



Department of Planning and Environment

**MAJOR PROJECT ASSESSMENT:
Freeway North Industrial Business Park
Concept Plan and Project Application**



Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979
August, 2008

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1 EXECUTIVE SUMMARY

- 1.1 On 18 September 2006 the Minister for Planning declared that the Freeway North Business Park is a Major Project under Part 3A of the *Environmental Planning and Assessment Act 1979*, and authorised the submission of a concept plan for the site.
- 1.2 On 13 April 2007, Harper Somers O'Sullivan (on behalf of the proponents, Hunter Land) submitted a combined concept plan and project application for the Freeway North Business Park in response to the Director-General's Environmental Assessment Requires issued on 10 November 2006.
- 1.3 The concept plan seeks approval for an industrial business park and 90 lot subdivision (88 industrial business park lots and 2 conservation lots), with associated services and infrastructure, and environmental conservation land. Project approval is also sought for the subdivision of the industrial business park into 88 lots and subdivision works (bulk earthworks, roads, drainage and landscaping).
- 1.4 Although the project is currently permissible under Newcastle LEP 2003 on part of the site, the proponent is also concurrently seeking to rezone the subject site (and an adjoining parcel of land to the south known as 'Freeway South') via the Major Projects SEPP to facilitate future employment generating development. This is being undertaken as a separate process and is subject to a separate briefing note to the Minister.
- 1.5 The Environmental Assessment Report for the concept plan, project application and the rezoning was exhibited for 30 days between 16 May 2007 and 18 June 2007.
- 1.6 Two public submissions were received in support of the proposal. Submissions were also received from Newcastle City Council, Department of Environment and Climate Change (DECC), Department of Primary Industries (DPI), NSW Rural Fire Service (RFS) and the NSW Roads and Traffic Authority (RTA). The main issues raised during exhibition were environmental impacts, aboriginal heritage impacts and traffic/ road infrastructure.
- 1.7 DECC have required the acquisition and biodiversity-focussed management of land of a minimum size of approximately 111ha (2:1 offset) of like-for-like vegetation to compensate for the loss of EEC on the subject site as a consequence of the proposed business park. Accordingly, Hunter Land has entered into a Voluntary Conservation Agreement with the Minister administering the National Parks and Wildlife Act 1974 (*Richmond Vale Conservation Agreement*) over lands in the nearby locality of Richmond Vale, recently purchased by Hunter Land for the purposes of the VCA. The conservation land is approximately 108ha in size and its acquisition and biodiversity focussed management is considered by DECC and DoP to be an appropriate scale of compensation for the impacts of the proposed Freeway North development and the future development of the Freeway South site.
- 1.8 The proponent submitted a Preferred Project Report and a revised Statement of Commitments on 30 November 2007 to address the issues raised during the exhibition period by Council and State government agencies. The PPR did not propose any design changes to the concept plan, but provided supplementary consultant reports relating to traffic, ecology and Aboriginal heritage following concerns raised by the RTA, DECC and Council. These reports were then forwarded to the relevant agencies, who were generally satisfied with the Proponent's response.
- 1.9 The Department was unable to make a recommendation to the Minister on the project until the environmental offset agreement with DECC was finalised. The agreement was co-signed by the Minister for Climate Change and the Environment on 12 August 2008.
- 1.10 In balancing the State significant planning outcomes with the issues raised, the Department is of the view that the proponent has satisfactorily mitigated the impacts arising from the proposed development. In assessing the proposal, the Department has resolved any outstanding issues through recommended modifications to the concept plan and conditions of consent for the project approval (see **Appendix A**).

2 BACKGROUND

2.1 The site and surrounding area

The Freeway North site is approximately 85ha, bounded by New England Highway to the north, Yangan Drive to the south, Weakleys Drive to the east and the Donaldson mine site to the west. The area is strategically placed at the northern end of the F3 Freeway.

The site is well positioned in relation to the proposed land use, the surrounding area and the wider region. Within the local context the site is surrounded by compatible land uses with Holmwood Business Park located to the east, Donaldson Mine to the west, the New England Highway and Thornton Industrial Estate to the north and Freeway Business Park to the south. **Figure 1** below shows the Freeway North site and surrounding locality, including a possible indicative subdivision layout for Freeway South. It is important to note however, that the proposed concept plan does not include Freeway South.

