

7 May 2012

Ms Rebecca Newman
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

By email as PDF: rebecca.newman@planning.nsw.gov.au

Dear Rebecca

**EXHIBITION OF ENVIRONMENTAL ASSESSMENT FOR
PORT WARATAH COAL SERVICES TERMINAL 4 (MP_0215)
WRITTEN COMMENTS ON THE PROPOSAL**

Further to your letter dated 27 March 2012 and your email dated 20 April 2012, we have briefly reviewed the proposal documents and make the following comments.

At an overarching level, the Hunter Development Corporation is highly supportive of the strategic and timely delivery of vital infrastructure, such as the proposal under consideration. We wish to state our overall support for the proposal given its consistency with the agreed coal chain framework and the reuse of otherwise low value and highly constrained land.

Compatibility with Capping Strategy For EPL6437 Closure Works

The proposed T4 development overlaps the former Kooragang Waste Emplacement Facility (KIWEF) EPL6437. This EPL is in the name of the Director General for Planning and Infrastructure, and is subject to landfill closure requirements issued by NSW Office of Environment and Heritage (OEH) under Surrender Notice (SN) 1111840.

HDC notes that the proponent intends to implement a capping system or equivalent to equal higher standards as required in the OEH approved capping strategy and the SN1111840 in the area of their Stage 1 construction. It is unclear to HDC why the proponent would not undertake a consistent approach to the site as the preceding proponent of T3, the Newcastle Coal Infrastructure Group (NCIG), and provide a continuous capping system or equivalent across the entirety of their Lease Area. This is of significant concern to HDC for the following reasons:

- We note the proponent is relying on the State's closure works i.e. capping system for the placement dredge sands as part of the stockyard construction. HDC has concerns about constructing an expensive yet abortive capping system in these areas noting the proponent would have to undertake similar as part of their construction methodology. In addition, if the proponent requires a low permeability layer to dry its dredged sands, HDC would be equally concerned about the high volumes of saline runoff, water quality and the adequacy of the proponent's mitigation measures of such.
- As the proponent is not undertaking to perform capping or equivalent to the full extent of their Lease Area, the proponent of EPL6437 is potentially exposed to a range of significant unbudgeted and unfunded claims from T4 which may arise from the State being required to undertake works in the T4 Lease Area.

Similarly, of significant concern to the State is how the EA proposes to adequately mitigate the exacerbation of contamination (understood to be a requirement of the Lease), subsequent offsite migration and associated risks. Noting the complex hydrogeology of the site, the mitigation measures proposed and the high cost of retrospective remediation works, HDC is concerned about the level of warranty or protection the proponent is affording the State. In addition, HDC is concerned about the

State's ability to hold the proponent responsible for the exacerbation of contamination if the State is required to do similar remediation works in and around their project, as currently proposed.

A further conflict with the EA and the State's closure works relates to T4's proposed Green and Golden Bell Frog (GGBF) Concept Corridor which has ponds located in the areas known as K10 South (inside the T4 Lease Area) and K10 North. Both of these areas are subject to the requirements of the SN1111840 and the risks associated with State's closure works proceeding in front of what is a significant, high value and time critical project, remain. Furthermore, the extent by which the proponent is relying on the State's closure works for such a critical aspect of their GGBF mitigating measures is unclear.

Of similar concern to HDC is the likelihood that mitigation habitat for the GGBF, similar to that proposed in the EA, will need to be provided as part of likely closure requirements for the 'Eastern Ponds' in K10 North. The inability to access these areas for GGBF mitigation habitat may impact on the State's ability to satisfy its requirements under SN1111840.

With respect to the EA and the assessment of impacts to traffic and access, it is unclear to HDC that suitable provisions are included which confirm the unfettered access for, and cooperation with, those parties arranging closure works on behalf of the State. It appears that the State may be exposed to significant unbudgeted and unfunded claims and other liabilities that may arise due to the expected overlap of construction activity and site control.

If the significant issues noted herein are duly considered and that the proponent perform capping or equivalent to the full extent of their Lease Area and other areas which overlap with T4's proposed GGBF corridor, along with other necessary measures to best manage the contamination and associated risks, HDC are satisfied that the T4 project will achieve a suitable allocation of risk and compliance with T3 precedent and the SN1111840 conditions.

HDC would like to note the ongoing discussions with the site's long term land owner Newcastle Port Corporation (NPC) and the proponent which aim to resolve some of the above issues. We request that HDC is provided the opportunity to continue to consult with the Department on these issues to ensure that obligations and trailing liabilities are appropriately captured in the Department's consent conditions.

For further discussion on any of the areas raised above please contact members of our capital works and environmental team, Geoff Wade or Jeremy Amann on 49042750.

Yours sincerely



Bob Hawes
GENERAL MANAGER