

VICKERY EXTENSION PROJECT

ENVIRONMENTAL IMPACT STATEMENT

ATTACHMENT 5

PLANNING INSTRUMENTS

ADDENDUM

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A5 PLANNING INSTRUMENTS ADDENDUM

This Attachment provides further discussion on the requirements and application of State Environmental Planning Policies (SEPPs), the *Gunnedah Local Environmental Plan 2012* (Gunnedah LEP), the *Narrabri Local Environmental Plan 2012* (Narrabri LEP) and relevant strategic planning documents to the Vickers Extension Project (the Project).

References to Sections 1 to 7 in this Attachment are references to the Sections in the Main Report of the Environmental Impact Statement (EIS). References to Appendices A to R in this Attachment are references to the Appendices of the EIS. Internal references within this Attachment are prefixed with “A5”.

A5.1 STATE ENVIRONMENTAL PLANNING POLICIES

A5.1.1 State Environmental Planning Policy (State and Regional Development) 2011

Clause 3 of the *State Environmental Planning Policy (State and Regional Development) 2011* (State and Regional Development SEPP) outlines the aims of the SEPP, including the following of relevance to the Project:

- (a) *to identify development that is State significant development,*

...

The Project falls within Item 5 of Schedule 1 of the State and Regional Development SEPP as it is development for the purpose of mining that is coal mining. It is therefore State Significant Development for the purposes of the New South Wales (NSW) *Environmental Planning and Assessment Act, 1979* (EP&A Act) (Section 6.3.2).

A5.1.2 State Environmental Planning Policy No 33 – Hazardous and Offensive Development

The *State Environmental Planning Policy No 33 – Hazardous and Offensive Development* (SEPP 33) applies to the whole of NSW.

Clause 2 outlines the aims of SEPP 33, of which the following are relevant to the Project:

- (a) *to amend the definitions of hazardous and offensive industries where used in environmental planning instruments, and*

...

- (d) *to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and*
- (e) *to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and*

...

Clause 12 of SEPP 33 requires persons proposing to carry out development for the purposes of potentially hazardous industry to prepare a Preliminary Hazard Analysis (PHA) in accordance with the current circulars or guidelines published by the NSW Department of Planning (DoP) (now the NSW Department of Planning and Environment [DP&E]) and to submit the analysis with the Development Application.

Clause 13 of SEPP 33 requires that in determining an application to carry out development for the purposes of a potentially hazardous industry, the consent authority (in this case the NSW Minister for Planning and Environment [the Minister] or the Independent Planning Commission [IPC]) must consider:

- (a) *current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and*
- (b) *whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and*
- (c) *in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and*
- (d) *any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and*
- (e) *any likely future use of the land surrounding the development.*

In accordance with the Secretary's Environmental Assessment Requirements and as part of the preparation of this EIS, a PHA has been conducted in accordance with SEPP 33 (Appendix P). The PHA has been prepared in accordance with the general principles of risk evaluation and assessment outlined in *Multi-Level Risk Assessment* (Department of Planning and Infrastructure, 2011).

In addition, the PHA considers the qualitative criteria provided in *Hazardous Industry Planning Advisory Paper No. 4: Risk Criteria for Land Use Safety Planning* (DoP, 2011a) and has been documented in general accordance with *Hazardous Industry Planning Advisory Paper No. 6: Hazard Analysis* (DoP, 2011b).

Extensive consultation has been undertaken with various public authorities during the preparation of this EIS, as described in Section 3.

Project alternatives (including the Project location, scale of the mining and the mining method employed) are discussed in Section 6.1.7.

The land surrounding the Project area comprises Zone RU1 (Primary Production) zonings under the Gunnedah LEP and the Narrabri LEP, as discussed in Sections A5.2 and A5.3. The Project is generally consistent with the uses that are permissible for adjoining lands (Sections A5.2 and A5.3).

Consideration of the potential impacts on agricultural land uses is assessed in the Agricultural Impact Statement (AIS) (Appendix H) and summarised in Section 4.3.2.

Accordingly the Minister or IPC can be satisfied as to these matters.

A5.1.3 State Environmental Planning Policy No 44 – Koala Habitat Protection

The *State Environmental Planning Policy No 44 – Koala Habitat Protection* (SEPP 44) requires the councils in certain Local Government Areas (LGAs) (including Gunnedah and Narrabri) to consider whether the land which is the subject of the Development Application comprises "potential koala habitat" or "core koala habitat".

Clause 9 of SEPP 44 requires:

- (1) *Before a council may grant consent to a development application for consent to carry out development on land to which this Part applies that it is satisfied is a core koala habitat, there must be a plan of management prepared in accordance with Part 3 that applies to the land.*
- (2) *The council's determination of the development application must not be inconsistent with the plan of management.*

Since the Project is State Significant Development to which Division 4.7 of Part 4 of the EP&A Act applies, the Minister or the IPC is the consent authority (Section 6.3.2) rather than the Council.

An assessment of Koala habitat for the purposes of SEPP 44 has been undertaken (Section 4.11 and Appendix F) and this assessment has found that portions of the Development Application area comprise potential Koala habitat.

Future Ecology (2018) has concluded that River Red Gum Riparian Tall Woodland along the Namoi River in the Project rail spur is considered likely to be core habitat for the Koala under the definition of SEPP 44, considering:

- the riparian vegetation contains River Red Gum which is listed as a 'primary' feed tree; and
- recent sightings and records of Koalas occur in the riparian habitat along the Namoi River north and south of the Project rail spur.

In addition, an assessment of potential impacts on Koala habitat and measures proposed to manage Project impact to the likely core Koala habitat along the Namoi River are provided in Appendix F.

Notwithstanding that the Project is State Significant Development, a Koala Management Plan would be prepared for the Project to describe avoidance, mitigation and management measures relevant to the Koala.

A5.1.4 State Environmental Planning Policy No 55 – Remediation of Land

The *State Environmental Planning Policy No 55 – Remediation of Land* (SEPP 55) applies to the whole of NSW and is concerned with the remediation of contaminated land. It sets out matters relating to contaminated land that a consent authority must consider in determining an application for Development Consent.

“Contaminated land” in SEPP 55 has the same meaning as it has in clause 1 of Schedule 6 of the EP&A Act:

***contaminated land** means land in, on or under which any substance is present at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment.*

Clause 7(1) of SEPP 55 provides that a consent authority must not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Clause 7 of SEPP 55 further provides:

- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
 - (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
 - (4) *The land concerned is:*
 - (a) *land that is within an investigation area,*
 - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
- ...

Clause 7(2) provides that before a consent authority determines an application for Development Consent, a “preliminary investigation” is required where:

- the application for consent is to carry out development that would involve a “change of use”; and
- that “change of use” is relevant to certain land specified in clause 7(4).

The certain land specified in clause 7(4) on which the “change of use” must relate is either:

- land that is an “investigation area” – defined in SEPP 55 as land declared to be an investigation area by a declaration in force under Division 2 of Part 3 of the NSW *Contaminated Land Management Act, 1997*; or
- land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines (being *Managing Land Contamination – Planning Guidelines SEPP 55 – Remediation of Land* [Department of Urban Affairs and Planning and Environment Protection Agency, 1998]) is being, or is known to have been, carried out.

The portions of the Project located in Coal Lease 316 and Mining Leases (ML) 1471, ML 1718 and ML 1464 do not involve a “change of use” because they are existing coal mining land use areas.

The parts of the Project described in Section 2 that extend into the Mining Lease Application (MLA) area, and the portions of the Project rail spur and groundwater borefield and pipeline (where these Project elements extend beyond existing MLs) would involve a change of land use.