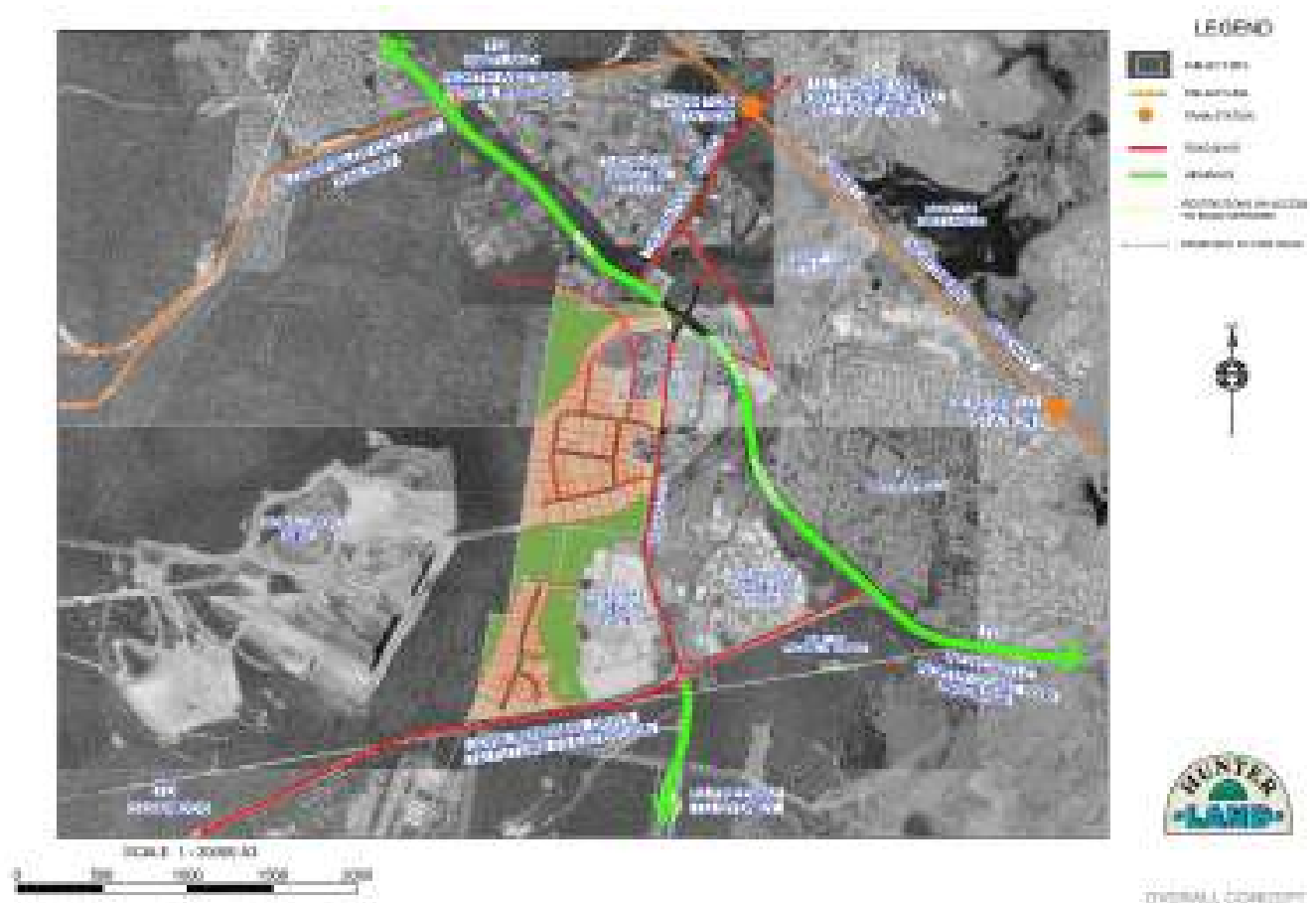


Figure 1. Site and surrounding area

The site is located at the junction of two main National Highways – New England Highway and Pacific Highway that connect the site with Newcastle, Sydney, northern NSW and Brisbane. The position of the site along these major transport routes results in excellent connectivity to the National Transport Network without substantial traffic impacts on residential areas. Work has begun on constructing a new overpass at the junction of Weakleys Drive and the New England Highway. When complete, this interchange will facilitate efficient traffic management of the intersection and further compliment the Business Parks integration with the national road network.

The residential areas of Beresfield, Thornton, Metford and Ashtonfield are located between 1km and 3km from the site. Thornton Railway Station is located approximately 1.5km north of the site, offering a public transport option for workers in the area.

The Freeway North site topography is characterised by a ridge that spans in a north eastern direction across the southern half of the site. On the northern side of the ridge the site slopes down to Scotch Dairy Creek and the

north eastern corner. On the extremity of the north western corner the site rises moderately. On the southern side of the ridge the site slopes down into Weakleys Flat Creek and Weakleys Drive.

The site is predominately regrowth vegetation on gentle slopes. An area of land in the northern eastern corner, close to the New England Highway and Weakleys Drive intersection was previously cleared but now regenerating to some degree. Cleared areas exist underneath the 132kV Electricity Transmission Lines that traverse across the southern portion of the site. The site comprises three vegetation communities listed as Endangered Ecological Communities and provides habitat for several significant species pursuant to the Threatened Species Conservation Act 1995 (TSC Act):

Endangered Ecological Communities

- Lower Hunter Spotted Gum Ironbark Forest (63.5 ha)
- River Flat Eucalypt Forest (31 ha)
- Hunter Lowland Redgum Forest (7 ha)

Threatened Species

- Powerful Owl
- Black-chinned Honeyeater
- Eastern Freetail-bat
- Greater Broad-nosed Bat
- Little Bent-wing Bat
- Gang-gang Cockatoo

2.2 Planning history and current status

- In 1997, Council resolved to rezone the Freeway North and South sites and surrounding area to a light industrial zone. However, Council deferred rezoning because the sites fell within the 1 km 'zone of affectation' of the eastern edge of the Donaldson Coal Mine.
- Subsequently, as part of Council-wide comprehensive LEP, Council zoned the majority of the area 7(c) – Environment Investigation, this was despite the fact that the 'zone of affectation' had since ceased to be relevant (with the receding mine workings).
- On 16 July 2006 the Minister for Planning agreed to consider the land collectively known as Freeway North and South as a potential State significant site under the provisions of State Environmental Planning Policy (Major Projects) 2005 (Major Projects SEPP). The Site is of regional importance having been identified in Lower Hunter Regional Strategy (LHRS) for future employment lands (refer to **Figure 2** below for an extract from the LHRS). The Site will also potentially provide a diversification of employment opportunities and assist to both diversification and reinforce the State and regional economy. The Site is also strategically located between two major Freeways/Highways and is an appropriate location for the development of employment lands.



