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## 2.0 PLANNING CONTEXT, APPROVALS AND CONSULTATION

### *Key points*

- The proposed development is a State Significant Development;
- The proposed development fully complies with the Hunter Regional Environmental Plan, 1989 and is permissible with consent, under the provisions of the Singleton Local Environmental Plan 1996;
- Consultation has been undertaken with a number of authorities, prior to the preparation of the Environmental Impact Statement; and
- The proposal has been presented to the local community members of Camberwell and to the Singleton Shire Council.

### 2.1 Statutory Planning Approval Sought

The proponent seeks development consent pursuant to Part 4 of the Environmental Planning and Assessment Act, 1979 (the Act) for the proposed coal mine.

Schedule 3 of the Environmental Planning and Assessment Regulation, 2000 (the Regulations) identifies all underground and open cut coal mines as being “designated development”. As such an EIS must accompany the subject Development Application. This document fulfils that need and meets all the requirements of the Act and its Regulations.

A coal mine that requires the grant of a new coal lease is a State Significant Development, as defined in Section 76A(7) of the Act. The proposal is also subject to a Ministerial Direction, under Section 88A of the Act, both as a State Significant Development and as a mining development representing an investment of more than \$20 million and employment of more than 100 people. The latter means the proposal falls within the scope of State Environmental Planning Policy No. 34 - Major Employment Generating Industrial Development (see **Section 2.2**).

The proposal is also an Integrated Development. Approvals that will be required for the proposal are discussed in **Section 2.10**.

Pursuant to Clause 13(1) (a), Division 12 of Schedule 1 to the Mining Act 1992, prior to the grant of a mining lease, the Minister for Mineral Resources must serve notice on an applicant for a mining lease to apply to the appropriate consent authority for development consent to the use of the land for the purposes of obtaining minerals. The Minister for Mineral Resources must also provide written

information to the consent authority under clause 13 (1) (b). By virtue of Clause 14 to Schedule 1, an application for development consent under Division 12 of the Schedule does not have to be accompanied by the consent of the owner(s) of the land concerned.

## 2.2 State Environmental Planning Policies

The following State Environmental Planning Policies (SEPPs) are applicable to this proposal.

### ***State Environmental Planning Policy No 11 – Traffic Generating Developments.***

This SEPP ensures that the Roads and Traffic Authority (RTA) can make representation on development applications, that impact on traffic, prior to determination. Mining is listed in Schedule 1 to the Policy, which specifies the types of development that consent authorities must refer to the RTA.

### ***State Environmental Planning Policy No. 33 – Hazardous Offensive Development***

SEPP No. 33 provides definitions for hazardous industry, offensive industry, as well as potentially hazardous industry and potentially offensive industry, which apply to all planning instruments in NSW. This SEPP requires the consent authority to consider the merits of proposed activities including the location of the development and the way in which it is to be carried out. Application to carry out a potentially hazardous industry must be accompanied by a preliminary hazard analysis (PHA).

The SEPP does not technically apply to the proposed development, as it relates to a mine and not an industry. However, it is acknowledged that there may be potential risks associated with the proposed development. To this end, a PHA that complies with the relevant guidelines has been prepared and forms part of the EIS.

### ***State Environmental Planning Policy No. 34 - Major Employment Generating Industrial Development***

This SEPP promotes the orderly and economic use and development of land across NSW. As the development proposal will provide employment for more than 100 persons and requires more than \$20 million of capital expenditure, it falls within the scope of this SEPP. As such, the development becomes a "State Significant Development", which in turn requires a determination by the Minister for Urban Affairs and Planning.

### ***State Environmental Planning Policy No. 44 - Koala Habitat Protection***

This SEPP encourages the conservation and management of koala habitats, to ensure permanent free-living koala populations will be maintained over their present range. The policy applies to 107 local

government areas including the Shire of Singleton. Development cannot be approved in the areas covered by the policy without a prior investigation of core koala habitat.

### ***State Environmental Planning Policy No. 45 - Permissibility of Mining***

This SEPP covers mining on land, where an environmental planning instrument requires the consent authority to make a value judgement as to whether such development is permissible. The policy does not affect provisions in environmental planning instruments that have no relevance in determining whether or not mining is permitted on land - only those provisions that must be satisfied for mining to be permissible.

### ***State Environmental Planning Policy No. 55 – Remediation of Land***

SEPP No.55 introduced planning controls for the remediation of contaminated land following its gazettal on 28 August 1998. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable through contamination, remediation must take place before the land is developed. SEPP No.55 makes remediation a permitted land use across NSW.

