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Dear Sir

**SUBMISSION – BLACK HILL EMPLOYMENT LANDS – STATE SIGNIFICANT SITE STUDY, PART 3A CONCEPT PLAN (MP10\_0093), AND DRAFT VOLUNTARY PLANNING AGREEMENT**

I refer to your letter dated 25 February 2011 inviting Council to make a submission about the above proposal.

Council wishes to indicate its overall support for the concept, however, it objects to a number of aspects of the proposal. Due to the complexity and scale of the proposed development, Council would wish to be involved in further discussions regarding a number of aspects of the proposal.

Council's detailed comments are outlined in the attached submission.

Should you require further information or clarification of any of the above issues, please contact Ian Shillington, Senior Urban Planner, on 4974 2817 or by email [ishillington@ncc.nsw.gov.au](mailto:ishillington@ncc.nsw.gov.au).

Yours faithfully

Jill Gaynor  
**MANAGER**  
**STRATEGIC PLANNING SERVICES**

# **SUBMISSION – BLACK HILL EMPLOYMENT LANDS – STATE SIGNIFICANT SITE STUDY, PART 3A CONCEPT PLAN (MP10\_0093), AND DRAFT VOLUNTARY PLANNING AGREEMENT**

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## **1. STRATEGIC PLANNING**

It is noted that the proposed development comprises 183 hectares of employment lands at Black Hill with associated infrastructure, and the dedication of conservation land at Tank Paddock (147 hectares) and Stockrington (398 hectares). The subject land is currently zoned 7(c) Environmental Investigation. Council supports opportunities that will increase the availability of employment land in the City and wishes to work with the Department to ensure the orderly approval and development of this proposal.

The proposal is seeking that the land subject to this proposal be declared a state significant site. It also proposes that the IN1 General Industrial zone be applied to whole development site with the E2 Environmental Conservation zone to apply to the riparian corridor on the site once the final alignment is known. Council strongly objects to this proposal to zone lands to E2 Environmental Conservation at a later date. It is considered that a wider E2 Environmental Conservation corridor should be reserved up front as part of the future rezoning of the site to ensure that the conservation values associated with the site are adequately conserved.

Council is currently preparing a comprehensive LEP based on the Standard LEP instrument for the City. Under the draft LEP recently exhibited by Council, Council has proposed to zone the majority of existing 4(a) Urban Services zone to IN2 Light Industrial, which allows for light industrial and warehouse type activities. The existing industrial land adjoining the site at Beresfield is proposed to be zoned IN2 Light Industrial. The IN1 General Industrial zone is proposed to apply to the Steel River industrial land at Mayfield West, while the IN3 Heavy Industrial zone would apply to heavy industrial land, predominantly around Hexham and Sandgate.

The proposal states that the Black Hill development will support a wide range of employment uses consistent with the proposed Freight Hub Hunter project. These uses are proposed to include the full range of manufacturing, logistics, warehouse and distribution and general industrial activities. The proposal notes that it is not clear at this stage whether this proposal will form part of a future Freight Hub project.

It is considered that further justification is required to justify the IN1 General Industrial zone. Both the IN1 and IN2 Industrial zones proposed in the draft LEP allow a wide range of uses as outlined below.

### **Zone IN1 General Industrial**

#### **1 Objectives of zone**

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- **To allow commercial, retail or other development only where it is:**

- (i) ancillary to the use of land within this zone for industrial, research, service or storage purposes, or
- (ii) primarily intended to provide personal services and community facilities to persons occupied or employed in activities otherwise permitted in this zone or for the benefit of the local community.
- To ensure that any such commercial, retail or other development is unlikely to be prejudicial:
  - (i) to employment-generating activities, or
  - (ii) to the viability of existing commercial centres.

## 2 Permitted without consent

Building identification sign; Business identification sign;  
Environmental protection works

## 3 Permitted with consent

**Aquaculture; Boat launching ramps; Boat repair facilities; Car parks; Child care centres; Community facilities; Correctional centres; Crematorium; Depots; Drainage; Earthworks; Emergency services facilities; Flood mitigation works; Freight transport facilities; Helipad; Heliport; Industries; Industrial retail outlets; Jetties; Kiosks; Landscape and garden supplies; Light industries; Mortuaries; Neighbourhood shops; Passenger transport facilities; Places of public worship; Port facilities; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Restricted premises; Roads; Self storage units; Service stations; Sewerage systems; Sex services premises; Signage; Take away food and drink premises; Timber and building supplies; Transport depots; Truck depots; Warehouse or distribution centres; Water supply systems; Wholesale supplies**

## 3 Permitted with consent

Hazardous industries; Heavy industries; Natural water based aquaculture; Offensive industries; Rural industries; Vehicle sales or hire premises; Any other development not specified in item 2 or 3

## Zone IN2 Light Industrial

### 1 Objectives of zone

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

## 2 Permitted without consent

Building identification sign; Business identification sign;  
Environmental protection works

## 3 Permitted with consent

Aquaculture; Boat launching ramps; Boat repair facilities; Car Parks; Child care centres; Community facilities; Crematorium; Depots; Drainage; Earthworks; Emergency services facilities; Flood mitigation works; Freight transport facilities; Helipad; Heliport; Industries; Industrial retail outlets; Jetties; Kiosks; Landscape and garden supplies; Light industries; Mortuaries; Neighbourhood shops; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Restricted premises; Roads; Self storage units; Service stations; Sex services premises; Signage; Take away food and drink premises; Transport depots; Truck depots; Timber and building supplies; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Warehouse or distribution centres; Wholesale supplies

## 4 Prohibited

Bulky goods premises; Hazardous industries; Heavy industries; Natural water based aquaculture; Offensive industries; Rural industries; Any other development not specified in item 2 or 3

The proposal to have a core supporting facility area, supported by a special clause under additional permitted uses, is not supported by Council. The types of uses proposed would effectively allow a new business and retail centre that would conflict and undermine the existing centres hierarchy. If a new centre is proposed, this needs to be fully justified by way of a regional economic impact assessment and an appropriate business zone proposed.