Figure 2. Extract from Lower Hunter Regional Strategy

- The proponent is seeking to rezone the Site to Zone 4(a) – Urban Services and Zone 7(b) – Environment Protection under Newcastle LEP 2003. The proposed 7(b) zone is intended to protect those areas prone to flooding, containing Aboriginal sites, and environmental land (paperbark forest, spotted gum, Ironbark Open Forest, Hunter lowland Red gum forest, and Blackbutt Red Bloodwood Open Forest). The remainder of land is then proposed to be zoned 4(a) Urban Services to allow for employment generating land in the form of an industrial business park.
- The proponent also sought to have additional land uses permissible within the 4(a) zone, specifically motels, commercial offices, shops, local shops (as defined by NLEP 2003). However, the Department is of the opinion that certain additional land uses are inappropriate in this locality. These uses should remain prohibited in the 4(a) Urban Services zone to ensure that the subject land is developed as an industrial estate to help facilitate the establishment of the future freight hub as identified by the Lower Hunter Regional Strategy.
- The Lower Hunter Regional Strategy (LHRS) reinforces Newcastle as the Regional City and identifies future housing and employment opportunities in existing centres and renewal corridors. The LHRS has the specific action in relation to Centres and Corridors whereby:
“local environmental plans and other statutory planning controls: do not permit retail and commercial offices outside commercial centres other than where consistent with adopted State Policies such as ‘The right Place for Business’.”
- The proponent’s planning regime is also considered inconsistent with the Department’s Policy ‘The Right Place for Business’, which reinforces that *“offices, where not ancillary to industry, should be located in existing centres where they can benefit from proximity to services, be accessible by public transport and provide for more equitable access to employment opportunities.”*
- Further, the Newcastle Industrial Lands and Employment Study (2005) identified that additional industrial land is required for the city. Should Freeway North and South include non-industrial facilities such as motels and commercial offices, then the available industrial land would not be fully utilised.
- As reinforced in section 7.3.1 of Element 7.3 (South Beresfield Industrial Precinct) of Newcastle DCP 2005, the Department is fully supportive of a limited range of commercial and retail development in Freeway North and South where it can satisfy the 4(a) zone objectives. In this regard, ancillary office space and retail/food outlets are currently permissible within the 4(a) zone provided they are shown to be “associated support facilities” to the principle use. It should also be noted that “convenience shops” are also currently permissible within the 4(a) zone.
- On 18 September 2006 the Minister formed the opinion that the establishment of an industrial business park at Freeway North constitutes a Major Project under the terms of the Major Projects SEPP and authorised the submission of a concept plan/project application to resolve the subdivision layout and distribution of land uses for the site. No Part 3A approval is sort at this stage for the Freeway South land.
- The purpose of this submission is for the Director General to provide a report on the project to the Minister for the purposes of deciding whether or not to grant approval of the concept plan pursuant to Section 75O(2)(a) of the Act and project approval under 75J. Section 75N of the Act provides that the scope of the Director General’s environmental assessment report for a concept plan is the same as with respect to approvals to carry out a project as set out in Section 75I(2) of the Act. This report recommends the Minister should grant concept and project approval subject to modifications and conditions set out in the instrument of approval set out at **Appendix A**.

3 PROPOSED DEVELOPMENT

3.1 Approval Originally Sought

On 13 April 2007 the proponent submitted an Environmental Assessment (EA) report titled *Freeway North Business Park*, prepared by Hunter Land and Harper Somers O'Sullivan (HSO) and dated March 2007. The EA served three purposes:

1. To address the project specific issues outlined in the Department of Planning's Director-General Environmental Assessment Requirements (DGEARs);
2. To present a **concept plan** for an industrial business park on the site and request **project approval** for subdivision and subdivision works; and
3. To request amendment of Newcastle LEP 2003 (via the Major Projects SEPP) to reflect the proposed industrial business park and conservation land uses.

In detail, the development comprises: a 90 lot subdivision (88 industrial business park lots and 2 conservation lots) and associated works including streets, stormwater management works, utility services, and bulk earthworks; public domain improvements, including street trees; and the use of the land for industrial business park related purposes and environmental conservation.

The concept plan layout for the development is shown in **Figure 3** below.



Figure 3. Freeway North Concept Plan

3.2 Amendments to the Proposal

The proponent lodged a Preferred Project Report (PPR) on 30 November 2007 (refer **Appendix C**), incorporating a revised Statement of Commitments (included in **Appendix B**) to address the issues raised during the consultation period. The PPR did not propose any design changes to the concept plan, but provided supplementary consultant reports relating to traffic, ecology and Aboriginal heritage following concerns raised by the RTA, DECC and Council during the initial exhibition period. These reports were then forwarded to the relevant agencies, who were generally satisfied with the Proponent's response.

