TASMAN EXTENSION PROJECT

Project Description and Preliminary Environmental Assessment

October 2011

donaldson coal

TASMAN EXTENSION PROJECT

PROJECT DESCRIPTION AND PRELIMINARY ENVIRONMENTAL ASSESSMENT

OCTOBER 2011
Project No. DCL-09-01
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1 INTRODUCTION

1.1 PURPOSE AND STRUCTURE OF THIS DOCUMENT

Newcastle Coal Company Pty Ltd, a wholly owned subsidiary of Donaldson Coal Pty Limited (Donaldson Coal), is seeking consent for the extension of underground mining operations at the existing Tasman Underground Mine (herein referred to as the Tasman Extension Project [the Project]). Donaldson Coal is a wholly owned subsidiary of Gloucester Coal Limited.

This document has been prepared to disseminate Project information to key State regulatory agencies, facilitate the discussion of issues that will need to be addressed during the environmental assessment process and initiate the preparation of the Director-General's Requirements (DGRs) under clause 3 of Schedule 2 of the New South Wales (NSW) *Environmental Planning and Assessment Regulation, 2000* (EP&A Regulation).

The remainder of this document is structured as follows:

Section 1 Introduction – provides a background to the development of the Project and an overview of the proposed Project activities.

Section 2 Local and Regional Context – summarises the local and regional context of the Project (including surrounding development).

Section 3 Project Description and Justification – provides a clear and concise description of the Project, indicates the types of activities that will be undertaken, includes a justification for the Project and summarises alternatives to the Project considered.

Section 4 Planning Considerations – describes the permissibility of the Project and applicable statutory planning instruments and strategic planning documents.

Section 5 Preliminary Environmental Assessment – identifies key environmental issues of particular relevance to the Project, provides an analysis of the likely nature and extent of potential impacts, and identifies the level and scope of environment impact assessment to be undertaken for the Environmental Impact Statement (EIS).

Section 6 Stakeholder Consultation – outlines consultation (with the community, local councils and Government agencies) already undertaken and proposed to be carried out for the Project.

Section 7 References – Lists documents referenced in Sections 1 to 6.

1.2 BACKGROUND

Donaldson Coal's existing approved operations are located within the Newcastle Coalfield and include (Figure 1):

- Tasman Underground Mine;
- Donaldson Open Cut Mine; and
- Abel Underground Mine.

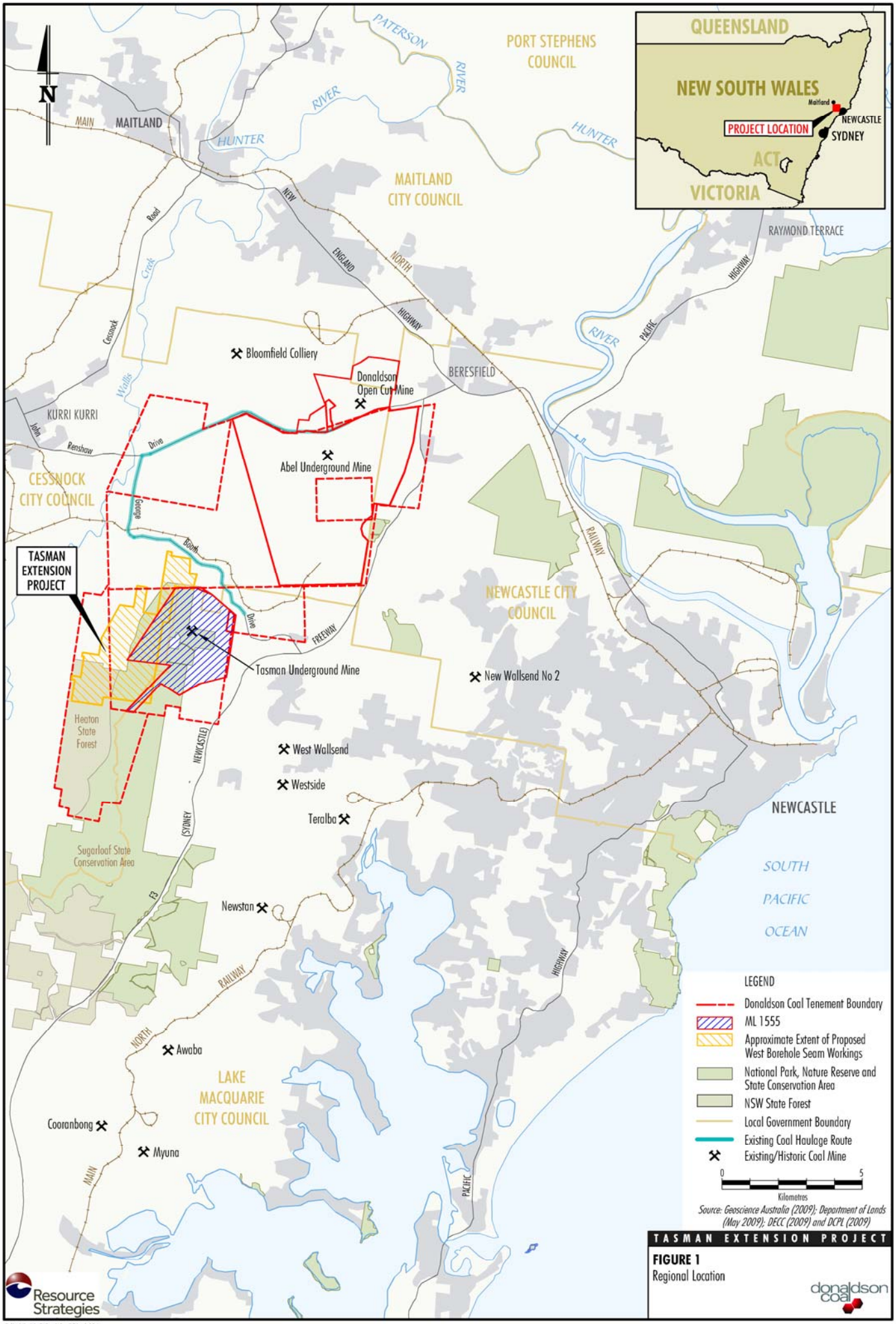
The Tasman Underground Mine is operated in accordance with an existing Development Consent (DA 274-9-2002). The Donaldson Open Cut Mine is operated in accordance with an existing Development Consent (DA 98/01173 and 118/698/22) and the Abel Underground Mine is operated in accordance with an existing Project Approval (05_0136).

Tasman Underground Mine

The Tasman Underground Mine is an underground coal mining operation located approximately 20 kilometres (km) west of the Port of Newcastle, NSW in the Newcastle Coalfield (Figure 1). The Tasman Underground Mine is owned and operated by Donaldson Coal.

The potential environmental impacts of the existing Tasman Underground Mine were assessed in the *Tasman Underground Mine Environmental Impact Statement* (Newcastle Coal Company Pty Limited, 2002).

Development Consent (DA 274-9-2002) for the Tasman Underground Mine was granted on 16 March 2004 by the then NSW Minister for Infrastructure and Planning pursuant to section 80 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act). No modifications to the Development Consent (DA 274-9-2002) have been made to date.



TASMAN EXTENSION PROJECT

FIGURE 1
Regional Location

Resource Strategies

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Construction at the Tasman Underground Mine commenced in May 2006, with underground mining commencing in September 2006. The Tasman Underground Mine produces approximately 975,000 tonnes per annum (tpa) of run-of-mine (ROM) coal using bord and pillar mining methods with a combination of total and partial extraction.

Subsidence Management Plan (SMP) Approval has been granted for the following:

- Panel 1;
- Panels 2 to 4;
- Panel 5;
- Panels 6 to 9; and
- Panels 10 to 15.

ROM coal produced at the Tasman Underground Mine is transported by public and private road approximately 16 km to the Bloomfield Coal Preparation Plant (CPP) where the coal is processed prior to rail transport to Newcastle.

Bloomfield Collieries Pty Limited (Bloomfield) own and operate the Bloomfield CPP within Consolidated Coal Lease (CCL) 761. The Bloomfield CPP operates under the Abel Underground Mine Project Approval (05_0136).

Donaldson Coal continues to operate in a co-operative manner with the Bloomfield Colliery operations. Commercial arrangements exist between Donaldson Coal and Bloomfield for the handling and processing of ROM coal at the Bloomfield CPP and loading of trains for transport to customers.