It is noted that the following additional permitted uses are proposed to be shown on an additional permitted use zoning map within a Core Supporting Facility Area:

*business premises, child care centre, community facility, health consulting rooms, hotel, accommodation, medical centre, recreation area, recreation facility (indoor), restaurant, retail premises*

Council considers that the types of uses that can meet the daily needs of workers and visitors to the development, including local retail and community uses, can be adequately catered for in the proposed industrial zone. For example, neighbourhood shops, child care centres, community facilities, recreation areas; recreation facilities (indoor); recreation facilities (major), take away food and drink premises and kiosks would be permitted in the industrial zones. Council would not support a business zone in the development without adequate justification.

It is considered appropriate that the conservation land to be dedicated to the National Parks and Wildlife Services be zoned E1 National Parks and Nature Reserves, as noted in the proposal.

It is requested that the proposed zones and permitted uses be further considered and that further discussions be held with Council prior to finalisation of this proposal.

It is recognised that Clause 9 'land acquisitions within certain zones' outlined within the Proposed State Significant Site Listing – Schedule 3 SEPP (Major Project) is consistent with Clause 5.1 'relevant acquisition authority' of the Standard Instrument – Principle LEP. However, given that the proposal is for a substantial greenfield development, Council is of the opinion that the proponent, or subsequent landowners should provide, free of charge, all land required for community or public benefit, including public open space, identified recreational areas, road reserves, community facilities and emergency services, to Council, or other relevant government agencies, in order to meet the needs of the proposed population.

Council requests that this clause be amended to ensure that neither it nor any other authority, be required to purchase or compensate the applicant, or subsequent landowners, for acquisition of land for any community purpose or public benefit but that these be dedicated free of any cost at the time of issue of the relevant subdivision certificate.

## **2. DEVELOPER CONTRIBUTIONS AND VOLUNTARY PLANNING AGREEMENT (VPA)**

Council acknowledges the proponent's commitment to pay contributions in accordance with Council's adopted Section 94A Development Contributions Plan 2009 (updated March 2011). This Plan will require a contribution of 1% of the value of development be provided in association with each project approval or development consent at the time consent is granted.

It is noted that a Draft Voluntary Planning Agreement has been prepared regarding the dedication of land for conservation purposes to the State Government.

Further discussions should be held with Council if further VPAs are proposed to be negotiated with Council.

## **3. SOCIAL PLANNING AND INFRASTRUCTURE**

### **3.1 Background**

This is a significant development proposal that includes the rezoning of 183 hectares of land for industrial purposes.

The subject site is located to the immediate south-west of the Sydney-Newcastle Freeway and John Renshaw Drive intersection and will be the third significant employment lands development site in the immediate area of this intersection. The other two employment land sites have been largely developed over the past several years. The site is also immediately adjacent to a proposed future freight hub and employment lands as noted in the draft Newcastle-Lake Macquarie Western Corridor Planning Strategy.

The proposal estimates that the Black Hill Industrial Estate will provide an estimated 3,000 new jobs (Social Impact Assessment, Urbis, 2011:5).

Council has previously commented on this development in April 2009 when it was exhibited as State Significant Site Listing and Concept Plan – Blackhill Industrial Development (MP 08\_0124).

The Urbis (2011) Black Hill Social Infrastructure Study report is largely unchanged from the previous Social Impact Infrastructure Study (Urbis, 2008).

No rationale is provided in the Black Hill Social Infrastructure Study (2011) for why the study was restricted to only the Black Hill locale and community. The Black Hill community is noted to be quite small and with very limited existing social infrastructure.

A significant omission in the Black Hill Social Infrastructure Study is the failure to consider the impacts of this State significant development proposal on other adjacent communities to the employment lands, such as Beresfield (pop. 3,049 persons) and Tarro (pop. 1,559 persons) within the Newcastle LGA and Woodberry (3,258 persons) and Thornton (8,390 persons) within the Maitland LGA. This is a total potential population of 16,256 persons that is not considered in the social infrastructure study.

These suburbs are located within approximately 2-5 kms to the north and north-west of the development and;

- are centred around railway stations;
- are easily accessible by car;
- have the potential to strengthen alternative transport options between the employment lands and existing railway stations;
- are local centres for some existing social infrastructure and services that may be beneficial to the proposed employment lands.

Local community issues were identified in the NCC Community Plan 2006-2010 Berotarwood Discussion Paper. The Berotarwood Discussion paper was prepared for the previous Community Plan 2006-2010. It is a place based paper and covers Beresfield, Tarro and Woodberry and noted some key local issues and these were:

- transport – in particular,
  - Very poor public transport access to the existing Beresfield Industrial estate from local residential areas.
  - Community concerns about heavy traffic around the existing industrial areas impacting on residents.
  - Cycleways and shared pathway needed to be improved to facilitate greater connectivity.
- access to services – including access to after school childcare and vacation care services, and access to bulk billing doctors.

