

Concept Approval

Section 75O and 75P of the *Environmental Planning and Assessment Act 1979*

As delegates of the Minister for Planning and Infrastructure under delegation executed on 14 September 2011, pursuant to Part 3A of the Environmental Planning and Assessment Act 1979 (the Act), the NSW Planning Assessment Commission determines:

- (a) to approve the concept plan referred to in Schedule 1, subject to the terms of approval and modifications in Schedule 2,
- (b) under section 75P(2)(c) of the EP&A Act, where development is subject to Part 4 of the Act (other than complying development), that development is subject to the further environmental assessment requirements specified in Schedule 2, Part D of this approval.
- (c) under section 75P(1)(c) of the Act, the subdivision of land that gives effect to the transfer of lands to a public authority or a Minister of the Crown requires no further environmental assessment and approve the development under section 75J of the Act (subject to the conditions set out in Schedule 3 of this approval); and
- (d) under section 75P(1)(b) of the Act, development the subject of the Concept Plan is subject to Part 4 or Part 5 of the Act, whichever is applicable.

The modification and further assessment requirements are required to:

- Encourage the orderly future development of the site; and
- Ensure adequate mitigation of environmental impacts of future development.



Richard Thorp
Member of the Commission



Donna Campbell
Member of the Commission

Sydney,

19 November 2013

SCHEDULE 1

Application No:	10_0093
Proponent:	Coal & Allied Industries Ltd
Approval Authority:	Minister for Planning and Infrastructure
Land:	<p>Lot 30 in DP 870411, John Renshaw Drive, Black Hill in the Newcastle Local Government Area</p> <p>Lot 1 in DP 1007615, Tank Paddock in the Newcastle Local Government Area</p> <p>Lot 101 in DP 881099, Lot 2 in DP 877416, Lot 79 in DP 755260, Lot 1 in DP 877416, Lot 4 in DP877416 (listed as Black Hill), Lot 3 in DP 877416 (listed as Black Hill) and Pt Lot 13/DP1078246, Stockrington in Cessnock Local Government Area.</p>
Local Government Area:	Newcastle and Cessnock
Concept Plan:	<p>Concept plan for:</p> <ul style="list-style-type: none">• employment lands development of a 183 ha development site• dedication of 545 hectares of Conservation Lands• conceptual road, pedestrian and cycleway network;• conceptual lot layout; and• associated infrastructure.

SCHEDULE 2

PART A – DEFINITIONS

Act, the	<i>Environmental Planning and Assessment Act 1979</i>
APZ	Asset Protection Zone
Council	City of Newcastle Council
Department, the	Department of Planning & Infrastructure
Director-General, the	Director-General of the Department of Planning & Infrastructure (or delegate)
Minister, the	Minister for Planning & Infrastructure
NOW	NSW Office of Water
Proponent	Coal & Allied Industries Ltd, or its successors or any person who acts on this approval, in title
RMS	Roads and Maritime Services
Site	Land to which Concept Plan Application 10_0093 applies
Stage	The six stages identified in Figure 7 – Indicative Staging Plan of the Concept Plan Environmental Assessment.
Subdivision Application	An application for a Subdivision Certificate

PART B – ADMINISTRATIVE CONDITIONS

- 1.1 The Proponent shall ensure that all development on site is carried out generally in accordance with the:
- a) Concept Plan Application 10_0093;
 - b) *Black Hill Concept Plan* (including accompanying appendices) prepared by Urbis dated February 2011;
 - c) *Black Hill Preferred Project Report*, dated May 2011 prepared by Urbis;
 - d) Correspondence, with attachments, entitled “Preferred Project Report Submission - Coal & Allied Northern Estates: Black Hill (MP10_0093)”; and
 - e) Correspondence, with attachments, entitled dated 20 May 2011, and “Preferred Project Report Submission - Coal & Allied Northern Estates: Black Hill (MP10_0093)” and dated 16 June;
 - f) Statement of Commitments; and
 - g) this approval.
- 1.2 In the event of an inconsistency between:
- a) the modifications of this approval and any document listed from clause 1.1 a) to 1.1 f) inclusive, the conditions of this approval shall prevail to the extent of the inconsistency; and
 - b) any document listed from condition 1.1a) to 1.1e) inclusive, the most recent document shall prevail to the extent of the inconsistency.

