & Allied in many areas of the site, would have difficulty in effectively dealing with all pollutants and could become easily overloaded. This solution would also change the hydrological regime of the waterway, and would result in construction impacts. Council acknowledged that it is unlikely that a solution where all stormwater detention basins would be located outside the riparian corridor would be achievable, but that a better solution would be to provide a stormwater treatment train, comprising a range of different stormwater detention responses. Council noted that providing a stormwater treatment train becomes more important on steeply sloping land. Council considers that swales are not suitable for roads with a gradient over 5%, but that in these areas where swales cannot be provided, stormwater detention, such as a biofilter or sand filter, can be located adjacent to the riparian corridor, with water then draining into the waterway.

#### Department's consideration

The Department concurs with Newcastle Council that while the stormwater management strategy proposed would be effective in managing the quantity and quality of stormwater, the proponent should be required to review the water sensitive urban design strategy to consider how impacts on riparian corridors and waterways as a result of stormwater infrastructure can be minimised. This should demonstrate that, wherever possible stormwater infrastructure has been located off-line and outside of the identified riparian corridor, having regard for the NSW Office of Water guidelines on works within riparian corridors. A revised strategy should be provided with the first development application for subdivision within each stage, with each development application for subdivision including the detail design of the stormwater management system. These requirements have been incorporated into the recommended instrument of approval.

#### **5.4.3 Groundwater**

The NSW Office of Water (NOW) raised concerns about the potential impacts of underground service infrastructure required by future development on groundwater quality.

#### Consideration

The Department considers that further assessment of the ground water impacts of excavation works, and potential infiltration from stormwater infrastructure, should be undertaken during the detailed design to establish any management measures that may be required to minimise impacts on groundwater. Consideration should also be given to potential impacts on groundwater dependant ecosystems.

It is noted that where excavations intercept groundwater, a licence under Part 5 of the *Water Act 1912* is required. The Department has therefore incorporated requirements into the recommended instrument of approval to ensure that the full extent of potential groundwater impacts are considered as part of any development application for subdivision.

### 5.4.4 Contamination and Remediation

A Preliminary Contamination and Geotechnical Assessment (Douglas Partners 2008) was prepared to support the concept plan. The assessment included desktop investigations, site walkover, and sampling and analysis of identified potential sources of contamination. For the purposes of the assessment the site was divided into six areas as shown at Figure 9.

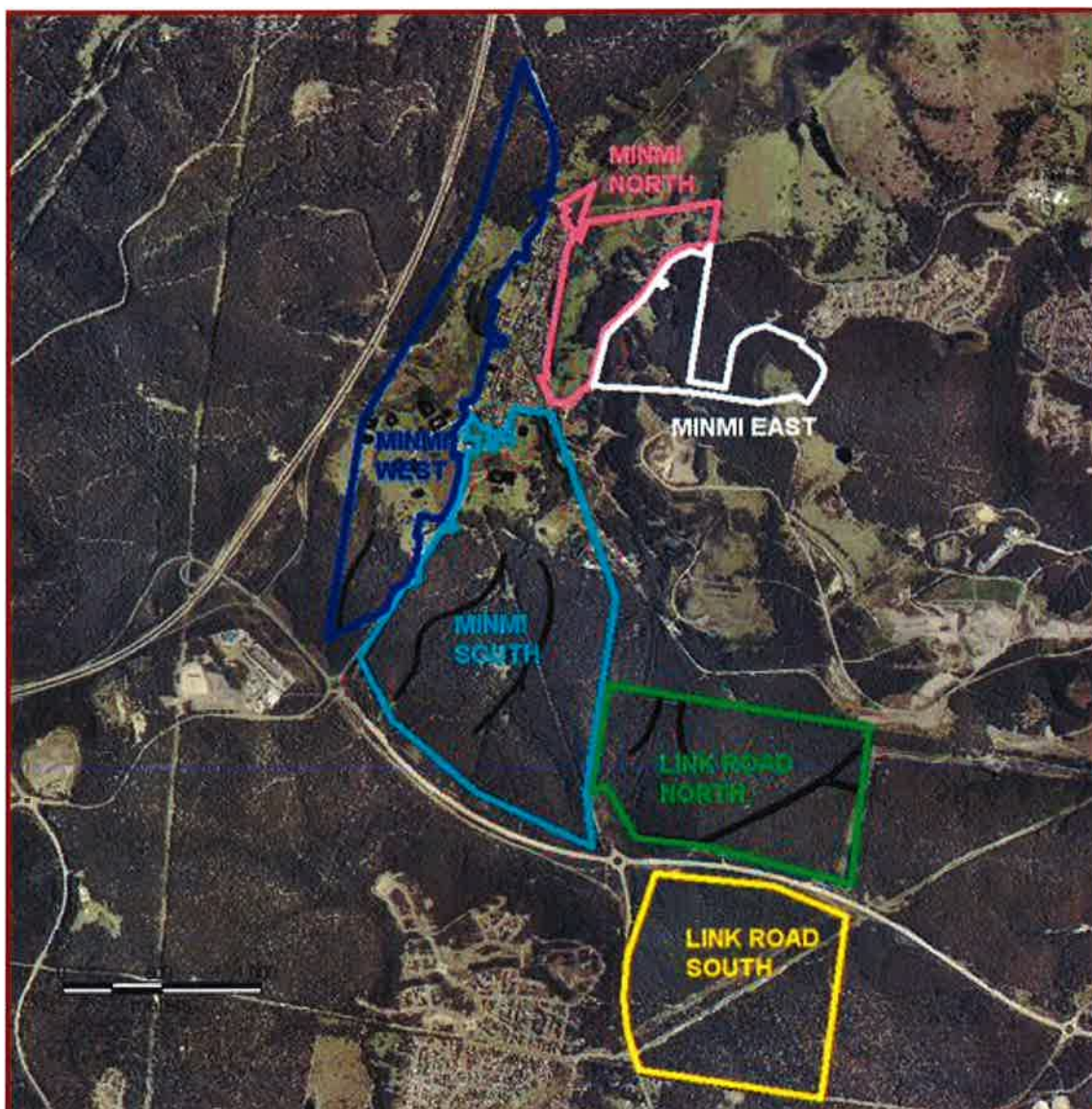


Figure 9: Contamination assessment areas

Table 9 summarises the findings of the assessment.

Table 9: Contamination assessment findings

Site area	Findings
Minmi North	<ul style="list-style-type: none"> <li>Lead and Benzo(a)pyrene were identified at the southern extent, with levels exceeding the residential land use criteria.</li> </ul>
Minmi East	<ul style="list-style-type: none"> <li>Dumping of cars, batteries, fibro sheeting.</li> <li>A mound of overburden from former mining activity, and smaller mounds of building rubble.</li> </ul>
Minmi West	<ul style="list-style-type: none"> <li>Contaminants exceeding residential land use criteria, including metals, TRH, and Benzo(a)pyrene.</li> <li>Presence of bonded asbestos in fibro sheet fragments, near the surface and</li> </ul>

	in soil filling.
Minmi South	<ul style="list-style-type: none"> <li>Contaminants exceeding residential land use criteria, including arsenic and lead, asbestos fragments.</li> </ul>
Link Road North and South	<ul style="list-style-type: none"> <li>Presence of asbestos fragments and fibres in soils from dumping of fill.</li> <li>Preliminary sampling and analysis of the filling in these areas indicates the absence of gross contamination, however detailed assessment would be required prior to construction.</li> </ul>

The assessment also noted that the composition of filling across the site may be variable and the presence of further fibro fragments (potentially asbestos based) within the fill across the site cannot be discounted. Potential contamination was also identified within some areas of the site which are not proposed for development, which may require further investigation.

The assessment concluded that the site is suitable for the proposed residential development in accordance with SEPP 55, subject to the following:

- detailed contamination assessment being undertaken across the site to better identify the presence of localised contamination hot spots, including assessment of groundwater quality in areas of soil contamination
- preparation of a remediation action plan
- appropriate remediation being conducted to remove identified contaminants
- removal of deleterious material and possible associated surface impact
- validation testing and verification where required (in the case of asbestos by a qualified asbestos consultant).

The proponent's has committed to implementing the above recommendations for each stage prior to the issue of a subdivision certificate for that stage.

Newcastle Council requested inclusion of a specific condition requiring remediation of land proposed to be transferred to council's ownership.

#### Department's consideration

The Department considers that the proposed development site can be made suitable for residential development through remediation, and accordingly is satisfied that the proposal complies with the requirements of SEPP 55.

However, further consideration of the extent of contamination and remediation measures is required to be carried out with each development application for subdivision. Accordingly, it is recommended that the proponent be required to provide a remediation action plan with each development application for subdivision. This is included as a further assessment requirement on the recommended instrument of approval.

In relation to remediation of land to be transferred to council, it is recommended that the concept plan is modified such that any land proposed to be dedicated to Newcastle or Lake Macquarie Council is to be subject to the agreement of the council. This would enable the council to negotiate any requirements for remediation works.

## **5.5 Mine subsidence**

The proponent has carried out an assessment of mine subsidence on the site. The site is underlain by coal mine workings within two seams, the Young Wallsend and the Borehole seams. Four open cut pits have also been identified on the site.

The assessment included carrying out a risk assessment which comprised:

- identification of potholes based on existing records and site walkover
- identification of location of shafts and entries based on existing records and site walkover

- confirmation of depth of cover and extent of mine workings through drilling and other methods given concerns about limited accuracy of mapping of works.
- pillar stability assessment.

The assessment identified some areas of the site which may require additional investigation, including:

- some areas which have been mapped as low pothole risk may be able to have associated restrictions lifted if additional investigations can demonstrate the absence of workings.
- The depth of cover to the workings in the far eastern part of the Minmi East precinct will require confirmation.

The assessment identified the following constraints to future development which are mapped at Figure 10.

- high pothole risk: grouting of workings would be required prior to development
- low pothole risk: development likely to be restricted to single storey with suspended floor. There are no extensive workings expected, however localised tunnels may be present
- limited subsidence: two storey brick veneer development
- moderate subsidence: single storey brick veneer construction
- high subsidence: light weight (clad) construction with stiffened raft slabs and limited footprints. Density limits may also be required
- shafts: these areas should be incorporated into open space as development over shafts is not appropriate
- roads and services: roads and services would be required to be designed to accommodate potential subsidence including spanning of potholes in areas of high risk.
- open cut mines: these areas typically contain and are surrounded by, uncontrolled mine spoil filling and may have connections to buried workings. Generally re-compaction of spoil and sealing of connections to works would be required, however piled footings may be appropriate in some instances.

As part of its preferred project report, the proponent provided an addendum mine subsidence assessment to address issues raised by the Department. This was to demonstrate that the proposed village centre, including a proposed full size supermarket, could be constructed within an area identified as having high pothole risk and requiring limited building footprints.

The assessment clarified that the footprints of the majority of buildings in the area of the proposed village centre would be restricted to 15m x 15m to limit possible tilts of building slabs to approximately 220mm over the length (or width) of the building. The assessment noted that the proposed supermarket footprint would be 80m x 40m, but concluded that a building of this scale would require grouting of the coal seam to be carried out prior to construction. Additional modeling of grouting options would be required to determine how much of the seam requires grouting to achieve reasonable structural design outcomes.