Further information gleaned from the ABS Journey to Work data (2006) would have been useful in understanding the existing employment profile within the Beresfield industrial estate and to gain an understanding of the existing traffic and transport patterns and likely social impacts.

### **3.2 Current social infrastructure**

A significant issue within the *Black Hill Social Infrastructure Study* is the focus on the community of Black Hill and its limited social infrastructure.

The current socio-economic profile of Black Hill indicates that the current population are high income earners (higher than the LGA and Australian medians) and already have a significantly higher multiple car ownership per household than the LGA and NSW averages. This is therefore a relatively wealthy local community that is currently heavily reliant on private transport to access their goods and services

There are a number of issues and omissions within the Urbis commentary on the existing and available social infrastructure which reflects unfamiliarity with the area around the proposed development.

### **3.3 Education**

Urbis notes that:

- The nearest high school to be West Wallsend, but fails to mention Francis Greenway High School (in Woodberry) located adjacent to Beresfield railway station.
- The Hunter TAFE campus is located in Newcastle, but fails to mention Maitland TAFE campus located in Metford (about 10 minutes drive).
- There are pre-schools in Beresfield and Thornton, but does not indicate their capacity to take additional demand. These facilities are already located in areas with high and increasing numbers of young families, so they are likely to have limited capacity to absorb additional demand.
- Previously, a new private primary and high school was indicated as being planned for in the Black Hill area. This is not mentioned in the 2011 study. If this school is still on the forward planning agenda, there will be a significant demand for public transport and cycleways to connect to this school from surrounding areas.

### **3.4 Health**

Urbis notes that there are no GP services in Black Hill, with the closest being located at Beresfield, Thornton and Wallsend. There are two places that people normally access GPs, near their domicile and near their workplace. However, there is no discussion about the capacity of these nearby GP services to absorb any additional demand from employment lands.

Within Beresfield, there is one group practice and three sole GP practitioners. All of these GP practices have closed books to new patients and have high numbers of young families on their books. One sole practitioner will take “walk-ins” but they have to wait long periods to be seen. In Thornton, there is one GP practice that has closed their books to all but residents in the immediate vicinity. One practice manager has commented that the recent development of the nearby industrial land saw a significant increase in demand for medical and WorkCover assessments for employees. The Beresfield GP practices were not able to meet this demand at all and there are no new GPs coming to the area.

As previously noted in Council’s submission in 2009, it is highly unlikely that Black Hill residents will choose to access a health facility such as Branxton, which is located a significant distance away from their places of employment and residence.

The ratio of GPs in this area is currently one GP to 2016 patients (figure provided from the Hunter Urban Division GP Workforce Nov 2008 data) and Beresfield is noted as an area of significant concern. This is a very high ratio, well above the preferred standard of one GP to 900 patients, and already not conducive to high quality health care.

Council would encourage the Black Hill Industrial lands to include a medical centre suitable to provide GP services and associated health services, with a view to increasing the local GP capacity to provide WorkCover assessments and care for employees of these employment lands. The medical centre could be part of a multi-purpose community centre co-located with additional social support services on appropriately zoned land.

### **3.5 Childcare**

Urbis (2011) notes there are no child care facilities in Black Hill and the lower percentage of children aged 0-4 years in Black Hill (3%) compared to the LGA average (6%). However, the 0-4 age group percentages are higher in the surrounding local suburbs of Beresfield (5.6%), Tarro (5.9%), Woodberry (9%) and Thornton (9%).

The NCC Community Plan 2006-2010 Berotarwood Discussion Paper notes the existing local community concerns in access to after school childcare and vacation care services. There are two existing childcare centres in Beresfield which are unlikely to be able to meet any increase in demand.

Urbis (2011) support the need for a childcare centre but suggest either a nearby location or co-location with the proposed new school (location not provided). No analysis of potential demand is provided. The provision of a childcare facility within the Black Hill Industrial Estate is recommended as it is highly likely that the demand for childcare will be immediate.

### **3.6 Aged Care**

Urbis (2011) notes there are no aged care facilities in Black Hill. However, there is a range of aged care services available in Beresfield that are just meeting demand.

The trend for population ageing over the next 20 years is well understood. A centre with the capacity to provide such an aged care day service would be innovative and could be considered as part of a multi-purpose community centre co-located with additional social support services.

### **3.7 Relevant research findings**

A community economic development committee known as "Growing 2322" has undertaken a Business Retention and Expansion Survey (BRES)<sup>1</sup> in late 2010 with funding from Industry and Investment NSW. The survey was across the Beresfield, Hexham, Tarro, Woodberry and Thornton industrial and commercial areas and considered the local business environment and included questions in regards to the availability and business satisfaction with social infrastructure in supporting business in these areas. The report is now publicly available.

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<sup>1</sup> *Community means Business*; 2322 Postcode Business Retention and Expansion Survey, Strategy Hunter consultants, April, 2011. Available from Newcastle City Council and Hunter Valley Youth Express.