SESL Australia (2018) (Appendix Q) completed a Land Contamination Assessment in accordance with *Managing Land Contamination – Planning Guidelines SEPP 55 – Remediation of Land*. This investigation included a desktop review and site inspection.

Following review of the site history and the visual site inspection results, SESL (2018) identified three areas to be investigated further (Tier 1 Detailed Site Investigation) prior to commencement of the Project (Appendix Q).

Land contamination management measures, including post-mining investigation and remediation measures are described in Sections 4, 5 and 7.

Accordingly the Minister or IPC can be satisfied as to these matters.

A5.1.5 State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

The *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* (Mining SEPP) is applicable to the whole of NSW.

Part 1 – Clause 2

Clause 2 sets out the aims of the Mining SEPP, as follows:

- (a) *to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and*
- (b) *to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and*
- (b1) *to promote the development of significant mineral resources, and*
- (c) *to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources, and*
- (d) *to establish a gateway assessment process for certain mining and petroleum (oil and gas) development:*
 - (i) *to recognise the importance of agricultural resources, and*
 - (ii) *to ensure protection of strategic agricultural land and water measures, and*
 - (iii) *to ensure a balanced use of land by potentially competing industries, and*
 - (iv) *to provide for the sustainable growth of mining, petroleum and agricultural industries.*

Part 2 – Clause 7

Clause 7(1) of the Mining SEPP states that development for any of the following purposes may be carried out only with Development Consent:

- ...
- (b) *mining carried out:*
 - (i) *on land where development for the purposes of agriculture or industry may be carried out (with or without development consent), or*

- (ii) *on land that is, immediately before the commencement of this clause, the subject of a mining lease under the Mining Act 1992 or a mining licence under the Offshore Minerals Act 1999,*

- (c) *mining in any part of a waterway, an estuary in the coastal zone or coastal waters of the State that is not in an environmental conservation zone,*

- (d) *facilities for the processing or transportation of minerals or mineral bearing ores on land on which mining may be carried out (with or without development consent), but only if they were mined from that land or adjoining land,*

...

The Project requires Development Consent. Descriptions of the relevant Local Environment Plan land use zones and the applicability of the Mining SEPP to Project permissibility (where relevant) are provided in Sections A5.2 and A5.3.

Part 3 – Clauses 12 to 17

Part 3 of the Mining SEPP provides matters for consideration for Development Applications.

Clause 12

Clause 12 of the Mining SEPP requires that before determining an application for consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must:

- (a) *consider:*
 - (i) *the existing uses and approved uses of land in the vicinity of the development, and*
 - (ii) *whether or not the development is likely to have a significant impact on the uses that, in the opinion of the consent authority having regard to land use trends, are likely to be the preferred uses of land in the vicinity of the development, and*
 - (iii) *any ways in which the development may be incompatible with any of those existing, approved or likely preferred uses, and*
- (b) *evaluate and compare the respective public benefits of the development and the land uses referred to in paragraph (a) (i) and (ii), and*
- (c) *evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).*

The existing land uses in the vicinity of the Project predominantly include grazing, cropping and the Vickery State Forest, which is located to the east of the Project mining area (Section 4.3 and Appendix H).

Approximately 405 hectares (ha) of land within the Project disturbance area has been rehabilitated following former mining activities at the Vickery and Canyon Coal Mines, and currently consists of a mixture of open pasture areas and established woodland (Section 5.1). Additional land uses in the vicinity of the Project include the Vickery State Forest and the Rocglen Coal Mine.

The Project is not incompatible with existing, approved or likely adjoining land uses. The Project would be operated in such a way as to minimise any potential environmental impacts, as described in Sections 4 and 7.

Consideration of the potential impacts of the Project on agricultural land uses is assessed in Appendix H and described in Section 4.3.

Noise, air quality, biodiversity, and road transport impact assessments have been conducted for the Project, and there would be no significant impacts on adjoining land uses in the vicinity of the Project development areas (Appendices D, E, F and I).

The development of the Project would result in significant socio-economic benefits to the regional economy and the State of NSW (Appendix J and Sections 6.1.1 and 6.1.4).

A rehabilitation strategy would be implemented for the Project (Section 5) in order to rehabilitate the Project site to a state where incompatibility of the Project with current and future land uses in the area would be minimised. The rehabilitated final landform would incorporate native woodland vegetation and agricultural land.

Accordingly the Minister or IPC can be satisfied as to these matters.

Clause 12AB – Non-Discretionary Development Standards for Mining

Section 4.15(2) of the EP&A Act prescribes:

If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

- (a) is not entitled to take those standards into further consideration in determining the development application, and*
- (b) must not refuse the application on the ground that the development does not comply with those standards, and*
- (c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,*

and the discretion of the consent authority under this section and section 4.16 is limited accordingly.

Clause 12AB identifies non-discretionary development standards for the purposes of section 4.15(2) of the EP&A Act in relation to the carrying out of development for the purposes of mining.

Table A5-1 provides each of the non-discretionary development standards listed in clause 12AB of the Mining SEPP and a summary of the conclusions of this EIS with respect to the Project. Where the Project complies with the non-discretionary development standards in clause 12AB of the Mining SEPP, the Minister or IPC must act in accordance with the clause and section 4.15(2) of the EP&A Act.

**Table A5-1
Clause 12AB Non-Discretionary Development Standards for Mining**

Subclause of Clause 12AB	Compliance of the Project
<p>(3) Cumulative noise level</p> <p><i>The development does not result in a cumulative amenity noise level greater than the acceptable noise levels, as determined in accordance with Table 2.1 of the Industrial Noise Policy, for residences that are private dwellings.</i></p>	<p>The cumulative noise levels from the concurrent operation of the Project and the Tarrawonga, Rocglen and Boggabri Coal Mines would comply with the recommended acceptable amenity criterion outlined in Table 2.1 of the Industrial Noise Policy (40 dBA [A-weighted decibels] $L_{Aeq,9 hr}$) at all privately-owned receivers.</p>
<p>(4) Cumulative air quality level</p> <p><i>The development does not result in a cumulative annual average level greater than 30 $\mu\text{g}/\text{m}^3$ of PM_{10} for private dwellings.</i></p>	<p>The Project would not result in a cumulative annual average level greater than 30 micrograms per cubic metre ($\mu\text{g}/\text{m}^3$) of PM_{10} at any privately-owned dwellings when considered cumulatively with existing background sources and other mining projects (Section 4.9 and Appendix E).</p>
<p>(5) Airblast overpressure</p> <p><i>Airblast overpressure caused by the development does not exceed:</i></p> <p>(a) 120 dB (Lin Peak) at any time, and</p> <p>(b) 115 dB (Lin Peak) for more than 5% of the total number of blasts over any period of 12 months, measured at any private dwelling or sensitive receiver.</p>	<p>Blasting at the Project would be managed so that airblast overpressure caused by the Project would not exceed the relevant criteria at any privately-owned dwelling or sensitive receiver (without prior agreement) (Section 4.8 and Appendix D).</p>
<p>(6) Ground vibration</p> <p><i>Ground vibration caused by the development does not exceed:</i></p> <p>(a) 10 mm/sec (peak particle velocity) at any time, and</p> <p>(b) 5 mm/sec (peak particle velocity) for more than 5% of the total number of blasts over any period of 12 months, measured at any private dwelling or sensitive receiver.</p>	<p>Blasting at the Project would be managed so that ground vibration caused by the Project would not exceed the relevant criteria at any privately-owned dwelling or sensitive receiver without prior agreement (Section 4.8 and Appendix D).</p>
<p>(7) Aquifer interference</p> <p><i>Any interference with an aquifer caused by the development does not exceed the respective water table, water pressure and water quality requirements specified for item 1 in columns 2, 3 and 4 of Table 1 of the Aquifer Interference Policy for each relevant water source listed in column 1 of that Table.</i></p>	<p>The Project would have “minimal impact” (as defined by the Aquifer Interference Policy) to the water table, water pressure and water quality requirements for ‘highly productive’ and ‘less productive’ water sources (Attachment 6).</p>

Clause 13

Clause 13(2) of the Mining SEPP requires that before determining any application for consent for development in the vicinity of an existing mine, petroleum production facility of extractive industry, to which this clause applies, the consent authority must:

- (a) consider:
- (i) the existing uses and approved uses of land in the vicinity of the development, and
 - (ii) whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and

(iii) any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery, and

(b) evaluate and compare the respective public benefits of the development and the uses, extraction and recovery referred to in paragraph (a) (i) and (ii), and

(c) evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).

