



**HARDIE HOLDINGS**

20 November 2013

Rebecca Sommer  
Infrastructure Projects  
NSW Department of Planning and Infrastructure  
GPO BOX 39  
SYDNEY NSW 2001

Dear Rebecca,

**RE: PORT WARATAH COAL SERVICES TERMINAL 4  
PREFERRED PROJECT REPORT EXHIBITION – 10\_0215**

We submit our comments, relating to the Port Waratah Coal Services Terminal 4, Preferred Project Report (“T4”). Our comments are not specifically for or against the construction of T4. We are opposed to the use of the “Tomago Offset Site” for T4 as proposed in Port Waratah Coal Services Preferred Project Report. We believe the use of this land as an offset site identifies double standards, unethical process, deception, conflict of interest and the total disregard for the Environment of this land by the past and present NSW Government.

The “Tomago Offset Site” is a site tainted with bias, as an outcome of the decision by Justice Lloyd in the Land and Environment Court case *Gwandalan Summerland Point Action Group Inc v Minister for Planning* [2009] NSWLEC 140. <sup>1</sup>The use of the “Tomago Offset Site” as an offset for State Environmental Planning Policy (Major Projects) (Amendment No 15 – Tomago Road Industrial Area) and as an offset for Major Project Application 07\_0086 for the WesTrac Development and Industrial Subdivision at Tomago and other developments associated with this site tainted with bias, has the potential to invalidate these existing approvals, which has been the outcome of other development sites connected to Justice Lloyd’s decision.

The continued use of the “Tomago Offset Site”, for other Major Project applications and in particular T4 will potentially invalidate any approvals obtained.

The history of the “Tomago Offset Site” and surrounding lands best describes the NSW Government’s many failures and the reasons why it should not be used as an environmental offset site again for T4. This is outlined below in the following paragraphs and attached plan.

1. The “Tomago Offset Site” lies within the Tomago Aluminium Buffer Zone, a designated environmental management zone established via the original development consent for the aluminium smelter in 1981 and expanded in 1991. Over time, Tomago Aluminium acquired and consolidated landholdings on the southern side of Tomago Road (including the “Tomago Offset Site”) for its formal environmental buffer. In 2001 the NSW Government sought to purchase this landholding for the purpose of establishing a new steel mill (Austeel Project). <sup>2</sup>

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<sup>1</sup> *Gwandalan Summerland Point Action Group Inc v Minister for Planning* [2009] NSWLEC 140

<sup>2</sup> Tomago Aluminium, Northbank Enterprise Hub submission

2. During 2003 the land at Tomago, including the “Tomago Offset Site” was acquired by the NSW Government for the proposed Austeel Manufacturing Plant. The NSW Government entered into an MOU with Austeel stating the Government would spend \$240,000,000 to acquire land and provide infrastructure for the \$2.5 billion dollar facility.
3. The Austeel project ultimately did not occur, and ended in an arbitration settlement with Austeel claiming the Government breached numerous conditions of their agreement. The Government had spent \$21,000,000.00 of tax payers money on the project and reportedly \$10,000,000.00 in compensation to Austeel associated with Government delays.<sup>3</sup>
4. During 2003 the NSW Government established the Regional Land Management Corporation (RLMC) to manage state owned lands in the Hunter. Management included a significant amount of land at Tomago, including the “Tomago Offset Site”.
5. During September 2004, the NSW Government’s Minister for Planning began making a series of planning announcements for strategic planning strategies, including the Lower Hunter Regional Strategy (“LHRS”).
6. On 25 October 2005, Redlake Enterprises, the developers behind the future Major Project application 07\_0086, proposed WesTrac Development and Industrial Subdivision at Tomago enter into an agreement with the NSW State Government to purchase part of the land referred to in paragraph 4 managed by RLMC, conditional on the site being rezoned to employment lands to permit development as proposed under Major Project application 07\_0086.<sup>4</sup>
7. The Tomago land referred to in paragraph 6 consisted of titles 161/774440 and 1/597372 owned by Her Most Gracious Majesty Queen Elizabeth II (NSW Treasury Crown Property Portfolio) and titles 1/1003492 and 513/585256 owned by Geoffrey Allan Graham.
8. On 1 November 2005, Redlake Enterprises, registered a Caveat under dealing AB879534 over the titles owned by Her Most Gracious Majesty Queen Elizabeth II, preventing any dealings with the land, protecting their rights to purchase the land conditional on the site being rezoned to employment lands pursuant to the agreement referred to in paragraph 6.<sup>5</sup>
9. On 15 November 2005, Her Most Gracious Majesty Queen Elizabeth II (NSW Treasury Crown Property Portfolio), registered a Caveat under dealing AB912752 over the titles owned by Geoffrey Allan Graham, preventing any dealings with the land, protecting the rights of Redlake Enterprises to purchase the land conditional on the site being rezoned to employment lands pursuant to the agreement referred to in paragraph 6.<sup>6</sup>