The proponent has committed to carrying out additional investigations in accordance with the mine subsidence assessment prior to any works commencing on site, and that all future development is in accordance with the constraints identified in that assessment.

The Mine Subsidence Board (MSB) has advised that the proposed Minmi development is within a proclaimed Mine Subsidence District, and emphasised that the area is extensively undermined with very shallow to deep mining affecting the area and that mine subsidence must be managed to prevent major damage to development in the future within this area.

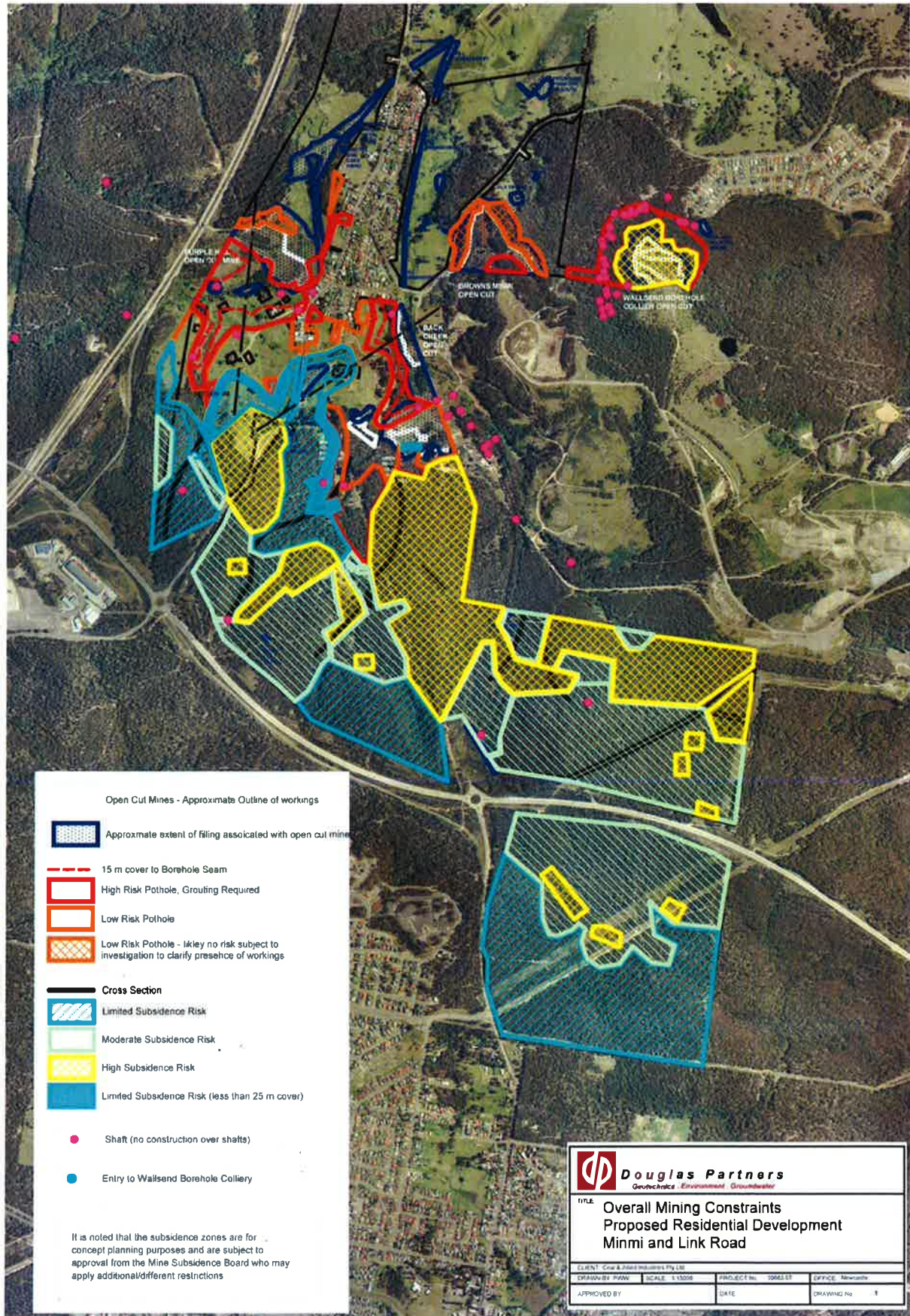


Figure 10: Mine subsidence constraints

The MSB has no objection to the proposed development, subject to the submission of plans incorporating the design requirements outlined below, and its final approval:

- eliminate and manage any risk from mine subsidence by suitable means to shallow mined working, open cut areas and other areas affected by subsidence features. Restrict development over capped mine shafts and tunnel entries
- removal of any risk of mine subsidence by a suitable means, such as grouting  
Alternatively, satisfy the MSB by confirming through geotechnical investigations that the working are long term stable and there is no risk of mine subsidence effecting the site.
- geotechnical investigations must be the satisfaction of MSB
- final drawings submitted prior to commencement of construction must contain certification by a qualified structural engineer to the effect that any improvement constructed to meet the specification of the final drawings will be safe serviceable and reparable taking into account the geotechnical conditions of the site.

#### Department's consideration

The Department considers that the proponent has adequately addressed mine subsidence constraints for the purposes of the concept plan and has provided adequate information to demonstrate that the proposed village centre could be accommodated.

However, the Department considers that the proponent should be required to prepare geotechnical investigations to demonstrate that any risk of mine subsidence within the development site has been removed as appropriate to the intended future use of the land, and outline the measures required achieve this. For the village centre this would require consideration of options for grouting to ensure that mine subsidence risk is eliminated for all types of development proposed, including larger floor plate structures. These geotechnical investigations should be provided within any development application for subdivision and should be accordance with any requirements of the MSB. These requirements are reflected in the recommended instrument of approval.

## **5.6 Traffic and access**

### **5.6.1 Regional roads**

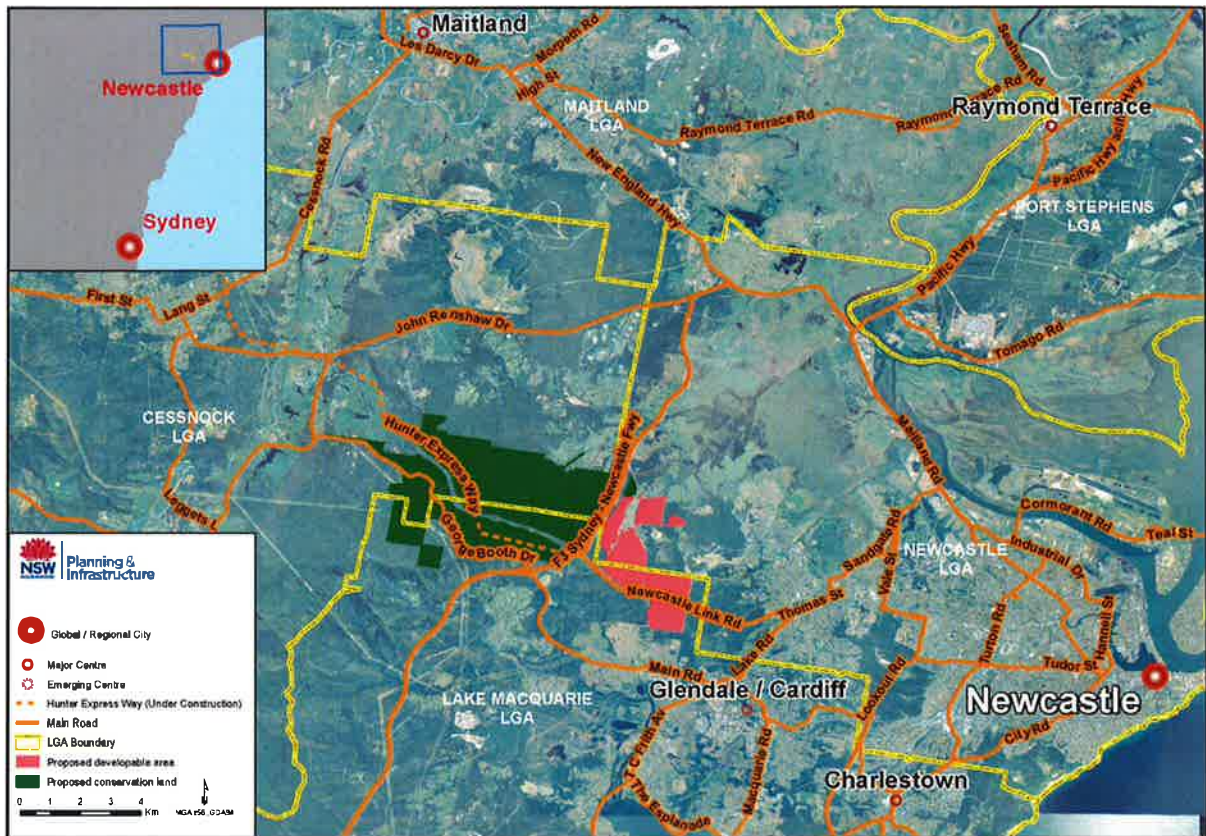
The proposed development is located to the north and south of Newcastle Link Road, near its intersection with the F3 Freeway. The Newcastle Link Road is an arterial road which links the site to Newcastle centre. The majority of the development site and the existing Minmi village is located to the north of the Newcastle Link Road, and is accessed via Woodford Street and Minmi Road North. The area of the site located to the south of the Newcastle Link is accessed via Minmi Road South. The Regional Road network is shown at Figure 11.

The traffic assessment estimates that the proposal will generate 22,000 vehicle trips per day (excluding internal trips), with traffic movements expected to be distributed as follows:

- 40% via the proposed Minmi Boulevard to Newcastle Link Road to access the Newcastle and Lake Macquarie areas
- 15% via Minmi Road / Main Road to the south toward Glendale
- 10% to the west via Hunter Expressway to Cessnock and the Upper Hunter
- 10% to the F3 Freeway
- 6% via Cameron Park Drive to the south
- 7% along Minmi Road, via Fletcher to the south
- 12% along Lenaghans Drive to north of Minmi village to Black Hill and Beresfield, as an alternative to the F3 Freeway.

The proponent has noted that in addition to the proposed development and background growth, that the Hunter Expressway will influence traffic growth on the Newcastle Link Road between the F3 Freeway and Lake Road (to the east of the development site).

The proponent has modelled the performance of key intersections with Newcastle Link Road both with the proposed development and a summary of the analysis of the impacts of its proposed staged development. The results are outlined below.



**Figure 11: Existing regional road network**

**Stage 1 – Minmi East precinct (530 dwellings)**

- New signals would be required at the Newcastle Link Road / Woodford Street / Cameron Park Drive intersection to support the opening of the Hunter Expressway.
- These signals would have adequate capacity to accommodate Stage 1.
- Both the Newcastle Link Road / Woodford Street / Cameron Park Drive and Newcastle Link Road / Minmi Road would have a level of service B at the completion of Stage 1.