The SEPP requires that consent is obtained for remediation of category 1 land and category 2 contamination, which are defined. It also requires that land is investigated if contamination is suspected. An area of the subject site has been used as a landfill site. Table 1 to the SEPP identifies landfill sites as an activity that may cause contamination.

## 2.3 Regional Environmental Plans

The proposal fully complies with two Regional Environmental Plans (REP): the Hunter Regional Environmental Plan, 1989, and the Hunter Regional Environmental Plan – Heritage 1989. How these instruments apply to the proposed development are described below.

### 2.3.1 Hunter Regional Environmental Plan 1989

Part 6 of the Hunter Regional Environmental Plan (REP) pertaining to natural resources (particularly Division 1 - Mineral Resources and Extractive Materials) apply to the proposed development. The objectives of the REP pertaining to coal mining are contained in Clause 39 of the REP and are listed below:

- “(a) manage the coal and other mineral resources and extractive materials of the region in a co-ordinated manner so as to ensure that adverse impacts on the environment and the population likely to be affected are minimised;*
- (b) ensure that development proposals for land containing coal and other mineral resources and extractive materials are assessed in relation to the potential problems*

*of rendering those resources unavailable; and*

- (c) *ensure that the transportation of coal and other mineral resources and extractive materials has minimal adverse impact on the community.”*

Policies for control of development of extraction are contained in Clause 41 of the REP. This Clause states that consent authorities:

- “(a) *should consider the conservation value of the land concerned and apply conditions which are relevant to the appropriate post-mining or extraction land use;*
- (b) *should consult with officers of the Department of Water Resources in respect of extraction from river banks or channels to ensure that instability and erosion are avoided;*
- (c) *should consult with officers of the Department, the Departments of Minerals and Energy, Lands (as appropriate) and Agriculture and Fisheries, the Soil Conservation Service and the Forestry Commission to determine appropriate post-mining or extraction land uses;*
- (d) *should ensure the progressive rehabilitation of mined or extracted areas;*
- (e) *should minimise the likelihood and extent of a final void and the impact of any final void, or facilitate other appropriate options for the use of any final void;*
- (f) *should minimise any adverse effect of the proposed development on groundwater and surface water quality and flow characteristics;*
- (g) *should consider any likely impacts on air quality and the acoustical environment;*
- (h) *should be satisfied that an environmentally acceptable mode of transport is available; and*
- (i) *should have regard to any relevant Total Catchment Management strategies.”*

Clause 58 States that consent authorities shall not grant consent to application for the erection of buildings over 14 metres in height without the concurrence of the Director of Urban Affairs and Planning.

### 2.3.2 Hunter Regional Environmental Plan - Heritage 1989

This REP no longer applies to the Singleton local government area (LGA). All heritage provisions that might relate to the proposed development are contained in Singleton Local Environmental Plan

(LEP), 1996.

## 2.4 Singleton Local Environmental Plan 1996

Singleton LEP 1996 applies to the land. Under that instrument the land is classified 1(a) - Rural Zone. Coal mines and coal works are permitted with consent in this zone. The objectives of the 1(a) Rural Zone are contained in Clause 16 of the Singleton LEP 1996 and they are reproduced below:

- “(a) to protect and conserve agricultural land and to encourage continuing viable and sustainable agricultural land use;*
- (b) to promote the protection and preservation of natural ecological systems and processes;*
- (c) to allow mining where environmental impacts do not exceed acceptable limits and the land is satisfactorily rehabilitated after mining;*
- (d) to maintain the scenic amenity and landscape quality of the area;*
- (e) to provide for the proper and co-ordinated use of rivers and water catchment areas;*
- (f) to promote provision of roads that are compatible with the nature and intensity of development and the character of the area;”*

Clause 20 of the Singleton LEP 1996 refers to environmental buffers around certain land uses, including coal mines. When considering a development application for a coal mine, the consent authority must take into account whether an environmental buffer has been provided around the development site to ensure that significant effects do not occur on surrounding land.

The subject land is not listed in the Singleton LEP 1996 as being, or containing, any item of environmental heritage nor is it in a heritage conservation area. There are two items of heritage value, as listed in the Singleton LEP 1996, which are in proximity to the proposal. These are:

- St Clements Anglican Church; and
- Camberwell Community Hall.