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<sup>3</sup>NSW Parliament questions without notice 11 March 2004

<sup>4</sup> LPI dealing AB912752M

<sup>5</sup> LPI dealing AB879534D

<sup>6</sup> LPI dealing AB912752M



10. On 4 November 2005, the NSW Government's Minister for Planning released and placed on public display the Draft Lower Hunter Regional Strategy ("DLHRS") which set out the basis on which the Government proposed to ensure growth and prosperity of the region and invited the public to make submissions in respect of the draft strategy.
11. The land referred to in paragraph 4 managed by RLMC at Tomago was not identified in the released DLHRS.
12. On 8 August 2006, Regional Conservation Planning Officer, Nicky Owner NSW Department of Environment and Conservation, email to David Bonjer NSW Department of Planning; - "RLMC Negotiations". "As you know RLMC is proposing to dedicate a substantial area of high conservation value to DEC for reservation in accordance with the National Park and Wildlife Act 1974. However RLMC is reluctant to dedicate lands without some sort of written agreement between itself and DEC, as ideally they want assurances that the lands they dedicate to DEC will create 'credits' to be used in developing other lands under their administration." "The proposed dedication of these lands would make an important contribution to the DEC reserve system in the Lower Hunter. As such it has been suggested that DEC commence MOU negotiations with RLMC to ensure credits are able to be counted at the rezoning/development application stage".<sup>7</sup>
13. On 16 October 2006, The Minister for the Environment, The Minister for Planning and the Government associated RLMC executed a Memorandum of Understanding (MOU), which included the Tomago lands referred to in paragraph 4. Under the terms of the MOU, The Minister for Planning would use reasonable endeavours to zone 351.6 hectares of the Tomago site for Employment Lands and in turn RLMC would dedicate to the Minister for the Environment 241.3 hectares of conservation land to be dedicated as National Park. The "Tomago Offset Site" is the same as the 241.3 hectares referred to in the MOU.<sup>8</sup>
14. On 16 October 2006, The Minister for the Environment and The Minister for Planning executed three similar MOU's with non Government entities Rosecorp, Coal and Allied and Hardie Holdings.<sup>8</sup>
15. On 17 October 2006, The Premier, the Minister for Planning and the Minister for the Environment released the final LHRS and the Lower Hunter Region Conservation Plan (LHRCP). The final LHRS and LHRCP now identified the Tomago site as employment and conservation lands pursuant to the executed MOU referred to in paragraph 13. The "Tomago Offset Site" is the same site identified as the conservation lands. The employment lands identified included the land referred to in paragraph 6 which the Government had entered into contractual arrangements to sell subject to the site being rezoned.<sup>9</sup>
16. On 20 October 2006, NSW Government's Department of Planning letter signed by Richard Pearson, Executive Director Rural and Regional Planning addressed to Mr Brad Foot General Manager Operations RLMC, enclosed an executed Memorandum

<sup>7</sup> Sourced from NSW Legislative Council Order for Papers, Lower Hunter Regional Strategy, Standing Order 52

<sup>8</sup> Sourced from NSW Legislative Council Order for Papers, Lower Hunter Regional Strategy, Standing Order 52

<sup>9</sup> [http://www.planning.nsw.gov.au/regional/pdf/lowerhunter\\_regionalstrategy.pdf](http://www.planning.nsw.gov.au/regional/pdf/lowerhunter_regionalstrategy.pdf)

of Understanding prepared by the Crown Solicitor relating to negotiations between RLMC, the Minister for the Environment and the Minister for Planning; - "I refer to negotiations between your company and the NSW Government"... "look forward to the implementation of the Memorandum of Understanding through the finalisation of a legally enforceable agreement".<sup>10</sup>