The Department was unable to make a recommendation to the Minister on the project until an Environmental Offset Agreement with DECC was finalised. The agreement was formulated by the Proponent (in consultation with officers of DECC) between February and July 2008, and co-signed by the Minister for Climate Change and the Environment on 12 August 2008.

4 STATUTORY FRAMEWORK

4.1 Part 3A of the Environmental Planning and Assessment Act 1979

Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) commenced operation on 1 August 2005. Part 3A consolidates the assessment and approval regime of all major projects previously considered under Part 4 (Development Assessment) or Part 5 (Environmental Assessment) of the EP&A Act.

Under the provisions of Section 75B of the EP&A Act development may be declared to be a Major Project by virtue of a State Environmental Planning Policy or by order of the Minister published in the Government Gazette.

Section 75M of the Act permits a proponent to lodge a concept plan either upon their request to or at the request of the Minister. The purpose of the concept plan is to provide a broad overview of a proposed development and seeks to establish the framework for more detailed development of the proposal subject to future approvals.

The Concept Plan process will enable the complex strategic issues and the general parameters of the project to be determined upfront, whilst still retaining the necessary level of flexibility for the more detailed design phase of the project. Retaining some flexibility in the later stages of the redevelopment will be important to ensure future development opportunities on the site remain innovative and responsive to staging over time.

On 18 September 2006, the Minister for Planning formed the opinion that Part 3A of the Act applied to the proposed development and, pursuant to Section 75M of the Act, authorised the proponent to submit a concept plan for the Freeway North Business Park.

4.2 State Environmental Planning Policy (Major Projects) 2005

State Environmental Planning Policy (Major Projects) 2005 outlines the types of development declared a major project for the purposes of Part 3A of the EP&A Act. For the purposes of the SEPP, certain forms of development may be considered a Major Project if the Minister (or his delegate) forms the opinion that the development meets criteria within the SEPP.

On 18 September 2006, the Minister formed the opinion that the Freeway North Business Park is development of a kind that is described in Schedule 1 of the State Environmental Planning Policy (Major Projects) 2005 – namely *Clause 11 - Development that employs 100 or more people or with a capital investment value of more than \$30 million for the purpose of other manufacturing industries, and Clause 12 - Development for the purpose of container storage facilities, or storage or distribution centres, with a capital investment value of more than \$30 million* – and is thus declared to be a project to which Part 3A of the EP&A Act applies. The CIV of the Freeway North project is estimated at \$341 million.

4.3 Permissibility

The site is currently zoned in Newcastle LEP 2003 as Zone 4(a) – Urban Services and Zone 7(c) – Environmental Investigation. The proposed industrial business park is only permissible within the 4(a) zone.

The Proponent is seeking to have the Freeway North site rezoned to Zone 4(a) – Urban Services Zone and Zone 7(b) – Environment Protection Zone. The proposed 7(b) zone is intended to protect those areas prone to flooding, containing Aboriginal sites, and environmental land (Eucalypt - Paperbark Forest, Spotted Gum - Ironbark Open Forest, Hunter Lowland Red Gum Forest, and Blackbutt - Red Bloodwood Open Forest). The remainder of land is then proposed to be zoned 4(a) Urban Services to allow for employment generating land in the form of an industrial business park.

The Department considers that rezoning and identifying permissible land uses is essential to this project. This is best achieved via Ministerial intervention using the Major Projects SEPP to amend Council's LEP to rezone the land. The reason for this approach would be to overcome the current council delays, which has the potential to affect delivery of the NSW Government planning forecasts for this part of the State. This process is subject to a separate briefing note to the Minister.

It should be noted that the concept plan for the industrial business park and project application for subdivision can be considered and determined prior to the rezoning (via listing in the Major Projects SEPP) being finalised as the site is not located in an "environmentally sensitive area of State significance" and is not affected by Clause 8N(1) of the Environmental Planning and Assessment Regulation 2000.

4.4 Director General's Environmental Assessment Requirements

On 10 November 2006, the Director General issued environmental assessment requirements (DGEARs) pursuant to Section 75F of the EP&A Act. The key issues to be addressed in the DGEARs issued related to: subdivision layout and design; traffic generation and management; stormwater management and disposal; biodiversity and cultural heritage; bushfire risk assessment; hydrology and water management; utilities and infrastructure provision; transport and access; section 94 developer contributions/section 93 planning agreements; and community consultation.

4.5 Other relevant legislation and environmental planning instruments

Section 6 and **Appendix F** both set out the approval process, relevant consideration of legislation, environmental planning instruments and planning strategies as required under Part 3A of the EP&A Act.

5 CONSULTATION AND ISSUES RAISED

The Environmental Assessment Report (EA) was publicly exhibited and notified in accordance with the EP&A Act. Section 75H(3) of the EP&A Act requires that after the Environmental Assessment has been accepted by the Director General, the Director General must, in accordance with any guidelines published in the Gazette, make the environmental assessment publicly available for at least 30 days. The Director General has not published any specific guidelines in relation to the public exhibition of the application.

A "Test of Adequacy" was undertaken by the Department which determined that the matters contained in the DGRs were adequately addressed in the Environmental Assessment prior to public exhibition.

In accordance with Section 75H of the Act, the environmental assessment was publicly exhibited for a period of 30 days from 16 May 2007 to 18 June 2007 at the following locations:

- Department of Planning (Head Office) – Head Office (Sydney) and Hunter Office (Newcastle)
- Newcastle City Council – Council Chambers – King Street, Newcastle

The EA was placed on the Department's website during the course of the exhibition period.