There are a number of findings from this BRES that are relevant to this development proposal. Business respondents across the postcode reported a high level of dissatisfaction with and a need to improve:

- Regular public transport links to the local rail stations.
- Regular public transport links to local TAFE (eg Metford) and training facilities.
- Cycleway links to the nearest railway stations.
- A medical centre that could provide a focus on WorkCover and rehabilitation for employees.
- Improvements to the local road system with upgrades to Weakley's Drive, the F3 roundabout and Thornton Road.
- Improved access to the internet – this is a significant infrastructure issue in this area and some businesses cannot currently obtain ADSL2. This is a basic requirement for businesses to be able to function in a contemporary business environment.

Research recognises that public transport is increasingly recognised as a key contributor to improved social cohesion in urban development<sup>2</sup>. Private motor vehicles contribute 44.5 % of transport sector emissions and approximately 23% of global greenhouse gas emissions with recent assessments suggesting that because of their chemical composition road transport emissions are the greatest sectoral contributor to global warming. There is also mounting concerns about the sustainable use of fossil fuel based resources and a failure to adequately consider the quality of public transport networks early in the land-use planning process. This pattern of development has the potential to produce poor long term planning outcomes for communities in terms of car use patterns and in urban outcomes.

Fringe greenfield employment lands development sites will be highly vulnerable to increased costs in oil and mortgages rate rises<sup>3</sup> in the future as employees will find these areas become harder to access by car. Good public transport access to employment lands is also critical for young people who are entering the job market. At this point in time, despite the significant growth in employment lands in the Beresfield area, public transport, pedestrian and cycleway links between the local community and local employment lands are non-existent. Not only does the lack of alternative transport links impact on local young people, local businesses have identified this as a significant issue.

Section 3.4 (Proposed Site Access) of the Traffic Study notes the proposed site access. Section 3.8 (Table 3.4) provides a non-car modes strategy to access the site. The non-car mode planning area needs to be considerably strengthened and in particular, the identification and planning for public transport and cycleway routes that will connect with the nearby residential areas and rail stations. Council would welcome the opportunity to further discuss this.

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<sup>2</sup> *The Principles of Public Transport Network Planning: A review of the emerging literature with select examples*, J. Dodson, P.Mees, J.Stone, M. Burke. Urban Research Program Issues Paper 15, March 2011

<sup>3</sup> *Unsettling Suburbia: The New Landscape of Oil and Mortgage Vulnerability in Australian Cities* J. Dodson & N. Sipe, Urban Research Program Research Paper No. 17 August 2008

### **3.8 Recreational facilities and Open space**

The proponent states that “the provision of a riparian green buffer and walking and cycling networks will enable employees to partake in outdoor *activities and will enhance the overall vitality and activation of the site.*” Council supports this approach and agrees that the proposed infrastructure will only support the employees of the estate and that it is highly unlikely that people will visit this isolated site with the sole intent of utilising the open space areas for general recreation and, therefore, there is no public benefit in this land being forcibly dedicated to Council.

The statement made by the proponent that “It is not considered that Community Title is appropriate for an industrial park” is not supported. The Steel River Industrial Park at Mayfield West has been operating successfully for over 10 years and provides ownership of the open space and drainage areas by the Community Association.

Accordingly, Council recommends that the proposed riparian green buffer and associated infrastructure be retained under an appropriate community or neighbourhood scheme and not dedicated to Council. The community or neighbourhood association would then be responsible for providing and maintaining this infrastructure for the employees of its association members. This approach is consistent with areas of open space within residential estates approved by both the Minister for Planning under Part 3A and Council in the Fletcher area in recent years.

## **4.0 ENVIRONMENTAL IMPACTS**

### **4.1 Contamination**

The Preliminary Geotechnical, Contamination and Mine Subsidence Assessment (PGCMSA) prepared by Douglas Partners Pty Ltd dated February 2011 identified areas of uncontrolled fill across the former Ironbark Colliery site, a localised gully and the creekline within the central portion of the estate. Sampling was not conducted on the existing Boral facility. The PGCMSA has recommended further investigation and preparation of a remediation action plan (RAP). Council supports this approach, but highlights that the employment lands are earmarked for varying uses including industrial, commercial and supporting facilities such as a childcare centre. Council highlights the investigation levels outlined in the National Environment Protection Council ‘*National Environment Protection (Assessment of Site Contamination) Measure 1999*’ and Department of Environment and Climate Change (DECC) guidelines for soil contamination and the Australian and New Zealand Environment and Conservation Council ‘*Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000*’ for groundwater or surface water contamination as remediation criteria for the varying uses. The remediation of the area should be addressed against the criteria for the various uses to meet health and environmental objectives.

### **4.2 Noise**

The Environmental Noise Assessment prepared by Renzo Tonin and Associates Pty Ltd dated 18 November 2010 has undertaken an assessment of potential noise impacts from the use of the proposed industrial/commercial estate. The noise modelling has shown that the use of the proposed estate by industrial/commercial operations may result in potential adverse noise impacts for residential receivers to the east and south. The Environmental Noise Assessment prepared by Renzo Tonin

and Associates Pty Ltd provides some recommendations regarding how noise from industrial/commercial operations may be mitigated. However, no commitments have been made to install these noise mitigation measures. Therefore, Council recommends that engineered noise mitigation measures be provided for as part of the proposed estate, which may also reduce traffic noise impacts on the estate, and analysis be undertaken to demonstrate the effectiveness of the noise mitigation measures to reduce potential noise impacts on residential receivers.