17. On 25 October 2006, NSW Deputy Director General Environment Protection and Regulation NSW Department of Environment and Conservation, Mr Simon A Y Smith email to Andrew Abbey and Richard Pearson; - "Speaking Notes re Landholder Agreements. As part of the Government's long term planning for the environment protection and conservation in the Lower Hunter, the Government has entered into agreement with 4 major land owners to conserve an area of 12,000 hectares." "The agreement with RLMC will secure 1,033 hectares. This includes a vital contribution to the New Hunter River Estuary National Park with includes Ramsar listed wetlands and critical habitat for migratory birds". The "Tomago Offset Site" is the same site as that referred to as the vital contribution to the New Hunter River Estuary National Park.<sup>11</sup>
18. RLMC – 2006-2007 Annual Report; - "RLMC made detailed submission to the DLHRS. Significant progress was made unlocking the employment and development potential of its Tomago site while ensuring areas are maintained for environmental purposes. Under the Strategy, RLMC signed a Memorandum of Understanding (MOU) with the Ministers for Planning and Environment in October 2006. This MOU allocates land for both employment and environmental protection". The "Tomago Offset Site" is the same land referenced for maintaining environmental purposes.<sup>12</sup>
19. On 12 February 2007 the NSW Government Department of Planning declared the Tomago site as a potential State Significant Site (SSS), pursuant to State Environmental Planning Policy (SEPP) (Major Projects) 2005. The Department of Planning stated the SSS will "(a) zone the northern portion (351 hectares) for industrial purposes, (b) zone the southern portion (241 hectares) for environmental conservation purposes to deliver on the MOU between the RLMC and the Ministers for Planning and the Environment to conserve this area". The "Tomago Offset Site" is the same 241 hectares referenced.<sup>13</sup>
20. Between 1 May 2007 and 1 June 2007 the Department of Planning publicly exhibited the rezoning via SEPP (Major Projects) 2005 for the Tomago site.<sup>13</sup>
21. On 1 June 2007, the same day as the public exhibition period ended the Tomago site was rezoned via State Environmental Planning Policy (Major Projects) (Amendment No 15 – Tomago Road Industrial Area). Government Gazette No 72. The land zoned was the same land as referred to in paragraph 13 under the MOU being 351.6 hectares of employment lands and 241.3 hectare of conservation land. The employment land zoned included the land referred to in paragraph 6 which the Government had entered into contractual arrangements to sell subject to the site being rezoned.<sup>13</sup>

<sup>10</sup> Sourced from NSW Legislative Council Order for Papers, Lower Hunter Regional Strategy, Standing Order 52

<sup>11</sup> Sourced from NSW Legislative Council Order for Papers, Lower Hunter Regional Strategy, Standing Order 52

<sup>12</sup> Regional Land Management Corporation Annual Report, 2006-2007

<sup>13</sup> NSW Department of Planning and Infrastructure Major Project Register



22. A fair-minded and informed observer might reasonably have difficulty in comprehending how the rezoning of the land referred to in paragraph 21 was gazetted on the same day as the public exhibition concluded. Under normal circumstances, post exhibition the Department of Planning process is to consider submissions, prepare the Director General of Planning's report to the Minister providing recommendations and the Planning Minister, so that the Planning Minister can consult with other relevant Ministers before the Planning Minister declares any site State Significant.
23. At the time of writing this submission there has been 38 State Significant Sites gazetted. State Environmental Planning Policy (Major Projects) (Amendment No 15 – Tomago Road Industrial Area), is the only State Significant Site to be gazetted on the same day as the public exhibition was completed.<sup>14</sup>
24. The land rezoned referred to in paragraph 21 (including the "Tomago Offset Site") was not referred to the Government's independent Planning Assessment Commission (PAC) for review/determination.<sup>15</sup> This was despite the Government entering into contractual arrangements to sell the land subject to rezoning referred to in paragraph 6, despite the Government permitting and lodging caveats on the land as referred to in paragraphs 8 and 9, despite the Government being party to a contractual MOU as referred to in paragraph 13 and despite Government staff being both connected to both the proponent and approval authority as referred to in paragraph 33.
25. NSW State Property Authority, Annual Report 2006-2007 – "In June 2007, the authority engaged an independent valuation firm, Frank Knight"... "Properties were determined to have increased significantly"... "The most significant of these including RLMC Tomago site"... "A Key consideration for the valuation increases for the Tomago site was that portions of the site had been identified, through the LHRS, as future employment lands"... "The rezoning of the Tomago site coming into effect in June 2007".<sup>16</sup>
26. On 9 July 2007, Redlake Enterprises withdrew Caveat under dealing AB912752, and formally transferred the land owned by Geoffrey Allan Graham to Redlake Enterprises, paying \$750,000.00 as the land under the agreement referred to in paragraph 6 had been rezoned pursuant to State Environmental Planning Policy (Major Projects) (Amendment No 15 – Tomago Road Industrial Area), Government Gazette No 72 referred to in paragraph 21.<sup>17</sup>
27. On 23 July 2007, Redlake Enterprises withdrew Caveat under dealing AB879534, and formally transferred the land owned by Her Most Gracious Majesty Queen Elizabeth II (NSW Treasury Crown Property Portfolio) to Redlake Enterprises, paying \$2,200,000.00 as the land under the agreement referred to in paragraph 6 had been rezoned pursuant to State Environmental Planning Policy (Major Projects)

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<sup>14</sup> NSW Department of Planning and Infrastructure Major Project Register

<sup>15</sup> NSW Planning Assessment Commission Register

<sup>16</sup> State Property Authority Annual Report 2006-2007

<sup>17</sup> LPI Transfer Dealing AD234548Q

(Amendment No 15 – Tomago Road Industrial Area), Government Gazette No 72 referred to in paragraph 21.<sup>18</sup>