A number of existing and proposed mining projects are located in the general vicinity of the Project. Potential interactions between the Project and other major projects are described in Section 2.3 and throughout Section 4.

Existing Whitehaven mining operations (i.e. the Tarrawonga and Rocglen Coal Mines) currently transport run-of-mine (ROM) coal to the existing Whitehaven Coal Handling and Preparation Plant (CHPP), located 5 kilometres north-west of Gunnedah, for processing and rail transport.

Once the on-site CHPP is constructed, the Project would be able to receive ROM coal transported by road from the Tarrawonga and Rocglen Coal Mines for processing at the Project CHPP and/or stockpiling and train load-out via the Project rail spur.

No significant impacts to other existing or proposed mining operations are anticipated as part of the Project (Section 4).

The Development Application Area is covered by Petroleum Exploration Licence 1, which is held by Australian Coalbed Methane Pty Limited and operated by Santos (QNT) Pty Ltd on behalf of the titleholder. Whitehaven is unaware of any current proposal for coal seam gas or petroleum extraction in the Project area. The Project would target coal seams that are relatively shallow in nature and with relatively low methane content. Whitehaven has consulted with the tenement owner in regard to the Project (Section 3).

Clause 14

Clause 14(1) of the Mining SEPP requires that before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring that the development is undertaken in an environmentally responsible manner, including conditions to ensure the following:

- (a) *that impacts on significant water resources, including surface and groundwater resources, are avoided, or are minimised to the greatest extent practicable,*
- (b) *that impacts on threatened species and biodiversity, are avoided, or are minimised to the greatest extent practicable,*
- (c) *that greenhouse gas emissions are minimised to the greatest extent practicable.*

In addition, clause 14(2) requires that, without limiting subclause (1), in determining a Development Application for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider an assessment of the greenhouse gas emissions (including downstream emissions) of the development, and must do so having regard to any applicable State or national policies, programs or guidelines concerning greenhouse gas emissions.

The potential impacts of the Project on groundwater and surface water resources are discussed in Sections 4.5 and 4.6 and Appendices A and B, respectively, including measures to minimise potential impacts. The potential impacts of the Project on threatened species and biodiversity are described in Section 4.11 and Appendix F, including measures to minimise potential impacts.

The Project greenhouse gas emissions assessment is provided in Section 4.10 and Appendix E. Greenhouse gas mitigation measures and relevant State or national policies, programs and guidelines are described in Sections 4.10 and 6.1.3.

Accordingly the Minister or IPC can be satisfied as to these matters.

Clause 15

Clause 15 of the Mining SEPP requires that:

- (1) *Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider the efficiency or otherwise of the development in terms of resource recovery.*
- (2) *Before granting consent for the development, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at optimising the efficiency of resource recovery and the reuse or recycling of material.*

- (3) *The consent authority may refuse to grant consent to development if it is not satisfied that the development will be carried out in such a way as to optimise the efficiency of recovery of minerals, petroleum or extractive materials and to minimise the creation of waste in association with the extraction, recovery or processing of minerals, petroleum or extractive materials.*

Whitehaven has progressively presented Project description information, mine layout plans and other information to the NSW Division of Resources and Geoscience (within the DP&E) during the development of this EIS (Section 3). Constraints to the extent of the Project open cut are discussed in Sections 2 and 6.

It is in the financial interest of Whitehaven to maximise the efficiency and long-term value of open cut mining operations and ROM coal production.

Accordingly the Minister or IPC can be satisfied as to these matters.

Clause 16

Clause 16(1) of the Mining SEPP requires that before granting consent for development for the purposes of mining or extractive industry that involves the transport of materials, the consent authority must consider whether or not the consent should be issued subject to conditions that do any one or more of the following:

- (a) *require that some or all of the transport of materials in connection with the development is not to be by public road,*
- (b) *limit or preclude truck movements, in connection with the development, that occur on roads in residential areas or on roads near to schools,*
- (c) *require the preparation and implementation, in relation to the development, of a code of conduct relating to the transport of materials on public roads.*

Until the Project CHPP, train load-out facility and Project rail spur reach full operational capacity, road transport of ROM coal from the Project to the Whitehaven CHPP would be conducted consistent with the Development Consent (SSD-5000) conditions for coal haulage for the Approved Mine.

Project ROM coal moved by road would be transported to the Whitehaven CHPP via the Approved Road Transport Route and the approved private haul road and Kamilaroi Highway overpass (if constructed). This route includes both public and private roads (Section 2).

Road movements associated with the construction and operational workforce and deliveries would also be associated with the Project.

Potential impacts of the road movements associated with the Project are assessed and described in Sections 4.12 and 4.13 and Appendices D and I. An assessment of alternatives to transport on public roads has been conducted and is summarised in Section 6.1.7.

The Road Transport Assessment concluded that no significant impacts on the performance capacity, efficiency and safety of the road network are expected to arise as a result of the Project (Appendix I).

Whitehaven currently implements road maintenance agreements with the Gunnedah Shire Council and Narrabri Shire Councils in accordance with Condition 39 of the Tarrawonga Coal Mine Project Approval (DA 88-4-2005), for the maintenance of roads used for the road transport of sized ROM coal from the Tarrawonga Coal Mine to the Whitehaven CHPP. It is anticipated that similar agreements (and/or revision of existing agreements) would be implemented for the Project for periods of transport of ROM coal by road.

In accordance with subclause 16(1)(c), Whitehaven implements a Traffic Management Plan including a Drivers Code of Conduct across its relevant operations. The existing Traffic Management Plan would be revised for the Project.

Clause 16(2) of the Mining SEPP provides that if the consent authority considers that the development involves the transport of materials on a public road, the consent authority must, within seven days after receiving the Development Application, provide a copy of the application to each roads authority for the road, and the NSW Roads and Maritime Service (RMS) (if it is not a roads authority for the road).

In addition, clause 16(3) of the Mining SEPP requires that the consent authority:

- (a) *must not determine the application until it has taken into consideration any submissions that it receives in response from any roads authority or the Roads and Traffic Authority within 21 days after they were provided with a copy of the application,*

...

Whitehaven has consulted with the RMS, Transport for NSW, the Gunnedah Shire Council and the Narrabri Shire Council during the development of this EIS, and these authorities are aware of the proposed road transport of ROM coal on the public road network and modifications to the existing road network (Section 2.12), as a component of the Project.

The Project CHPP, train load-out facility and Project rail spur, once fully operational, would result in the cessation of ROM coal transport by public road to the Whitehaven CHPP.

Clause 17

Clause 17 of the Mining SEPP outlines various rehabilitation requirements. Clause 17(1) requires that before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring the rehabilitation of land that will be affected by the development.