Local stakeholders within proximity of the site were informed of the concept plan proposal in writing and invited to make a written submission. Details of the concept plan proposal were placed in the public notices section of the local newspaper. The advertisement provided details of the proposal, exhibition locations and dates and how interested parties could make a submission. Government agencies, Newcastle City Council and other public authorities were also consulted.

In response to the exhibition period, the Department received submissions from Newcastle City Council, DECC, DPI, RFS and the RTA. Two public submissions were received in support of the proposal. A summary of public submissions received and agency submissions are included at **Appendix D**. The main issues raised during exhibition were environmental impacts, aboriginal heritage impacts and traffic and infrastructure.

A detailed report responding to these submissions, prepared by HSO, was incorporated into a Preferred Project Report and submitted to the Department on 30 November 2007 (included at **Appendix C**). The PPR did not propose any design changes to the concept plan, but provided supplementary consultant reports relating to traffic, ecology and Aboriginal heritage following concerns raised by the RTA, DECC and Council. These reports were then forwarded to the relevant agencies, who were generally satisfied with the Proponent's response.

To fulfil the requirements of Section 75I Clause 2(b) this report includes advice provided by public authorities regarding the issues to be addressed by the proponent in the EA. These issues formed part of the key issues raised in the DGEARs. The Department has reviewed the EA, submissions to the preparation of the EA by public authorities, the submissions received from public authorities during the EA exhibition period and additional information provided by the proponent. Unless noted to the contrary below, the Department is satisfied that the responses provided by the proponent in their EA and the additional response to issues raised in submissions are reasonable.

6 ASSESSMENT

The Department has reviewed the EA and the preferred project report and considered advice from public authorities as well as issues raised in general submissions in accordance with Section 75I(2) of the Act. Consideration of each of the issues as they relate to the concept plan proposal is provided in **Section 6.2**.

Each relevant issue has been identified and duly considered followed by an explanation of how the proponent has sought to address the issue. Each subsection concludes with an explanation of how the Department has resolved the issue through the imposition of various modifications.

6.1 DIRECTOR-GENERAL'S REPORT

The purpose of this submission is for the Director-General to provide a report on the project to the Minister for the purposes of deciding whether or not to grant approval of the concept plan pursuant to Section 75O(2)(a) of the Act and project approval under Section 75J. Section 75N of the Act provides that the scope of the Director General's environmental assessment report for a concept plan is the same as with respect to approvals to carry out a project pursuant to Section 75I(2) under Part 3A of the Act.

Section 75I(2) of the Act and Clause 8B of the Environmental Planning and Assessment Regulation 2000 provides that the Director-General's report is to address a number of requirements in the Director General Report. These matters and the Department's response are set out as follows:

Section 75I(2) criteria	Response
Copy of the proponent's environmental assessment and any preferred project report.	The proponent's EA is included at Appendix E while the preferred project report is set out for the Minister's consideration at Appendix C along with the Statement of Commitments at Appendix B .
Any advice provided by public authorities on the project.	All advice provided by public authorities on the project for the Minister's consideration is set out at Appendix D of this report.
Copy of any report of a panel constituted under Section 75G in respect of the project.	No statutory independent hearing and assessment panel was undertaken in respect of this project.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project.	A copy and brief assessment of each State Environmental Planning Policies that substantially govern the carrying out of the project is set out in Appendix F .
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division.	An assessment of the development relative to the relevant environmental planning instruments is provided in Appendix F .
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate.	The environmental assessment of the project application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The proponent's EA addressed the DGR requirements and is considered to have satisfied those requirements as addressed in this report.
Clause 8B criteria	Response
An assessment of the environmental impact of the project.	An assessment of the environmental impact of the proposal is discussed in section 6 of this report.
Any aspect of the public interest that the Director-General considers relevant to the project.	The public interest is discussed in section 6 of this report.
The suitability of the site for the project.	The suitability of the site for the project is discussed in section 6 of this report.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in Appendix D of this report.

6.2 KEY ISSUES

The following section assesses each of the key issues associated with the proposal. Each relevant issue has been identified, followed by an explanation of how the proponent has sought to address the issue. Each subsection concludes with an explanation of how the issue has been resolved through the Department's recommended modifications of approval or through the proponent's Statement of Commitments.

It is worth noting that the Statement of Commitments has been modified since the documentation was on public exhibition and that a number of issues raised during the exhibition period have been addressed by way of the revised Statement of Commitments.

6.2.1 Conservation and Environmental Offsets

DECC generally supports the proposed retention of the Hunter Lowland Red Gum Forest EEC, River Flat Eucalypt Forest EEC and Blackbutt-Red Bloodwood Forest (not EEC) in the proposed conservation areas (i.e. 7(b) Environmental Protection Zone). However, the bulk of the subject site contains Lower Hunter Spotted Gum-Ironbark Forest EEC (63.5ha), yet there is very little of this vegetation type protected in the development of the Freeway North Business Park.

DECC have primarily raised concern over the removal of 55.5ha (approx. 87% of the total) of Lower Hunter Spotted Gum-Ironbark Forest on the site. DECC have stated that there was thought to be a representative sample of the EEC that would be protected in the adjacent Donaldson Mine Bushland Conservation Area, however this area has been broadly identified as future employment lands and this reserve is no longer assured.