28. RLMC – 2006-2007 Annual Report; - “In June 2007 the NSW Government declared the Tomago site as State Significant”... “The declaration allowed RLMC to finalise the sale of 66ha of that site to NSW/ACT Caterpillar dealer WesTrac”. This land included the land referred to in paragraph 6 which the Government had entered into contractual arrangements to sell subject to the site being rezoned.<sup>19</sup>
29. RLMC – 2006/2007 Annual Report; - “The NSW Government’s declaring of the Tomago site as State Significant, enacted through the Major Projects State Environment Planning Policy (SEPP) has advanced the formal handover of the environmental lands. The Tomago site has been surveyed and RLMC is in the process of subdivision which will ultimately lead to the transfer of the land to National Parks Estate. The 241ha of internationally recognised wetlands are an important part of the Hunter River flood plain”. The “Tomago Offset Site” is the same land referenced as advancing the formal handover.<sup>19</sup>
30. On 10 August 2007, Redlake Enterprises submitted their \$130,000,000.00 Major Project Application 07\_0086 seeking to develop land which was rezoned pursuant to State Environmental Planning Policy (Major Projects) (Amendment No 15 – Tomago Road Industrial Area), Government Gazette No 72, referred to in paragraph 21. The development comprised subdivision of approximately 115 hectares of land for industrial purposes and the construction and operation of a WesTrac Equipment facility of 23 hectares of the site, and requiring 1,800,000 cubic metres of fill to have the land raised above the 1:100yr flood levels.<sup>20</sup>
31. During 2007, The Australian Federal Liberal Government granted \$6,000,000 to WesTrac for the training facility associated with the Tomago facility.<sup>21</sup>
32. Hunter Development Corporation (HDC) – 2007-2008 Annual Report, addressed to The Hon. Kristina Keneally MP Minister for Planning, signed by Sam Haddad Managing Director Hunter Development Corporation (“HDC”). Report states under the Highlights for the year; - “agreed to the dedication 237ha of land at Tomago to environmental conservation”. The “Tomago Offset Site” is the same land referenced as being agreed to be dedicated to environmental conservation.<sup>22</sup>
33. It is noted that Sam Haddad is both the Managing Director of HDC (the Government entity with the charter to manage state owned land in the Hunter) and the NSW Government Department of Planning Director General. It is also noted that Richard Pearson (refer paragraph 16) is nominated as Sam Haddad’s alternative for HDC board meetings.
34. During October 2007, Redlake Enterprises \$130,000,000.00 Major Project 07\_0086, WesTrac Development and Industrial Subdivision – consultants EocBiological Flora,

<sup>18</sup> LPI Transfer Dealing AD234575M

<sup>19</sup> Regional Land Management Corporation Annual Report 2006-2007

<sup>20</sup> NSW Department of Planning and Infrastructure Major Project Register, 07\_0086

<sup>21</sup> Senator The Hon. Chris Evans Media Release 30 August 2012

<sup>22</sup> Hunter Development Corporation Annual Report 2007-2008



Fauna and Threatened Species report stated; “As part of the rezoning of the subject site and those adjoining via the Major Projects State Environmental Planning Policy, and in participation of this development and others, some 240 hectares of land previously zoned for rural activities has been rezoned for conservation purposes as outlined in the Memorandum of Understanding (MOU) between the Minister for the Environment, the Minister for Planning and RLMC”... “An environment offset of 241.3ha of land, some of which provides suitable foraging habitat, will occurred as part of the rezoning process.” The “Tomago Offset Site” is the same 241.3ha offset referenced.<sup>23</sup>

35. During January 2008, RLMC ceases and HDC commences and continues with the charter to manage state owned lands in the Hunter. Management included the Tomago land referred to in paragraph 4 and includes the “Tomago Offset site”.
36. During April 2008, Redlake Enterprises \$130,000,000.00 Major Project 07\_0086, WesTrac Development and Industrial Subdivision – Commonwealth Government Department of the Environment EPBC Act referral, consultants ADW Johnson Environment Assessment Report; - “of particular note are the conservation outcomes achieved as part of the rezoning of this site and those adjoining to General Industrial. Some 241.3 hectares of land was set aside for conservation as part of the Memorandum of Understanding between the Minister for the Environment, the Minister for Planning and the then owner of the subject land the Regional Land Management Corporation”. The “Tomago Offset Site” is the same 241.3 hectares referenced.<sup>24</sup>
37. On 30 June 2008, under the ownership of State Property Authority, Deposited Plan 1127780 was registered creating lots 1001 and 1002. Lot 1002 is the conservation lands in the MOU referred to in 13 as being dedicated as environmental offset. The “Tomago Offset Site” is also lot 1002.
38. On 5 August 2008, Redlake Enterprises \$130,000,000.00 Major Project 07\_0086, Westrac development and Industrial Subdivision following public exhibition and Government agency referrals, response to submissions prepared by consultants ADW Johnson – “Flora and Fauna; concerns raised in relation to the loss of habitat for threatened species and loss of endangered ecological communities have been addressed in detail in the ecological assessment as part of the EAR”... “In particular it is noted that an offset has been provided as part of an MOU between the Minister for the Environment, the Minister for Planning and the former owner of the land RLMC”. The “Tomago Offset Site” is the same offset site referenced in the response to submissions.<sup>25</sup>
39. On 5 August 2008, Redlake Enterprises \$130,000,000.00 Major Project 07\_0086, Westrac development and Industrial Subdivision following public exhibition and Government agency referrals, response to submissions prepared by consultants ADW Johnson, section 1.2; - “Department of Planning (DoP) would be aware the LHRS completed in 2006. As part of the planning objectives to provide for employment outcomes, the subject site, then under ownership of RLMC (now HDC) was identified