**Stages 2 & 3 – Link Road South and Minmi Extension (970 dwellings)**

- The Link Road South precinct will be accessed via Minmi Road at the existing roundabout with Northlakes Drive, requiring a fourth leg to the roundabout to be provided.
- The Link Road North precinct would be access via Woodford Street, as Minmi Boulevard would not yet be constructed.
- The new signals at Newcastle Link Road / Woodford Street / Cameron Park Drive would have adequate capacity to accommodate stages 2 and 3, however level of service being E in 2026.
- Stage 2 and 3 are expected to reduce the Newcastle Link Road / Minmi Road roundabout capacity to C during the AM peak and F during the PM peak.

**Stages 4 & 5 – Village Centre and Link Road North (1800 dwellings)**

- Minmi Boulevard would be constructed as part of this stage and would be required to be operational prior to occupation.
- Minmi Boulevard would intersect with the existing Minmi Road / Newcastle Link Road roundabout.

- Modelling predicted that this intersection would require a major upgrade to full signals, to accommodate the proposed development and cumulative impacts associated with other planned development.
- The model predicated a level of service C in the AM and PM peak should the Newcastle Link Road be upgraded to three lanes in each direction.

Roads and Maritime Services (RMS, formerly RTA) concur that the intersection of Newcastle Link Road / Minmi Road would require upgrading to traffic signals, but that this intersection upgrade and connection to the proposed development should be provided earlier in the development process. Initially RMS requested that the proponent provide additional modelling as part of the concept plan to enable the scope and timing of the upgrade of this intersection to be further considered.

However, following further discussions, RMS agreed that the final intersection upgrade requirements could be further considered through the provision of further traffic modelling with prior to development within each stage. This would enable the actual impacts of the Hunter Expressway to be considered following its completion.

Newcastle Council highlights that the proponent should provide a more extensive assessment of the impacts of proposed development on the Main Road 82 (Newcastle Link Road and Thomas Street) as the capacity of this road and associated intersections is already exceeded in many locations.

#### Department's consideration

It is noted that since the proponent assessed the traffic impacts of its proposal, upgrades to key intersections have been completed. This includes upgrades to the Newcastle Link Road / Woodford Street / Cameron Park Drive intersection and an upgrade to Newcastle Link Road and Thomas Street intersection.

As such, the Department considers that specific upgrade requirements to the regional road network should be finalised through subsequent stages of the development process when impacts of the Hunter Expressway, as well as any improvements to existing intersections resulting from RMS works are known.

Accordingly, it is recommended that the proponent be required to provide an updated traffic and transport impact assessment with the first development application for subdivision within each of the proposed stages of development, to be prepared in consultation with RMS and the relevant council(s), including:

- details of traffic generation and distribution from all land uses proposed within that stage including retail, sporting facilities and education facilities.
- intersection analysis and micro-simulation modelling to determine the impact of the proposal on the existing road network, including for the following key intersections - Newcastle Link Road / Woodford Street / Cameron Park Road and Newcastle Link Road / Minmi Road.
- details of any proposed upgrades to the road network, including timing and funding arrangements, to accommodate the proposed development. This should include identification of suitable pedestrian and cycle links across Minmi Road and Newcastle Link Road.

This requirement has been incorporated into the recommended instrument of approval and would ensure that upgrades required for each stage of the proposal are identified prior to any works commencing for that stage.

### 5.6.2 Local roads

As part of its concept plan the proponent has provided an indicative road layout plan and proposed road hierarchy including typical road cross sections, which forms part of its concept plan design guidelines.

Newcastle Council has raised the following issues regarding the proponent's assessment of impacts on the local road network:

- council does not support the proponent's position that impact on the intersections along Minmi Road would be minimal
- existing intersections along Minmi Road North do not make allowance for the proposed development. The proponent should be required to assess the impacts of the proposed development along the full length of Minmi Road North and Longworth Avenue (between Minmi and the Newcastle Link Road), and identify infrastructure upgrades to address these impacts.

Newcastle Council also had the following concerns about the proposed conceptual road design:

- the existing Minmi Road, Woodford Street, and Minmi Boulevard should be constructed as sub-arterial roads, with minimal additional intersections
- all four way intersections along these arterial roads are to be designed as roundabouts or signalised intersections, with a signalised intersection to be provided for the bus route servicing the school
- typical road cross sections do not conform with numerous elements of council's current requirements. Council will only accept ownership of roads which are designed to council's requirements. In particular council's adopted maximum longitudinal road grades of 16% for local roads and 12% for collector roads and bus routes would be exceeded in a number of cases
- some roads are proposed to be constructed with in excess of 8m level difference over the width of the road reserve. Council does not support the use of excessive retaining walls or batters to accommodate roads which have not been designed with consideration for the topography
- council considers that the Village Centre and Minmi High Street should be relocated to be on one side of the road only, but that failing this, roundabouts should be provided at either end of the centres to minimise traffic entering neighbouring residential areas
- a 20 metre wide vegetated buffer should be incorporated within the road reserve for Minmi Road, Woodford Street, and Minmi Boulevard to buffer the proposed rear fences of adjacent lots, and for traffic safety purposes.

Lake Macquarie Council requested that further consideration should be given to whether a signalised intersection should be provided at Northlakes Road / Minmi Road, but that if this is to remain as a roundabout that pedestrian signals would be required across Minmi Road.

Lake Macquarie Council also had the following concerns about the proposed conceptual road design:

- the Link Road South precinct includes a link between Minmi Road to the Transfield Avenue development site to the south which will ultimately link to Fredrick Street. Further consideration, including modelling, is required to determine the suitable configuration for the intersection of this road within the development footprint. Council also had some concerns about the road design including provision for cyclists and parking
- roundabouts should be provided at all four way intersections on Minmi Boulevard within Lake Macquarie LGA. Further analysis is required to determine the appropriate configuration for this road
- car parking should be provided on both sides of local roads
- council requires all verges to be 4.5 metres to accommodate street trees, footpaths and services

- council has a number of concerns about the indicative cross sections identified in the urban design guidelines.

Newcastle Council also raised concern about the accessibility of the proposed dwellings which are located in the eastern most portion of the Minmi East precinct, as this site is proposed to be accessed via adjacent land which is not owned by Coal & Allied.

The proponent advises that approval for access Mirvac's land has been discussed with and is supported by Mirvac. Council considers that this precinct should not be approved until legal access has been secured.

Through its preferred project report the proponent confirmed the following in relation to the access to this land through provision of land title documents:

- an access road is via an existing 15 metre wide right of carriageway through the land which is owned by Kingston properties.
- a second access road can be provided is via land which was purchased from Mirvac known as Lot 149 DP 270578.

#### Department's consideration

Upgrades to the existing local road network would need to be addressed through either section 94 or through conditions of approval on subsequent development application for subdivisions. The Department therefore considers that the impacts of the proposed development on the existing local road network should be further considered through the requirement for an updated traffic and transport impact assessment (as discussed in section 5.6.1) which would require the proponent to consider impacts on the existing local road network. This would inform the preparation of the staging plan for each stage as it relates to local contributions to transport infrastructure.

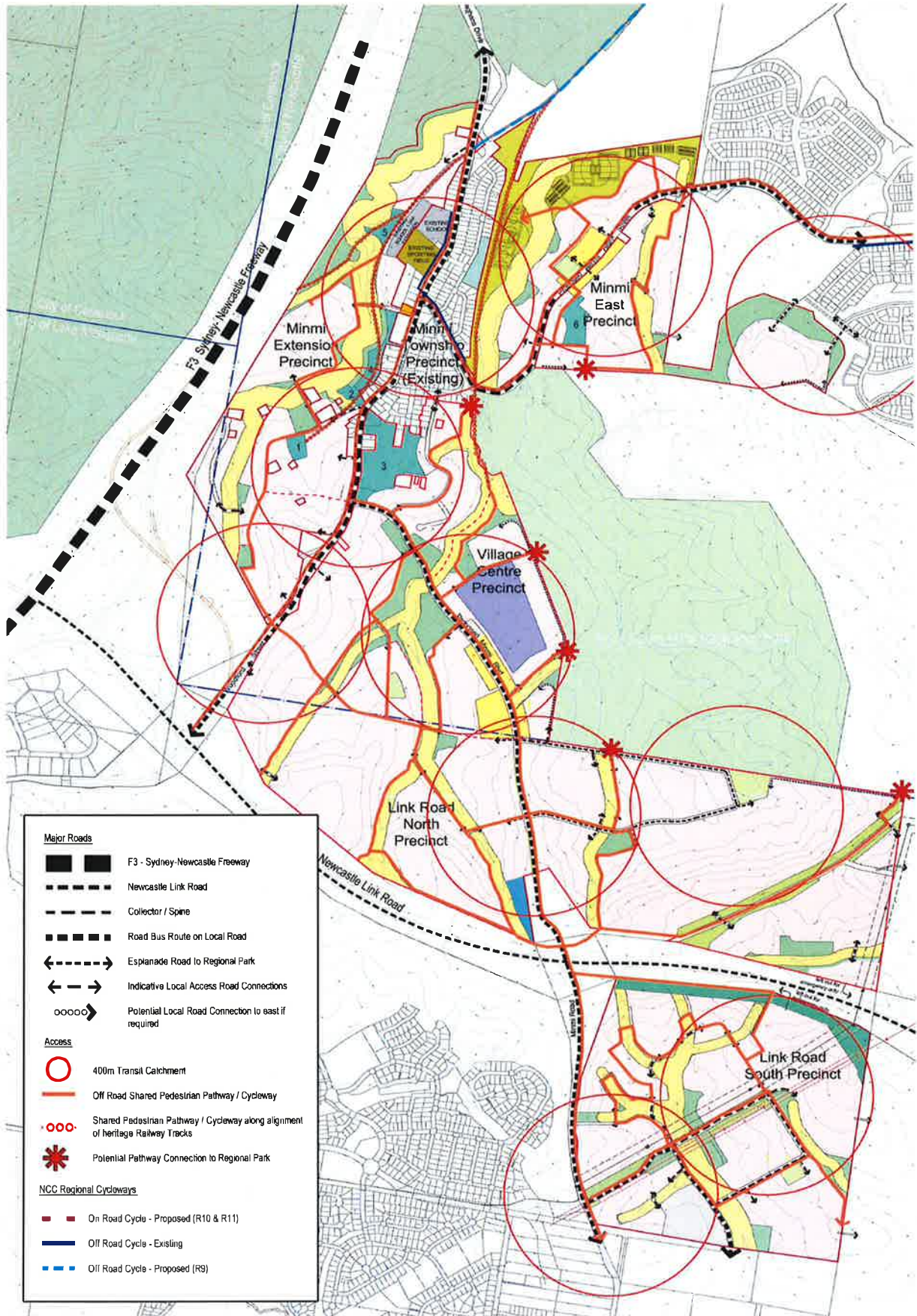
Noting that the proposed local road layout is indicative only, with each development application for subdivision the proponent should be required to meet all requirements of council in relation to the road design. This is included as a further assessment requirement on the concept plan approval.

The Department is satisfied that appropriate access arrangements to the eastern portion of the Minmi East precinct have been identified for the purposes of the concept plan. Further details of these access arrangements would be required to be provided with the relevant development application for subdivision.

The issue of provision of buffers alongside the Minmi Road, Minmi Boulevard, and Woodford Street would be addressed through the preparation of revised urban design guidelines as discussed in section 5.1.5.