DECC argue the Government's policies of no net loss of biodiversity and the "improve or maintain" principle for biodiversity conservation are not achieved and consider that the acquisition and biodiversity-focussed management of land of a minimum size of approximately 111ha (2:1 offset) of like-for-like vegetation would be an appropriate scale of compensation for the loss of EEC on the subject site, preferably within the Watagan/Stockton portion of the *Lower Hunter Regional Strategy* and *Draft Lower Hunter Regional Conservation Plan*. DECC have indicated that the area of land required may be less if it supported vegetation of higher biodiversity value or better condition than what was being cleared.

Accordingly, Hunter Land Pty has entered into a Voluntary Conservation Agreement (VCA) with the Minister administering the National Parks and Wildlife Act 1974 (*Richmond Vale Conservation Agreement*) over lands in the nearby locality of Richmond Vale, recently purchased by Hunter Land for the purposes of the VCA. The conservation land is approximately 108ha in size and its acquisition and biodiversity focussed management is considered by DECC and DoP to be an appropriate scale of compensation for the impacts of the proposed Freeway North development and the future development of the Freeway South site.

6.2.2 Traffic

After raising initial concerns with the Freeway North proposal based on the traffic report submitted with the EA, the RTA has reviewed the revised traffic report submitted with the PPR and have indicated that they are now prepared to support the proposed development, subject the proponent undertaking road works associated with the project. Such road works include the construction of a roundabout at the proposed new access to the Freeway North Business Park off Weakleys Drive. The RTA's requirements have been incorporated in the recommended conditions of consent for the project approval for subdivision.

The proposed subdivision layout also includes an internal road to the northwest of the Freeway North site (to Avalon Drive). In this regard, a modification in the concept plan consent is recommended requiring an appropriate road reserve to be provided to the RTA's satisfaction as part of the subdivision to allow for an ultimate public road connection to Avalon Drive and the New England Highway. This proposed road link is to only cater for light vehicles, buses and garbage trucks, as it will connect to a residential precinct.

The subject property is affected by a road widening for Weakleys Drive. The following is required to be complied with:

- Any new buildings or structures are erected clear of the land identified in the reserve.
- This land and any land required for the roundabout and left in/left out intersections is set aside as public road.
- The land affected by road widening is dedicated as public road reserve at no cost to the RTA or Council.

6.2.3 Public Transport

The site is approximately 2.5km from Beresfield Train Station and has three services stopping per hour in peak times. There are no local bus services that stop on Weakleys Drive or elsewhere in the vicinity of the site. The reliance on private motor vehicle has been taken into consideration in the traffic modelling for the proposal.

6.2.4 ESD & Climate Change

ESD Principles

There are five accepted ESD principles:

- (a) *decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);*
- (b) *if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);*
- (c) *the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);*
- (d) *the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and*
- (e) *improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).*

The Department has considered the redevelopment in relation to the ESD principles and has made the following conclusions:

- a) Integration Principle – The environmental impacts of the development are appropriately mitigated as discussed in this report. The Department's assessment has duly considered all issues raised by public authorities, and the proposal as recommended for approval will not compromise a particular stakeholder or hinder the opportunities of others.
- b) Precautionary Principle – The proposal presents no threat of serious or irreversible environmental damage to the site or the wider locality. No significant climate change risks have been identified. In this regard, the proposed development is not inconsistent with the principles contained in the Floodplain Development Manual, will not detrimentally increase potential flood affectation on other development or property, will not result in an increased risk to human life, and is unlikely to result in additional economic and social cost.
- c) Inter-Generational Principle – It is considered that the development of this site will have positive social, economic and environmental impacts, to the benefit of future generations.
- d) Biodiversity Principle – Following an assessment of the proponent's EA it is considered with certainty that there is no threat of serious or irreversible environmental damage as a result of the proposal. Environmental offsets are provided to compensate for the loss of native vegetation on the site.
- e) Valuation Principle – The approach taken for this project has been to assess the environmental impacts of the proposal and identify appropriate safeguards to mitigate adverse environmental effects. The mitigation measures include the cost of implementing these safeguards in the total project cost.

Further assessment of ESD principles will be undertaken during subsequent project application stages of the proposal.

Climate Change

The impacts of climate change on sea levels and flood producing rainfall events will have a flow on effect on flood behaviour which may result in key flood levels being reached more frequently and floods of the same average recurrence interval, ARI, being of a larger magnitude. However, the climate change factors influencing flood behaviour and their ramifications to the community will vary with the location, and the scientific evidence forecast regime is not certain.

The NSW Government Department of Environment and Climate Change (DECC) has released a floodplain risk management guideline: *Practical Consideration of Climate Change* (October, 2007). Using the procedures set out in this document, the potential impact of climate change on floodplain risk management and development decisions are considered in two components:

- The direct impact of rise in sea level. This is applicable primarily to coastal developments and sites located along a tidal water body.
- The impact of increased rainfall intensities. This may be applicable regardless of site location, although it is thought that the magnitude of likely increases will vary depending on regional geography.

The Freeway North Business Park is located in the Hunter-Central Rivers catchment, approximately 25 km inland. Site elevations vary between 3m and 30m AHD. The [tidal] Hunter River is several kilometres from the site and hence the site drainage does not experience tidal influence. Because of these factors, it is considered highly unlikely that the site will be sensitive to sea level rise.