<sup>23</sup> EcoBiological, Threatened Species Assessment, October 2007 Ref: 156-410

<sup>24</sup> Asquith and Dewitt, EPBC Assessment, April 2008 Ref: 11886

<sup>25</sup> ADW Johnson, Response to Submissions, 5 August 2008 Ref: CM:KL:11886



as employment lands. As part of the process of establishing the site as employment lands a Memorandum of Understanding (MOU) was signed on 16 October 2006 by the Minister of the Environment, the Minister for Planning and the then owner of the subject land RLMC. The MOU identified the site as being suitable for employment lands and other lands the amount of 241.3ha being identified as conservation lands. The employment lands are known as schedule 1 and the conservation lands are known as schedule 2 in the MOU"... "Upon rezoning of the schedule 1 land, the schedule 2 lands would be transferred to the Minister of the Environment as part of the National Park"... "Recent contact with HDC confirms it is intended that lot 1002 (the schedule 2 conservation lands) is to be transferred to the Minister of the Environment in accordance with the MOU". The "Tomago Offset Site" is the same site referenced in the response to submissions and the same site Hunter Development Corporation confirm is being transferred to the Minister of the Environment. <sup>26</sup>

40. During June 2009, it was reported that legal advice to the Planning Minister, Kristina Keneally, states multibillion dollar land deals the NSW Government signed are likely to be ruled illegal by the Land and Environment Court. The deals relate to the MOU's referred to in paragraphs 13 and 14. The legal opinion written by barristers John Griffiths, SC, and Stephen Free warns that the agreements were never envisaged by the planning laws and could be declared invalid. The legal opinion stated the minister has limited prospect of success. The Land and Environment Court related to the upcoming decision in Gwandalan Summerland Point Action Group Inc v Minister for Planning [2009] NSWLEC 140. <sup>27</sup>
41. During July 2009, Redlake Enterprises \$130,000,000.00 Major Project 07\_0086, WesTrac Development and Industrial Subdivision - NSW Government Department of Planning, Sam Haddad Director General's Environmental Assessment Report; "In finalising the LHRS the Government reached agreement with four major land owners for the dedication of over 12,000ha of land for conservation purposes, in return for the recognition of additional development potential"... "The MOU between the NSW Government and RLMC outlines land at Tomago, 241.3ha would be transferred to the Department of Environment and Climate Change (DECC) for conservation purposes, with 351.6ha to be dedicated for employment purposes"... "it is considered that the area of Swamp Oak EEC on the site has been offset through the provision of the MOU, where 241ha of conservation land has been dedicated to DECC. The Department therefore considers the removal of Swamp Oak EEC is acceptable in this instance". The "Tomago Offset Site" is the same site Sam Haddad references as 241ha of conservation land has been dedicated to DECC. <sup>28</sup>
42. On August 2009, The Hon Kristina Keneally, Minister for Planning approved Redlake Enterprises \$130,000,000.00 Major Project 07\_0086 for the WesTrac Development and Industrial Subdivision at Tomago. The approval was made with the knowledge of the legal opinion referred to in paragraph 40. <sup>29</sup>
43. The approval of the Redlake Enterprises \$130,000,000.00 Major Project 07\_0086 , WesTrac Development and Industrial Subdivision referred to in paragraph 42 was not

<sup>26</sup> ADW Johnson, Response to Submissions, 5 August 2008 Ref: CM:KL:11886

<sup>27</sup> Sourced Matthew Moore Sydney Morning Herald

<sup>28</sup> Sam Haddad Director General's Environmental Assessment Report, MP 07\_0086, July 2009

<sup>29</sup> Minister for Planning, Project Approval MP 07\_0086, 7 August 2009



referred to the Governments independent Planning Assessment Commission (PAC) for review/determination.<sup>30</sup> This was despite the Government entering in contractual arrangements to sell the land subject to rezoning referred to in paragraph 6, despite the Government permitting and lodging caveats on the land as referred to in paragraphs 8 and 9, despite the Government being party to a contractual MOU as referred to in paragraph 13, despite Government staff being connected to both the proponent and approval authority as referred to in paragraph 33 and despite the knowledge of the legal opinion referred to in paragraph 40.