1.3 PROJECT OVERVIEW

The Project is a proposed extension of underground mining operations at the Tasman Underground Mine for an additional operational life of approximately 15 years.

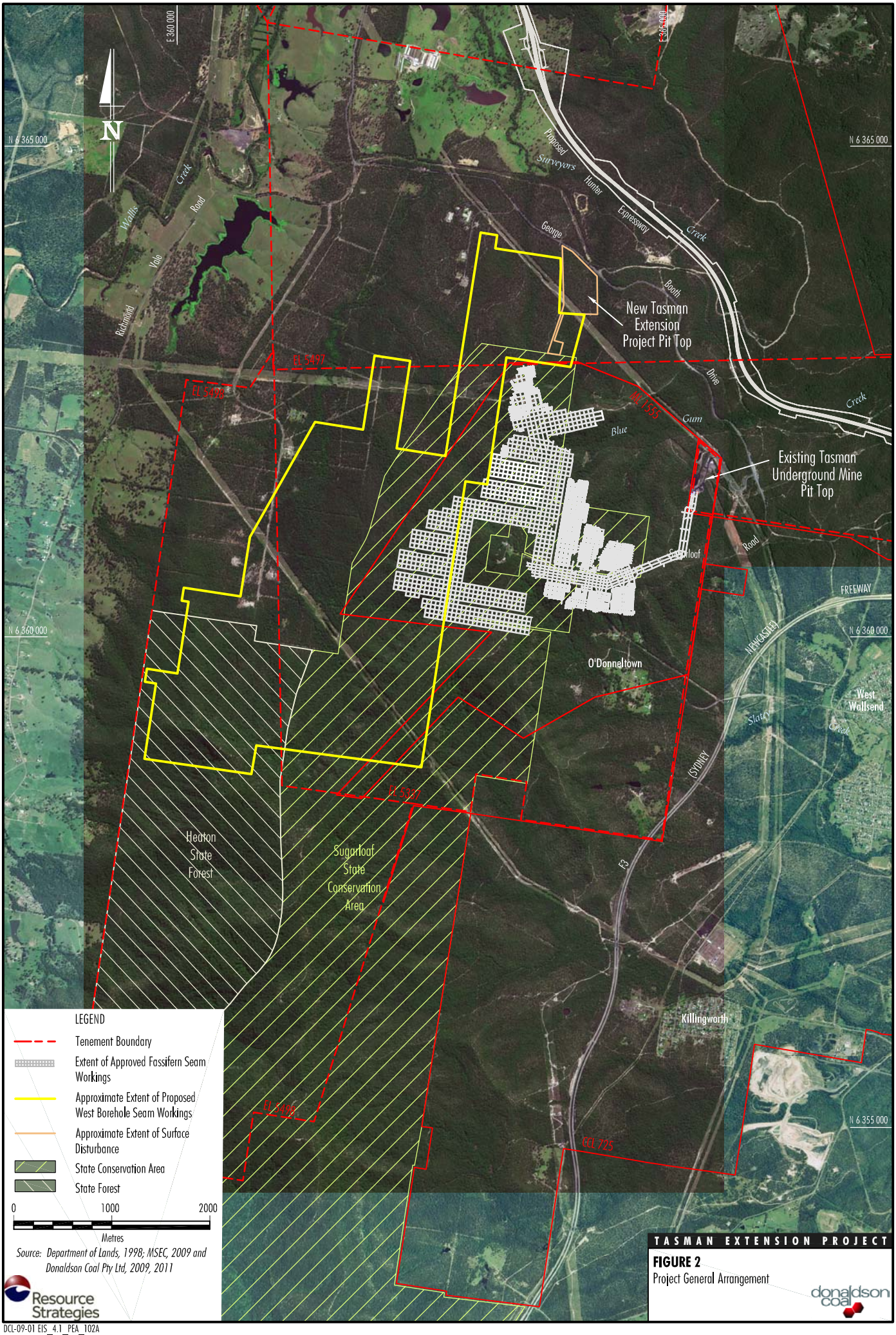
Donaldson Coal is seeking approval from the NSW Minister for Planning and Infrastructure for a new Development Consent under Division 4.1 of Part 4 of the EP&A Act for the Project which would consolidate and replace the existing Development Consent (DA 274-9-2002) for the Tasman Underground Mine.

The Project would include the following activities:

- continued underground mining of the Fassifern Seam using a combination of total and partial pillar extraction methods within Mining Lease (ML) 1555 (Figure 2);
- underground mining of the West Borehole Seam using a combination of total and partial pillar extraction methods (Figure 2);
- production of ROM coal up to 1.5 million tonnes per annum (Mtpa);
- development of a new pit top and associated ROM coal handling infrastructure off George Booth Drive (Figure 2);
- development of ventilation surface infrastructure;
- continued transport of Fassifern Seam ROM coal from the existing Tasman Underground Mine pit top to the Bloomfield CPP via truck on public and private roads (Figure 1);
- transport of West Borehole Seam ROM coal from the new pit top to the Bloomfield CPP via truck on public and private roads;
- progressive development of sumps, pumps, pipelines, water storages and other water management equipment and structures;
- ongoing exploration activities within existing exploration and mining lease tenements;
- ongoing surface monitoring, rehabilitation and remediation of subsidence effects; and
- other associated minor infrastructure, plant, equipment and activities.

An indicative Project general arrangement is shown on Figure 2 including the extent of underground mining in the Fassifern and West Borehole seams.

Additional details of each of the main Project components are provided in Section 3.



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2 LOCAL AND REGIONAL CONTEXT

2.1 LOCATION AND MINING TENEMENTS

The existing Tasman Underground Mine is located approximately 20 km west of the Port of Newcastle within ML 1555. The Project would involve the extension of underground mining west and north into Exploration Lease (EL) 5337, EL 5498 and EL 5497.

The Development Application Area is provided in Attachment A and a Schedule of Lands is provided in Attachment B.

The Development Application Area[1] is within the Cessnock and Lake Macquarie Local Government Areas (LGAs) (Figure 1).

2.2 LAND USE AND BUILT FEATURES

The majority of the Development Application Area comprises vegetated land reserved as the Sugarloaf State Conservation Area and Heaton State Forest (Figure 3). This vegetation forms part of a corridor of contiguous vegetation that links Sugarloaf Range to the Watagan Mountains in the south (NSW Department of Environment, Climate Change and Water [DECCW], 2008). Private land holdings occur within the western and northern portions of the Development Application Area.

Existing development immediately surrounding the Development Application Area includes:

- transmission lines;
- communication infrastructure (including towers on Mount Sugarloaf and buried fibre optic cables);
- Sydney Newcastle (F3) Freeway, George Booth Drive, Mount Sugarloaf Road and other minor roads;
- Orica Limited's technical and research facility off George Booth Drive; and
- locality of O'Donneltown and township of West Wallsend.

The operational mines in the vicinity of the Development Application Area include (Figure 1):