Clause 31 (1) states that the following matters are to be considered in respect of development of flood liable land;

- “(a) the effect of flooding on the proposed development; and*
- (b) the effect of the development on the pattern of flooding on nearby land; and*

- (c) *whether any measures should be required to be taken to mitigate damage from flooding.”*

Clause 32 of Singleton LEP 1996 applies to the proposed development as the land has frontage to a major road, being the New England Highway. Pursuant to Clause 32 (2) the consent authority must be satisfied that:

- “(a) *the development, by its nature or intensity, or the volume and type of traffic likely to be generated, is unlikely to constitute a traffic hazard or to marginally reduce the capacity and efficiency of a main road; and*
- (b) *the development is of a type, whether or not related to the characteristics of the land on which it is proposed to be carried out that justifies a location in proximity to a main road; and*
- (c) *the location, standard and design of access points, and on site arrangements for vehicle movements and parking, ensure that through traffic movements on a main road are not impeded; and*
- (d) *the views of the local committee or Regional Advisory Committee (as appropriate) have been obtained and considered by the Council.”*

The nearby village of Camberwell is classified 1 (d) – Rural Small Holdings Zone under the Singleton LEP 1996. The objectives of that zone are:

- “(a) *to facilitate and provide for rural residential development in appropriate locations, taking into account natural constraints;*
- (b) *to maintain and enhance the amenity and landscape quality;*
- (c) *to provide for adequate, efficient and orderly servicing.*

Clause 19 of the Singleton LEP 1996 controls the erection of dwellings and subdivision in Camberwell. One dwelling house or dual occupancy is permitted on each “existing parcel” in the village and the minimum lot size to be created by subdivision is 8,000m<sup>2</sup>. Development is not permitted in the village on land which has a land less than R.L 64.1m Australian Height Datum (AHD).

It is noted that land in the village of Camberwell does not form part of the subject Development Application.

## 2.5 Development Control Plans (DCP)

### 2.5.1 Singleton Erosion and Sediment Control DCP

The aims of this DCP are listed in Section IV and they are:

- “(a) “To prevent land from being degraded by soil erosion or unsatisfactory land and water management practices;*
- (b) To protect streams and waterways from being degraded by erosion and sediment caused by unsatisfactory land and water management practices;*
- (c) To promote and protect biodiversity.”*

The fundamental issues contained within the DCP are:

- Erosion control measures need to be applied with the site to minimise erosion ; and
- Acknowledge that some erosion will occur and take steps to intercept and retain sediment within the work site.

### 2.5.2 Singleton Car Parking DCP

The objectives of this DCP are:

- “1. To ensure that adequate car parking facilities are provided in association with development;*
- 2. To ensure that each development proposal is assessed consistently and equitably in relation to the provision of parking;*
- 3. To ensure that off-street parking provided is both functional and suitably located;*
- 4. To ensure that all traffic generating developments are generally in accordance with the Roads and Traffic Authority NSW “Guide to Traffic Generating Developments” and “Australian Standard Parking Facilities, Part 1 : off-street car parking” as adopted by this DCP; and*
- 5. To provide an equitable system of cash payment in lieu of providing on-site parking.”*

Car parking standards are contained in Section 5 of the DCP. There is no standard listed within the DCP for coal mines or other mining activities for the number of car spaces to be provided. Where no

standards are listed, the number of car parking spaces is to be determined by the Council in the individual case.

## 2.6 Section 94 Contributions Plan

Singleton Shire Council has in place a Section 94 Contributions Plan under which it may levy contributions to be applied for the provision of public facilities.

Part D6 of the Contributions Plan specifies the contributions that apply to coal mining developments in the Singleton Shire. The basis for determining the applicable contribution is the number of potential new residents the mine generates. The rationale being that it is the new residents that generate the additional demand on council provided public facilities and services.

The Ashton Coal Project is predicted to employ 140 people during operations and up to 200 people during construction. The proponent will seek to employ a workforce from within the Singleton local government area.

## 2.7 Upper Hunter Cumulative Impact Study and Action Strategy

This study considered the cumulative impact of various land uses and activities in the upper Hunter Valley. The upper Hunter Valley is made up of the Singleton, Muswellbrook, Scone, Merriwa and Murrurundi local government areas. The most important consequence of this study as it affects the Ashton Coal Project is Strategic Action 3. Strategic Action 3 is reproduced below:-

*“Action 3 - Ensure cumulative impact considerations are taken into account in the issuing of Director-General's Requirements in the preparation of environmental impact statements by using the cumulative impact triggers, where appropriate, identified in the study.”*

The requirements issued by the Director-General for this project recognise cumulative impacts.