The Environmental Noise Assessment prepared by Renzo Tonin and Associates Pty Ltd dated 18 November 2010 has recommended the separation of more sensitive supporting facilities such as a childcare centre to the central portion of the proposed employment lands to ensure noise from the F3 freeway and John Renshaw Drive will not adversely impact on these facilities. However, the acoustic study does not provide any analysis of the potential noise impact from the proposed employment lands (industrial/commercial facilities) on the supporting facilities. The industrial/commercial operations around the proposed supporting facilities have the potential to generate adverse noise impacts for these facilities. Therefore, Council recommends an assessment of the potential noise impact from industrial/commercial operations within the estate on the proposed supporting facilities be included within the acoustic study.

#### **4.4 Air quality**

The Air Quality Assessment prepared by GHD dated January 2011 provides ambient air quality data for sulphur dioxide (SO<sub>2</sub>) and nitrogen dioxide (NO<sub>2</sub>) from the Wallsend monitoring station (Table 2-1). The proposed employment lands will inevitably result in increased levels of vehicle activity, both light and heavy, within the local area with a resultant potential increase in the above air emissions. The air quality assessment has not undertaken any analysis regarding potential air quality emissions from vehicles associated with the proposed employment lands. Council recommends that future vehicle emissions associated with the proposed employment lands be analysed and included within the air quality assessment.

The wind roses from the Air Quality Assessment prepared by GHD dated January 2011 show the predominant wind direction in the local area is north-west. Residential dwellings at Black Hill are located to the east/south-east of the proposed industrial/commercial estate. This would suggest that potential air emissions/odour from the proposed industrial/commercial operations would, with a north-west wind, be directed towards the above residential receivers. Therefore, Council considers further assessment of potential air quality impacts from the proposed industrial/commercial estate is required to appropriately address potential impacts on residential receivers located at Black Hill.

#### **4.5 Environmental Management System**

The Ecologically Sustainable Development Report prepared by Ensign Pty Ltd dated 25 November 2010 recommends the implementation of an Environmental Management System (EMS) for the construction and operation of the proposed employment lands. Council supports the implementation of an EMS and suggests the recommendations and procedures of the EMS be intrinsically combined with development or planning controls for the proposed estate. The inclusion of the EMS into development planning would aid in Council's goal of providing ecologically sustainable development (ESD) and allow implementation of best practice ESD management. Council recommends further detail be provided within the EMS, in

particular with regards to reporting requirements and procedures, to enable the goals of the proposed employment lands to be defined.

#### **4.6 Riparian zones**

The proposed concept plan includes the provision of a riparian buffer zone surrounding Viney Creek. Viney Creek flows through the central portion of the proposed development site from south to north. The Indicative Concept Plan prepared by Conics dated April 2009 shows a tributary of Viney Creek within the south-western portion of the site (located within Lots 21, 22) and a secondary watercourse in the western portion of the site (Lots 15, 16, 17, 19). This tributary and watercourse have no defined riparian buffer zone included within the concept plan. Council recommends that riparian buffer zones be incorporated into the concept plan to ensure adequate protection of these watercourses. The riparian buffer zones should be included and designed in accordance with best practice guidelines.

The PGCMSA prepared by Douglas Partners Pty Ltd dated March 2009 notes a section of the watercourse catchment has been filled with waste material. Council recommends further investigation be undertaken to re-establish the watercourse. Council also recommends the riparian zone around the filled watercourse be restored and maintained in accordance with best practice guidelines.

The Bushfire Threat Assessment prepared by Harper Somers O'Sullivan dated January 2011 has recommended the establishment of a twenty metre Asset Protection Zone (APZ) around a twenty metre core riparian zone for Viney Creek.

Council disagrees with the proposed twenty metre core riparian zone and suggests the core riparian zone be increased to forty metres to ensure adequate protection of the watercourse. Council also recommends the APZ be established outside of the core riparian zone and not be included within riparian zone calculations as per the guidelines established by the Department of Water and Energy.

#### **4.7 Urban Forest Management**

Newcastle City Council adopted the Newcastle Urban Forest Policy and Newcastle Development Control Plan Element 4.10 - Tree Management in May 2008. These documents provide guidelines for the management of the urban forest on private land and recognise the importance of the overall urban forest to the health and well being of Newcastle as a whole. The proposed Concept Plan will result in the removal of a large number of retainable trees as part of the staged release areas.

Whilst the proponent proposes to dedicate land for conservation purposes as part of the current proposal, much of this land lies outside the Newcastle LGA. This will only retain the existing forest in areas outside the Newcastle LGA and result in a net loss of tree canopy within the Newcastle LGA and the associated economic, social and environmental benefits of the reduced canopy will adversely impact on the Newcastle LGA and the existing and future residents in this locality. It is recommended that compensatory tree planting be carried out in accordance with Newcastle DCP Element 4.10.

#### **4.8 Visual impacts**

Council's existing DCP 2005 Element 7.3 – South Beresfield Industrial Precinct requires a minimum 10m wide strip of land adjacent State Roads to be landscaped as a high quality buffer. Council has been enforcing this requirement on development sites to which this DCP applies; however, the intent has been largely defeated by

owners of these lands after development has been completed to a point where the buffer is now largely ineffective.

However, in this location Council considers the proposed 10m wide buffer against the northern site boundary to be inadequate. It is considered that a vegetated buffer of at least 20m wide is considered more appropriate as the landscaping would then be able to cater for some future incremental loss whilst still delivering on the objective of providing a visual screen.