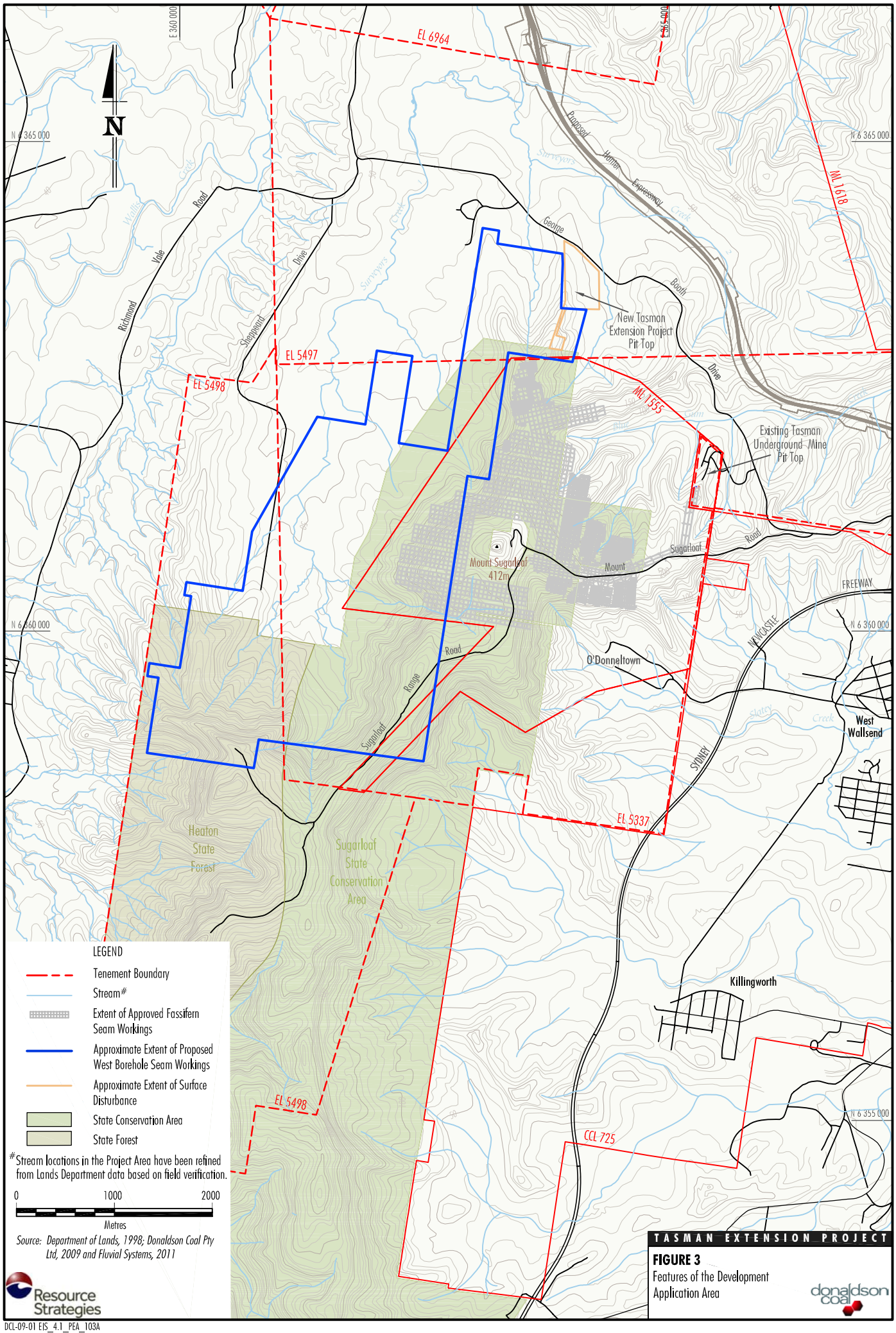
- the existing Tasman Underground Mine;
- West Wallsend Colliery, approximately 5 km south-east;
- Westside Colliery, approximately 6 km south-east;
- Abel Underground Mine, approximately 8 km north-east;
- Donaldson Open Cut Mine, approximately 10 km north-east; and
- Bloomfield Colliery, approximately 10 km north-northeast.

Construction has commenced on the Hunter Expressway to the north-east of the Development Application Area (Figure 3). The four-lane expressway is scheduled to be open to traffic by the end of 2013 (weather permitting) (NSW Roads and Traffic Authority, 2011) and is predicted to reduce traffic volumes on George Booth Drive and John Renshaw Drive (Hyder Consulting, 2008).

Road upgrades were undertaken by Donaldson Coal at a number of locations on public roads prior to development of the Tasman Underground Mine, in accordance with the Development Consent (DA 274-9-2002), including:

- construction of the seagull type intersection at the George Booth Drive/Tasman Mine access road intersection;
- construction of an auxiliary climbing lane on the westbound carriageway on George Booth Drive from Blue Gum Creek to the west for a distance of 1,200 m;
- construction of an auxiliary climbing lane on the eastbound carriageway of George Booth Drive over a distance of between 1,200 m to 2,800 m from the proposed mine access;
- construction of an auxiliary climbing lane on the eastbound carriageway of John Renshaw Drive to the east of George Booth Drive for a distance of 1,200 m;
- construction of sealed passing lanes on George Booth Drive at each property access between Richmond Vale Road and John Renshaw Drive;
- widening of the road shoulders on George Booth Drive between the Tasman Mine access road and John Renshaw Drive; and
- upgrading of the intersection of John Renshaw Drive and George Booth Drive to a roundabout

[1] Note the Development Application Area may be subject to change following further environmental assessment and mine planning studies conducted for the EIS.



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2.3 TOPOGRAPHY AND WATER RESOURCES

The topography of the Development Application Area is defined by the Sugarloaf Range trending north-south, with Mount Sugarloaf the highest topographic point at 412 metres (m) Australian Height Datum (AHD). The Development Application Area is characterised by undulating to steep terrain comprising the prominent Sugarloaf Range ridgeline spur and several natural drainage gullies (Figure 3).

The majority of the Development Application Area is within the headwaters of the Wallis Creek catchment, which flows into the Hunter River near Maitland (Figure 1). Other portions of the Development Application Area are located in the ephemeral headwaters of Blue Gum Creek that flow to Hexham Swamp approximately 8 km east, and within the headwaters of the Cockle Creek catchment which flows into the northern end of Lake Macquarie.

Aquifers in the vicinity of the Development Application Area are limited to alluvial deposits associated with existing drainage channels (such as the headwaters of Blue Gum Creek and Wallis Creek), and the deep hardrock coal measure aquifers (Newcastle Coal Company Pty Limited, 2002). The alluvial aquifers in proximity to the Development Application Area have limited storage potential and are therefore generally not used for water supply (Newcastle Coal Company Pty Limited, 2002).

2.4 ENVIRONMENTALLY SENSITIVE AREAS

A preliminary investigation of environmentally sensitive areas of State significance (as defined in the *State Environmental Planning Policy (State and Regional Development) 2011* [State and Regional Development SEPP]) with respect to the Project has identified the following:

- The Development Application Area is not within coastal waters of the State.
- No lands protected or preserved under *State Environmental Planning Policy No. 14 - Coastal Wetlands* or *State Environmental Planning Policy No. 26 - Littoral Rainforests* occur within the Development Application Area.
- No lands reserved as an aquatic reserve under the NSW *Fisheries Management Act, 1994* or as a marine park under the NSW *Marine Parks Act, 1997* occur within the Development Application Area.
- No lands within a wetland of international significance declared under the Ramsar Convention on Wetlands or lands within a World Heritage area declared under the World Heritage Convention occur within or near the Development Application Area.
- No lands identified in an Environmental Planning Instrument (EPI) as being of high Aboriginal cultural significance or high biodiversity significance have been identified within the Development Application Area at this stage. Further investigations would be undertaken as a component of the EIS.
- No lands, places, buildings or structures listed on the State Heritage Register under the *Heritage Act, 1977* occur within the Development Application Area.
- No lands declared as critical habitat under the NSW *Threatened Species Conservation Act*, *1995* or *Fisheries Management Act, 1994* occurs within the Development Application Area.
- Reserve 89127 reserved under the NSW *Crown Lands Act, 1989* for the preservation of native flora and fauna, public recreation and communication facilities is located within the Development Application Area.
- Sugarloaf State Conservation Area reserved under the NSW *National Parks and Wildlife Act, 1974* occurs within the Development Application Area.

The Sugarloaf State Conservation Area was created in July 2007 and covers an area of approximately 3,937 hectares (NSW Office of Environment and Heritage [OEH], 2011).

The Sugarloaf State Conservation Area is within the area covered by the *Lower Hunter Regional Conservation Plan* (DECCW, 2009). DECCW (2009) recognises:

> *…The State Conservation Area category under the NPW Act was used in areas that retained the potential for underground mining (or for current operations). This category permits underground mining and recognises that mining may generate some surface impacts (mainly of a temporary nature) including subsidence and where ventilation or access infrastructure is required…*

There is no known plan of management for the Sugarloaf State Conservation Area. However, further consultation in this regard will continue to be conducted with the OEH during preparation of the EIS.

3 PROJECT DESCRIPTION AND JUSTIFICATION

3.1 PROPONENT

Newcastle Coal Company Pty Ltd (ABN 40 074 900 208), a wholly owned subsidiary of Donaldson Coal (ABN 87 073 088 945), is the proponent for the Project. The contact details for Donaldson Coal are:

Donaldson Coal Pty Limited
Level 7, 167 Macquarie Street
Sydney NSW 2000 Australia
Phone: (02) 9220 9900

Further information on the proponent and its coal mining operations can be found at:

http://www.gloucestercoal.com.au/

3.2 PROJECT DESCRIPTION

The Project is a proposed extension of underground mining operations at the Tasman Underground Mine for an additional operational life of approximately 15 years.