## 2.8 Hunter Valley Railway Programs Task Force

The Hunter Valley Railway Programs Task Force was formed to identify the impacts of rail traffic on residents within 200 metres of the rail network. The report of the Task Force (Trudeau & Associates 1997) made 22 recommendations aimed at improving:

- The regulatory environment in which the rail network is operated, in particular the noise and vibration criteria applied to rail operations in residential areas;
- Baseline data collection relating to environmental amenity;
- Operation of the rail network, particularly mitigation of primary sources of noise and vibration;

- Management of community relations; and
- Safety of rail operations.

These recommendations for action are directed towards government agencies and corporations, such as Rail Infrastructure Corporation (RIC), FreightCorp and the Environment Protection Authority (EPA) each of whom are charged with managing the operational and environmental amenity of the rail network. The Task Force concluded that:

*“The conveyance of freight (including coal) remains the safest, most efficient, most economic and most environmentally responsible means of transport ..... The current policy and practice of rail encouragement and development should therefore be maintained.”*

## 2.9 Consultation with Government Authorities

As per the Act and its Regulations, the Director-General of DUAP was consulted as to the contents of this EIS. The response appears in **Appendix A of Volume 2** to this EIS.

Consultation has also taken place with the following authorities:

- Environment Protection Authority;
- Department of Land and Water Conservation;
- NSW Fisheries;
- National Parks and Wildlife Service;
- Department of Mineral Resources;
- Mine Subsidence Board;
- NSW Agriculture;
- Rail Infrastructure Corporation;
- Roads and Traffic Authority;
- Rural Lands Protection Board;
- Energy Australia;
- Telstra;

- State Forests;
- Singleton Shire Council; and
- Environment Australia.

The responses from the government agencies appear in **Appendix B** of **Volume 2**. Singleton Shire Council's response is in **Appendix C** of **Volume 2**. Also enclosed as a separate appendix is a checklist detailing where in the EIS particular requirements have been addressed, refer to **Appendix D** of **Volume 2**.

## 2.10 List of Approvals

Item 4(e) of Schedule 2 of the Regulations requires an EIS to contain a *list of any approvals that must be obtained under any other Act or law before the development or activity may lawfully be carried out*. The approvals sought for the Ashton Coal Project are listed below.

### **Integrated Development Consent Approvals**

1. Development Consent from the Minister for Urban Affairs and Planning under the Act for the Ashton Coal Project.
2. Provision of an Environmental Protection Licence under the *Protection of the Environment Operations Act 1999*.
3. Approval from the Mine Subsidence Board under the *Mine Subsidence Compensation Act 1990* to alter or erect an improvement within the Patrick Plains Mine Subsidence District.
4. Consent to Destroy a relic or Aboriginal place from the National Parks and Wildlife Service under the *National Parks and Wildlife Act 1974* may be required.
5. Licences under Section 10 and Section 116 of the *Water Act 1912* issued by the Department of Land and Water Conservation. This is to allow the sinking of bores for dewatering and to obtain, use and dispose of water for the use of occupiers of land.
6. A permit under the Rivers and Foreshores Improvement Act 1948 for works associated with the proposed realignment of Bowmans Creek and works within 40 m of the creek.
7. Consent from Singleton Shire Council and the Roads and Traffic Authority under the *Roads Act 1993* to undertake works, which will affect a classified road and local roads.
8. Permit under Section 201 of the Fisheries Management Act 1994 to carry out dredging or reclamation work.

## Additional Approvals

1. Application for a mining lease under the provision of the *Mining Act 1992* to the Department of Mineral Resources.
2. Approvals from the Department of Mineral Resources for longwall extraction and construction of the rejects emplacement under the *Coal Mines Regulation Act 1982* will be sought.
3. Approval under the Commons Management Act 1989 for the purchase of the Camberwell Temporary Common from the Camberwell Trust Committee or to arrange a land swap with that Trust, or to request the Minister for Land and Water Conservation to cancel the Management Plan currently applying to the Camberwell Temporary Common.
4. Approvals under the Crown Land Act 1989 from the Department of Land and Water Conservation for the use and / or closure of Crown Roads and the Travelling Stock Reserve.
5. Approval to temporarily close Glennies Creek Road when blasting occurs within close proximity to the road. These approvals are issued by Singleton Shire Council under the Local Government Act 1993.
6. Approval to temporarily close the section of Glennies Creek Road subject to realignment. This approval will be issued by Singleton Council.
7. Licensing under the Dangerous Goods Act 1975 for the use, carriage and storage of explosives.