### **5.6.3 Pedestrian and cycle network**

The proponent has provided a conceptual access and movement plan which identifies a network of off-road shared pedestrian and cycle ways within the development site. This includes a shared pathway along a number of former rail corridors which were associated with the mining use of the land. The conceptual access and movement plan is shown at Figure 12 and at Appendix A. Provision for on road cycle ways and footpaths has also been identified in the typical road cross sections.



**Figure 12: Conceptual Access and Movement Plan (preferred project report) – see also Appendix A**

Lake Macquarie Council raised the following concerns about the proposed cycle network

- a number of roads have shared paths on both sides of the road. A shared path is only required on one side, and should have a minimum width of 3 metres
- Council has concerns about the proposed network of off road shared pathways, including that a number of these weave in and out of riparian corridors and would not provide the most rational and direct links within the site. Council has recommended a number of alternative shared pathways across the site for further discussion with Newcastle Council and Transport for NSW
- the proponent should be required to provide a cycle way network plan demonstrating how cycle networks are provided within and external to the site. The plan should identify pedestrian pathways, on road cycleways, and off road shared pathways. Council stressed the need for a cycle way network to be agreed upfront rather than with each development application for subdivision, to ensure positive outcomes across the lifetime of the development
- bicycle parking should be provided at key destinations within the development site
- pathway connection points to Blue Gum Hills Regional Park are not in accordance with the Blue Gum Regional Park Plan of Management
- the proposal is unclear as to whether a shared path or pedestrian only path would be provided along the heritage rail lines.

Newcastle Council raised the following concerns about the proposed pedestrian and cycle network:

- a comprehensive cycle / pedestrian pathway network is required to be prepared showing how the proposed cycle network links to the surrounding network
- all cycle ways should be on road with the exception of along collector and sub-arterial roads
- Minmi Boulevard and Woodford Street should have both on road and off road cycle ways to accommodate a range of cyclists
- cycle ways are required to comply with Austroads, and the NSW Bicycle Guidelines (RMS)
- cycle ways should not be located with riparian corridors.

#### Department's consideration

The Department concurs with the councils that further consideration is needed regarding the pedestrian and cycle network within the development site, and how this links to existing and proposed cycle ways external to the development site. It is noted that both councils have recently prepared draft cycling strategies.

Accordingly, a comprehensive cycle way and pedestrian network plan should be prepared prior to the lodgment of any development application for subdivision. In preparing the plan, the proponent should consider councils' cycle way strategies. Consideration should also be given to how the pedestrian and cycle network links with key destinations, as well as how it links with existing and proposed access points to and pathways within Blue Gum Hills Regional Park. Any off site pedestrian and/or cycle ways which are proposed to be provided by the proponent by way of local infrastructure contributions or the \$8 million allocation should also be identified. The plan should be prepared to the satisfaction of the Director-General in consultation with Newcastle and Lake Macquarie Councils, Transport for NSW, and Office of Environment & Heritage. This is addressed as a recommended further assessment requirement on the concept plan.

The Department considers that the proponent should be also required to provide shared pedestrian / cycle path along the heritage rail corridors within the site including from Tank Paddock to the proposed Workshop Park and from Tank Paddock to the Blue Gum Hills Regional Park. This should be clarified through the preparation of the cycle way and

pedestrian network plan and as such is addressed as a recommended further assessment requirement on the concept plan.

#### **5.6.4 Public Transport**

The proponent has identified a bus route within the proposed development site which is shown on the conceptual access and movement plan at Figure 12 and at Appendix A. The conceptual access and movement plan also shows how much of the site is located within a 400 metre catchment of a proposed bus stop.

Newcastle Council considers that the proposed bus route is not satisfactory as a number of lots would be located at least 1.2 kilometres walk from a bus stop, including in areas of steep gradients. Council highlights that this does not meet the Government's service standard of 90% of dwellings within a 400 metres of a bus route. Council also highlighted the need to provide public transport services early on in the development process. Council also noted the importance of linking the site to existing and future urban areas, key employment areas, and major transport infrastructure.

Lake Macquarie Council noted that frequent public transport facilities should be provided linking to key off site locations. Council also considers that preferred locations for bus stops need to be discussed with council as well as the bus service provider and that this should be addressed through the relevant development applications for subdivision.

NSW Department of Transport also commented that further consideration would need to be given to provision of bus infrastructure at the development application stage. NSW Transport stressed the importance that the proposal support the relevant targets in the NSW StatePlan, and that consideration would need to be given to appropriate integration of the site with bus networks.

#### **Consideration**

The Department considers that the identified bus route is generally adequate to service the proposed development, but that the final bus route and bus stop locations should be agreed prior to lodgement of any development application for subdivision, in consultation with the councils, Transport for NSW, and relevant private bus companies. To address this the cycle way and pedestrian network plan discussed in section 6.5.3 should also include a public transport component to identify all proposed bus routes and bus stops and demonstrate how the bus routes will link key locations within the site, provide access to key offsite locations, and integrate with the surrounding bus network. The agreed plan would then form part of the first set of revised urban design guidelines which are to be prepared prior to any development within Stage 1.

#### **5.6.5 Access to Summerhill Waste Management Centre**

The Summerhill Waste Management Centre adjoins the development site to the east. Access to the waste management centre is currently accessed from Minmi Road at Maryland approximately five kilometres to the east of the development site. A paper road traverses the proposed development site within the Minmi East precinct which Newcastle Council has indicated that it intended to construct as an alternative access to the waste management centre. This road has not been reflected in the proposed road layout, as it is the location of a number of Aboriginal heritage items. This paper road has been identified to be located within open space.

Newcastle Council has noted that it would be willing to work with the proponent to identify an alternative access road to the waste management centre through the proposed residential area that could manage conflicts between heavy vehicles and residential traffic and residents.

### Department's consideration

The retention of the Aboriginal heritage items is supported. Further, development of the existing road reservation is not considered appropriate as it would either require a fifth leg to be provided to the intersection with Newcastle Link Road / Minmi Road / Minmi Boulevard, or it would intersect with Minmi Boulevard within close proximity to the Newcastle Link Road. Neither of these options is likely to be supported by RMS.

Accordingly, it is recommended that the concept plan approval require the proponent to identify that a road has been provided within the Link Road North precinct linking Minmi Boulevard and the waste management centre and which is designed to accommodate waste removal vehicles in accordance with any requirements of the relevant council.

## 5.7 Heritage

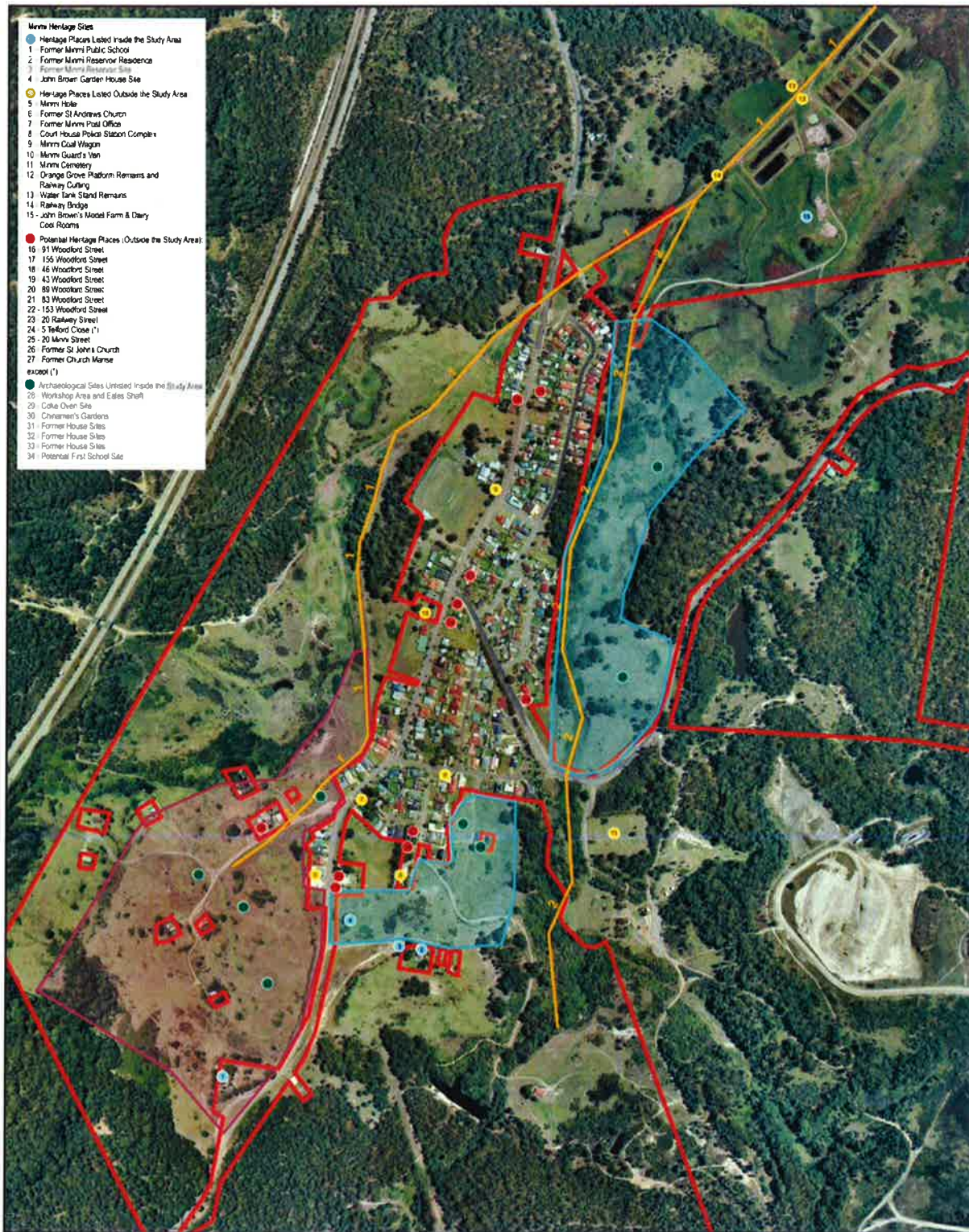
### 5.7.1 European heritage

A number of heritage items are currently listed in local environmental plans, and surveys carried out as part of the Heritage Impact Assessment, identified a number of additional potential local heritage items. Most items are associated with the former mining activities on the site. A number of these items (both listed and potential) are archaeological heritage sites and the Heritage Impact Assessment has classified these items within two archaeological zones.

There are no items within the site which are listed on the State Heritage Register. Table 10 below, outlines each of the listed and potential heritage items and the likely impact of the proposed development. The location of the items is shown at Figure 13.