An indicative Project general arrangement is shown on Figure 2 including the extent of underground mining in the Fassifern and West Borehole seams.

As stated in Section 1.3, Donaldson Coal intends to consolidate the existing Development Consent (DA 274-9-2002) into one Development Consent, including the Project.

Table 1 provides a summary of activities associated with the existing Tasman Underground Mine and those proposed by the Project.

Additional details of each of the main Project components are discussed below.

Table 1
Overview of the Existing Tasman Underground Mine and the Project

Project Feature	Existing Tasman Underground Mine	Project
Mine Life	Scheduled cessation of mining at end of 2014. Existing ML 1555 is valid to 26 September 2025.	Additional operational life of approximately 15 years.
Mining Method and ROM Coal Production	Bord and pillar mining with a combination of total and partial pillar extraction supplemented by augering. ROM coal production of up to approximately 975,000 tpa.	No change to mining method. ROM coal production of up to approximately 1.5 Mtpa.
Coal Seam/s	Underground mining of the Fassifern Seam.	Continuation of mining of the Fassifern Seam. Underground mining of the West Borehole Seam.
ROM Coal	Production of approximately 10 Million tonnes (Mt).	Production of approximately 20 Mt (additional).
Surface Infrastructure Area and Mine Entry	Tasman Underground Mine pit top off George Booth Drive comprising ROM coal handling infrastructure, administration facilities, worker amenities and stores buildings, workshop compound, bunded fuel tank area, transformer and mine infrastructure. Decommissioning and rehabilitation of the existing Tasman Underground Mine pit top at the end of the mine life.	Development of new pit top off George Booth Drive comprising ROM coal handling infrastructure, administration facilities, worker amenities and stores buildings, workshop compound, bunded fuel tank area, transformer and mine infrastructure. Decommissioning and rehabilitation of the existing Tasman Underground Mine pit top following completion of mining in the Fassifern Seam. Decommissioning and rehabilitation of the new pit top at the end of the Project life.
ROM Coal Transport	Transport of ROM coal approximately 16 km by George Booth Drive, John Renshaw Drive and Donaldson Open Cut Mine internal roads to Bloomfield CPP. Transport of up to 4,000 tonnes per day. Movement of coal by road restricted to 7.00 am to 10.00 pm Monday to Friday. No coal transport by road on weekends or public holidays.	Transport of ROM coal from the Tasman Underground Mine pit top and new pit top by George Booth Drive, John Renshaw Drive and Donaldson Open Cut Mine internal roads to Bloomfield CPP. Transport of up to 4,000 tonnes per day prior to commissioning of the Hunter Expressway and up to 6,200 tonnes per day following commissioning of the Hunter Expressway. Movement of coal by road restricted to 7.00 am to 10.00 pm Monday to Friday and 7.00 am to 6.00 pm Saturday. No coal transport by road on Sunday or public holidays.

Table 1 (Continued)
Overview of the Existing Tasman Underground Mine and the Project

Project Feature	Existing Tasman Underground Mine	Project
Ventilation	Ventilation fan at Tasman Underground Mine pit top.	Installation of a new main surface fan on an upcast ventilation shaft.
Water Management	Water management system comprises water management storages, runoff diversions and control, sediment control, mine dewatering and sewage treatment. Make-up water trucked from Bloomfield Colliery or Donaldson Open Cut Mine, if required. Excess water stored, trucked off-site or stored in underground workings.	No change.
Hours of Operation	24 hours per day, seven days per week.	No change.
Operational Workforce	Approximately 110 personnel (excluding service providers and general management).	No change in operational workforce.
Power Supply	11 kilovolt (kV) electricity transmission line from West Wallsend.	Power supply infrastructure for the new pit top would be the subject of a separate assessment approvals processes.
Exploration	Exploration activities within ML 1555 and EL 5337.	Ongoing exploration activities within ML 1555, EL 5337, EL 5498 and EL 5497.
Monitoring of Subsidence Impacts	Monitoring of subsidence and subsidence impacts over proposed underground mining and mine development areas.	No change.
Remediation and Rehabilitation Works	Progressive rehabilitation of surface disturbance areas (e.g. exploration drill pads). Remediation of previously mined areas impacted by subsidence effects, where required.	Ongoing surface rehabilitation, mitigation and remediation works. Rehabilitation of mine related infrastructure areas that are no longer required.

Underground Mining Operations

Donaldson Coal is currently mining within the Fassifern Seam at the Tasman Underground Mine in accordance with its existing Development Consent (DA 274-9-2002). The Tasman Underground Mine is a bord and pillar operation, which uses continuous miners for first workings and secondary partial extraction.

The Project would involve the continuation of mining of the Fassifern Seam using bord and pillar mining methods with partial extraction.

The Project would also involve mining of the West Borehole Seam using bord and pillar mining methods with a combination of total and partial extraction. The indicative underground mining area within the West Borehole Seam is shown on Figure 2.

The West Borehole seam is the basal coal unit of the Newcastle Coal Measures and is located approximately 175 m below the Fassifern Seam.

The layout and design of bord and pillar panels within the proposed areas would be subject to the subsidence assessment, environmental assessment and Donaldson Coal's mine planning process and would be detailed in the EIS.

Replacement underground mining equipment would be required over the life of the Project in order to maintain production capacity.

It is anticipated that if the Project is approved, the Development Consent would include the approved Fassifern Seam workings (including current and previously mined areas), as well as the proposed West Borehole Seam workings (Figure 2).

Life of Mine

The mining life would be extended to allow for approximately an additional 15 years of mining with a resource of approximately 20 Mt.

Operational Hours

As part of the Project, it is proposed that mining activities would continue to be undertaken 24 hours/day, 7 days/week.

Surface Infrastructure

The existing Tasman Underground Mine workings are accessed from an existing pit top off George Booth Drive. The existing Tasman Underground Mine pit top comprises ROM coal handling infrastructure, administration facilities, worker amenities and stores buildings, workshop compound, bunded fuel tank area, transformer and mine infrastructure.

The Project would involve the development of a new pit top off George Booth Drive approximately 2 km north-west of the existing Tasman Underground Mine pit top on land owned by Donaldson Coal (Figure 2). The new pit top would provide access to the West Borehole Seam.

The new pit top would comprise ROM coal handling infrastructure, administration facilities, worker amenities and stores buildings, workshop compound, bunded fuel tank area, transformer and mine infrastructure.

Development of the access road to the new pit top would involve construction of a new intersection with George Booth Drive.

Additional ventilation surface infrastructure would also be required for Project. The location of ventilation surface infrastructure would be subject to environmental assessment and Donaldson Coal's mine planning process and would be detailed in the EIS.

Following completion of mining in the Fassifern Seam the existing Tasman Underground Mine pit top would be decommissioned and rehabilitated.

ROM Coal Handling and Transport

ROM coal mined from the Fassifern Seam at the existing Tasman Underground Mine is stockpiled at the existing pit top and transported by truck (up to 19 m long Stag B-Double) to the Bloomfield CPP along public and private roads (Figure 1).

As described in Section 2.2, road upgrades were undertaken by Donaldson Coal at a number of locations on public roads prior to development of the Tasman Underground Mine. No crashes involving trucks transporting ROM coal from the Tasman Underground Mine have been reported to date.

As a component of the Project, ROM coal from the Fassifern Seam and West Borehole Seam would be stockpiled at the existing Tasman Underground Mine and new pit top, respectively.

ROM coal would then be reclaimed from the stockpiles by Front End Loader and loaded onto trucks for transport to the Bloomfield CPP for processing.

ROM coal would be transported along George Booth Drive and John Renshaw Drive to the Donaldson Open Cut Mine, and then along internal roads to the Bloomfield CPP.

Completion of mining in the Fassifern Seam would result in a reduction in the distance of ROM coal haulage by approximately 3 km.

ROM coal transport for the Project would be maintained at existing approved volumes of up to 4,000 tonnes per day prior to commissioning of the Hunter Expressway which is scheduled for the end of 2013 (Section 2.2). Following commissioning of the Hunter Expressway, the Project would involve ROM coal transport of up to 6,200 tonnes per day.