Limits of Approval

- 1.3 This concept approval shall lapse 5 years after the date on which it is granted, unless an application is submitted to carry out a development for which concept approval has been given.
- 1.4 To avoid any doubt, this concept approval does not permit the subdivision or construction of any aspect of the proposal which will be subject to separate approvals.

Determination of Future Applications

- 1.5 The determination of future applications for development on the Site under Part 4 of the Act, for which Council is the consent authority, is to be generally consistent with the terms of this approval.

Dispute resolution

- 1.6 Any dispute between the proponent and Council over the interpretation, or application of the modifications and/or further environmental assessment requirements is to be settled by the Director-General. Any decision of the Director-General shall be final and not subject to further dispute resolution.

PART C - MODIFICATIONS TO THE CONCEPT

Urban Design & Built Form

- 1.7 The indicative lot layout is not approved.
- 1.8 Prior to the first application for subdivision, the Proponent shall revise the Urban Design Guidelines to:
- a) Adopt provisions in Council's DCP relating to:
 - Industrial development;
 - Parking rates including rates required for bicycle parking / storage, motorbike delivery and service vehicles parking;
 - road types and dimensions;
 - stormwater management including requirements for on-site detention on lots and pollutant reduction targets;
 - Tree management and Landscaping; and
 - Outdoor advertising;
 - b) Address the following additional issues:
 - cut, fill and earthworks;
 - increasing the Visual Buffer to the northern boundary (fronting John Renshaw Drive) from 10 metres to 20 metres; and
 - controls to manage interaction between potential internal land-use conflicts, such as where childcare is located adjacent to industrial uses.

The revised Guidelines must be prepared in consultation with Council, and to the approval of the Director-General. The guidelines are to be in a form which could be adopted as site specific controls within the Council's development control plan at some stage in the future. The final approved copy is to be submitted to Council prior to lodgement of any development application on the site.

Commercial / retail development

- 1.9 The Concept Plan is to be modified to remove:
- the proposed retail/commercial component, known as the Core Supporting Facilities Area, intended to accommodate 1300m² of retail space, and
 - the following proposed additional permitted uses: business premises, health consulting rooms, hotel accommodation, medical centre, restaurant, and retail premises.

PART D - FURTHER ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Infrastructure Provision

- 1.10 Prior to the first subdivision application, the Proponent must prepare a staging plan for Council's approval. The plan must provide for:
- a) An updated indicative lot layout, identifying how the development of the site would be staged;
 - b) the schedule for delivery (and dedication where relevant) of the following:
 - provision of roads, stormwater and other service infrastructure;
 - items identified for Black Hill in the \$2 million allocated to the Coal & Allied Northern Estates;
 - contributions in accordance with Newcastle City Council Section 94A Development Contribution Plan 2009. The passive recreational space to be provided along the creek as referred to in the Statement of Commitments is to be additional to the contributions required under this Plan and the management of that passive open space is to be agreed to by Council;
 - State Infrastructure Contributions; and
 - c) the management arrangements for the Viney Creek riparian corridor, recreation infrastructure, stormwater detention basins and Asset Protection Zones (the dedication of this infrastructure to Council is not approved).

For contributions made under the \$2 million allocation, the plan must demonstrate that the contributions are over and above section 94A Development Contributions Plan 2009 and State infrastructure contribution requirements, and do not include any contributions which would be otherwise required to mitigate the impacts of the proposed development. Any contributions or dedications to a council, public authority, or community group require the agreement of that organisation. Any contributions which are deemed unsuitable must be re-allocated to alternative infrastructure and initiatives.

Note: In relation to section 94A contributions any works in kind or dedication of land in lieu of monetary contributions required under Council's Section 94A Development Contributions Plan 2009 Plan must be agreed to by Council.

Urban Design

- 1.11 Each subdivision application shall be consistent with the Urban Design Guidelines for the site and include details on the following:
- a) strategy for retention of trees on the site;
 - b) proposed public domain treatments; and
 - c) proposed landscaping of all public domain areas including swales, detention basins, and roadside verges.

Any such details would be carried into landscaping plans and public domain plans to be completed in consultation with Council, prior to commencement of subdivision works on site.