The Newcastle DCP 2005 requires minimum 0.5m freeboard between the 100 year ARI flood level and habitable floor levels of buildings in the Hunter River Catchment. The results of the flooding investigation for existing conditions indicated:

- The 100 year ARI flood levels on the site vary between 5m AHD (northern boundary) and 11m AHD (western boundary).
- From the survey, the minimum freeboard to any particular lot is approximately 2m (cross section RCH2-365.95, mid-way along Scotch Creek within the site). Hence, all lots are elevated well above the existing predicted flood envelope.

The DECC guidelines suggest that high range climate change impacts could increase rainfall intensities by up to 10% for the Hunter-Central Rivers Catchment. However, sensitivity calculations were undertaken assuming 30% increase to be conservative, in accordance with the predicted state-wide impacts.

Calculations were undertaken using the PRM for the 100 year ARI event, varying the rainfall intensity up to +30% in the Scotch Creek. In this instance, the corresponding predicted flow rates were directly related to the increase in rainfall intensity. The flood level at critical cross section RCH2-365.95 increased from 7.5m AHD to 7.7m AHD (0.2m), at which the development is still located well clear of the predicted flood envelope. Accordingly, the development is not considered sensitive to the increase in rainfall intensity.

In regards to bushfire risk, climate change will potentially result in an increase in the frequency of fires rather than intensity, and as *Planning for Bushfire Protection 2006* has been prepared to protect against fires of all intensities, this issue is considered to have been addressed.

6.2.5 Regional and Local Infrastructure Contributions

The Department is satisfied that no further regional contributions for the Freeway North Business Park are required beyond the required RTA roads works and environmental offset lands required by DECC.

Council's Section 94A Development Contributions Plan 2006 applies to the subject site. Council have informed the Department that it is not appropriate to require the payment of a contribution at the initial subdivision stage of a development of this type. Council will apply S94A levies when development applications are lodged for the construction of buildings on the individual lots created by this subdivision.

6.2.6 Appropriate Land Uses

The proposed 7(b) Environmental Protection Zone is intended to protect those areas prone to flooding, containing Aboriginal sites and environmental land. The remainder of land is then proposed to be zoned 4(a) Urban Services Zones to allow for employment generating land in the form of an industrial business park.

The Department's Regional Team, Strategic Assessment's branch and Newcastle City Council are of the opinion that the additional land uses within the 4(a) zone proposed in the Proponent's proposed draft SEPP for Freeway North (i.e. motels, commercial offices, shops, local shops) are inappropriate in this locality. These uses should remain prohibited in the 4(a) Urban Services zone to ensure that the subject land is developed as an industrial estate to help facilitate the establishment of the future freight hub as identified by the Lower Hunter Regional Strategy.

The Lower Hunter Regional Strategy (LHRS) reinforces Newcastle as the Regional City and identifies future housing and employment opportunities in existing centres and renewal corridors. The LHRS has the specific action in relation to Centres and Corridors whereby:

"local environmental plans and other statutory planning controls: do not permit retail and commercial offices outside commercial centres other than where consistent with adopted State Policies such as 'The right Place for Business'."

The draft planning regime is also considered inconsistent with the Department's Policy 'The Right Place for Business', which reinforces that "offices, where not ancillary to industry, should be located in existing centres where they can benefit from proximity to services, be accessible by public transport and provide for more equitable access to employment opportunities."

Further, the Newcastle Industrial Lands and Employment Study (2005) identified that additional industrial land is required for the city. Should Freeway North and South include non-industrial facilities such as motels and commercial offices, then the available industrial land would not be fully utilised.

As reinforced in section 7.3.1 of Element 7.3 (South Beresfield Industrial Precinct) of Newcastle DCP 2005, the Department is fully supportive of a limited range of commercial and retail development in Freeway North and South where it can satisfy the 4(a) zone objectives. In this regard, ancillary office space and retail/food outlets are currently permissible within the 4(a) zone provided they are shown to be "associated support facilities" to the principle use. It should also be noted that "convenience shops" are also currently permissible within the 4(a) zone.

6.2.7 Aboriginal Heritage

DECC noted in their original submission following exhibition of the concept plan/project application that there was no information regarding the management of proposed areas of Aboriginal significance, nor what will happen to artefacts that will be collected and/or salvaged from the site. In their submission DECC also stated that there was no requirement in the Archaeological criterion (in section 6.2.6 of the concept plan) to protect or deal with Aboriginal objects to the satisfaction of the local Aboriginal community.

In relation to Aboriginal heritage issues the Statement of Commitments has been modified. South East Archaeology has conducted an Aboriginal Heritage Impact Assessment for the entire site and formulated an Aboriginal Heritage Management Plan. These documents are contained in Appendix C of the PPR. The Aboriginal Heritage Management Plan identifies the process to be taken when salvaging Aboriginal artefacts prior to or after construction has started, and procedures to engage the local Aboriginal community. It should also be noted that the proposed conservation areas include, and will therefore protect, the highest value heritage items on the site. The Local Aboriginal Land Council (LALC) has been consulted in regards to the Aboriginal Heritage Impact Assessment as well as the Aboriginal Heritage Management Plan.