Movement of ROM coal by road would be restricted to 7.00 am to 10.00 pm Monday to Friday and 7.00 am to 6.00 pm Saturday, unless as otherwise agreed by the Director-General of the Department of Planning and Infrastructure (DP&I). ROM coal transport on Saturdays would be on a limited basis and would be further described and assessed in the EIS. No ROM coal transport would occur during Sunday or public holidays.

Water Supply and Management

The existing Tasman Underground Mine water management system comprises the following:

- separation of undisturbed area runoff from disturbed area runoff;
- collection and reuse of surface runoff from disturbed areas;
- capture of groundwater inflows and reuse as process water or reinjection into abandoned workings within the West Borehole Seam; and
- delivery of make-up water from the Bloomfield Colliery and/or Donaldson Open Cut Mine.

Water management infrastructure such as sumps, pumps, pipelines and water storages would be developed or upgraded/replaced as required over the Project life.

As part of the EIS, a site water balance model would be developed for the Project (Section 5).

Power Supply

Power supply infrastructure would be required for the new pit top and would be the subject of a separate assessment and approvals processes.

Other Activities

Other activities that would be conducted as a component of the Project include exploration, monitoring, remediation of subsidence impacts, rehabilitation of surface disturbance, and development of other associated minor infrastructure, plant, equipment and activities.

Employment

The Project would facilitate the continued employment of the existing 110 employees associated with the Tasman Underground Mine.

Employment of up to approximately 20 personnel would be required for the construction of the new pit top and development mains. The construction phase would be approximately 24 months.

Capital Investment Value

The expected capital investment value for the Project is in the order of $25 million.

Project Integration

ROM coal produced by the Project would continue to be processed at the Bloomfield CPP prior to rail transport to Newcastle.

The Bloomfield CPP operates under the Abel Underground Mine Project Approval (05_0136) with a maximum approved ROM coal production rate of 6.5 Mt per annum and an approved processing life to approximately 2030.

Under the Abel Underground Mine Project Approval (05_0136), former underground workings and open cut voids at the Bloomfield Colliery would continue to be used for tailings and coarse reject disposal.

The Project Approval (05_0136) for the Bloomfield CPP would be modified separately as required to allow for the receipt and management of Project ROM coal and associated rejects.

Donaldson Coal continues to operate in a co-operative manner with the Bloomfield Colliery operations. Commercial arrangements exist between Donaldson Coal and Bloomfield for the handling and processing of ROM coal at the Bloomfield CPP and loading of trains for transport to customers. These commercial arrangements would be reviewed and revised throughout the life of the Project, if required.

3.3 PROJECT JUSTIFICATION OVERVIEW

Alternatives Considered

Alternatives to the proposed location, scale and mining methods have been considered by Donaldson Coal in the development of the Project description. An overview of the alternatives considered is provided in the points below:

- **Project Location** – the location of the Project is determined by the presence of coal seams able to be economically mined in the vicinity of the Tasman Underground Mine. This location continues the use of existing Bloomfield CPP and rail loading infrastructure.
- **Surface Facilities** – Donaldson Coal has evaluated a number of options for access to the West Borehole Seam including developing drifts from the existing workings and a number of locations for pit tops. Developing a drift from the existing Fassifern Seam workings to the West Borehole Seam was determined to be infeasible due to economic and technical constraints. The proposed new pit top location was determined based on distance and depth to the West Borehole Seam, land ownership and reducing trucking distance to the Bloomfield CPP.
- **Scale** – the Project mining reserve is estimated at approximately 20 Mt of ROM coal within the West Borehole Seam. Resource definition and exploration drilling conducted by Donaldson Coal indicates that this is the optimum scale of the Project.
- **Mining Method** – the depth of cover and the sensitivity of the land use means that the coal resource is amenable to underground mining methods and is not well suited to open cut mining methods. Due to the irregular shaped coal deposits and the low ROM coal production rate, bord and pillar mining methods are the preferred mining method over longwall mining. A combination of total and partial pillar extraction methods maximise the efficiency and recovery of the Project while allowing for adjustment of extraction to manage subsidence impacts.

Further consideration of alternatives to location, scale, methods and management would be undertaken as a component of comprehensive assessment undertaken for the EIS.

Project Justification

The Project would facilitate the continued employment of some 110 employees and the employment of an additional 20 employees during the construction phase. The Project would also result in the continued payment of royalties to the State and other tax payments. The bord and pillar mining method facilitates minimisation and management of potential subsidence impacts on significant surface features.

Full justification of the Project on social, environmental and economic grounds, including consideration of the principles of Ecologically Sustainable Development (ESD), would be included in the EIS.

4 PLANNING CONSIDERATONS

4.1 APPLICABILITY OF DIVISION 4.1 OF PART 4 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

Approval for the Project will be sought under the State Significant Development provisions (Division 4.1) under Part 4 of the EP&A Act. The EP&A Act and EP&A Regulation set the framework for planning and environmental assessment in NSW.

Clause 5 of Schedule 1 of the State and Regional Development SEPP provides:

> ***5 Mining***
>
> *(1) Development for the purpose of mining that:*
>
> *(a) is coal or mineral sands mining…*

is State Significant Development for the purposes of the EP&A Act.

The Project represents development for the purpose of coal mining (Section 3.2).

In view of the foregoing, it is anticipated that the Minister for Planning and Infrastructure would form the view that the Project is a project to which Division 4.1 of Part 4 applies.

Development Consent will thus be sought from the NSW Minister for Planning and Infrastructure.

4.2 PLANNING PROVISIONS

State Environmental Planning Policies

The following State Environmental Planning Policies (SEPPs) may potentially be relevant to the Project:

- *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* (Mining SEPP);
- *State Environmental Planning Policy No. 33 (Hazardous and Offensive Development)* (SEPP 33);
- *State Environmental Planning Policy No. 44 - Koala Habitat Protection*;
- *State Environmental Planning Policy No. 55 (Remediation of Land)*; and
- *Hunter Regional Environmental Plan 1989 (Heritage).*

Relevant provisions and objectives of the above SEPPs would be considered in the preparation of the EIS.

Local Environmental Plans

The Development Application Area is within the Cessnock and Lake Macquarie LGAs (Figure 1).

The Development Application Area is located within the lands covered by the *Lake Macquarie Local Environmental Plan 2004* (Lake Macquarie LEP) and the *Cessnock Local Environmental Plan 1989* (Cessnock LEP).

In addition, a *Draft Cessnock Local Environmental Plan 2010* (Draft Cessnock LEP) is currently in preparation and may be gazetted prior to lodgement of the EIS.

The Lake Macquarie LEP, Cessnock LEP and Draft Cessnock LEP are discussed further in Attachment C.

Mining Act, 1992

Donaldson Coal will lodge Mining Lease Applications (MLAs) separately with the Division of Resources and Energy (DRE) (within the NSW Department of Trade and Investment, Regional Infrastructure and Services) for Project development areas outside the existing ML 1555. Indicative MLA areas are shown in Attachment A.

Under the NSW *Mining Act, 1992*, environmental protection and rehabilitation are regulated by conditions included in all mining leases, including requirements for the submission of a Mining Operations Plan prior to the commencement of operations, and subsequent Annual Environmental Management Reports.

Under section 89K(1)(c) of the EP&A Act, if the Project is approved as State Significant Development, mining leases granted under the *Mining Act, 1992* cannot be refused and is to be substantially consistent with any Development Consent granted under Division 4.1 of Part 4 of the EP&A Act.

Protection of the Environment Operations Act, 1997

The NSW *Protection of the Environment Operations Act, 1997* (PoEO Act) and the NSW *Protection of the Environment Operations (General) Regulation, 2009* set out the general obligations for environmental protection.

The Tasman Underground Mine currently operates under Environmental Protection Licence (EPL) 12483.

If the Project is approved, Donaldson Coal would apply for a revision of EPL 12483 for the Project.

Under section 89K(1)(e) of the EP&A Act, if the Project is approved as State Significant Development, an EPL under the PoEO Act cannot be refused and is to be substantially consistent with any Development Consent granted under Division 4.1 of Part 4 of the EP&A Act.

Mine Subsidence Compensation Act, 1961

The Development Application Area is located partially within the Killingworth-Wallsend Mine Subsidence District.

Under section 15 of the NSW *Mine Subsidence Compensation Act, 1961*, approval is required from the Mine Subsidence Board to alter or erect improvements or to subdivide land within a mine subsidence district.

If the Project is approved, Donaldson Coal would apply for the necessary approvals associated with the development or alteration of improvements associated with the Project.