Flora and Fauna

- 1.12 Whilst it is recognised that the biodiversity impacts associated with the proposal have been offset through dedication of 545 hectares of conservation lands to the NSW Government, any subdivision application shall provide:
- a) details on strategies to minimise clearing or disturbance of vegetation and retain mature and/or hollow bearing trees where possible, including through design of roads and stormwater devices, having regard to the recommendations of the Ecological Assessment Report (RPS 2011);
 - b) management measures for minimising impacts on fauna during subdivision works including the employment of an appropriate qualified ecologist to advise and supervise

- any clearing of vegetation, and the implementation of appropriate tree clearing protocols; and
- c) details of erosion and sediment control measures that would be implemented to protect vegetation within the riparian corridor.

Any procedures and strategies identified must be carried into a Vegetation Management Plan to be completed prior to commencement of any works on site.

Viney Creek Riparian Corridor

- 1.13 The first subdivision application for the site must include a fully costed rehabilitation plan for Viney Creek riparian corridor that sets out the following:
- survey of the creek bed by both an appropriately qualified ecologist and a geotechnical engineer (reviewing any potential subsidence issues);
 - removal of waste material;
 - measures to revegetate areas to be rehabilitated such as plant material, densities and species mix;
 - management measures to prevent damage to the corridor during any future development of the site;
 - weed management measures; and
 - a plan for the monitoring and management of the corridor.
- 1.14 Each subdivision application must demonstrate that any works within riparian corridors and road and services crossing meet the requirements of the NSW Office of Water Guidelines for Controlled Activities (August 2010).

Traffic and Transport

- 1.15 Any subdivision application must include a revised traffic and transport impact assessment that:
- a) has been prepared in consultation with Council and RMS;
 - b) details traffic generation from each stage of the development;
 - c) demonstrates that the site access would accommodate traffic from all stages of the development, and if required, provide details of alternative access arrangements that may be required;
 - d) intersection analysis and micro simulation modelling including details of any offsite road upgrades that would be required to accommodate the proposal.
- 1.16 The first subdivision application for the site must include detailed design for a signal controlled intersection at the western access to the site on John Renshaw Drive that has been prepared in accordance with RMS requirements.
- 1.17 Any subdivision application must demonstrate that all local roads, including provision for bicycle and pedestrian paths, have been designed in accordance with Council requirements.
- 1.18 With each subdivision application, the Proponent must demonstrate that opportunities have been investigated to extend or provide for an additional bus route to service the proposed development, and must provide details of the proposed location of bus stops and pedestrian access to bus stops. Where the bus route is proposed to travel through the development area the proponent is to demonstrate the associated roads are designed to accommodate bus movements. These requirements are to be carried out in consultation with Council, Transport for NSW, and relevant bus companies, prior to the lodgement of any Development Application.
- 1.19 Prior to the lodgement of the first development application for subdivision a comprehensive public transport, cycle way and pedestrian network plan must be prepared which addresses the following:

- Identify all pedestrian and cycle ways to be provided within the proposed development site, and how these link to the surrounding existing and proposed cycle network;
- Demonstrate that the pedestrian and cycle network links with existing and proposed access points to, and pathways as provided for in Councils Cycling Strategy & Action Plan;
- Identifies 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 \$2 million allocation;
- Considers and addresses any relevant aspects of Councils' Cycling Strategy & Action Plan; and
- Demonstrate the proposed bus routes, cycle way and pedestrian network links key destinations including open space, recreation and community infrastructure.

This plan is required to be prepared to the satisfaction of the Director-General in consultation with Newcastle Council, Transport for NSW, Office of Environment & Heritage, and relevant private bus companies.

Aboriginal Heritage

- 1.20 The proponent shall develop a Cultural Heritage Management Plan for the project area. The CHMP is to be developed and implemented in full consultation with the registered local Aboriginal stakeholders and Council. The plan is to include, but limited to:
- a) procedures for ongoing Aboriginal consultation and involvement;
 - b) details of the responsibilities of all stakeholders;
 - c) procedures for the management of any recorded sites within the project area;
 - d) procedures for providing opportunities for registered local Aboriginal stakeholders to monitor any initial ground disturbance works associated with sites 'Black Hill 1' and 'Black Hill 2' and in the areas immediately adjacent to these sites (50m buffer), and in those areas identified as 'Moderate Archaeological Potential';
 - e) procedures for the identification, management and registration of previously unrecorded sites (excluding human remains);
 - f) stop work procedures in the event human remains are located at the site;
 - g) identification and management of any proposed cultural heritage conservation area(s);
 - h) details of an appropriate keeping place agreement with local Aboriginal community representatives for any Aboriginal objects salvaged through the development process;
 - i) details of an Aboriginal cultural heritage education program for all contractors and personnel associated with construction activities;
 - j) details of proposed mitigation and management strategies for sites identified to be impacted within the project area; and
 - k) compliance procedures including for the unlikely event that non-compliance with the CHPM is identified.