Clause 17(2) provides that, in particular, the consent authority must consider whether conditions of the consent should:

- (a) require the preparation of a plan that identifies the proposed end use and landform of the land once rehabilitated, or
- (b) require waste generated by the development or the rehabilitation to be dealt with appropriately, or
- (c) require any soil contaminated as a result of the development to be remediated in accordance with relevant guidelines (including guidelines under clause 3 of Schedule 6 to the Act and the Contaminated Land Management Act 1997), or
- (d) require steps to be taken to ensure that the state of the land, while being rehabilitated and at the completion of the rehabilitation, does not jeopardize public safety.

A comprehensive program would be implemented for the progressive rehabilitation of the Project disturbance area, including the remediation of any contaminated soil, if applicable (Section 5). One of the key objectives of the rehabilitation program would be the development of landforms that are stable in the long-term, and therefore do not jeopardize public safety.

The proposed management of waste rock material and coal rejects is discussed in Sections 2.8 and 2.9 and the management of other wastes are discussed in Section 2.13.

Accordingly the Minister or IPC can be satisfied as to these matters.

A5.1.6 State Environmental Planning Policy (Infrastructure) 2007

The *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP) applies to the whole of NSW and includes provisions for consultation with relevant public authorities about certain development during the assessment process prior to development commencing.

Electricity Transmission and Distribution Networks

Clause 42 of the Infrastructure SEPP relevantly provides:

- (1) *This clause applies to development (other than exempt development) that:*
 - (a) *is carried out by or on behalf of an electricity supply authority or public authority, and*
 - (b) *is for the purpose of a new or existing electricity substation of any voltage (including any associated yard, control building or building for housing plant), and*
 - ...
- (2) *Before development to which this clause applies is carried out, the electricity supply authority or public authority must:*
 - (a) *give written notice of the intention to carry out the development to the council for the area in which the land is located (unless the authority is that council) and to the occupiers of adjoining land, and*
 - (b) *take into consideration any response to the notice that is received within 21 days after the notice is given.*

Subdivision 2 of Division 5 of the Infrastructure SEPP relates to developments that are likely to affect an electricity transmission or distribution network.

Clause 45 of the Infrastructure SEPP relevantly provides:

- (1) *This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following:*
- ...

- (b) *development carried out:*
- (i) *within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) *immediately adjacent to an electricity substation, or*
 - (iii) *within 5m of an exposed overhead electricity powerline,*
- ...
- (2) *Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must:*
- (a) *give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and*
 - (b) *take into consideration any response to the notice that is received within 21 days after the notice is given.*

A new 66 kV/11 kV substation would be constructed in the mine infrastructure area. An existing 66 kV overhead powerline (i.e. comprising poles, insulators and electrical conductors) would be realigned within MLA 1 to service the Project (Section 2.4.6).

The realigned 66 kV powerline would then provide electricity to the mine infrastructure area for on-site distribution as required. The powerline would also provide electricity to the Namoi River pump station (via a separate substation) and groundwater supply borefield (Section 2.4.6).

The Project rail spur would be constructed within or immediately adjacent to an easement for electricity purposes and/or within 5 metres (m) of exposed overhead powerlines.

Consultation has been conducted with Essential Energy and TransGrid regarding the Project (Section 3).

Railways and Rail Corridors

Subdivision 2 of Division 15, Part 3 of the Infrastructure SEPP sets out provisions for development in rail corridors. Clause 84 of the Infrastructure SEPP relevantly provides:

- (1) *This clause applies to development that involves:*
- (a) *a new level crossing, or*
 - ...
 - (c) *a likely significant increase in the total number of vehicles or the number of trucks using a level crossing that is in the vicinity of the development.*
- (2) *Before determining a development application for development to which this clause applies, the consent authority must:*
- (a) *within 7 days after the application is made, give written notice of the application to the rail authority for the rail corridor, and*
 - (b) *take into consideration:*
 - (i) *any response to the notice that is received within 21 days after the notice is given, and*
 - (ii) *the implications of the development for traffic safety including the costs of ensuring an appropriate level of safety, having regard to existing traffic characteristics and any likely change in traffic at level crossings as a result of the development, and*
 - (iii) *the feasibility of access for the development that does not involve use of level crossings.*
- (3) *Subject to subclause (5), the consent authority must not grant consent to development to which this clause applies without the concurrence of the rail authority for the rail corridor,*
- (4) *In determining whether to provide concurrence, the rail authority must take into account:*
- (a) *any rail safety or operational issues associated with the aspects of the development, and*
 - (b) *the implications of the development for traffic safety including the cost of ensuring an appropriate level of safety, having regard to existing traffic and any likely change in traffic at level crossings as a result of the development.*

(5) *The consent authority may grant consent to development to which this clause applies without the concurrence of the rail authority for the rail corridor if 21 days have passed since the consent authority gave notice under subclause (2) (a) and the rail authority has not granted or refused to grant concurrence.*

(6) *The consent authority must provide the rail authority for the rail corridor with a copy of the determination of the application within 7 days after the determination is made.*

...

No new rail level crossings of public roads are proposed for the Project.

An assessment of increased traffic at existing rail level crossings is presented in Appendix I, having regard to existing traffic characteristics and any likely change in traffic at level crossings as a result of the Project.

Consultation with the Australian Rail Track Corporation (ARTC) (the relevant rail authority) regarding the Project has been undertaken and is ongoing, as described in Section 3.

Clause 86 of the Infrastructure SEPP relevantly provides:

(1) *This clause applies to development (other than development to which clause 88 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land:*

- (a) *within or above a rail corridor, or*
- (b) *within 25m (measured horizontally) of a rail corridor, or*
- (b1) *within 25m (measured horizontally) of the ground directly below a rail corridor, or*
- (c) *within 25m (measured horizontally) of the ground directly above an underground rail corridor.*

(2) *Before determining a development application for development to which this clause applies, the consent authority must:*

- (a) *within 7 days after the application is made, give written notice of the application to the rail authority for the rail corridor, and*
- (b) *take into consideration:*
 - (i) *any response to the notice that is received within 21 days after the notice is given, and*
 - (ii) *any guidelines issued by the Secretary for the purposes of this clause and published in the Gazette.*

(3) *Subject to subclause (5), the consent authority must not grant consent to development to which this clause applies without the concurrence of the rail authority for the rail corridor to which the development application relates.*

...

(5) *The consent authority may grant consent to development to which this clause applies without the concurrence of the rail authority concerned if:*

- (a) *the rail corridor is owned by or vested in ARTC or is the subject of an ARTC arrangement, or*
- (b) *in any other case, 21 days have passed since the consent authority gave notice under subclause (2) (a) and the rail authority has not granted or refused to grant concurrence.*

The Project would include construction of a rail spur and loop connecting to the Werris Creek Mungindi Railway.

Consultation has been conducted with ARTC (the relevant rail authority) regarding the Project (Section 3) and is ongoing.

A5.2 GUNNEDAH LOCAL ENVIRONMENTAL PLAN 2012

A5.2.1 Objectives

Clause 1.2 of the Gunnedah LEP outlines the aims of the plan, with the following aims particularly of relevance to the Project:

...

(2) *The particular aims of this Plan are as follows:*

- (a) *to conserve and enhance, for current and future generations, the ecological integrity, environmental heritage and environmental significance of Gunnedah,*
- (b) *to promote the economic well being of the community in a socially and environmentally responsible way, focusing on new employment growth and a diversified economy,*
- (c) *to encourage the proper management of productive agricultural land and prevent the fragmentation of agricultural holdings,*

...