Roads Act, 1993

If the Project is approved, Donaldson Coal would apply for the necessary consents under section 138 of the NSW *Roads Act, 1993* associated with mining under any public road and the construction of an intersection of the access road to the new pit top with George Booth Drive (Section 3.2).

Under section 89K(1)(f) of the EP&A Act, if the Project is approved as State Significant Development, consent under section 138 of the *Roads Act, 1993* cannot be refused and is to be substantially consistent with any Development Consent granted under Division 4.1 of Part 4 of the EP&A Act.

Sugarloaf State Conservation Area

The Development Application Area includes a portion of the Sugarloaf State Conservation Area. As such, clauses 49(1) and 49(5) of the EP&A Regulation provide that the consent of the NSW Minister for the Environment must be obtained in respect of the Development Application.

Donaldson Coal will consult with OEH and the NSW Minister for the Environment with respect to this requirement (Section 6).

Commonwealth Environment Protection and Biodiversity Conservation Act, 1999

The Project would be referred to the Commonwealth Minister for the Environment for consideration as to whether the Project is a 'Controlled Action' and requires approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act, 1999* (EPBC Act). The existing Tasman Underground Mine was declared 'Not a Controlled Action' under the EPBC Act on 9 May 2002.

Commonwealth Native Title Act, 1993

The Commonwealth *Native Title Act, 1993* (CNTA) provides for the recognition and protection of native title rights in Australia. The CNTA provides a mechanism to determine whether native title exists and what the rights and interests are that comprise that native title. The process is designed to ensure that indigenous people who profess an interest in the land (or any part thereof) have the opportunity to express this interest formally, and to negotiate with the Government and the applicant about the proposed grant or renewal, or consent to access native title land.

The NSW *Mining Act, 1992* must be administered in accordance with the CNTA. The primary effect of the CNTA on exploration and mining approvals is to provide native title parties with a 'Rights to Negotiate' about the grant and some renewals by governments of exploration and mining titles.

The CNTA, where applicable, would be complied with in relation to the granting and renewal of any necessary mining tenements for the Project.

4.3 PLANNING STRATEGIES

The following strategic planning documents would be considered in the planning of the Project and the preparation of the EIS:

- *Lower Hunter Regional Strategy* (NSW Department of Planning [DoP], 2006);
- *Lower Hunter Regional Conservation Plan* (DECCW, 2009); and
- *Hunter-Central Rivers Catchment Action Plan* (Hunter-Central Rivers Catchment Management Authority, 2007).

4.4 PERMISSIBILITY OF THE PROJECT

Section 89E of the EP&A Act provides that development consent may not be granted under Division 4.1 of Part 4 if the development is *wholly* prohibited by an environmental planning instrument, but may be granted despite the development being *partly* prohibited by an environmental planning instrument.

Attachment C describes the permissibility of the Project under the Lake Macquarie LEP, Cessnock LEP and Draft Cessnock LEP.

The effect of the Mining SEPP is that notwithstanding any prohibition in Local Environmental Plans, development for the purpose of underground mining may be carried out with development consent.

5 PRELIMINARY ENVIRONMENTAL ASSESSMENT

The following preliminary environmental assessment has been prepared to identify the key potential environmental issues associated with the construction and operation of the Project. This information has been prepared to assist the DP&I with the issuing of the DGRs for the Project under clause 3 of Schedule 2 of the EP&A Regulation.

This preliminary environmental assessment has drawn on:

- experience from key environmental management and impact assessment issues at the Tasman Underground Mine;
- understanding of the local and regional context (Section 2) and the Project (Section 3);
- feedback from stakeholder consultation undertaken to date; and
- the outcomes of an environmental risk assessment workshop held in August 2011.

The environmental risk assessment workshop was undertaken cognisant of Australian/New Zealand Standard (AS/NZ) 31000:2009 *Risk Management Principles and Guidelines*, Handbook (HB) 203:2006 *Environmental Risk Management – Principles and Process* and MDG1010 *Risk Management Handbook for the Mining Industry* (NSW Department of Primary Industries, 1997).

The environmental risk assessment workshop was facilitated by Safe Production Solutions Pty Ltd and was attended by representatives from:

- Donaldson Coal;
- Resource Strategies;
- Ditton Geotechnical Services (*subsidence*);
- RPS Aquaterra (*groundwater*);
- Evans & Peck Pty Ltd (*surface water*);
- Fluvial Systems Pty Ltd (*geomorphology*);
- Hunter Eco (*biodiversity*);
- Biosphere Environmental Services Pty Ltd (*biodiversity*);
- Halcrow Pacific Pty Ltd (*road transport*);
- SLR Consulting Pty Ltd (*noise*); and
- PAEHolmes (*air quality*).

The preliminary environmental assessment involved the following steps:

1. **Identification of Potential Issues –** Consideration of how the project is likely to affect the physical or biological aspects of the environment; natural or community resources; environmentally sensitive areas; areas allocated for conservation purposes; and areas sensitive because of community factors.
2. **Identification of Key Potential Environmental Issues –** Based on the results of the environmental risk assessment workshop, what are the key issues, considering the extent of the potential impacts; the nature of the potential impacts; and the potential impacts on environmentally sensitive areas.
3. **Preliminary Consideration of the Study Requirements** – Each of the key environmental issues identified above were considered with respect to the level and scope of assessment that would be required for the EIS.

The key environmental issues identified by the environmental risk assessment workshop are provided in Table 2 with a preliminary list of study requirements to address these issues. Recognised specialists will be commissioned to conduct the studies outlined in Table 2, and independent peer review will be conducted of key studies.

In addition to consideration of the key potential environmental impacts (Table 2), the following studies would be undertaken as a component of the EIS to address other potential impacts:

- subsidence assessment of potential impacts on built features (including transmission lines and residences);
- site water balance;
- noise impact assessment;
- air quality assessment;
- greenhouse gas assessment (including scope 1, 2 and 3 emissions);
- non-Aboriginal heritage assessment;
- rehabilitation strategy; and
- preliminary hazard analysis in accordance with SEPP 33.

Table 2
Key Potential Environmental Issues and Required Level and Scope of Environmental Assessment

Key Potential Environmental Issue	Likely Extent and Nature of Potential Impacts	Proposed Level and Scope of Environmental Assessment
Subsidence impacts on cliffs and steep landforms.	• Potential visual, environmental and safety impacts as a result of subsidence related impacts on cliffs and steep landforms (e.g. rock fall).	• Subsidence assessment of potential subsidence effects on cliffs and steep landforms. • Assessment of potential impacts on any terrestrial and aquatic species, populations, ecological communities or their habitats. • Iterative mine design process to avoid or minimise potential subsidence on cliffs and steep landforms.
Subsidence related impacts on groundwater resources and groundwater dependent ecosystems.	• Potential depressurisation of coal seam aquifers and shallow perched aquifers as a result of underground mining. • Potential subsidence related impacts on groundwater dependent ecosystems. • Potential impacts on other groundwater users in the vicinity of the Project and potential reduction in baseflow contributions to local watercourses.	• Assessment of potential changes in fracture porosity and permeability of strata overlying the mine workings. • Groundwater assessment, including numerical modelling of potential impacts on groundwater dependent ecosystems, other groundwater users and baseflow contributions to local watercourses. • Assessment of potential impacts on any terrestrial and aquatic species, populations, ecological communities or their habitats. • Identification of measures that would be implemented to maintain or improve the biodiversity values of the surrounding region in the medium to long-term. • Iterative mine design process to avoid or minimise potential subsidence impacts in the proximity of significant streams and groundwater dependent ecosystems.
Subsidence related impacts on streams.	• Potential impacts on hydrology and surface drainage regimes, including localised effects on water quality and/or persistence of low flows. • Potential impacts on geomorphology including potential cracking, change in alignment and/or acceleration of erosion.	• Subsidence assessment of potential subsidence effects on streams. • Groundwater assessment, including numerical modelling, of potential impacts on baseflow contributions to local watercourses. • Surface water assessment of potential impacts of predicted subsidence effects and changes in baseflow contribution. • Risk assessment of potential impacts and consequences of subsidence impacts on streams. • Iterative mine design process to avoid or minimise potential subsidence impacts in the proximity of significant streams.
Impacts on ecology as a result of vegetation disturbance.	• Potential impacts of vegetation disturbance associated with the Project including potential disturbance of threatened flora species and potential loss of fauna habitat.	• Assessment of potential impacts on any terrestrial and aquatic species, populations, ecological communities or their habitats. • Identification of measures that would be implemented to maintain or improve the biodiversity values of the surrounding region in the medium to long-term.