Stormwater Management

- 1.21 Any subdivision application must include:
- a) the detailed design of all stormwater management devices to the satisfaction of Council and accordance with any relevant Council policies and NOW Guidelines for Controlled Activities;
 - b) an assessment of the impacts of the proposal on the hydrology of the site and of receiving waters;
 - c) maintenance and management arrangements for public stormwater facilities during and after construction. These arrangements are to be negotiated with Council; and
 - d) a water quality and hydrological monitoring plan which includes:
 - monitoring against relevant water quality standards, with baseline data collected prior to commencement of works;
 - monitoring of changes in hydrology caused by the development to ensure no detrimental impact on the water quality of Viney Creek.

- details on mechanisms and responsibilities for the management and reporting of the results;
- identification of remedial actions to be implemented in the event of a discrepancy between the actual and predicted performance of the water quality controls; and
- a program to report monitoring results to Council and NSW Office of Water.

Flooding and Climate Change

- 1.22 Each subdivision application must include a revised flood assessment that takes into account mine subsidence and that details:
- a) changes to the flood behaviour as a result of the proposal;
 - b) rise times and flash floods;
 - c) revised flood planning levels; and
 - d) procedures for evacuation in the event of a flash flood.

Each application must demonstrate that buildings would be located above the flood planning levels for the site.

Contamination

- 1.23 Any subdivision application must be prepared in consultation with council and contain a remediation action plan, which includes:
- a) Consideration of the requirements of *State Environmental Planning Policy 55 – Remediation of Land* and associated guidelines;
 - b) characterisation of the nature and extent of contamination;
 - c) details of the proposed remediation process, including treatment methodologies and processes;
 - d) justification of the proposed treatment and remediation criteria;
 - e) details of proposed remediation management measures;
 - f) a site validation plan; and
 - g) details of compliance with the *Contaminated Land Management Act 1997*.

Groundwater

- 1.24 Any subdivision application prepared under this concept approval must provide details of:
- a) depth of excavations and proposed works likely to intercept groundwater including any proposed groundwater extraction;
 - b) proposed method of disposal of any groundwater intercepted;
 - c) impacts on any groundwater dependent ecosystems in the area; and
 - d) management of any water seepage from mine workings.

Note: An authorisation under the *Water Act 1912* or the *Water Management Act 2000* is to be obtained from the NSW Office of Water with the appropriate purpose identified for any activity relating to the taking of or interception of groundwater prior to that activity commencing

Mine subsidence

- 1.25 Each subdivision application must demonstrate that:
- a) the risk of mine subsidence has been eliminated from land to which Concept Plan Application 10_0093 applies (excluding the Tank Paddock and (part of) Stockrington the subject of the offset areas) and managed by suitable means to shallow mined workings and other areas affected by subsidence features;
 - b) where appropriate, development has been restricted over capped mine, shafts and tunnel entries;
 - c) the requirements of the Mine Subsidence Board have been met and addressed; and

- d) the site has been declared suitable for its intended use.

Noise

- 1.26 The first subdivision application must include a Noise Management Plan for the site which:
- a) identifies noise limits for industrial developments during construction and operation;
 - b) criteria that onsite sensitive receivers must meet;
 - c) measures to mitigate and manage potential noise sources; and
 - d) measures to manage potential land use conflicts within the site.

Bushfire Protection

- 1.27 Any subdivision application must:
- a) demonstrate that the development complies with *Planning for Bushfire Protection 2006*;
 - b) demonstrate that the location, layout and management arrangements for APZs has been negotiated, and agreed to, with Council and the RFS;
 - c) provide a map showing the composition of APZs, including the inner and outer protection zones, and their relationship to the proposed building footprints; and
 - d) outline proposed arrangements for management of bushfire hazard and APZs during the development process.