44. The Keneally approval referred to in paragraph 42 is over the same land which was rezoned pursuant to State Environmental Planning Policy (Major Projects) (Amendment No 15 – Tomago Road Industrial Area), Government Gazette No 72 occurring 1/6/2007 referred to in paragraph 21 including the “Tomago Offset Site”. The land rezoned is the same land the Crown Solicitor drafted Memorandum of Understanding following negotiations between RLMC (NSW Government entity) and the NSW Government concerning implementing the Lower Hunter Environmental Offset Scheme referred to in paragraph 16. The approval is over the same land Redlake Enterprises on 25 October 2005 enter into agreements with the NSW State Government to purchase the land conditional on the site being rezoned to employment lands referred to in paragraph 6.
45. On 30 August 2009, Justice Lloyd handed down his decision in *Gwandalan Summerland Point Action Group Inc v Minister for Planning* [2009] NSWLEC 140.<sup>31</sup> Justice Lloyd formed the view that the Memorandum of Understanding, drafted by the NSW Crown Solicitor referred to in paragraph 14 between Rosecorp and the Minister for the Environment and the Minister for Planning which would allow sites to be rezoned for development in return for other land being transferred to the NSW Government for conservation purposes lead to apprehensive bias of the Minister for Planning. Justice Lloyd declared:
  - a. A declaration that the concept plan approval MP06\_0330 for residential development at Catherine Hill Bay granted by the Minister for Planning on 2 September 2008 under s 75O of the Environmental Planning and Assessment Act 1979 is void and of no effect;
  - b. A declaration that the project approval MP07\_0107 for the development in Kanangra Drive, Gwandalan for the subdivision of lot 3 in deposited plan 588206 into 187 residential lots and one residue lot and associated works granted by the Minister for planning on 2 September 2008 under s 75J of the Environmental Planning and Assessment Act 1979 is void and of no effect.
46. Justice Lloyd’s decision was reported to have implications for the assessment of other projects involving similar MOU’s drafted by the Crown Solicitor between the Minister of the Environment and the Minister for Planning and entities including the private development companies Hardie Holdings and Coal and Allied and the NSW Government entity Regional Land Management Corporation, referred to in paragraphs 13 and 14.<sup>32</sup>

<sup>30</sup> NSW Planning Assessment Commission Register

<sup>31</sup> *Gwandalan Summerland Point Action Group Inc v Minister for Planning* [2009] NSWLEC 140

<sup>32</sup> Environmental Defenders Office, Bulletin Gwandalan case note

47. During December 2009, following Justice Lloyd's decision referred to in paragraph 45, the NSW Government Planning Director General, Sam Haddad advised that upon review of the decision of the NSW Land and Environment Court in *Gwandalan Summerland Point Action Group Inc v Minister for Planning* [2009] NSWLEC 140, it has been determined that the Minister for Planning (or his delegate) has no power to determine applications on the basis that the Part 3A assessment and Part 3 processes which have been concluded to date are legally invalid. <sup>33</sup>
48. The NSW Government Planning and Infrastructure, Major Project Register, shows State Significant Sites for the private company entities which involved MOU's referred to in paragraph 14 between the Minister of the Environment and the Minister for Planning have all been discontinued, overturned or revoked. <sup>34</sup>
49. However the NSW Government Planning and Infrastructure, Major Project Register, shows that the rezoning of the Tomago land pursuant to State Environmental Planning Policy (Major Projects) (Amendment No 15 – Tomago Road Industrial Area), Government Gazette No 72, undertaken for the Government associated entity RLMC, referred to in paragraph 21 is still valid. <sup>34</sup>
50. Additionally the Keneally approved Major Project application 07\_0086, approving the \$130,000,000.00 WesTrac Development and Industrial Subdivision at Tomago, referred to in paragraph 42 was not overturned and development of stage 1 of the approval including the WesTrac headquarters has been constructed. <sup>34</sup>
51. The WesTrac development referred to in paragraph 50 obtained construction certificate approval 8 February 2010, and on 30 August 2012 the NSW Premier Barry O'Farrell and the Federal Minister for Skills Chris Evans officially opened the \$130,000,000.00 WesTrac, attended by distinguished guest Mr Kerry Stokes AC, (Chairman, WesTrac), Mr Stuart Levenick (Group President Caterpillar USA), and Mr Jim Walker (CEO WesTrac). <sup>35</sup>
52. On 2 March 2010, HDC transferred ownership of Lot 1001 in Deposited Plan 1127780 to WEPL Investments for \$9,050,000.00. Lot 1001 being the balance of the lands rezoned pursuant to State Environmental Planning Policy (Major Projects) (Amendment No 15 – Tomago Road Industrial Area), Government Gazette No 72 at Tomago referred to in paragraph 21, associated with the MOU between the Minister for the Environment, the Minister for Planning and RLMC. WEPL Investments Pty Ltd is a related entity to Redlake Enterprises, the proponent of the adjoining land \$130,000,000.00 Major Project Application 07\_0086 approved by Minister Keneally for the WesTrac Development and Industrial Subdivision. <sup>36</sup>
53. On 30 September 2010, WEPL Investments submitted their \$300,000,000.00 Major Project Application 10\_0185, referred to as Northbank Enterprise Hub seeking to develop land which was rezoned pursuant to State Environmental Planning Policy (Major Projects) (Amendment No 15 – Tomago Road Industrial Area), Government