(h) *to conserve the cultural and environmental heritage of Gunnedah,*

(i) *to allow development in a way that minimises risks due to environmental hazards.*

The Project has regard to the aims of the Gunnedah LEP, as:

- The Project would be developed in a manner that would manage and mitigate potential impacts on the environment (including biodiversity) and areas of environmental and heritage significance (Sections 4 and 7).
- The Project would be developed in accordance with the principles of Ecologically Sustainable Development (ESD) (Section 6.1.4).
- The Project includes a proposal for offsetting unavoidable impacts on biodiversity and other compensatory measures (Sections 4 and 7 and Appendix F).
- The Project would facilitate employment opportunities and expenditure in the region, and provide revenues to the regional and state economies.
- The Project would be developed in a manner that would minimise and manage potential impacts on agricultural production of the lands in the vicinity of the Project. The AIS (Appendix H) concluded that the productivity of the agricultural enterprises that would be re-established post-mining are expected to be similar to the existing productivities.
- Aboriginal and historic heritage assessments have been completed for any potential impacts of the Project on items of Aboriginal and historic heritage (Appendices G and K, respectively). Measures to manage and mitigate potential impacts are discussed in Sections 4.15 and 4.16.
- A PHA and an Environmental Risk Assessment have been conducted for the Project and have concluded that the Project would be developed in a manner that would minimise risks of identified potential environmental impacts (Appendices O and P).

Accordingly the Minister or IPC can be satisfied as to these matters.

A5.2.2 Permissibility

Part 2 of the Gunnedah LEP outlines the land use zone objectives that are relevant in determining whether the Project (or any part of the Project) is permissible under the Gunnedah LEP, in any of the zones within the Development Application area.

The Development Application area includes land zoned under the Gunnedah LEP as RU1 (Primary Production).

Under the Land Use Table in the Gunnedah LEP “extractive industries” and “open cut mining” are permissible with consent in Zone RU1 (Primary Production). Railways are also permissible with consent.

A5.2.3 Zone Objectives

The objectives of the RU1 (Primary Production) Zone are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To provide for a range of ecologically sustainable agricultural and rural land uses and development on broad acre rural lands.*
- *To protect significant agricultural resources (soil, water and vegetation) in recognition of their value to Gunnedah’s longer term economic sustainability.*
- *To conserve and enhance the quality of valuable environmental assets, including waterways, riparian land, wetlands and other surface and groundwater resources, remnant native vegetation and fauna movement corridors as part of all new development and land use.*

The Project is consistent with the objectives of the RU1 (Primary Production) zone as:

- mining is a primary industry;
- the Project would not result in the fragmentation or alienation of resource lands;
- the Project is not inconsistent with surrounding land uses in the RU1 (Primary Production) zone, as open cut mining is permissible with consent;
- mining operations and nearby agricultural enterprises and State Forests have historically co-existed and this would continue for the Project, therefore the Project is not inconsistent with adjoining land use zones;

- an AIS has been completed to determine the potential impacts on the Project on soil resources (Appendix H), and measures to manage and mitigate potential impacts are discussed in Sections 4.3 and 7;
- assessments of the potential impacts of the Project on groundwater and surface water resources have been conducted (Appendices A and B, respectively), and measures to manage and mitigate potential impacts are discussed in Sections 4.4, 4.5 and 7;
- an assessment of the potential impacts of the Project on flora (Appendix F) has been conducted to determine any potential impacts on vegetation, and measures to manage and mitigate potential impacts are discussed in Sections 4.12 and 7;
- the Project is an employment generating development and would result in increased expenditure and revenues to the region and the State; and
- the Project includes a proposal for offsetting unavoidable loss of vegetation and fauna habitat (Sections 4.12).

The Project is considered to be generally consistent with the above zone objectives because, as described in Section 4, management and mitigation measures would be implemented where practicable to minimise the potential impacts of the Project on other land uses and the environment.

Accordingly the Minister or IPC can be satisfied as to these matters.

A5.2.4 Special Provisions

Parts 5 and 6 of the Gunnedah LEP provide a number of provisions of potential relevance to the Project, including the relevant clauses described below.

Clause 5.10 relates to the assessment and management of impacts to historic heritage or Aboriginal heritage and includes the following subclauses potentially relevant to the Project:

5.10 Heritage conservation

Note. *Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.*

(1) Objectives

The objectives of this clause are as follows:

- (a) *to conserve the environmental heritage of Gunnedah,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

(2) Requirement for consent

Development consent is required for any of the following:

- (a) *demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):*
 - (i) *a heritage item,*
 - (ii) *an Aboriginal object,*
 - (iii) *a building, work, relic or tree within a heritage conservation area,*
- (b) *altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*
- (c) *disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*
- (d) *disturbing or excavating an Aboriginal place of heritage significance,*
- (e) *erecting a building on land:*
 - (i) *on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) *on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*
- (f) *subdividing land:*
 - (i) *on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) *on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.*

...

(4) **Effect of proposed development on heritage significance**

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) **Heritage assessment**

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) **Heritage conservation management plans**

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) **Archaeological sites**

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(8) **Aboriginal places of heritage significance**

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

...

Clause 5.10 set out above is potentially applicable to the Project with respect to direct disturbance or indirect effects (e.g. blasting) that could impact on Aboriginal or historic heritage sites located within or adjacent to the Development Application area.

Aboriginal and historic heritage assessments have been conducted for the Project and are provided in Appendices G and K and, where relevant, identified suitable management and mitigation measures for potential direct and indirect impacts of the Project.

Accordingly the Minister or IPC can be satisfied as to these matters.

Clause 6.1 outlines considerations relating to flood planning:

6.1 Flood planning

(1) *The objectives of this clause are as follows:*

- (a) to minimise the flood risk to life and property associated with the use of land,
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,
- (c) to avoid significant adverse impacts on flood behaviour and the environment.

(2) *This clause applies to:*

- (a) land identified as "Flood planning area" on the Flood Planning Map, and
- (b) other land at or below the flood planning level.

(3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*

- (a) *is compatible with the flood hazard of the land, and*
- (b) *is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *incorporates appropriate measures to manage risk to life from flood, and*
- (d) *is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

...

Consideration of water management, drainage requirements and flooding impacts associated with the Project are provided in Sections 2.10, 4.5 and 4.6 and in Appendices B and C of the EIS.

The southern extent of the Project mining area, the Blue Vale Road realignment and the Project rail spur are located within the “Flood planning area” referred to in the Gunnedah LEP.

As part of the Project infrastructure design, it is proposed to construct bunds/levees in the southern extent of the Project mining area.

A permanent flood bund around the southern extent of the open cut would be constructed to prevent inundation of the open cut during operations and post-mining. A levee would also be constructed to prevent inundation of the secondary infrastructure area. The permanent flood bund/levee would be designed to a height that would provide protection against the peak flood height associated with a Probable Maximum Precipitation rainfall event (Section 2.10.1).

The inclusion of the bunds/levees in this area would result in a localised and small change to flood depths (i.e. less than 5 cm) and flood velocities (less than 0.5 m/s) in the surrounding areas extending no more than 500 m from the southern-most levee for the 1% AEP event. The predicted magnitude and extent of the flood level changes are even smaller for the 20% and 5% AEP events (Appendix C).

There are no predicted changes in flood levels downstream of Blue Vale Road and therefore no change in flood levels at privately-owned dwellings or privately-owned agricultural infrastructure is predicted (Appendix C).

In accordance with the draft *Floodplain Management Plan for the Upper Namoi Valley Floodplain*, the Project rail spur would be designed to minimise afflux upstream, minimise changes to flood velocities and minimise the diversion of flood flows (Appendix C).

Where the Project rail spur crosses the Namoi River and Kamilaroi Highway it would be elevated on a viaduct structure to minimise impacts to the flooding regime and provide sufficient clearance for vehicles travelling along the Kamilaroi Highway. The viaduct structure would consist of spans between piers supporting the rail track.

As such, the Project would not significantly adversely affect flood behaviour, flood impacts to other development, properties or the environment. The design of the flood protection levee and the mine infrastructure incorporates appropriate measures to manage the risk to life from flooding. The Project would not result in unsustainable social and economic costs to the community as a consequence of flooding.