The salvage program outlined in the Aboriginal Heritage Management Plan is required in the recommended concept plan modifications to be developed in consultation with the Mindarriba Local Aboriginal Land Council (MLALC) and the Lower Hunter Wonnaruna Council Inc (LHWC) and any other relevant Aboriginal groups. Representatives from all of these groups are also to be provided the opportunity to participate in the collection program, including the temporary and long-term storage of artefacts.

6.2.8 Bushfire Protection

The NSW Rural Fire Service has provided in-principle support for the proposal, although they have noted that it will need to comply with the aims and objectives of *Planning for Bushfire Protection Guidelines*. The Statement of Commitments identifies that the site will be subject to appropriate bushfire protection measures (BPMs), while the Statement of Commitments has been modified so that consideration will be given to *Planning for Bushfire Protection Guidelines* in preparing the BPMs and APZs.

A recommended condition of consent requires the preparation of a *Bushfire Management Plan* for the development (or each stage), certified by a suitably qualified consultant or the NSW Rural Fire Service as complying with the requirements of the document *Planning for Bushfire Protection* and the requirements of the NSW Rural Fire Service. The required Plan is to include, but not be limited to, the following and is to be submitted with documentation accompanying the Construction Certificate application in respect of each stage:

- Location of permanent Asset Protection Zones (APZ) and fire trails;
- Location of temporary APZs and fire trails such that adequate protection is provided to the subdivision at all times during development;
- APZ establishment methods;
- Location of habitat trees to be retained;
- Areas of vegetation to be retained, removed or reinstated;
- Existing topography, adjacent to development and open space;
- Access to services;
- Extent of cut and fill, access points and 'links' to public areas;
- Existing and proposed plant species; and

- Archaeological heritage.

6.2.9 Project Justification and Public Interest

- The site is identified as future employment lands in the Lower Hunter Regional Strategy. The Freeway North Business Park will help in the delivery of employment targets of the NSW Government's Lower Hunter Regional Strategy, providing approximately 80 hectares of employment lands to the region, capable of generating 2100 jobs. Economic benefits to the NSW economy through the provision of jobs growth in the construction sectors will result.
- The proposal will provide State significant environmental conservation benefits through the dedication of 40 hectares of high conservation value land within the site itself, and through the provision of 108ha of offset lands in nearby Richmond Vale. This will protect significant regional wildlife corridors and a wide range of vegetation communities and threatened species, which does not occur under current zonings. It is also proposed to conserve existing aboriginal cultural sites where appropriate.

The Freeway North site is also of significance for environmental planning for the State in regards to satisfying Priorities listed in the *NSW State Plan – A new direction for NSW*. These priorities and the manner in which the proposal satisfies them are as follows:

- **Priority P1 (Increased business investment):** Freeway North will contribute to valuable employment lands and business investment in Newcastle's west to ensure its competitiveness in comparison to other States.
- **Priority E4 (Better environmental outcomes for native vegetation, biodiversity, land, rivers and coastal waterways):** Freeway North satisfies Priority E4 in providing better outcomes for biodiversity in that the new zonings will protect a larger area of native vegetation and threatened species habitat, than is currently protected by current zones.
- **Priority E5 (Jobs closer to home):** Freeway North satisfies Priority E5 by providing opportunities for increased employment generating activities in proximity to existing residential areas.

7 CONCLUSION

- 7.1 The Department has reviewed the environmental assessment and the preferred project report and duly considered advice from public authorities as well as issues raised in general submissions in accordance with Section 75(2) of the Act. All the relevant environmental issues associated with the proposal have been extensively assessed.
- 7.2 In balancing the State significant planning outcomes with the issues raised in the body of this report, the Department is of the view that the proponent has satisfactorily mitigated the environmental impacts arising from the subdivision of the Freeway North site. In assessing the proposal, the Department has resolved any outstanding environmental issues through recommended modifications/conditions of approval.
- 7.3 The proponent has committed (through Statements of Commitment) to a number of measures to ensure the development proceeds smoothly and does not adversely impact on local amenity and landscapes adjacent on the site. The Department is recommending further modifications/conditions of approval to augment commitments made by the proponent.
- 7.4 Recommended modifications to the concept plan and conditions of approval for the project application are provided at **Appendix A**. The reasons for the imposition of modifications/conditions of approval are to encourage good urban design, maintain the amenity of the local area and adequately mitigate the environmental impact of the development.

8 RECOMMENDATION

It is recommended that the Minister for Planning:

- a) **consider** the findings and recommendations of this report.
- b) **grant** approval for the concept plan pursuant to s.75O(1) by signing the Instrument of Approval at **Appendix A**.
- c) **grant** project approval for a stage of the project (i.e. the subdivision and subdivision works) pursuant to s. 75J(1) by signing the Instrument of Approval at **Appendix A**.
- d) **Determine**, pursuant to s.75P(1)(b), that approval to carry out the remainder of the project (i.e. construction of buildings) is subject to Part 4 of the EP&A Act.
(Note: The effect of (d) would be that:
 - *Future development is no longer a Part 3A project*
 - *Pursuant to s.75P(2)(a), the determination of any DA in respect of such development must be generally consistent with the concept plan.)*
- e) **Authorise** the Department to carry out post-determination notification.
- f) **Note** that the proposed listing of the site within the Major Projects SEPP will be pursued separately, however this does not preclude the Minister from approving the concept plan and project application for subdivision prior to the SEPP amendment.