Further, planting within the 83m wide buffer against the western boundary of the site would be primarily restricted to street trees given trees would not be permissible within the extent of the Transgrid easement. Council recommends that additional measures be included in the concept plan to provide additional visual buffer for lands to the west. All proposed street trees are to be a minimum 100L pot size, certified as being NATSPEC compliant and protected by Council's standard tree guard.

## **4.9 Biodiversity**

### **4.9.1 Conservation Estate**

The proposed dedication of the conservation estate traverses the Newcastle and Cessnock Local Government Areas (LGA) and contributes to the Stockton to Watagan green corridor. However, the ability of the proposed conservation estate to provide a functional wildlife corridor for terrestrial species is limited by the fragmented nature of the lands. The conservation estate is currently fragmented or impeded by the existing F3 freeway and by the recently commenced F3-Branxton arterial road. Therefore, Council recommends further study regarding the adequacy of the proposed conservation estate to provide a functional wildlife corridor by utilising identified target threatened species to assess the design of the corridor.

### **4.9.2 Lower Hunter Spotted Gum Ironbark Forest**

The proposed employment lands are currently occupied by a parcel (133ha) of the Endangered Ecological Community (EEC) Lower Hunter Spotted Gum Ironbark Forest. The Ecological Assessment Report prepared RPS dated January 2011 notes the proposed concept plan will include the removal of approximately 0.4% of this EEC within the region. The Ecological Assessment Report concludes the removal of this parcel of the EEC will be offset by 1-3% of the EEC within the region being conserved within the conservation estate. Reference to Table 5-1 of the Ecological Assessment Report shows 408ha of this EEC will be conserved within the conservation estate. Therefore, the proposed loss of the EEC within the employment lands, when combined with estimated losses within the proposed Minmi development area, will be a 1:1 ratio when compared to the EEC conserved. Therefore, the estimated conservation of 1-3% of the EEC seems inflated.

Given that the vegetation is an EEC, an offset ratio of 1:1 is inadequate. This means that a threatened vegetation community (ECC) has been offered the same offset requirement as non-threatened vegetation types. Offset ratios for an area with high conservation values should be set higher than less significant conservation values to encourage developers to avoid or mitigate impact on high conservation value land.

The NSW Department of Environment, Climate Change and Water proposed principles as a guide for negotiating and developing biodiversity offsets (see <http://www.environment.nsw.gov.au/biocertification/offsets.htm>). Point 6 of this

document states: Offsets should aim to result in a net improvement in biodiversity over time. An offset of 1:1 based on area cannot achieve net improvement. Risk remains that the offset is not equivalent in value. A minimum offset ratio of at least 1:3 should be applied.

Due to the restricted range of the EEC conservation areas are of high priority and Council recommends further investigation into the proposed area of the EEC for conservation.

## **5.0 TRAFFIC AND TRANSPORTATION**

### **5.1 Traffic**

The traffic report by Hyder Consulting has concentrated on the external traffic impacts of this proposal which is bordered by two major arterial roads being the F3 Freeway and John Renshaw Drive. Both these roads are classified state roads and as such the requirements of the RTA will be the determinant factor in any required upgrades of the adjoining road network.

However, Council does have issue with the lack of assessment carried out on the capacity of John Renshaw Drive between Weakley's Drive and the proposed access road. The intersection plan for the access road shows John Renshaw Drive being four lanes wide for a short length past the intersection. Given the expected traffic volumes likely to be on this section of John Renshaw Drive Council considers that the road should be four lanes wide (two way) between the proposed access road and Weakley's Drive.

The traffic assessment has not considered any issues relating to the proposed internal road layout. At this stage the concept shows internal collector roads and large development lots. Council's concern with approving the concept plan based on this level of detail is that there is the potential for piecemeal development of the development lots possibly by different developers which will not allow further integration of a functional road hierarchy below the collector road level. This could result in an unacceptable number of intersections along the collector road as well as the provision of a number of unnecessary cul-de-sacs.

For this reason Council requests that more detailed design guidelines for the site are prepared that show how a suitable functional road hierarchy down to the access road level can be achieved when developing the 22 super-lots shown on the concept plan. The traffic assessment should then be based on the master plan and provide recommendations in terms of at least road reserve and carriageway widths for the different levels within the road hierarchy as well as intersection alignment and controls.

Also in this regard, the proposed road running north-south adjacent proposed lots 5 and 6 should be provided as a Collector road thereby making appropriate provision for any future extension of this road onto the land to the south of the subject site.

Council acknowledges and supports the proposal to flank the central riparian corridor with roads thereby clearly defining the edge of the development. The width of the road reserve would also account for most, if not all, of the proposed Asset Protection Zones.

## **5.2 Public Transport**

The lack of public transport in the area is noted. Ongoing discussion with Transport NSW to secure provision of bus services in conjunction with development is essential. The proponent should also liaise with the current operators of services in the vicinity, namely Rover Coaches and Hunter Valley Buses, to prepare submissions to Transport NSW for increased route kilometres. Council notes and supports the proponent's proposal in the Statement of Commitments for ongoing discussion with Transport NSW and in the outline of allocated funds for Blackhill of seed funding to establish bus services.

## **5.3 Cycling and Walking**

The proponent's commitment to provision of networks for walking and cycling within the development are noted and supported, as is the allocation (C&A Allocation Black Hill \$2M) to regional cycleways of \$315,000. Council would welcome the opportunity to discuss these allocations in more detail.