**Table 10: European heritage items**

Heritage item	Heritage status	Impact of proposed development
<b>Built Heritage Items</b>		
Former Minmi Reservoir Residence	LEP Heritage Schedule	No direct impact
Former (Second) Minmi Public School	LEP Heritage Schedule	No direct impact
Church and Manse	Not listed (local significance)	Not direct impact
Duckenfield Colliery No. 2 Railway Branch Line	LEP Heritage Schedule	No direct impact
Duckenfield Colliery No. 1 Railway Branch Line	LEP Heritage Schedule	Partially impacted
Dam (blocked by a semi-circular brick structure)	Not listed (does not meet local significance threshold).	No direct impact
<b>Archaeological Heritage Items within Archaeological Zone 1</b>		
Chinese garden	Not listed (local)	Impacted by proposed sports fields
Former residences	Not listed (local as group)	Impacted
Minmi Reservoir Site	LEP Heritage Schedule	No direct impact
J. Brown Garden House Site	LEP Heritage Schedule	No direct impact
<b>Archaeological Heritage Items within Archaeological Zone 2</b>		
Coke Oven Site	Not listed (local)	No direct impact
Workshop Area and Eales Shaft	Not listed (local)	Impacted
Former residences	Not listed (local)	Impacted
First School Site (exact location unknown)	Not listed (local)	Presumed to be impacted



Client	Canlys
Project	Lower Hunter Land Development - Minmi Link Road & Standington
Drawing No.	0111477a_M_01_R1
Date	29/11/2010
Drawn by	ML
Source	Google Earth Pro
Scale	Refer to Scale Bar

**Figure 5.2**  
**Minmi Heritage Sites**

Environmental Resources Management Australia Pty Ltd  
Building C, 33 Saunders St, Pyrmont NSW 2009  
Telephone +61 2 8584 8888



**Figure 13: European heritage items**

All built heritage within the development site are proposed to be retained, with the exception of the Duckenfield Colliery No. 1 Branch Railway Line which would be partially impacted. The rail line is proposed to be retained within open space, with the exception of the very southern section which is proposed to be developed to accommodate a road and dwellings.

The Heritage Impact Statement also notes the potential impact on views from the Court House building (a locally listed item) which adjoins the development site. The Statement noted that the building has a view corridor to the west, which is shown at Figure 14. To mitigate this impact the grassed area between the building and Woodford Street, which forms the foreground of the view is proposed to be retained as a local park. Development of land to the west of Woodford Street will impact on views to the middle distance. Directly to the west the land is proposed to be developed as rural residential style lots, and the land to the north west is proposed to be developed as low density residential lots. Vegetation on the ridgeline further to the west would not be impacted by the proposed development. The assessment concluded that the impact is acceptable, subject to ensuring that future housing within the view corridor is appropriately designed in terms of height, materials and colour.



**Figure 14: Views to the west from the heritage Court House**

The proposed development will impact on a number of archaeological heritage items. The Heritage Impact Assessment sets out a number of recommendations to mitigate the impact of the proposed development on European heritage, which are outlined below:

- historic photographs of built heritage items, which form part of the historic research carried out for the Heritage Impact Assessment should be compiled into an archival record and be made available across council libraries in the region
- historical archaeological investigations should be undertaken prior to development including:
  - A geophysical survey of archaeological zone 1 and archaeological zone 2 to investigate the possible location of the former school, former house sites, the location of the coke ovens, portions of the workshop and Eales shaft area not proposed to be retained, and the Chinese gardens;
  - An archaeological research design should be written to investigate a representative portion of sites to be impacted. The design should aim to

investigate the former school site, portions of the workshop and Eales shaft area not proposed to be conserved, a sample of former houses from each of the archaeological zones, and a representative portion of the Chinese Garden. Archaeological investigations would be informed by the likely archaeological potential and aim to address questions established by the Heritage Impact Statement.

- Test extractions could be undertaken to determine the condition and integrity of any remains, and inform the requirements for further investigations
- Interpretation of all archaeological sites for public appreciation (see below)
- a heritage interpretation strategy should be prepared to guide the provision of on site interpretation. The strategy could be informed by the NSW Heritage Office *Guidelines for Interpreting Heritage Places and Items 2005* and should include heritage walks or trails and signage about the history and heritage significance and the area.

The recommendations mentioned above have been included as requirements of the proponent's statement of commitments, to be completed prior to commencement of any works on the site.

Newcastle Council has provided the following comments on the heritage impact assessment:

- dwellings along the western side of Woodford Street to the south west of the Court House are not supported, on the basis of impacts on the view corridor. Council considers that a master plan should be prepared for the court house to inform the nature and type of development within the view corridors
- further investigations are required to confirm the curtilage of the two archaeological heritage zones, and in particular of the coke ovens
- the final extent of the proposed heritage Workshop Park should be determined based on an area which reflects its historical boundary as the former coal mining operations in this location (which included the Eales shaft site and J&A Brown Workshop)
- the entire route of the Duckenfield Colliery No. 1 Railway Branch Line should be linked through to the Workshop Park as part of the cycle way and heritage walking path. Development of part of the rail line for dwellings and roads is not supported
- a heritage trail around Minmi should be provided as part of Stage 1
- the proposed research design and management approach for archaeological zones needs to be endorsed by the Office of Environment & Heritage
- a conservation management plan (CMP) must be prepared, in consultation with council, prior to approval of the concept plan to develop best practice heritage conservation outcomes. The conservation management plan should identify how each of the heritage items is proposed to be managed, and should address the matters outlined above.

Lake Macquarie Council does not support the proposed location of recreation facilities within the sports and recreation park on the site of the archaeological heritage Chinese gardens, because of the associated impacts.

The former Heritage Branch of the Department of Planning & Infrastructure (now part of Office of Environment & Heritage) also provided advice on the proposal. The Heritage Branch supports referral of the Archaeological Research Design for its approval prior to the commencement of the archaeological program. The Heritage Branch also considers that given the extent and nature of the archaeological program that the program excavation director should demonstrate that they meet the Heritage Council Excavation Director Criteria prior to works commencing. A report on the outcomes of the archaeological program should be lodged with the Heritage Branch and the relevant local council within 1 year of the end of the Archaeological program.

### Department's consideration

The Department considers that the proponent has provided an appropriate level of assessment of European heritage values associated with the site, and that the proposal has largely responded to the identified heritage constraints. However, the Department concurs that the full extent of the Duckenfield Colliery No. 1 Railway Branch Line should be retained to provide a pedestrian / cycle path through to the proposed Workshop Park. It is recommended that the concept plan is modified to address this matter.

The Department considers that development within the view catchment of the court house building should have regard for impacts on view corridors from this building. This can be addressed through the relevant detailed urban design guidelines which are proposed to be required with each stage, as discussed in section 5.1.5.

To ensure that the heritage impacts of the proposed development are appropriately mitigated through the development of the proposal it is considered that the proponent should be required to address the following:

- a conservation management plan to be prepared in accordance with relevant guidelines prior to approval of any development application for subdivision. The plan should include mitigation and recording strategies for unexpected archaeological finds during the project. The plan is to be prepared in consultation with the Office of Environment and Heritage, and the relevant council(s)
- a Heritage Interpretation Strategy to be provided with each development application for subdivision, to be prepared by a suitably qualified heritage conservation practitioner in accordance with relevant guidelines including *Interpreting Heritage Places and Items* (Heritage Office 2005) and *Heritage Interpretation Policy* (Heritage Office 2005). The strategy is to be prepared in consultation with the Office of Environment and Heritage, the relevant council(s) and should include a detailed history of the development site
- prior to commencing the proposed further archaeological investigations, the proposed Archaeological Research Design should be approved by the Office of Environment and Heritage, and in accordance with the Heritage Council Excavation Director Criteria. This should include a requirement that the outcomes of the archaeological program should be lodged with the Office of Environment & Heritage, and the relevant council(s) within 1 year of the end of the archaeological program.

These have been included as further assessment requirements on the recommended instrument of approval.

As discussed in section 5.2.3, it is recommended that the location of the playing fields on the site of the Chinese gardens is not approved. If this position is supported the Chinese gardens would not be adversely impacted as a result of the concept plan. This land may be suitable for passive recreation facilities however this would be subject of a separate approval which would need to include consideration of any associated heritage impacts.

In relation to the Workshop Park it is considered that the final extent of land to be dedicated would be refined through preparation of the archaeological research design, conservation management plan and heritage interpretation strategy. It is also recommended that the proponent be required to prepare a landscaping and public domain plan for each stage identifying the location of all local open space, in consultation with the council as discussed in section 5.1.4.

## 5.7.2 Aboriginal Cultural Heritage

A Heritage Impact Assessment prepared by Environmental Resources Management (ERM) was submitted as part of the environmental assessment report for the proposal. The proponent subsequently submitted an updated Heritage Impact Assessment on 16 June 2011 to address issues raised by the Office of Environment and Heritage regarding consultation with Aboriginal stakeholders. The information below is from the updated assessment.

The area surrounding Minmi village is highly disturbed due to past mining and there is considered to be limited potential for Aboriginal heritage to occur in these areas. Accordingly, surveys were focussed on the less disturbed areas within the Link Road North and South Precincts and some parts of the Village Centre Precinct, particularly in the vicinity of creek lines and along ridge lines.

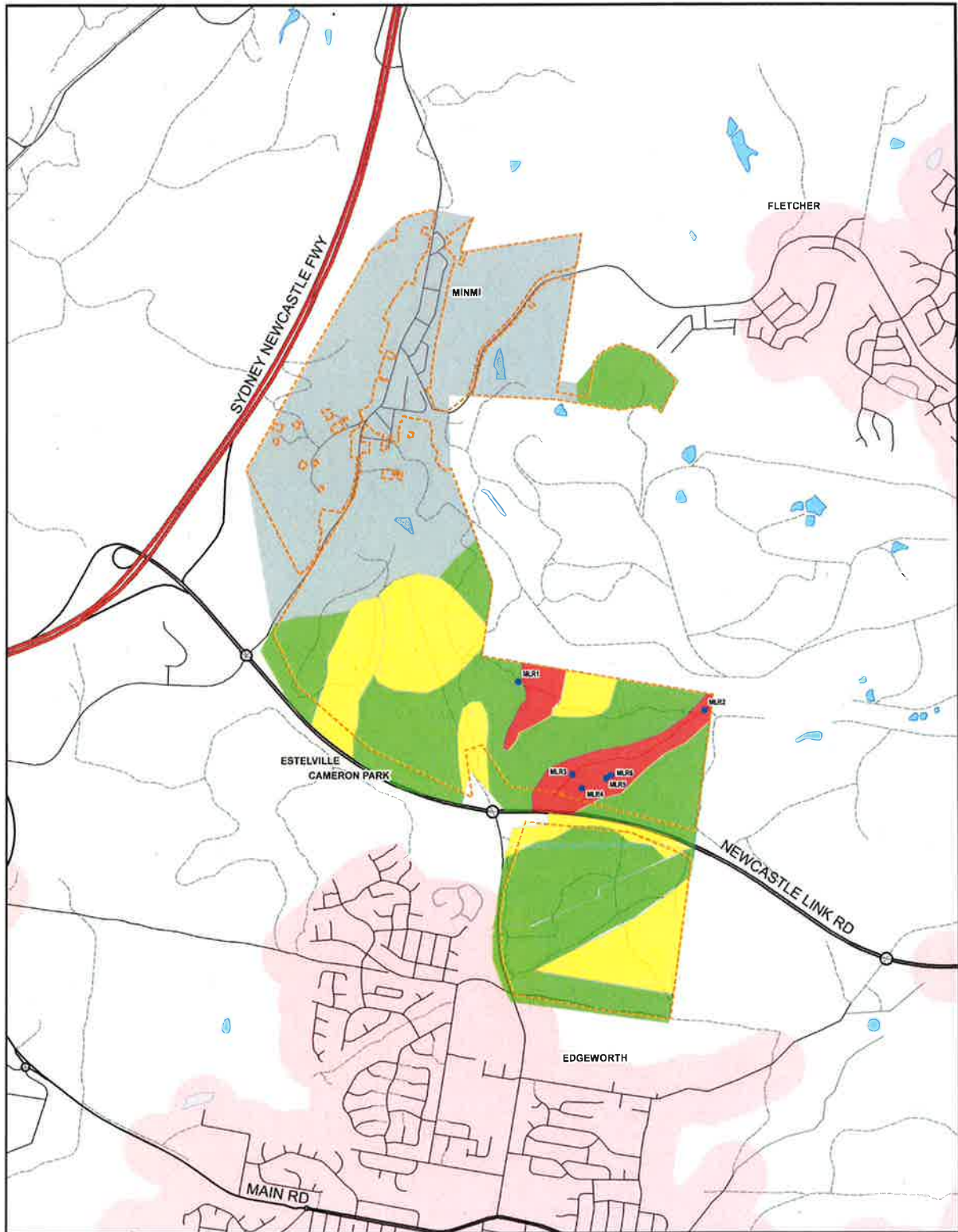
Six new Aboriginal sites (MLR1-6) were identified within the development site during the site surveys. The six identified sites are all located within the Link Road North precinct. MLR1 is located on the northern boundary of the Link Road North Precinct. MLR2-6 are located along the ridge line which runs through the precinct between the north east corner of the site and the Newcastle Link Road. Aboriginal archaeological heritage potential was assigned to the development site comprising the categories none, low, medium and high potential. Figure 15 identifies the six Aboriginal heritage sites and the archaeological potential of the development site.