Accordingly the Minister or IPC can be satisfied as to these matters.

Clause 6.5 outlines considerations relating to the provision of essential services:

6.5 Essential services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *stormwater drainage or on-site conservation,*
- (e) *suitable road access.*

Adequate arrangements have been made for the provision of essential services for the Project as follows:

- Water supply for the Project would be sourced from water storages containing runoff from active areas and up-catchment areas, as well as licensed groundwater and surface water extractions.
- Potable water would be supplied and transported by a local contractor (Section 2.12.6).

- A new 66 kV/11 kV substation would be constructed in the mine infrastructure area. An existing 66 kV overhead powerline (i.e. comprising poles, insulators and electrical conductors) would be realigned within MLA 1 to service the Project (Section 2.4.6).
- Initially, sewage would be stored in tanks on-site and collected by a licensed waste disposal contractor. In the medium-term, sewage and wastewater from on-site ablution facilities would be collected and treated in biocycle sewage treatment systems and serviced by a licensed waste disposal contractor on an as-needs basis. Treated effluent would be irrigated at a small wastewater utilisation area.
- The Project Water Management System would comprise water management storages and collection drains, runoff diversions, sediment control and open cut dewatering.
- Suitable road accesses to the Project have been identified (Section 2.12) and assessed.

Accordingly the Minister or IPC can be satisfied as to these matters.

A5.3 NARRABRI LOCAL ENVIRONMENTAL PLAN 2012

A5.3.1 Objectives

Clause 1.2 of the Narrabri LEP outlines the aims of the plan, with the following particularly of relevance to the Project:

...

(2) *The particular aims of this Plan are as follows:*

- (a) *to encourage the orderly management, development and conservation of resources by protecting, enhancing and conserving:*
 - (i) *land of significance for agricultural production, and*
 - (ii) *timber, minerals, soil, water and other natural resources, and*
 - (iii) *areas of high scenic or recreational value, and*
 - (iv) *native plants and animals including threatened species, populations and ecological communities, and their habitats, and*

(v) *places and buildings of heritage significance,*

...

(c) *to facilitate development for a range of business enterprise and employment opportunities,*

(d) *to ensure that development is sensitive to both the economic and social needs of the community, including the provision of community facilities and land for public purposes.*

The Project is consistent with the aims of the Narrabri LEP, as:

- The Project would be developed in a manner that would minimise and manage potential impacts on agricultural production in the vicinity of the Project. An AIS has been prepared for the Project and has considered the potential impacts of the Project on soil resources (Appendix H). The Project would be developed in a manner that would minimise and manage potential impacts on soil resources and the development of rural land in the vicinity of the Project.
- The Project includes a proposal offsetting unavoidable loss of vegetation and fauna habitat (Sections 4.11).
- A Groundwater Assessment and a Surface Water Assessment have been prepared for the Project (Appendices A and B, respectively). Measures to manage and mitigate potential impacts to water resources are discussed in Sections 4.4.3 and 4.5.3.
- An Aboriginal Cultural Heritage Assessment and a Historic Heritage Assessment have been prepared for the Project (Appendices G and K, respectively) to identify items of heritage within and adjacent to the Project area, and present measures to manage and mitigate potential impacts to heritage items (Sections 4.15.3 and 4.16.3).
- The Project would facilitate employment opportunities and expenditure in the region, and provide revenues to the regional and state economies (Appendix J).

Accordingly the Minister or IPC can be satisfied as to these matters.

A5.3.2 Permissibility

Part 2 of the Narrabri LEP outlines the land use zone objectives that are relevant in determining whether the Project (or any part of the Project) is permissible under the Narrabri LEP, in any of the zones within the Development Application area.

The Development Application area includes land zoned under the Narrabri LEP as Zone RU1 (Primary Production).

Under the Land Use Table in the Narrabri LEP “extractive industries” and “open cut mining” are permissible with consent in Zone RU1 (Primary Production). The construction of a “freight transport facility” is permitted with consent. Railways are not nominated as either a type of development that is permissible with consent or a type of development that is prohibited, with the consequence that railways are prohibited (as “any other development not specified in item 2 or 3”).

Notwithstanding the above, clause 4 of the Mining SEPP relevantly provides:

4 Land to which Policy applies

This Policy applies to the State.

Clause 5(3) of the Mining SEPP gives it primacy where there is any inconsistency between the provisions in the Mining SEPP and the provisions in any other environmental planning instrument (subject to limited exceptions).

The practical effect of clause 5(3) of the Mining SEPP for the Project is that if there is any inconsistency between the provisions of the Mining SEPP and those contained in the Narrabri LEP, the provisions of the Mining SEPP will prevail.

Clauses 6 and 7 of the Mining SEPP provide what types of mining development are permissible without Development Consent and what types are permissible only with Development Consent.

In this regard, clause 7(1) of the Mining SEPP states:

7 Development permissible with consent

(1) Mining

Development for any of the following purposes may be carried out only with development consent:

...

- (d) facilities for the processing or transportation of minerals or mineral bearing ores on land on which mining may be carried out (with or without development consent), but only if they were mined from that land or adjoining land,*

...

The effect of clause 7(1)(d) of the Mining SEPP, in conjunction with the operation of clause 5(3) of the Mining SEPP, is that notwithstanding any relevant prohibition contained in the Narrabri LEP, development of the Project rail spur for transport of coal from the mine infrastructure area may be carried out with Development Consent.

Accordingly the Minister or IPC can be satisfied as to these matters.

A5.3.3 Zone Objectives

The objectives of the Zone RU1 (Primary Production) zone are to promote the proper management and utilisation of resources, as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To allow for non-agricultural land uses that will not restrict the use of other land for agricultural purposes.*

The Project is consistent with the objectives of the RU1 (Primary Production) zone as:

- mining is a primary industry;
- the Project would not result in the fragmentation of resource lands;
- the Project is not inconsistent with surrounding land uses in the RU1 (Primary Production) zone, as open cut mining is permissible with consent;

- mining operations and nearby agricultural enterprises and State Forests have historically co-existed and this would continue for the Project, therefore the Project is not inconsistent with adjoining agricultural land uses; and
- an AIS has been completed to determine the potential impacts of the Project on soil resources (Appendix H), and measures to manage and mitigate potential impacts are discussed in Sections 4.3 and 7.

Accordingly the Minister or IPC can be satisfied as to these matters.

A5.3.4 Special Provisions

Parts 5 and 6 of the Narrabri LEP provide a number of provisions of potential relevance to the Project, including the relevant clauses described below.

Clause 5.10 relates to the assessment and management of impacts to historic heritage or Aboriginal heritage and includes the following subclauses potentially relevant to the Project:

5.10 Heritage conservation

Note. *Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.*

(1) Objectives

The objectives of this clause are as follows:

- (a) *to conserve the environmental heritage of Narrabri,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

(2) Requirement for consent

Development consent is required for any of the following:

- (a) *demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):*
 - (i) *a heritage item,*
 - (ii) *an Aboriginal object,*
 - (iii) *a building, work, relic or tree within a heritage conservation area,*

- (b) *altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*
- (c) *disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*
- (d) *disturbing or excavating an Aboriginal place of heritage significance,*
- (e) *erecting a building on land:*
 - (i) *on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) *on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*
- (f) *subdividing land:*
 - (i) *on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) *on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.*

...