<sup>33</sup> NSW Government Planning Office of the Director General, Ref 09/03778

<sup>34</sup> NSW Department of Planning and Infrastructure Major Project Register

<sup>35</sup> Hunter Business Ink, Hunter Business News and Information, 30 August 2012

<sup>36</sup> LPI Transfer Dealing AF296685E



Gazette No 72 at Tomago referred to in paragraph 21. The development proposes subdivision of some 241ha of land within the Tomago Industrial Site. Works include site preparation, bulk earthworks and infrastructure works and requiring 3,700,000 cubic metres of fill to have the land raised above the 1:100yr flood levels.<sup>37</sup>

54. Despite Justice Lloyd's decision referred to in paragraph 45, and all the private entity projects associated with the MOU referred to in paragraph 14 being discontinued, overturned or revoked, and despite The NSW Planning Director General's comments referred to in paragraph 47, that the Part 3A assessment and Part 3 processes which have been concluded to date are legally invalid, which would include the process by which the rezoning of the Tomago land referred to in paragraph 21 occurred, the NSW Government's Department of Planning accepted the \$300,000,000.00 Major Project application 10\_0185 referred to in paragraph 53 and issued Director General Requirements.<sup>37</sup>
55. During September 2010, Northbank Enterprise Hub \$300,000,000.00 Major Project 10\_0185, Industrial Subdivision – Commonwealth Government Department of the Environment EPBC Act referral report, reference number 2010/5660, consultants ADW Johnson Environment Assessment Report; - "of particular note is the conservation outcomes achieved as part of the rezoning of this site and those adjoining to General Industrial. Some 241.3 hectares of land was set aside for conservation as part of the Memorandum of Understanding between the Minister for the Environment, the Minister for Planning and the then owner of the subject land the RLWC". "It should be noted that during the assessment of the WesTrac facility and industrial subdivision an additional 22ha was dedicated to DECCW for conservation purposes"... "as such a total of 263.3ha has been set aside for conservation purposes".<sup>38</sup>
56. Again despite Justice Lloyd's decision referred to in paragraph 45, and all the private entity projects associated with the MOU referred to in paragraph 14 being discontinued, overturned or revoked, and despite The NSW Planning Director General's comments referred to in paragraph 47, that the Part 3A assessment and Part 3 processes which have been concluded to date are legally invalid, the Commonwealth Government Department of the Environment EPBC Act referral referred to in paragraph 55, still continues to reference the MOU and the dedication of now 263.3ha to DECCW for conservation purposes. The "Tomago Offset Site" is the same land referenced in the Commonwealth EPBC Act referral.<sup>37</sup>
57. During May 2011, the NSW Government Minister for Planning (Hazzard) determined that the Northbank Enterprise Hub \$300,000,000.00 Major Project 10\_0185 will continue to be assessed as a major project under Part 3A. This is despite all other private entity rezoning application associated with a MOU having been discontinued, overturned or revoked and despite The NSW Planning Director General's comments referred to in paragraph 47, that the Part 3A assessment and Part 3 processes which have been concluded to date are legally invalid.<sup>37</sup>

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<sup>37</sup> NSW Department of Planning and Infrastructure Major Project Register, 10\_0185

<sup>38</sup> ADW Johnson, Public Environment Report, EPBC Assessment, September 2010, Ref: 37672

