

30 September 2025

Mr Jarrod Blane  
Team Leader  
Department of Planning, Housing and Infrastructure

Delivered via: Major Projects Planning Portal

Dear Mr Blane

**Subject:** Response to submissions regarding State Significant Development -  
Bloomfield Continuation Coal Mine Modification 5  
**Property:** Four Mile Creek Road, Ashtonfield  
**Application No:** MP07\_0087-Mod 5  
**Local Government Areas:** Cessnock City Council and Maitland City Council

In regard to the above-mentioned State Significant Modification Application, Maitland City Council's (MCC) previous submission, dated 17 June 2025, and your further request for MCC to review the Response to Submissions, dated 29 August 2025, please be advised the following key issues have not been adequately addressed and require further consideration in the assessment of the modification application:

1. Biodiversity

Issue	EcoResolve Response	MCC Response – August 2025
<p><b>Proposed impacts to biodiversity have poor alignment with Hunter Regional Plan 2041</b></p>	<p>It is acknowledged that the development of the open-cut coal mine extension would result in an overall degradation in environmental value and ecological viability within the project footprint during the construction and operation phase of the project. However, is also true that a significant portion of the project area (51.69 ha) is classified on the HEV map as the BC Act-listed TEC Lower Hunter Spotted Gum-Ironbark Forest in the Sydney Basin Bioregion and EPBC Act listed TEC Hunter Valley Remnant Woodlands and Open Forests. After ground truthing the Project area, EcoResolve found the vegetation to be commensurate with the BC Act-listed TEC but not the EPBC Act-listed TEC. The BDAR has been produced in accordance with the BAM (2020) which is underpinned by the 'no net loss principle. This principle is achieved by offsetting the biodiversity clearing associated</p>	<p><b>Not resolved.</b></p> <p>The applicant claims that offsetting biodiversity loss under the BOS is in keeping with HRP 2041 because the development will maintain or enhance the environmental value and ecological viability of the regional biodiversity network. This claim is not supported as <b>biodiversity credits could be purchased outside of regional biodiversity network.</b></p> <p>The offset rules under the Biodiversity Offsets Scheme allow for species credits to be offset anywhere in the State and ecosystem credits to be offset anywhere in the IBRA bioregion. The applicant has provided no evidence that biodiversity</p>

	<p>with the TEC through the provision of 1,796 Ecosystem credits. This principle is believed to be in keeping with HRP 2041 because through 'no net loss' the development will maintain or enhance the environmental value and ecological viability of the regional biodiversity network. Furthermore, the Mod 5 works do not align with any areas of high biodiversity value according to the NSW Biodiversity Values Map nor do they encroach upon important regional or state biodiversity corridors as set out in the Hunter Regional Plan. The important areas and corridors including the Hunter Regional Plan Biodiversity Corridors, Maitland ESS 2030 Biodiversity Corridors and Cessnock Environmental Lands Study 40 m Riparian Zone Buffer do not overlap or come within proximity of the project footprint. Furthermore, future clearing will not indirectly fragment or separate these corridors. Additionally, clearing associated with the Mod 5 development will be incremental and will not result in the adjacent habitat corridor becoming fragmented, as per the BDAR. The clearing of 51.69 ha of native vegetation will be concentrated to the eastern edge of the vegetation corridor and allow the retention of vegetation along the western edge, maintaining ecological function</p>	<p>credits will be secured exclusively within the regional biodiversity network.</p>
<p><b>Biodiversity Development Assessment Report (BDAR) not prepared in accordance with the Biodiversity Assessment Method (BAM) 2020</b></p>	<p>The BDAR has been updated with a complete table of mitigation measures addressing the listed direct, indirect and prescribed impacts and their likely efficacy (Table 18). Section 2.1.2 has been updated to better address the issues with allocating an alternative footprint, as identified by the proponent. In summary there are limited opportunities to avoid the impact because the location of the impact is determined by the location of the defined resource.</p>	<p><b>Not resolved.</b></p> <p>The amended application continues to fail to demonstrate a genuine and rigorous exploration of reasonable avoidance and minimisation measures.</p> <p>The BAM 2020 Operational Manual – Stage 2 explicitly requires that avoidance of impacts must be demonstrated. The BDAR, however, does not present any alternatives for the project location and merely states: <i>'It has been identified by the proponent that it is an unrealistic endeavour to shift the location of proposed development.'</i></p> <p>Given the extensive impacts on more than 50 hectares of environmentally sensitive land, reliance on a single unsubstantiated statement from the proponent to justify the absence of</p>