MLR1 is located within a riparian corridor and as such would not be impacted by development. MLR2-6 and the majority of the area identified as having high archaeological potential is proposed to be protected within an area of open space. The Heritage Impact Assessment notes that the MLR2-6 are located along a paper road which council proposes to develop into an alternative access to the Summerhill Waste Management Centre (see section 5.6.5 above for further detail).

All zones of low and moderate archaeological potential and part of the high archaeological potential zone will be impacted by the proposed development, through soil and vegetation stripping.

The Heritage Impact Assessment included outcomes of consultation with Aboriginal stakeholders. Stakeholders raised a number of concerns about the Heritage Impact Assessment including:

- the need to prepare an Aboriginal Heritage Plan of Management to be agreed between Aboriginal stakeholders and the proponent
- concerns about the extent and methodology of surveys carried out and the need for additional surveys and investigations
- the proposed mitigation measures
- need for further consultation and involvement of Aboriginal stakeholders.



**Legend**

- Project Application Area
- Ridgelines
- Aboriginal sites

**Archaeological Potential**

- High
- Low
- Moderate
- None

Client: Calyx  
 Project: Lower Hunter Land Development - Minmi Link Road & Stockington  
 Drawing No: 01114776\_M\_GIS005\_R01.mxd  
 Date: 06/02/2010 Drawing size: A3  
 Drawn by: JF Reviewed by: DN  
 Projection: GDA 1994 MGA Zone 56  
 Scale: Refer to Scale Bar  
 0 200 400 600m  
 N

**Figure 5.3**  
**Minmi Link Road & Stockington**  
**Aboriginal Archaeological Potential**

Environmental Resources Management Australia Pty Ltd  
 Brisbane, Canberra, Hunter Valley, Melbourne, Perth  
 Port Macquarie, Sydney



**Figure 15: Aboriginal heritage sites and archaeological potential**

The Heritage Impact Assessment included the following recommendation relating to Aboriginal heritage:

- an Aboriginal Heritage Plan of Management should be developed prior to commencement of any works, to be agreed upon by all Aboriginal stakeholders. The Plan of Management should include management recommendation for the storage and conservation of Aboriginal materials excavated from the site. The Plan of Management should also include an unexpected finds protocol
- for high to moderate potential areas which will be impacted by site works a research design should be prepared based on the Heritage Impact Assessment. The Heritage Impact Assessment sets out the parameters for a sampling strategy which should form part of the research design
- for low potential areas Aboriginal stakeholders should be invited to monitor top soil stripping for the purposes of recovering cultural heritage material. No further work is required unless significant archaeological deposits are uncovered, in which case further test excavations are recommended
- a heritage interpretation strategy should be prepared to guide the provision of on site interpretation. The strategy should include heritage walks or trails and signage about the history and heritage significance and the area.

These matters have been included within the proponent's statement of commitments with the exception of the recommended requirements for low, medium and high archaeological potential areas (i.e., second and third points above).

The Office of Environment and Heritage (OEH) has advised that it has no concerns with the Aboriginal cultural heritage assessment. OEH noted that numerous issues were raised by Aboriginal stakeholders through the consultation on the Heritage Impact Assessment. OEH strongly recommended that in order to alleviate these concerns, that the proponent continues to consult with the registered stakeholder groups and aim to resolve the outstanding matters including detailing of specific mitigation measures. OEH also recommended a number of conditions which should be imposed on future development including:

- requirements for the preparation of the Aboriginal Heritage Plan of Management
- requirements for further consultation with Aboriginal stakeholders, and for involvement of stakeholders during the development process
- procedures in the event that new sites or human remains are identified during the development works
- a requirement that all reasonable efforts are to be made for the development to avoid impacting on Aboriginal cultural heritage, and that if any impacts are unavoidable mitigation measures are to be negotiated with the Aboriginal stakeholders, and in accordance with the required legislative approvals
- requirements for development of an Aboriginal Cultural Education Program for the induction of site personnel and contractors.

Lake Macquarie Council noted that a separate rezoning investigation associated with land directly to the south of the Link Road South precinct have identified a Aboriginal scatter site near the entry point of the proposed collector road which would connect the Link Road South precinct with the land to the south. Council considers that efforts should be made to avoid impacts on the scatter where possible.

Lake Macquarie Council considers that the Aboriginal Heritage Plan of Management and Heritage Interpretation Strategy should be prepared prior to any concept plan approval being granted for the proposal. Council considers that these documents should form an integral part the concept plan and associated guidelines, to ensure that they inform future development on the site.

### Department's consideration

The Department considers that the proponent has appropriately assessed and considered Aboriginal heritage for the purposes of the concept plan. However further assessment, development and implementation of mitigation measures, and consultation with Aboriginal stakeholders will be required to be carried out in subsequent stages of the development.

Additionally, the Department considers that the proponent should implement the full recommendations of the Heritage Impact Assessment including the carrying out of further archaeological investigations for areas identified as high or moderate Aboriginal archaeological potential, and providing opportunities for monitoring of top soil stripping by Aboriginal stakeholders. Procedures relating to these matters should be identified through the preparation of the Aboriginal Heritage Plan of Management. This is addressed as a further assessment requirement on the recommended concept plan approval.

The OEHS recommendations have largely been incorporated in the recommended instrument of approval as further assessment requirements.

It is not considered necessary that the Aboriginal Heritage Plan of Management and Interpretation Strategy are prepared prior to the finalisation of the concept plan. However, the urban design guidelines and landscaping and public domain plans which are recommended to be provided with each stage should incorporate relevant aspects of the Plan of Management, and the Interpretation Strategy. This has been included within the further assessment requirement relating to urban design and built form in the recommended instrument of concept plan approval.

In relation to the Aboriginal scatter site to the south of the development site, it is considered that this could be addressed through the detailed design of the road layout. It is noted that a further assessment requirement is recommended requiring the proponent to demonstrate that all aspects of the local road layout and design meet the requirements of the relevant council. This is discussed further in section 5.6.2.

## **5.8 Noise and odour**

### **5.8.1 Traffic noise**

The proponent prepared a noise assessment as part of its concept plan environmental assessment. The assessment considered the effects of traffic noise along the F3 Freeway, Newcastle Link Road, Minmi Road (north and south), and Woodford Street on the proposed development. The assessment was made against the *NSW Environmental Criteria for Road Traffic Noise*. The relevant criteria for road traffic noise for the site is set out in Table 11. The *NSW Environmental Criteria for Road Traffic Noise* recommends that where feasible and reasonable, noise levels should be reduced to meet the criteria by way of design and construction.

**Table 11: Relevant road traffic noise criteria**

Type of development	Daytime criteria (7am – 10pm) dB(A)	Night time criteria (10pm – 7am) dB(A)
F3 Freeway / Newcastle Link Road	L <sub>Aeq</sub> (15hr) 55	L <sub>Ae1</sub> (9hr) 50
Minmi Road (north and south) / Woodford Street	L <sub>Aeq</sub> (15hr) 60	L <sub>Ae1</sub> (9hr) 55

The traffic noise assessment included noise contour mapping for the daytime and night time periods which shows that dwellings along all major roads would exceed the relevant criteria shown above. These contours are shown at Figure 16 and Figure 17.