Council's draft Cycling Strategy and Action Plan incorporates a regional route along Lenaghan's Drive, the F3 Freeway and Weakley's Drive, to join another regional route on Anderson Drive. The proposed access to the site from the F3 should cater for cyclists.

Further, the Tank Paddock is bounded by two other proposed regional routes on its northern and eastern boundaries. The route on the eastern side of the Tank Paddock is the Minmi to Hexham link, on a former railway corridor.

The adopted and draft Newcastle Lake Macquarie Bike Plans make no allowance for the Coal and Allied proposal. There is an existing on-road cycleway facility on Leneghans Drive and Weakleys Drive in the vicinity of the site. No other cycleway works are proposed by Council in the vicinity of the site and, accordingly, no developer contributions or Council funds are available for extensions of the cycleway network beyond these existing facilities. Council would, however, support proposals that facilitated cycling and walking in lieu of car based trips for employees of the proposed development.

Several of the proponent's appendices make reference to proposed cycleways and shared pathways within the development and linking to other existing regional public infrastructure. The applicant is therefore requested to provide additional information regarding the details, feasibility, timing and funding of the suggested pathway network to Black Hill, Minmi and the train stations at Thornton, Beresfield and Tarro. The additional information is to also address any proposed crossing of roads and any impacts on other existing or approved subdivisions to the north of John Renshaw Drive.

Concern is held that the proposed shared pathway network within the area of proposed open space may result in increased risk of crime. The need and location of any proposed pathway must be assessed against the relevant criteria set out under Crime Prevention Through Environmental Design (CPTED) and appropriate consultation undertaken with NSW Police. It is considered more appropriate that this shared pathway is provided within the footway area of all roads flanking the central riparian corridor.

Council also requests that the proponent be required to provide 1.2m wide concrete pathways on at least one side of all collector roads within the estate to provide linkages to possible future bus stops and support facilities.

The provision of pathways should be reflected in the statement of commitments (Appendix C).

#### **5.4 Parking**

The Environmental Assessment states that the Newcastle Development Control Plan 2005 contains detailed design guidelines, however the provisions “are not directly relevant to the proposed Concept Plan under this application but will be addressed through subsequent approvals for buildings on the site” and that urban design guidelines have been prepared as part of the Concept Plan which “will supersede design guidelines under the Newcastle DCP” (p. 56).

Requirements of the Newcastle DCP should be met, unless it can be demonstrated that the proposed design guidelines would result in a better outcome. Council has recently adopted revised Development Control Plan Element 4.1 Parking and Access which provides guidelines for provision of parking for cars, motorbikes and bikes, end of trip facilities and other measures to encourage greater use of sustainable transport modes. It stipulates requirements for preparation of a green travel plan for major development such as that proposed for Black Hill. The provisions of this Element should apply to the proposal.

These requirements should be addressed in the design guidelines. Provision of shuttle bus services could be one component of a green travel plan. Other components (which should be reflected in the Vehicle Management Plan) could include preparation of transport access guides for employees and visitors and establishment of car pooling programs.

#### **5.5 Conceptual Road Design**

It is noted that several of typical road sections contained within ‘Appendix B – Concept Plan Design Guidelines’ do not conform with numerous elements of Council’s current requirements (Refer NDCP2005 – Element 4.11(Subdivision) adopted 20/7/2010). As the Concept Plan proposes to dedicate all roads to Council as Public Road, it is considered imperative that these roads are designed and constructed to Council’s adopted standards.

As mentioned above, Council believes a more detailed concept plan is necessary to define the probable ultimate road network in a more integrated manner.

Council considers it imperative that the proposed intersections be designed to adequately cater for the introduction of ‘Quad Axle B-Double’ trucks (30m long) as per the recommendations of the Performance Based Standards (PBS) adopted by the National Transport Commission and Australian Local Government Association. The intersections and road works should also be designed and constructed to cater for potential overmass or oversize vehicles which may be required to access this development.

It is also considered that the indicative road network needs to be revised to eliminate the numerous 90 degree bends, the offset 4-way intersections and the lengthy straights to avoid potential vehicle conflict points and to minimise the risk of ‘street racing’ when activity within the estate is low.



## **6.0 WATER SENSITIVE URBAN DESIGN (WSUD)**

It is noted that it is proposed to adopt the latest stormwater quality targets developed for the Western Sydney Growth Centres Commission with input from DECC. This is considered to be an acceptable alternative to the water quality design requirements provided in the water management element of the Newcastle DCP 2005.

The report highlights that the local soils are highly susceptible to water erosion and are acidic with some potential for acid sulphate soil formation in the lower floodplain areas. It is proposed to prepare Soil and Water Management Plans and associated Erosion and Sediment Control Plans at the detailed design phase and the design will need to satisfy the requirements of the "Soils and Construction –Managing Urban Stormwater" publication prepared by Landcom in 2004 (The Blue Book). Council recommends that the applicant be made responsible for the ongoing maintenance and ultimate removal of all erosion and sedimentation control structures and devices.

Council recommends that the applicant be required to undertake an ongoing monitoring, sampling and reporting program for the life of the development. If it shows that the measures are not performing as anticipated then any required improvements would need to be undertaken by the developer with the concurrence of the relevant Council.

The Concept Plan proposes to dedicate to Council nine water quality/detention basins which would impose a significant maintenance and financial burden on Council in perpetuity. Council does not support this approach and requests that the applicant be required to demonstrate an alternate WSUD approach based on a greater emphasis on 'at source' controls.