### 2.11 Community Consultation

An important element of the planning and investigations into a project as significant and important as the Ashton Coal Mine is the attention given to consulting with landowners and residents in the project area, and establishment of appropriate procedures for informing these parties on the scope of the project and potential impacts and benefits of the mine.

From the time the exploration lease was granted, WML established a project office in Singleton and commenced to make personal contact with landowners in the area of EL 4918 and EL 5860. This led to an appreciation by WML that the proposed mine would have the potential to be of concern to residents of the village of Camberwell and it was decided to take a proactive approach and implement a formal consultative strategy. This was based on:

- Production of a regular and informative newsletter to be distributed throughout the Camberwell district;
- Availability of project staff to meet individually with residents and landowners on a regular

basis;

- Door to door canvassing of the village and its immediate environs to make personal contact with residents;
- Commitment to establishing a project office at Camberwell (occupied from 16 October 2001);
- Convening of two public meetings at Camberwell Hall to promote the exchange of information and brief residents on progress with the mine investigations;
- Two briefings of Singleton Shire Council on project development; and
- Briefings to state and federal Members of Parliament.

## 2.12 Newsletters

Three newsletters have been produced to date, in July, August and October 2001. Copies of the newsletters appear in **Appendix E** of **Volume 2** to this EIS.

Information provided in the newsletter can be summarised as:-

- Contact details for WML (office hours, postal, telephone, email and fax);
- Brief outline of the project proposal, locality plan and conceptual layout;
- Who are WML and what is their experience in coal mining;
- Environmental overview of the project, updated each issue; and
- Responses by WML to questions and queries raised by residents at the public meetings.

The newsletters enable WML to keep in regular communication with the people living in the Camberwell district and provide a medium to respond to questions and concerns raised in public forums.

## 2.13 Meetings with Residents

Extensive discussions have been held with individual residents to address their specific issues and concerns. Every effort is being made to deal with these concerns and, for example, ascertain the level of interest in registering for employment opportunities for the Ashton Coal Project.

These one to one meetings are seen as an important element of the community consultations and will continue to be given high priority by WML.

## 2.14 Public Meetings

Two public meetings have been held at the Camberwell Hall, on 15 August and 24 September 2001. 60 persons were registered as attending the first meeting and 56 at the second meeting. This appears to represent a very substantial proportion of the owners and residents of the village, and immediately adjacent rural district.

Senior executives of WML and their environmental consultant, attended the public meetings. The following issues were raised by residents, discussed at the meetings and consequently reported back to the community through the WML newsletters:

- Details of blasting criteria and associated operational arrangements to minimise noise and dust nuisance;
- Location and extent of overburden dumps and the environmental bunds;
- Extent of mine subsidence and the impacts of mining on watercourses;
- Potential impact of the operations on property values and the policy of WML towards land acquisitions;
- Potential impact of operations on domestic water supply and the need to prevent pollution of water tanks;
- Potential impacts on the river system;
- Effects of mining on livestock grazing;
- The need for independent monitoring of mining operations;
- Employment prospects for local residents at the Ashton Coal Project;
- Potential relocation of the Camberwell Common; and
- Availability of the EIS for public viewing.

## 2.15 Singleton Shire Council Briefings

The project was formally presented to the Singleton Council at an open meeting of the Council's Corporate and Development Services Committee on 14 August 2001. All councillors were present and the principal issues discussed were similar to those being brought to the attention of WML by the local residents these being:-

- Proximity of the mine to the village of Camberwell;
- Information on the environmental bunding proposed;
- Impacts on the water courses – Bowmans Creek, Glennies Creek and the Hunter River;
- The employment policy of WML;
- Potential cumulative impacts of dust and noise;
- Potential impacts of blasting operations;
- Tailings management and the extent of underground mining operations;
- Impacts of the project on property values and the WML approach to land acquisition; and
- Potential social and community contributions generated by the mine.

During and immediately following the meeting, responses were made to individual questions raised by councillors. An information package consisting of a description of the project, anticipated environmental interactions, mine plans and an aerial photograph were distributed to each councillor and senior Council officers.

Feedback from the two community meetings and the responses to issues raised by councillors were presented to the Council at a further open meeting of the Corporate and Development Services Committee on 8 October 2001.