Infrastructure and Utilities

- 1.28 Any subdivision application must include details of consultation with relevant service providers and demonstrate that their requirements have been addressed, particularly relating to water and wastewater servicing and proposed works within and across easements.
- 1.29 Any subdivision application is to demonstrate that all utility infrastructure has been located outside riparian corridors where possible. Crossings of riparian corridors for utility infrastructure should be co-located with road crossings where possible.

Bulk Earthworks

- 1.30 Each subdivision application shall include an assessment of the proposed civil works including final contour plans. The assessment shall include details of the suitability of any externally sourced fill and any associated impacts.

Construction Impacts

- 1.31 Any subdivision application must include a Construction Management Plan, which shall include (but not limited to):
- a Construction noise management plan including a construction noise assessment in accordance with the Office of Environment and Heritage's 'Interim Construction Noise Guideline';
 - confirmation that all construction works undertaken on site will be undertaken in accordance with the EPA's Environmental Noise Control Manual and must not give rise to an 'offensive noise' as defined under the Protection of the Environment Operations Act 1997 and accompanying Regulations;
 - a Construction vibration management plan including assessment of potential vibration impacts vibration in accordance with the Office of Environment and Heritage's 'Assessing vibration: a technical guideline'. The assessment should include potential vibration impacts from mine subsidence remediation works;
 - an air quality and dust management plan;
 - a Flora and fauna management plan, including tree clearing protocols and strategies for retention of mature or hollow bearing trees, wherever possible;
 - a soil and water management plan, prepared in accordance with Landcom's *Managing Urban Stormwater: Soils and Construction guidelines*;
 - a vegetation management plan;

- a waste management plan;
- a construction traffic management plan;
- an archaeological management plan which provides for the monitoring of works and contingency plans should previously unidentified archaeological deposits be discovered;
- a pre-construction dilapidation report of public infrastructure in the vicinity of the site. The dilapidation report is to be submitted to the Council and the RTA;
- a post-construction dilapidation report at the completion of the construction works. This report is to ascertain whether the construction works created any structural damage to adjoining public infrastructure and roads. The dilapidation report is to be submitted to the Council and the RTA;
- measures to address interface issues between the construction site and the conservation areas;
- any other plans that that may be required as a result of the environmental assessment of potential impacts; and
- a complaints management plan detailing the procedures that would be implemented to receive, handle, respond to, and record, any complaints that are received.

SCHEDULE 3

CONDITIONS OF PROJECT APPROVAL

PART A – ADMINISTRATIVE CONDITIONS

Development Description

Project Approval is granted only to carrying out the subdivision of lands specified in Schedule 1, to enable the transfer of lands to a public authority or the Minister of the Crown.

Development in Accordance with Plans and Documentation

The Proponent shall carry out the project generally in accordance with the:

- The *Proposed Subdivision of Lot 13 DP 1078246 Stockrington*, Revision 2, prepared by Monteath & Powys and dated 17 January 2011, and provided as Appendix R to *Black Hill & Tank Paddock Concept Plan* prepared by Urbis and dated February 2011; and
- Conditions of this approval.

If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this approval shall prevail to the extent of any inconsistency.

Lapsing of Approval

This approval shall lapse if the Proponent does not physically commence the proposed development associated with this approval within 5 years of the date of this approval.

PART B – PRIOR TO SUBDIVISION CERTIFICATE

Planning Agreement

The Proponent must enter into a planning agreement in accordance with the letter of offer dated 12 August 2011.

Easements

Easements for services, drainage, maintenance access or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over those lots pursuant to the *Conveyancing Act 1919*.

Documentary evidence of restrictions on title

Prior to the issuing of the subdivision certificate, the Proponent is to provide documentary evidence of the proposed easements to the accredited certifier or Council.

Costs to be borne by the Applicant

All costs associated with the preparation and registration of any covenant or restriction on title, whether directly or indirectly, will be borne solely by the Proponent.

PART C – ADVISORY NOTES

Requirements of Public Authorities for Connection to Services

The applicant shall comply with the requirements of any public authorities (e.g. Integral Energy, Hunter Water, Telstra Australia, AGL etc.) in regard to the connection, relocation and/or adjustment of the services affected by the development. Any costs in the relocation, adjustment or support of services shall be the responsibility of the applicant. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Subdivision Certificate.