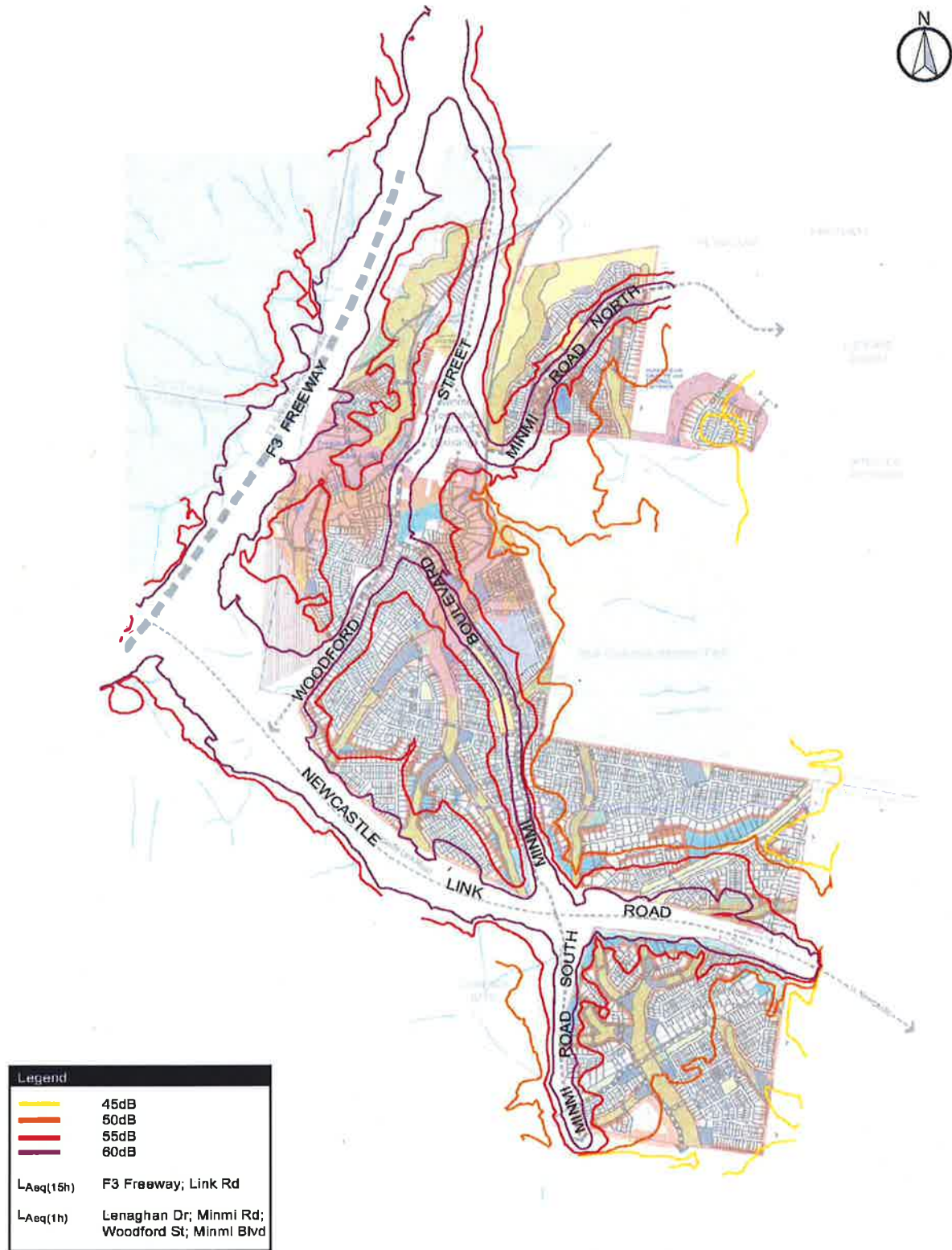
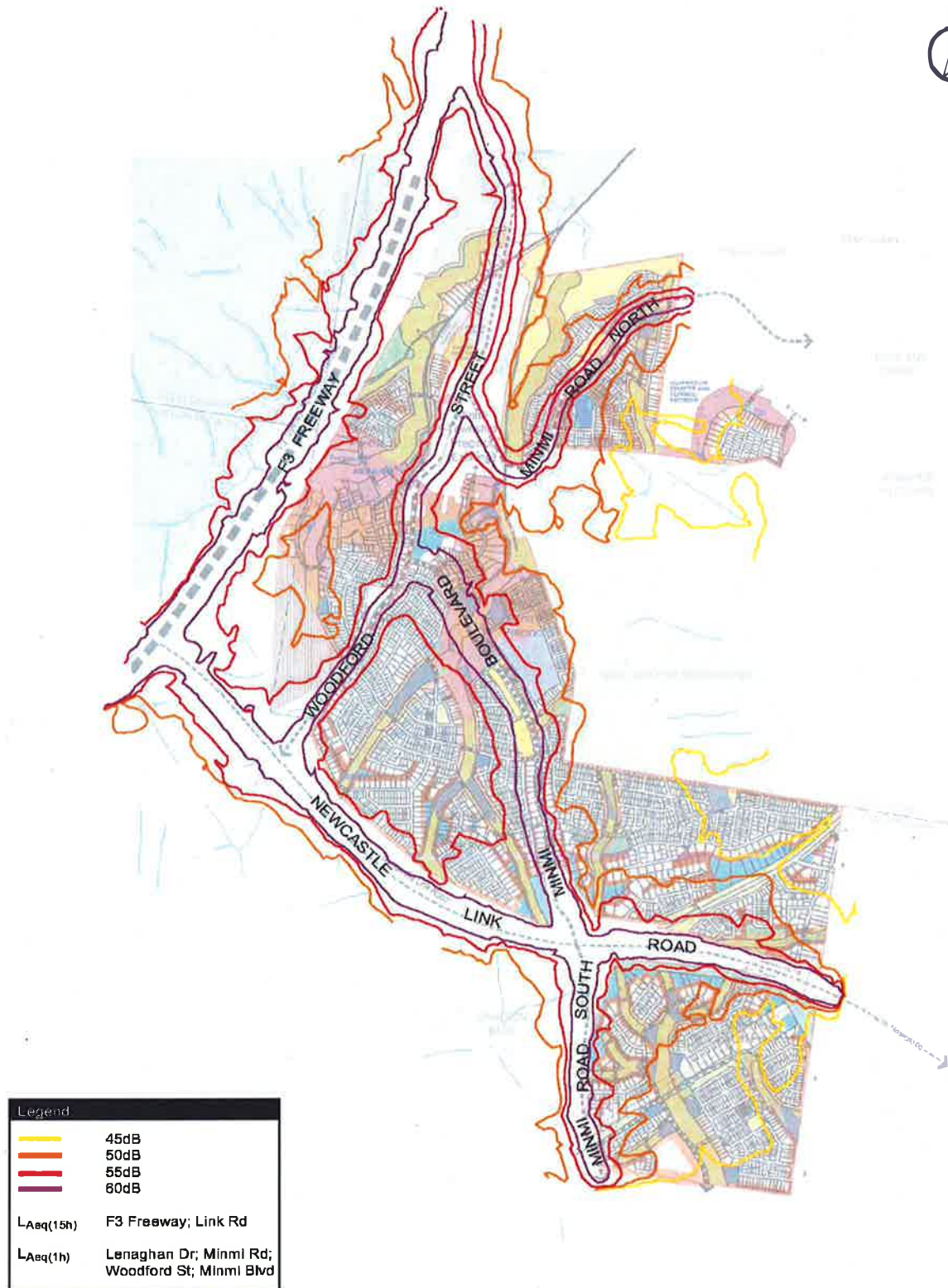


Figure 16: Daytime traffic noise impacts 7am – 10pm (2031)



**Figure 17: Night-time traffic noise impacts - 10pm to 7am (2031)**

The noise assessment recommended that acoustic barriers (walls and / or earth mounds) may be a feasible and cost effective solution to managing noise along the F3 Freeway, Newcastle Link Road, Woodford Road, Minmi Road (north and south), and proposed Minmi Boulevard. Noise walls were not considered along Woodford Road within the existing Minmi Village, because existing properties front onto and access this road.

Table 12 shows the number of dwellings which exceed the relevant criteria without noise barriers or other noise attenuation measures, and the number of dwellings which exceed the relevant criteria with provision of 2 metre noise walls along Woodford Road, Minmi Road (north and south), and proposed Minmi Boulevard, and 3 metre barriers along the F3 freeway and Newcastle Link Road.

**Table 12: Number of proposed dwellings effected by road traffic noise**

	Dwellings impacted by freeway / arterial road traffic noise	Dwellings impacted by collector road traffic noise	Total
Without noise attenuation	443	252	695
With noise barriers	425	242	667

The assessment also considered the benefits of providing higher acoustic barriers along Minmi Road South and the F3 Freeway including up to 6 metres. Increasing the height of barriers to 6 metres along these roads would reduce the number of proposed dwellings exceeding the relevant criteria by an additional 20 dwellings.

The concept plan does not proposed specific locations and heights for acoustic barriers. The proponent considers that this level of detail should be provided at subdivision stage. The assessment acknowledged that, whilst the inclusion of acoustic barriers would reduce the number of dwellings exceeding the relevant noise criteria, a significant number of dwellings would continue to exceed the criteria.

The assessment recommends that where dwellings are to be constructed in areas which exceed the criteria set out in *NSW Environmental Criteria for Road Traffic Noise*, dwelling treatments should be considered at the design stage to ensure that relevant internal noise levels are met. According to *NSW Environmental Criteria for Road Traffic Noise* building treatment should only be considered where the external criteria is exceeded and other noise mitigation measures are not feasible, practical or reasonable.

The assessment concluded that dwellings that exceed the relevant external criteria discussed above should be designed to achieve the internal noise criteria set out in *Development Near Rail Corridors and Busy Roads – Interim Guideline* (Department of Planning & Infrastructure 2008).

For residential development the relevant internal residential criteria are set out below:

- in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am; and
- anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

The assessment noted that this could be achieved through appropriate building layout and in some instances through dwelling treatments such as provision of mechanical ventilation or double glazing.

The assessment also recommends that the where existing dwellings within the Minmi village are located in areas which would exceed the relevant criteria, building treatments which mitigate this impacts should be provided, subject to community preferences. However the assessment noted that this would be subject to further assessment of noise impacts at the design phase of the development.

Newcastle City Council considers that further assessment is required of the impacts of traffic noise associated with the development on existing dwellings in Minmi village and on existing dwellings on Minmi Road North.

### Department's consideration

There are major concerns about the proposal to locate acoustic barriers along collector roads including Woodford Street, Minmi Boulevard and Minmi Road (north and south). Inclusion of such barriers would substantially compromise the visual amenity and urban design of key access ways into the development site and raises public safety concerns as opportunities for passive surveillance from adjoining lots and public areas would be limited.

For Newcastle Link Road, acoustic barriers may be able to be accommodated along Newcastle Link Road within the existing road reserve to mitigate any visual impacts both for future residents and from the Newcastle Link Road. However, this approach would result in impacts on native vegetation, and would require the approval of Roads and Maritime Services.

It is considered that the noise impacts associated with Newcastle Link Road, Woodford Street, Minmi Boulevard, and Minmi Road (north and south) can be adequately addressed through applying suitable setbacks and buffers from major roads, sensitive design of dwellings, and where necessary additional noise attenuation measures to individual dwellings. Further it is noted that provision of acoustic barriers does not substantially reduce the number dwellings which exceed the criteria.

Accordingly it is recommended that a further assessment requirement be imposed on the concept plan requiring the proponent to provide a strategy to mitigate the impacts of traffic noise, including that from increased traffic associated with all stages of the proposed development. The proponent would be required to have consideration to the relevant criteria in *NSW Environmental Criteria for Road Traffic Noise* and identify how internal criteria outlined in *Development Near Rail Corridors and Busy Roads – Interim Guideline* (Department of Planning & Infrastructure 2008) can be achieved. The strategy is not to include acoustic barriers, with the exception of along the F3 Freeway.

The provision of noise walls along the F3 Freeway is supported, subject to appropriate design and management of visual and urban design impacts. Further if noise walls are to be located within the road reserve, approval of Roads and Maritime Services would be required. These matters are addressed as a further assessment requirement on the concept plan.

With each development application for subdivision, the proponent should also be required to assess the impact of increased traffic noise on all existing residential areas, including within Minmi village and other areas within the vicinity of the site. The assessment would be carried out in accordance with *NSW Environmental Criteria for Road Traffic Noise* and the *Development Near Rail Corridors and Busy Roads – Interim Guideline* (Department of Planning & Infrastructure 2008). Where impacts would exceed the relevant criteria under these guidelines, appropriate mitigation measures would need to be identified. This is included as a further assessment requirement on the recommended concept plan approval.

In addition it is recommended that the urban design guidelines, which are required to be revised (see section 5.1.4), should include measures to ensure that noise impacts to dwellings are minimised, including through appropriate setbacks and building orientation.

### **5.8.2 Noise and air quality - Summerhill Waste Management Centre**

The noise assessment and air quality assessment which formed part of the concept plan considered impacts associated with the Summerhill Waste Management Centre. Both assessments concluded that the waste management centre would not have any impacts on the proposed development based on its current configuration, but that there may be impacts associated with an expansion of the waste management centre proposed by Newcastle Council. The noise impacts assessment concluded that a boundary fence could be used to mitigate any impacts. The proponent considers that these matters should be given further

consideration at the subdivision stage given that the timing of both the proposed development and the expansion of the waste management centre may change in the future.