Alternatively, the proposal could be developed under an appropriate Community or Neighbourhood scheme and the multitude of detention basins located on land owned and managed by those persons within the estate for whom the basins are provided.

## **7.0 HERITAGE**

The applicant is requested to prepare the following as outlined below. Where appropriate the statement of commitments will need to be revised.

An Aboriginal Heritage Management Strategy should be prepared prior to the Minister's consent being issued, taking into consideration the views of the Aboriginal stakeholder groups previously identified during the consultation process and in accordance with the DECC requirements. It should determine protocols in the event that artefacts are uncovered. In particular this Strategy should consider a repository for the safekeeping of artefacts and protocols for management. It should provide an interpretation strategy and a set of actions for the developer to implement at each stage of the development. The Strategy must not commit Council to ownership or the undertaking of any management or regulatory function with regard to Aboriginal Heritage without the written agreement of Council.

A Conservation Management Plan (CMP) for the built, landscape and archaeological heritage of Minmi must be prepared with provision for opportunities to consult with council to develop conservation driven outcomes. The CMP should provide detailed policy guidelines for management of heritage items with respect to the proposal. The

policy developed in the CMP should inform the statements of commitment attached to the approval.

## **8.0 CONCEPT PLAN DESIGN GUIDELINES**

Council has developed and adopted a robust suite of development controls that now form the Newcastle Development Control Plan 2005 and associated Technical Manuals.

The proponent has obviously sought to replicate the objectives of each relevant element of DCP2005 whilst omitting certain, more detailed, aspects. Council considers that the existing DCP 2005, which contains such a level of detail, could be satisfactorily applied to the proposed development and still achieve the proponents' own vision for the estate.

Should the proponent wish to pursue a site specific DCP element for this site, Council considers it more appropriate that any such controls be developed into a DCP element and formally adopted as an amendment to the DCP 2005.

## **9.0 FLOODING AND STORMWATER MANAGEMENT**

### **9.1 Flood Management**

It is noted that additional work has been carried out as part of the revised proposal. These comments therefore only apply to differences (or continuing matters) since the last review in 2009.

#### **9.1.1 Other forms of flooding**

The flooding that has been analysed in the report is only local flash flooding in and around the local creek lines. Council's previous review identified that there was insufficient ground level information to determine if parts of the land could be affected by Hunter River or Ocean flooding (including projected long term Sea Level Rise). The plans now show sufficient levels to conclude that no parts of the proposed lots are affected by projected ocean flooding as currently understood (presently estimated to be no higher than RL 3.4m AHD), and only some of the lower portions of land in the Minmi area is lower than the highest conceivable Hunter River flood (estimated to peak at RL 6.7m AHD). This information could be included in the reporting for completeness.

#### **9.1.2 Mapping accuracy**

It is again noted that the flood simulations have been based on coarse terrain level information (2m contours), when more accurate Digital Elevation Models are readily available. While the incised nature of the topography probably means estimated design flood extents are not likely to be very sensitive to terrain accuracy, it is recommended that final designs use accurate terrain information. It was also difficult to be confident about the location of proposed lots in relation to mapped flood extents since the two were not overlain in every location. It is recommended this be done, and the levels from the other forms of flooding (see Item 1 above) be accurately examined. Nonetheless, it appears that projected flooding at worst only intersects proposed lots occasionally, and then only at the edges.

### **9.1.3 Potential risk to life**

Assuming Item 2 above is correct, the potential for lives to be endangered by flooding is confined to public land – mostly open space following the creek lines. The report “considers” that even though there are rapid rise times and care needs to be taken in managing this potential risk, people will be able to escape. However, the report does not give any factual information about how this conclusion was reached (eg rise times before people would be swept away). Based on other flash flood catchments in Newcastle, there could be less than 10 minutes with no effective warning, and no opportunity for emergency services (SES) to respond and assist in time. Even though there should always be rising escape routes, it is recommended that closer careful examination of these matters be carried out at the detailed design stage and measures implemented as required. This could include ensuring there no entrapment opportunities, and installing warning signs.

In summary, it is considered that the very poor survey information which the flood study has used result in questioning of its accuracy and usefulness.

It is also noted that ownership of the drainage reserves and detention basins will need to be canvassed with Council’s Asset managers.

The impacts of proposed future mine subsidence on local flood levels and building floor levels is a major concern. The plans provided show anticipated subsidence of up to 1.4m adjacent to watercourses. If possible underground mining should occur before the proposed subdivision development or alternatively mining techniques be employed to eliminate mine subsidence.

## **9.2 Stormwater Management**

The concept design provided for stormwater management demonstrates that the proposed development can satisfy Council’s requirements for stormwater quantity and quality control.

Proposed WSUD measures will need to be designed and positioned to avoid damage from heavy vehicles accessing the industrial lots. They will also need to be canvassed with Council’s Asset and Maintenance managers should the roads and drainage system pass into Council ownership.

The proposed mining activities and anticipated subsidence also raise concerns about adverse impacts on site services including the stormwater drainage system. The predicted differential settlement pattern has the potential to break underground pipes, change the direction of falls, alter critical weir and pipe levels and change design parameters.

If a monitoring and sampling program is proposed then there should be a requirement that this is undertaken by the developer. If it shows that the measures are not performing as anticipated then any required improvements would need to be undertaken by the developer.