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) *on land on which a heritage item is located, or*
- (b) *on land that is within a heritage conservation area, or*
- (c) *on land that is within the vicinity of land referred to in paragraph (a) or (b),*

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) **Heritage conservation management plans**

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) **Archaeological sites**

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies):

- (a) *notify the Heritage Council of its intention to grant consent, and*
- (b) *take into consideration any response received from the Heritage Council within 28 days after the notice is sent.*

(8) **Aboriginal places of heritage significance**

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) *consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*
- (b) *notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.*

...

Clause 5.10 set out above is potentially applicable to the Project with respect to direct disturbance or indirect effects (e.g. blasting) that could impact on Aboriginal or historic heritage sites located within or adjacent to the Development Application area.

Aboriginal and historic heritage assessments have been conducted for the Project and are provided in Appendices G and K and, where relevant, identified suitable management and mitigation measures for potential direct and indirect impacts of the Project.

Accordingly the Minister or IPC can be satisfied as to these matters.

Clause 6.1 outlines considerations relating to earthworks:

6.1 Earthworks

...

(3) *Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:*

- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) *the effect of the development on the likely future use or redevelopment of the land,*
- (c) *the quality of the fill or the soil to be excavated, or both,*
- (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) *the source of any fill material and the destination of any excavated material,*
- (f) *the likelihood of disturbing relics,*
- (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

An AIS, incorporating a Soil Resource Assessment has been completed as part of the Project (Appendix H) and is summarised in Section 4.3.

Section 4 also includes consideration of the potential impacts of the Project on adjoining land and amenity impacts in the locality (e.g. noise and air quality emissions), where relevant.

Consideration of the potential for disturbance of Aboriginal and historic heritage items is provided in Appendices G and K.

Consideration of the potential impacts of the Project on water resources is provided in Sections 4.4 and 4.5 and Appendices A and B, including potential impacts on water quality, groundwater resources and downstream riparian rights.

Accordingly the Minister or IPC can be satisfied as to these matters.

Clause 6.2 outlines considerations relating to flood planning:

6.2 Flood planning

...

- (3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*
- (a) *is compatible with the flood hazard of the land, and*
 - (b) *is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
 - (c) *incorporates appropriate measures to manage risk to life from flood, and*
 - (d) *is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
 - (e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

...

Consideration of water management, drainage requirements and flooding impacts associated with the Project are provided in Sections 2.10, 4.6 and 4.7 and Appendices B and C of the EIS.

WRM Water & Environment (2018) predicts the Project rail spur would result in minor changes in flood depths and flood velocities in areas both upstream and downstream of the proposed infrastructure. The potential impacts associated with these minor changes are not expected to be significant.

The Project lies within the Driggle Draggie Creek catchment. A permanent up-catchment diversion system would be constructed to divert up-catchment runoff from the Vickery State Forest around the advancing open cut and ultimately join a tributary of Driggle Draggie Creek (referred to as the ‘north drainage line’) (Section 2.4.4).

The diversion system is not expected to cause any significant changes to the flow regime in Driggle Draggie Creek (Appendix B). In addition, Whitehaven owns the properties on which the diversions would be located. The up-catchment diversions would also discharge into drainage lines on Whitehaven owned properties.

As such, the Project would not significantly adversely affect flood behaviour, flood impacts to other development, properties or the environment.

The design of the flood protection levee and the mine infrastructure incorporates appropriate measures to manage risk to life from flood. The Project would not result in unsustainable social and economic costs to the community as a consequence of flooding.

Accordingly the Minister or IPC can be satisfied as to these matters.

Clause 6.5 outlines considerations relating the provision of essential services:

6.5 Essential services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *stormwater drainage or on-site conservation,*
- (e) *suitable vehicular access.*

Adequate arrangements have been made for the provision of essential services for the Project as follows:

- Water supply for the Project would be sourced from water storages containing runoff from active areas and up-catchment areas, as well as licensed groundwater and surface water extractions.
- Potable water would be supplied and transported by a local contractor (Section 2.12.6).

- A new 66 kV/11 kV substation would be constructed in the mine infrastructure area. An existing 66 kV overhead powerline (i.e. comprising poles, insulators and electrical conductors) would be realigned within MLA 1 to service the Project (Section 2.4.6).
- Initially, sewage would be stored in tanks on-site and collected by a licensed waste disposal contractor. In the medium-term, sewage and wastewater from on-site ablution facilities would be collected and treated in biocycle sewage treatment systems and serviced by a licensed waste disposal contractor on an as-needs basis. Treated effluent would be irrigated at a small wastewater utilisation area.
- The Project Water Management System would comprise water management storages and collection drains, runoff diversions, sediment control and open cut dewatering.
- Suitable road accesses to the Project have been identified (Section 2.12) and assessed.

Accordingly the Minister or IPC can be satisfied as to these matters.

A5.4 STRATEGIC PLANNING DOCUMENTS

A5.4.1 Development Control Plans

Clause 11 of the State and Regional Development SEPP indicates that development control plans (whether made before or after the commencement of the SEPP) do not apply to State Significant Development, and hence do not apply to the Project.

A5.4.2 New England North West Strategic Regional Land Use Plan

The *New England North West Strategic Regional Land Use Plan* (the SRLUP) was released by the Department of Planning and Infrastructure (DP&I) (now DP&E) in September 2012. The SRLUP aims to provide a framework for growth, environmental protection and dealing with competing land uses over the next 20 years (DP&I, 2012a).

The SRLUP is focused around eight key areas each with several underlying objectives.

These key areas include balancing agriculture and resource development, infrastructure, economic development and employment, housing and settlement, community health and amenity, natural environment, natural hazards and climate change and heritage (DP&I, 2012a).

Of particular note to the Project, the SRLUP presents a framework for the identification and assessment of potential impacts to highly productive agricultural land.

Clause 50A of the *Environmental Planning and Assessment Regulation 2000* requires that for 'mining and petroleum development' (within the meaning of Part 4AA of the Mining SEPP) that is on land shown on the Strategic Agricultural Land Map (or on any other land that is the subject of a Site Verification Certificate and not located on mapped critical industry cluster land), the Development Application must be accompanied by either a current Gateway Certificate or a Site Verification Certificate.

The Project is not located on mapped critical industry cluster land under the Mining SEPP. A Site Verification Certificate was issued by the Secretary of the DP&E on 8 February 2016 verifying that MLA 1 is not located on Biophysical Strategic Agricultural Land. The Site Verification Certificate is provided in Attachment 9.

The AIS for the Project (Appendix H) has been developed in consideration of the SRLUP, the *Guideline for Agricultural Impact Statements* (DP&I, 2012b) and the *Agricultural Impact Statement Technical Notes* (NSW Department of Primary Industries, 2013). The assessment of potential impacts of the Project on agriculture has been undertaken through an AIS, which:

- describes the soil resources, Land and Soil Capability and Agricultural Suitability of the Project area;
- identifies and quantifies the quantity of soil available for rehabilitation purposes;
- describes the historic and current agricultural enterprises conducted in the Project area and surrounds;
- describes the current agricultural productivity of the Project area and surrounds;

- identifies the agricultural resources and associated employment and support industries in the vicinity of the Project and summarises the potential impacts to these resources as a result of the Project;
- describes the proposed rehabilitation concept for the Project;
- describes the mitigation and management measures to reduce the potential impacts of the Project on agriculture; and
- presents a justification of the proposed changes to agricultural lands.

The Project would result in approximately 2,541 ha of land being no longer available for agricultural use (i.e. following rehabilitation to woodland and the final void), which represents approximately 0.2 % of the total agricultural lands in the Narrabri and Gunnedah region (Appendix H). Although some parts of the agricultural lands within the Project mining area have been mapped as having moderate to moderately high Agricultural Suitability, they are currently only used for cattle production and are regarded by local farmers as being relatively low yielding.