On 14 July 2011 development approval was granted to Newcastle Council's proposed expansion of the Summerhill Waste Management Centre by the Hunter and Central Coast Joint Regional Planning Panel. The Environmental Impact Statement for the development application noted that the waste management centre would maintain a minimum buffer distance from the nearest residential property of 400 metres. The approval did not impose any conditions in relation to provision of a buffer to existing or future residential development.

Newcastle Council's submission requested that the design of the proposed concept plan be reviewed with a 400 metre buffer area of the approved waste management centre because of potential noise and odour impacts. However, further discussions with council indicate that the proposed landfill operations will gradually move away from the development site, and that it is expected that these operations will have moved sufficiently to the north before the proposed development is constructed, to maintain the 400 metre buffer.

#### Department's consideration

Based on the discussions with Council, it is appropriate that further consideration of the noise and air quality impacts associated with the Summerhill Waste Management Centre is carried out at subdivision stage. If landfill operations are no longer occurring or proposed to occur within 400 metres of the site, it may not be necessary to restrict residential development, or apply mitigation measures such as noise barriers.

Accordingly it is recommended that this is addressed as a further assessment requirement on the concept plan approval. This requirement would apply to subdivision within the Minmi East and Link Road North precincts which adjoin the waste management centre.

### **5.9 Bushfire management**

The site has been identified as bushfire prone land. The proponent has carried out a bushfire assessment and has identified mitigation measures including bushfire asset protection zones (APZs) ranging from 10 metres to 6 metres. The proponent has identified perimeter roads along the edge of most of the development site between dwellings and the adjoining vegetation. The perimeter roads will accommodate part of the APZ, with remaining required APZ to be accommodated within individual lots. Where no perimeter road is identified the entire APZ will be accommodate within the development lots.

The Rural Fire Service (RFS) has raised a number of concerns about the concept plan, including the proposed bushfire mitigation measures, which are summarised below:

- RFS has concerns about the number of isolated lots and dead end roads proposed within the site, but accepts that this can be addressed at time of application for subdivision approvals
- the proponent is to ensure that a suitable size building envelope can be accommodated within all proposed lots taking into consideration land required to be maintained as an APZ
- where APZs are to be located on land to be dedicated to council a plan of management is required to be prepared, and approved by council for the maintenance of the APZ
- an APZ of 20 is required on either side of the development precinct access, to provide safe ingress and egress. These APZs are required to be established and maintained as an outer protection area as outlined in *Planning for Bushfire Protection (2006)* and associated guidelines
- public roads are to comply with *Planning for Bushfire Protection (2006)*, which includes a requirement for all perimeter roads to be a minimum of 8 meters wide

- the RFS has concerns about the access arrangements to the eastern portion to the Minmi East Precinct, and considers that limited details have been provided on the proposed access and egress to lots to enable a full assessment against *Planning for Bushfire Protection* (2006).

Rural Fire Service also identified a number of conditions that it considers should be imposed on future subdivision and development applications.

#### Department's consideration

Further consideration is required to ensure that the development is appropriately designed to respond to the bushfire hazards associated with the site. This should occur prior to the lodgement of any development application for subdivision within each stage to ensure the requirements of RFS can be met. As such, it is recommended that the urban design guidelines should be revised to identify access arrangements and APZs to meet the requirements of *Planning for Bushfire Protection 2006*, and demonstrate how APZs will be accommodated on the site. Where APZs are to be accommodated within individual lots, the proponent should be required to demonstrate that each lot will be able to accommodate the APZ, an appropriate building footprint, and any areas required to be landscaped. These requirements have been incorporated in the recommended further assessment requirements relating to urban design and built form.

Each development application for subdivision should also be required to include a Bushfire Management Plan that demonstrates that the development complies with the *Planning for Bush Fire Protection 2006* and any requirements of the RFS. The location of APZs, fire trails and access tracks on any public land would need to be negotiated with the relevant council through the preparation of the Bushfire Management Plan. These requirements have been incorporated into the recommended concept plan approval.

In relation to the eastern portion of the Minmi East precinct, as discussed in Section 5.6.2, the Department is satisfied that access can be provided, but it is recommended that access arrangements meet RFS' requirements. This is also addressed as a further assessment requirement on the recommended concept plan approval.

### **5.10 Subdivision of conservation lands**

The proponent is proposing a torrens title subdivision of the site to create separate lots for the development site and conservation lands, to facilitate transfer of the conservation lands to the NSW Government. This is a 'paper' subdivision only, and does not require any site works.

Under the terms of the VPA, the proponent must transfer the conservation land within 3 months of approval being given for the subdivision to create a separate lot for the conservation lands.

#### Department's consideration

It is recommended that the proposed torrens title subdivision to enable the transfer of conservation lands requires no further assessment and that project approval for the subdivision of the conservation land should be granted in conjunction with the concept plan approval. This is addressed within Schedule 3 of the recommended instrument of approval. The proponents proposed subdivision plan is provided at Appendix 2 of the recommended instrument of approval.

### **5.11 Utility infrastructure**

The proponent has committed to the funding and delivery of all on-site infrastructure and services prior to or in conjunction with the commencement of Stage 1 of the development, or by agreement with the respective supply authorities.

A transmission line easement traverses the Link Road South and Link Road North precincts. Transgrid's preference is that it acquires the easement to ensure that it has adequate working space along the line for construction and maintenance work and to ensure that incompatible uses are not undertaken under or near the line.

Lake Macquarie Council considers that all services should be located to minimise impacts, in particular clearing of native vegetation with sensitive areas such as riparian corridors and drainage lines.

Lake Macquarie Council also considers that a precautionary approach should be applied to locating dwellings near the transmission line given the uncertainty of scientific understanding of potential impacts.

#### Department's consideration

The Department is satisfied that the proposed commitments will ensure the site is adequately serviced, and that the details of servicing can be addressed through subsequent applications in consultation with the relevant service providers. Acquisition of the transmission easement can also be addressed through subsequent development applications for subdivision. Accordingly a further assessment requirement has been included on the recommended instrument of approval requiring the proponent to demonstrate that any requirements of Transgrid have been met in relation to the transmission line.

The World Health Organisation has published interim guidelines for exposure to electromagnetic fields from power lines. The Government of Western Australia publication concluded that the World Health Organisation limits are not exceeded anywhere within electricity easements, including under wires. Accordingly, it is considered that compliance with any requirements of Transgrid would satisfactorily address any public health concerns associated with development of dwellings within the vicinity of the transmission line.

A further assessment requirement has also been included in the recommended instrument of approval requiring the proponent to demonstrate that all utility infrastructure has been located to minimise impacts on native vegetation, and is located outside riparian corridors where possible, having regard for the NSW Office of Water guidelines on works within riparian corridors.

#### **5.12 Access to local facilities**

Both Newcastle Council and Lake Macquarie Council have raised concern about accessibility of the development to local facilities such as health and medical facilities including general practitioners and child care facilities.

#### Consideration

The proponent has identified two commercial centres within the proposed development area which could accommodate privately delivered health and child care facilities. The proponent will also be required to pay any State infrastructure contribution which may be applicable, which would include contributions towards land for State and regional health facilities. NSW Health has indicated that it would support dedication of a site within the development area for health related purposes. Both council's section 94 contributions plans include requirements for contributions towards childcare facilities within multipurpose community facilities. Further, negotiations towards State and local infrastructure contributions, as discussed in section 5.2, are required to take place through the preparation of staging plans for each stage as recommended in the instrument of approval.

## 6. CONCLUSION

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The Department has assessed the environmental assessment, preferred project report and the statement of commitments and has considered the advice from public agencies as well as issues raised in the public submissions in accordance with Section 75(2) of the Act. All the relevant environmental issues associated with the proposal have been extensively assessed. The key issues relating to the development are infrastructure contributions and infrastructure demands, open space and community facilities including the proposed location of such facilities, flora and fauna impacts, interface issues impacts on the Blue Gum Hills Regional Park, flooding and climate change, heritage impacts, built form and urban design, traffic and public transport, bushfire management, contamination and remediation, and mine subsidence.

The Department has considered these issues, and others as discussed above, and a number of modifications and further assessment requirements are recommended to ensure that these issues are satisfactorily addressed through the development of the site. The recommended modifications and further assessment requirements are located at **Appendix B**. Key recommendations relate to the following:

- Removal of the sports and recreation park, and a requirement that the proponent identifies an alternative location for additional sports and recreation facilities as part of the staging plan for Stage 3, to ensure that an appropriate site can be secured.
- Modifications to the proposed allocation of \$8 million towards local initiatives and facilities, and requirement that the proponent demonstrate that all items are over and above section 94 and State infrastructure contributions and do not include items which would otherwise be required to mitigate the impacts of the development.
- Retention of the full extent of the Duckenfield Colliery No. 1 Railway Branch Line heritage item, to provide a pedestrian / cycle pathway through to the proposed Workshop Park.
- Modification to the proposed ownership of open space, with all land dedication to be negotiated with the relevant council.
- Exclusion of the proposed urban design guidelines and a requirement that the proponent prepare updated urban design guidelines in consultation with the relevant council(s) prior to each stage.
- Requirements relating to development on steep land including land over 20% slope.
- Delivery of State and local infrastructure, and contributions under the \$8 million allocation for each stage.
- The level of provision of community multipurpose facilities and how the demands of incoming residents in the early stages of the development can be met.
- Provision of additional detail with each development application for subdivision relating to landscaping and the public domain, flooding, water sensitive urban design, groundwater, contamination, mine subsidence, traffic impacts and road designs, public transport, cycleways and pedestrian networks, heritage, bushfire, noise and construction management.

The Department considers that the proposal is in the public interest as it provides development of an appropriate scale given the local context, contributes to the provision of housing and housing choice in the region, locates development in the parts of the broader site which limit environmental and other impacts, results in positive benefits through the dedication of large areas of conservation land to the NSW Government and is consistent with the objectives of the *Lower Hunter Regional Strategy*. It is considered that the site is suitable for the proposed development, subject to the proponent's statement of commitments, and the recommended instrument of approval including modifications and further assessment requirements.

The Department recommends that all future development is subject to Part 4 of the Act, with the relevant council as the consent authority. The Department also recommends that the subdivision to enable the transfer to conservation lands requires no further assessment and that the Minister grants project approval for the subdivision of conservation lands in conjunction with the concept plan.

Consequently, the Department recommends that the proposed concept plan be approved, subject to the proposed modifications and further assessment requirements outlined at **Appendix B**.

## 7. RECOMMENDATION

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It is recommended that the Planning Assessment Commission

- (A) **consider** findings and recommendations of this report;
- (B) **approve** the concept plan application, subject to modifications, under Section 75O and 75P of the *Environmental Planning and Assessment Act, 1979*;
- (C) **determine** the future environmental assessment requirements for subsequent development applications associated with the concept plan (Tag A);
- (D) **determine** that no further environmental assessment is required for the transfer of conservation lands and grant project approval; and
- (E) **sign** the Instrument of Approval (**Tag A**).

Prepared by:



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Endorsed by:



**Director**  
**Strategic Assessment**



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