		<p>avoidance measures is wholly inadequate and represents a serious deficiency in the assessment.</p> <p>Furthermore, the BAM requires that a BDAR must clearly document the following, all of which have not been addressed by the applicant:</p> <ul style="list-style-type: none"> <li>• the evolution of the proposal to avoid biodiversity values on developable land;</li> <li>• a thorough exploration of the feasibility of alternative options (including cost-profit analyses);</li> <li>• spatial identification of relevant avoided areas (including maps and digital files);</li> <li>• analyses (including data), and explanations or justifications to support avoidance and minimisation decisions.</li> </ul> <p>Accordingly, the application should not be supported until the applicant can clearly demonstrate that reasonable avoidance and minimisation measures have been properly considered, documented, and justified in accordance with the BAM.</p>
	<p>EcoResolve will develop a relevant adaptive management strategy and update into the BDAR accordingly (2.6 Table 18 (Page 76)). Furthermore, a Biodiversity Management Plan (BMP) will be developed post approval, and it will contain further details pertaining to biodiversity management such as adaptive management through a Trigger Action Response Plan (TARP) process.</p>	<p><b>Not resolved.</b></p> <p>An Adaptive Management Strategy has not been provided, notwithstanding the commitments made in the EcoResolve and GHD response documents. It is of concern that these responses are not substantiated by corresponding amendments to the relevant documentation. Consequently, the matter remains unresolved and the BDAR is still not consistent with the requirements of the BAM.</p>

## 2. Contamination

The applicant has not adequately addressed Council's previous concerns reproduced below:

In regard to the submitted Contamination Assessment (CA, Appendix D1) and Remediation Action Plan (RAP, Appendix D2), the following issues are raised:

- (a) In Section 7.1.1.2 "Contamination" of the EIS, it is stated that: *"A search of the EPA Contaminated Land Record indicates that land within the Colliery is not identified as contaminated land"*. It should be noted that there are two avenues of regulation for contaminated land in NSW. The two different regulatory authorities and avenues are:
- o The EPA, which uses its powers under the *Contaminated Land Management Act 1997 (CLM Act)* to deal with contamination that is significant enough to warrant regulation given the site's current or approved use.
  - o Planning authorities, who deal with other contamination under the planning and development process, on sites which do not pose an unacceptable risk under their current use, and is or can be made suitable for the proposed use. This process determines what remediation is needed to make the land suitable for a different use.

As such, it is important to note that the EPA Contaminated Land Record of Notices only refers to the EPA avenue of regulation.

- (b) It is unclear how the documents relate to the modification application as they are not developed for the purpose of the application, and it is noted that they are limited in areas and media investigated. For the CA consultant stated that: *"The objective of this investigation is to assess potential soil contamination within the main operational areas of the Colliery to determine the remediation requirements to be implemented during closure at the Colliery."*, and for the RAP the consultant stated that: *"This report involves preparation of a remediation plan to treat the identified contamination at the Site so that it can be made suitable for proposed future land uses (bushland/grazing) after closure of the Colliery... This RAP covers the main operational and previously disturbed areas of the Colliery and does not include the undeveloped areas."* It is further stated that: *"This RAP applies only to contaminated soils within the operational areas and previously disturbed areas of the Colliery and does not include undeveloped areas. This RAP was based on the results of the Contamination Assessment Report (GHD, 2022) which included sampling and analysis for soils only. This RAP does not include remediation of tailings dams, sediments within storage dams and creeks, carbonaceous soils or geochemically unsuitable soils which will be addressed in separate documentation. This RAP does not cover demolition of infrastructure including the removal of underground or above ground storage tanks."*

- (c) The submitted contamination documents do not follow the steps of a contaminated land investigation process, as outlined in NSW EPA made and approved guidelines. Refer to (2020), "*Consultants reporting on contaminated land Contaminated Land Guidelines*" for objectives relating to each stage of the contaminated land process. The CA is limited in scope (as acknowledged by the consultant) and is not to be confused with a Preliminary Site Investigation or a Detailed Site Investigation in accordance with NSW EPA (2020). Further, sampling is limited to soil and to certain areas and analytes only, and the sampling program did not meet the requirements of the NSW EPA (2022), "*Sampling design part 1 - application Contaminated Land Guidelines*" and "*Sampling design part 2 - interpretation Contaminated Land Guidelines*"
- (d) The RAP identified the limitation of only assessing soil in certain areas, and defined further data gaps in Sec 5.2, and further investigation needed in Sec 7.3 of the RAP, to be assessed at a later stage before remediation, which is not in line with the RAP objectives (NSW EPA, 2020): "*The remedial action plan must:... define the extent of remediation required across the site*".
- (e) According to Cessnock Council's Contaminated Land Policy for Land Use Planning, all contaminated land reports are to be prepared, or reviewed and approved by, a certified consultant. The policy lists approved certification schemes. The attached reports did not have any certification details. It is also noted that the soil investigations were completed by Bloomfield under the guidance of GHD.

Thank you for the opportunity to provide comment on the response to submission report. If you have any questions or would like to discuss this submission further, please do not hesitate to contact the under signed on telephone 02 4939 1084 or via email [georgie.williams@maitland.nsw.gov.au](mailto:georgie.williams@maitland.nsw.gov.au)

Yours sincerely,



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Maitland City Council