Given the Project is more economically efficient than the current agricultural production, and given the biodiversity benefits associated with rehabilitating areas of the Project final landform to woodland/forest rather than land for agricultural uses, it is considered that the reallocation of existing agricultural resources to the Project is justified (Appendix H).

A5.4.3 Gunnedah Community Strategic Plan 2013 – 2023

The Gunnedah Community Strategic Plan 2013-2023 (Gunnedah Strategic Plan) has four main strategic themes, namely engaging and supporting the community, building the Shire's economy, retaining quality of life and protecting and enjoying the surrounds (Gunnedah Shire Council, 2012). Each of these strategic themes is underpinned by numerous strategies.

The Project is generally consistent with the Gunnedah Strategic Plan as the Project:

- includes public involvement and participation through the Project EIS consultation program (Section 3), the public exhibition of the EIS document and DP&E assessment of the Project in accordance with the requirements of the EP&A Act;
- provides employment opportunities to the local community and creates additional direct and indirect economic revenue;
- has been developed in accordance with the principles of ESD; and
- considers potential biodiversity, water resources, road transport, waste management, Aboriginal and historic heritage, noise and air quality impacts and measures to manage and mitigate impacts have been developed (as discussed in Section 4).

Accordingly the Minister and IPC can be satisfied as to these matters.

A5.4.4 North West Local Land Services – Local Strategic Plan 2016-2021

The *North West Local Land Services – Local Strategic Plan 2016-2021* (Local Strategic Plan) outlines four key goals to be achieved (North West Local Land Services, 2016):

- *Resilient, self-reliant and prepared local communities.*
- *Biosecure, profitable, productive and sustainable primary industries.*
- *Healthy, diverse and connected natural environments.*
- *Board members and staff who are collaborative, innovative and commercially focused.*

The Project is generally consistent with the goals described in the Local Strategic Plan as the Project:

- the Project would benefit current and future generations through the expansion of employment and regional expenditure associated with the Project (Section 6.1 and Appendix J); and
- considers potential biodiversity, water resources, road transport, waste management, Aboriginal and historic heritage, noise and air quality impacts and measures to manage and mitigate impacts have been developed (as discussed in Section 4).

A5.4.5 New England North West Regional Plan

The *New England North West Regional Plan* (Department of Planning and Environment, 2017) was released in August 2017 and replaces the *New England North West Strategic Regional Land Use Plan*.

The *New England North West Regional Plan* has four goals for the region (Department of Planning and Environment, 2017):

- *A strong and dynamic regional economy*
- *A healthy environment with pristine waterways*
- *Strong infrastructure and transport networks for a connected future*
- *Attractive and thriving communities*

The Project is generally consistent with the aims of the *New England North West Regional Plan* as:

- The Project would benefit the regional economy through creation of employment opportunities and regional expenditure (Section 6.1 and Appendix J).
- The Project incorporates a range of strategies to manage and minimise impacts on the surrounding waterways (Sections 2.10, 4.4 to 4.6 and Appendices A to C).
- The Project includes consideration of potential social and economic impacts, including access to services, facilities and transport networks (Section 6.1 and Appendices I to J and R).
- The Project has been developed in a manner that has both considered the potential economic and social impacts of the region and would promote community growth and development (Section 6.1 and Appendices J and R).

A5.4.6 Narrabri Shire Growth Management Strategy

The *Narrabri Shire Growth Management Strategy* (Narrabri Shire Council, 2009) provides a future direction for the settlements and land within the rural areas of the Narrabri LGA.

The *Narrabri Shire Growth Management Strategy Addendum (Boggabri Strategic Planning Review)* (Narrabri Shire Council, 2014) was developed to capitalise on demand for additional residential and industrial land in the region.

The objectives for the *Narrabri Shire Growth Management Strategy* (Narrabri Shire Council, 2009) are outlined as follows:

- *Provide for co-ordinated and effective sustainable growth of the economic, social and environmental aspects of the Narrabri LGA.*
- *Develop a land use framework that will give a level of certainty to the people who live in the Narrabri LGA.*
- *Ensure, where practical, that residents have adequate access to and equity for the provision of services and facilities.*
- *Provide for economic development opportunities that are in keeping with the character of Narrabri LGA.*
- *Provide an adequate level of infrastructure for the people who live and work in the Narrabri LGA.*
- *Ensure that the quality of surrounding waterways is not adversely affected by development.*
- *Ensure that the ecological integrity of the rural and urban lands are enhanced and maintained.*
- *Ensure that development has a minimal impact on the natural and modified scenic landscape of Narrabri LGA.*
- *Preserve and promote the heritage and culture of Narrabri LGA.*
- *Recognise the impact of natural hazards on future land use and settlement.*

The Project is generally consistent with the aims of the *Narrabri Shire Growth Management Strategy* (Narrabri Shire Council, 2009) as:

- The Project has been developed in a manner that has considered the potential economic and social impacts on the region and would facilitate employment opportunities and expenditure in the region therefore promoting economic growth and development (Section 6.1 and Appendices J and R).
- Project design, planning and assessment have been carried out applying the principles of ESD (Section 6.1.4).
- The Project is consistent with the objectives and zoning in the Narrabri LEP (Section A5.3).
- The Project includes consideration of potential social and economic impacts, including access to services and facilities and the distribution of impacts between stakeholders (Sections 4.18 and 4.19 and Appendices J and R).

- The Project would benefit current and future generations through the expansion of employment and regional expenditure associated with the Project (Section 6.1 and Appendix J).
- The Project incorporates a range of strategies to manage and minimise impacts on the surrounding waterways (Sections 2.10, 4.4, 4.5 and 4.6 and Appendices A, B and C).
- The Project includes a range of impact avoidance, management, mitigation and offset measures to maintain or improve the biodiversity values and ecological integrity of the surrounding region in the long-term (Sections 4.11 and 7 and Appendix F).
- The Project includes measures to minimise and mitigate potential impacts on the landscape values of the region (Section 4.14 and Appendix L).
- The Project includes measures to minimise and mitigate potential impacts on items of heritage significance (Sections 4.16.3 and 4.17.3 and Appendices G and K).
- The Project has been developed in consideration of flood risk, bushfire risk and erosion potential (Sections 2 and 4).

Future Ecology (2018) *Vickery Extension Project Threatened Fauna Survey Report*.

Gunnedah Shire Council (2012) *Gunnedah Community Strategic Plan 2012 – 2023*.

Narrabri Shire Council (2009) *Narrabri Shire Growth Management Strategy*. December 2009.

Narrabri Shire Council (2014) *Narrabri Growth Management Strategy Addendum (Boggabri Strategic Planning Review)*.

New South Wales Department of Primary Industries (2013) *Agricultural Impact Statement Technical Notes*.

North West Local Land Services (2016) *North West Local Land Services – Local Strategic Plan 2016-2021*.

SESL Australia (2018) *Land Contamination Assessment – Vickery Extension Project*.

WRM Water and Environment (2018) *Vickery Extension Project - Flood Assessment*.

A5.5 REFERENCES

Department of Planning (2011a) *Hazardous Industry Planning Advisory Paper No. 4: Risk Criteria for Land Use Safety Planning*.

Department of Planning (2011b) *Hazardous Industry Planning Advisory Paper No. 6: Hazard Analysis*.

Department of Planning and Environment (2017) *New England North West Regional Plan*.

Department of Planning and Infrastructure (2011) *Multi-Level Risk Assessment*.

Department of Planning and Infrastructure (2012a) *New England North West Strategic Regional Land Use Plan*. September 2012.

Department of Planning and Infrastructure (2012b) *Guideline for Agricultural Impact Statements*.

Department of Urban Affairs and Planning and Environment Protection Agency (1998). *Managing Land Contamination – Planning Guidelines SEPP55 – Remediation of Land*.