Table 2 (Continued)
Key Potential Environmental Issues and Required Level and Scope of Environmental Assessment

Key Potential Environmental Issue	Likely Extent and Nature of Potential Impacts	Proposed Level and Scope of Environmental Assessment
Road transport related impacts on the surrounding community.	• Project road movements associated with coal haulage, employees and deliveries. • Reduction in coal haulage distance of 3 km following completion of mining in the Fassifern Seam. • Potential reduction in other traffic use of local roads used for coal haulage following completion of the Hunter Expressway.	• Road transport assessment of potential cumulative impacts on the safety and performance of the road network. • Noise assessment of potential traffic noise impacts in accordance with the *NSW Road Noise Policy* (DECCW, 2011). • Identification of potential road improvements.
Impacts on Aboriginal heritage as a result of subsidence and direct disturbance.	• Potential subsidence related impacts on items of Aboriginal heritage or Aboriginal cultural values. • Direct impacts on items of Aboriginal heritage or Aboriginal cultural values as a result of surface disturbance.	• Subsidence assessment of potential subsidence effects on items of Aboriginal heritage. • Assessment of impacts on items of Aboriginal heritage and Aboriginal cultural values in accordance with DECCW (2010) and NSW Department of Environment and Conservation (2005). • Iterative mine design process to avoid or minimise potential subsidence impacts in the proximity of significant surface features.
Subsidence impacts on environmentally sensitive areas (i.e. Sugarloaf State Conservation Area).	• Potential subsidence related impacts on the natural, recreational and aesthetic values of the Sugarloaf State Conservation Area.	• Subsidence assessment of potential subsidence effects on natural features. • Assessment of potential impacts on any terrestrial and aquatic species, populations, ecological communities or their habitats. • Identification of measures that would be implemented to maintain or improve the biodiversity values of the surrounding region in the medium to long-term. • Iterative mine design process to avoid or minimise potential subsidence impacts in the proximity of significant surface features.
Positive impacts on the regional and NSW economy.	• Continued employment of approximately 110 personnel, including flow-on effects to the regional and NSW economy. • Employment of approximately 20 construction personnel. • Continued payment of royalties to the State and other tax payments.	• Socio-Economic Assessment of potential impacts on the regional and NSW community and economy, including a cost-benefit analysis. • Project justification, including consideration of alternatives, principles of ESD and the objects of the EP&A Act.

Assessment of the key potential environmental issues (Table 2) and the other potential impacts identified above would include consideration of:

- existing environment using sufficient baseline data;
- potential impacts of all stages of the Project including any cumulative impacts;
- measures that could be implemented to avoid, mitigate, rehabilitate/remediate, monitor and/or offset the potential impacts of the Project; and
- contingency plans and/or adaptive management for managing any potentially significant residual risks to the environment.

All assessments of potential impacts would consider all applicable policies, guidelines and plans included in contemporary DGRs for major mining projects. Therefore, these policies, guidelines and plans have not been repeated within this document.

6 STAKEHOLDER CONSULTATION

6.1 CONSULTATION UNDERTAKEN TO DATE

Consultation undertaken to date in relation to the Project has included:

- Consultation with the existing Tasman Underground Mine Community Consultative Committee (CCC) in October 2008 to provide an overview of the Project.
- Conceptual Project Development Plan meeting with representatives of DRE and DP&I in November 2008.
- Consultation with representatives of DRE in September 2011 regarding the lodgement of MLAs.
- Consultation with representatives of OEH in September 2011.
- Ongoing consultation with Forests NSW regarding the Project and access to Heaton State Forest for environmental assessment studies.
- Consultation with Aboriginal stakeholder groups through the Aboriginal cultural heritage assessment process commenced in June 2011.

6.2 STAKEHOLDER ENGAGEMENT PROGRAMME

A stakeholder engagement programme has been developed for the Project. Key objectives of this programme are to:

- inform government and public stakeholders about the progress and nature of the Project;
- recognise and respond to local interest or concerns regarding the Project; and
- continue the ongoing dialogue between Donaldson Coal and stakeholders that has occurred since the commencement of the Tasman Underground Mine.

The programme includes the use of a variety of consultation mechanisms which in summary include actions such as:

- public exhibition of key documents (e.g. this document and the EIS);
- continued consultation with the local community via the Tasman Underground Mine CCC;
- provision of Project information on the Gloucester Coal Limited website;
- meetings with the general community including Aboriginal groups and directly affected landowners;
- meetings with relevant government agencies; and
- community information brochures.

The consultation would include, but not necessarily be limited to, the following government agencies and authorities:

- DP&I;
- OEH (including the NSW Office of Water);
- DRE;
- NSW Roads and Traffic Authority;
- Mine Subsidence Board;
- Cessnock City Council;
- Lake Macquarie City Council; and
- Commonwealth Department of Sustainability, Environment, Water, Population and Communities.

Consultation with the Aboriginal community would be conducted in consideration of the requirements of the *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* (DECCW, 2010).

The issues raised and outcomes of the consultation programme would be reported in the EIS.

7 REFERENCES

Department of Environment and Conservation, (2005) *Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation*.

Department of Environment, Climate Change and Water (2008) *The Vertebrate Fauna of Sugarloaf State Conservation Area*.

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Department of Environment, Climate Change and Water (2011) *NSW Road Noise Policy.*

Department of Planning (2006) *Lower Hunter Regional Strategy*. State of NSW through the Department of Planning, October 2006.

Department of Primary Industries (1997) *MDG1010 Risk Management Handbook for the Mining Industry.*

Hunter-Central Rivers Catchment Management Authority (2007) *Hunter-Central Rivers Catchment Action Plan.*

Hyder Consulting (2008) *Lower Hunter Transport Needs Study, Volume 2, Technical Paper 4 – Traffic Analysis*.

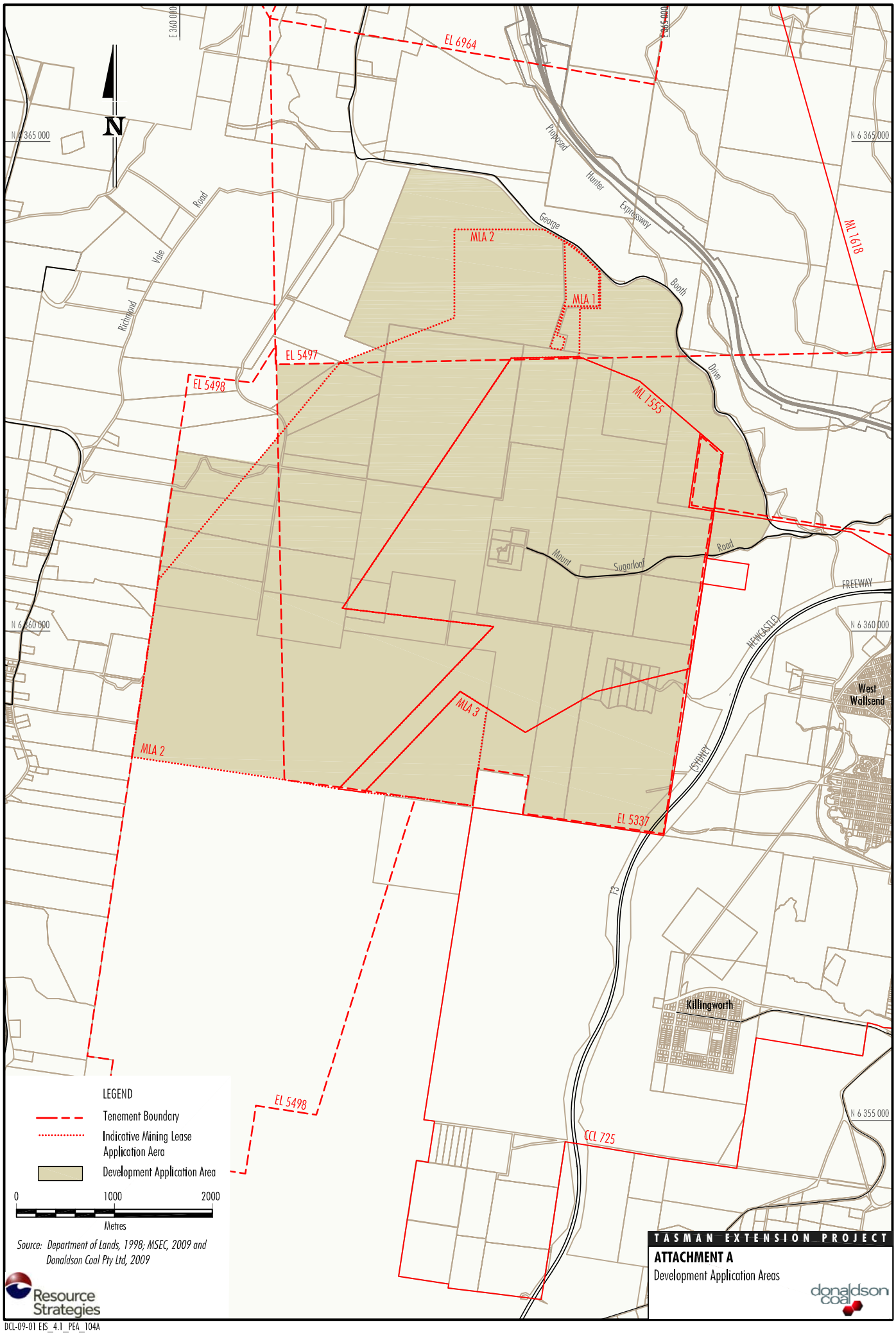
Office of Environment and Heritage (2011) *Sugarloaf State Conservation Area.* Website: http://www.environment.nsw.gov.au/NationalParks/parkHome.aspx?id=N1106 Date accessed: September 2011.

Newcastle Coal Company Pty Limited (2002) *Tasman Underground Mine Environmental Impact Statement*.

Roads and Traffic Authority (2011) *The Hunter Expressway.* Website: http://www.rta.nsw.gov.au/roadprojects/projects/the_hunter_region/hunter_expressway/index.html Date accessed: September 2011.

ATTACHMENT A

DEVELOPMENT APPLICATION AREA



DCL-09-01 EIS_4.1_PEA_104A

ATTACHMENT B

SCHEDULE OF LANDS

Tenure Type	Lot Number	Deposited Plan Number
FREEHOLD	101	1164569
FREEHOLD	102	1164569
FREEHOLD	2	809377
FREEHOLD	3	1061633
FREEHOLD	4	1061633
FREEHOLD	5	1061633
FREEHOLD	6	1061633
FREEHOLD	7	1061633
FREEHOLD	8	1061633
FREEHOLD	9	1061633
FREEHOLD	10	1061633
FREEHOLD	11	1061633
FREEHOLD	12	1061633
FREEHOLD	13	1061633
FREEHOLD	14	1061633
FREEHOLD	15	1061633
FREEHOLD	1	207238
FREEHOLD	3	1126627
FREEHOLD	1	960528
FREEHOLD	1	960529
FREEHOLD	4	960529
FREEHOLD	95	755262
FREEHOLD	124	755262
FREEHOLD	125	755262
FREEHOLD	126	755262
FREEHOLD	221	1034182
FREEHOLD	222	1034182
FREEHOLD	52	706484
FREEHOLD	22	223395
FREEHOLD	1	175522
FREEHOLD	1	960530
FREEHOLD	21	624214
FREEHOLD	1	231108
FREEHOLD	51	706484
FREEHOLD	1	923509
FREEHOLD	1	1050996
FREEHOLD	2	1050996
FREEHOLD	7	813135
FREEHOLD	2	551917
CROWN	121	755262
CROWN	1	551918
CROWN	21	223395

Tenure Type	Lot Number	Deposited Plan Number
CROWN	1	338999
CROWN	7021	1075979
CROWN	7022	1075973
CROWN	7023	1075973
NATIONAL PARKS AND WILDLIFE SERVICE	104	755262
NATIONAL PARKS AND WILDLIFE SERVICE	2	231108
NATIONAL PARKS AND WILDLIFE SERVICE	1	551917
STATE FORESTS OF NSW	94	755262
STATE FORESTS OF NSW	76	755244
STATE FORESTS OF NSW	108	755244

ATTACHMENT C

RELEVANT LOCAL ENVIRONMENTAL PLANS

C1 LAKE MACQUARIE LOCAL ENVIRONMENTAL PLAN 2004

The portion of the Development Application Area within the Lake Macquarie Local Government Area (LGA) includes land zoned under the *Lake Macquarie Local Environmental Plan 2004* (Lake Macquarie LEP) as:

- Zone 1(1) (Rural (Production));
- Zone 5 (Infrastructure);
- Zone 7(2) (Conservation (Secondary));
- Zone 7(3) (Environmental (General)); and
- Zone 9 (Natural Resources).

Mining is permissible with consent on lands within Zone 1(1) (Rural (Production)) under the Lake Macquarie LEP.

Under the Part 3 of the Lake Macquarie LEP (General Controls for Land within Zones), mining is not listed as permissible on lands within Zone 5 (Infrastructure), Zone 7(2) (Conservation (Secondary)), Zone 7(3) (Environmental (General)) and Zone 9 (Natural Resources).

Clause 4 of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* (Mining SEPP) relevantly provides:

> ***4 Land to which Policy applies***
>
> *This Policy applies to the State.*

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

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

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

In this regard, clause 7(1) states:

> ***7 Development permissible with consent***
>
> *(1)* ***Mining***
>
> *Development for any of the following purposes may be carried out only with development consent:*
>
> *(a) underground mining carried out on any land,*
>
> *…*

The term 'underground mining' in the Mining SEPP is given an extended definition in clause 3(2) as follows:

> ***underground mining*** *means:*
>
> *(a) mining carried out beneath the earth's surface, including bord and pillar mining, longwall mining, top-level caving, sub-level caving and auger mining, and*
>
> *(b) shafts, drill holes, gas and water drainage works, surface rehabilitation works and access pits associated with that mining (whether carried out on or beneath the earth's surface),*
>
> *but does not include open cut mining.*

The effect of clause 7(1)(a), in conjunction with the operation of clause 5(3) of the Mining SEPP, is that notwithstanding any prohibition in the Lake Macquarie LEP, development for the purpose of underground mining may be carried out with development consent.

Accordingly, the Minister would not be precluded from granting approval under section 89E of the EP&A Act for the Project in respect of those parts of the Project land where mining is prohibited under the Lake Macquarie LEP.

C2 CESSNOCK LOCAL ENVIRONMENTAL PLAN 1989

The portion of the Development Application Area within the Cessnock LGA includes land zoned under the *Cessnock Local Environmental Plan 1989* (Cessnock LEP) as Zone 1(a) (Rural "A") and Zone 1(f) (Rural (Forestry)).

Mining is permissible with consent on lands within Zone 1(a) (Rural "A") and Zone 1(f) (Rural (Forestry)) under the Cessnock LEP. Therefore, all development for the purpose of the Project would be permissible under the Cessnock LEP.

C3 DRAFT CESSNOCK LOCAL ENVIRONMENTAL PLAN 2010

Under the *Draft Cessnock Local Environmental Plan 2010* (Draft Cessnock LEP), the portion of the Development Application Area within the Cessnock LGA would include land zoned as Zone RU2 (Rural Landscape), Zone RU3 (Forestry) and Zone E1 (National Parks and Nature Reserves).

Under the Draft Cessnock LEP, mining would be permissible with consent on lands within as Zone RU2 (Rural Landscape) and Zone RU3 (Forestry).

Mining would not be permissible on lands within Zone E1 (National Parks and Nature Reserves) under the Draft Cessnock LEP.

However, the Draft Cessnock LEP states:

> *Note. This Table does not provide an exhaustive list of all uses that may be permissible in a particular zone. Other uses may be provided elsewhere in this Plan or in other planning instruments such as State Environmental Planning Policy (Infrastructure) 2007 and State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.* [emphasis added]

In addition as discussed in Section C1, the effect of clause 7(1)(a), in conjunction with the operation of clause 5(3) of the Mining SEPP, is that notwithstanding any prohibition in the Draft Cessnock LEP, development for the purposes of underground mining may be carried out with development consent.

Accordingly, the Minister would not be precluded from granting approval under section 89E of the EP&A Act for the Project in respect of those parts of the Project land where mining would be prohibited under the Draft Cessnock LEP if it comes into effect.