58. The NSW Government Major Project application 10\_0185 at Tomago referred to in paragraph 53 continues to be assessed by the Department of Planning. This is despite the comments made by the NSW Government's Planning Director General in paragraph 47, that the Part 3A assessment and Part 3 processes which have been concluded to date are legally invalid, which would include the process by which the rezoning of the Tomago land referred to in paragraph 21 occurred.
59. On 13 December 2011, HDC Media Release – "Registration of Interest for environmental offset lands"... "Today called for Registrations of Interest for the purchase of 242 hectares at Tomago to be dedicated to environmental offset purposes". HDC state the tender follows the withdrawal of a MOU that covered the land which was withdrawn as a result of the 2009 Catherine Hill Bay Land and Environment Court Ruling (NSWLEC140). HDC chairman Bob Hawes said "the corporation re-affirmed its commitment to the intent of the MOU".<sup>39</sup>
60. The MOU referred to in paragraph 59 is the same MOU referred to in paragraph 13. The 242 hectares being tendered for purchase is the same land that was used as an offset to support the rezoning of the employment lands referred to in paragraph 21. The 242 hectares being tendered for purchase is the same land that the Director General of Planning, Sam Haddad in his Director Generals report for the Redlake Enterprises \$130,000,000.00 Major Project, WesTrac Development and Industrial Subdivision stated, "it is considered that the area of Swamp Oak EEC on the site has been offset through the provision of the MOU, where 241ha of conservation land has been dedicated to DECC"... "The Department therefore considers the removal of Swamp Oak EEC is acceptable in this instance". It is obvious that the Tomago Offset Land was never dedicated to DECC, as previously reported by Sam Haddad, Director General of the Department of Planning.
61. The MOU referred to in paragraph 59 is a similar MOU to that in *Gwandalan Summerland Point Action Group Inc v Minister for Planning* [2009] NSWLEC 140, for which Justice Lloyd determined allowing sites to be rezoned for development in return for other land being transferred to the NSW Government for conservation purposes lead to apprehensive bias of the Minister for Planning, ultimately resulting in the rezoning of the land and associated major project application being revoked.<sup>40</sup>
62. As referred to in paragraph 49 and 50 the rezoning and major project application which relied on the MOU Bob Hawes states has been withdrawn in paragraph 59 were never overturned or revoked.
63. On 28 May 2012, HDC Media Release – "242 hectares set aside for environmental offset for T4"... "The Hunter Development Corporation has sold 242 hectares of land at Tomago to Port Waratah Coal Services as environmental offset for the proposed T4 Coal Terminal"... "The sale has included the lodging of a covenant over the land to ensure that it is dedicated to environmental offset purposes". The "Tomago Offset Site" is the same site referenced as purchased by Port Waratah Coal Services. The

<sup>39</sup> Hunter Development Corporation Media Announcement, 13 December 2011

<sup>40</sup> *Gwandalan Summerland Point Action Group Inc v Minister for Planning* [2009] NSWLEC 140



“Tomago Offset Site” is the same site which has been tainted with bias as a result of Justice Lloyd’s decision referred to in paragraph 45. <sup>41</sup>

64. The covenant referred to in paragraph 63 being dealing AH51517V, notes “the only person with the right to release, vary or modify the terms of the covenant is HDC and its successors, substitutes and assigns”. <sup>42</sup> A fair-minded and informed observer might reasonably be sceptical of HDC having the power to release, vary or modify the terms of the covenant given the history in the preceding paragraphs of HDC commitments to transfer the “Tomago Offset Site” to National Parks. A commitment which has not been honoured.
65. On 24 May 2012, HDC transferred ownership of Lot 1002 in Deposited Plan 1127780 to Port Waratah Coal Services for \$6,710,000.00. Lot 1002 being the same lands for environmental conservation purposes to deliver on the MOU between the RLMC and the Ministers for Planning and the Environment to conserve this area. Lot 1002 being the same lands referred to in paragraphs 29, 32, 34, 36, 38, 39, 41 and 55 as already being provided as an offset and dedicated to National Parks. <sup>43</sup>
66. HDC – 2011/2012 Annual Report, addressed to, The Hon. Bradley Hazzard MP Minister for Planning, signed by Sam Haddad Managing Director Hunter Development Corporation. Report states under the highlights for the year, “sold a 242ha parcel of land at Tomago, north of Newcastle, for environmental offsetting purposes, ensuring the land is protected and preserved for environmental conservation”. <sup>44</sup>
67. It is noted that the HDC highlight referred to in paragraph 66 ‘as selling the 242ha parcel of land at Tomago’, is the same site referred to in paragraph 32 where the HDC highlight for that year was ‘agreed to the dedication 237ha of land at Tomago to environmental conservation’.
68. A fair-minded and informed observer might reasonably conclude following the history of the MOU referred to in paragraph 13, relating to the Tomago lands including the “Tomago Offset Site”, that the Government entity now known as HDC has achieved an intriguing outcome. HDC has:
- i. Benefited from its MOU to lobby Government and have its Tomago land included in the final LHRS (referred to in paragraph 18);
  - ii. Benefited from its MOU to have its Tomago land rezoned for employment lands and conservation purposes (referred to in paragraph 21);
  - iii. Benefited from its MOU having the Tomago land significantly increase in value (referred to in paragraph 25);
  - iv. Benefited from its MOU by being able to sell its rezoned employment lands (referred to in paragraphs 27 and 52);
  - v. Benefited from its MOU by allowing the purchasers of their employment land to use the MOU’s environmental offsets to gain major project approval (referred to in paragraph 42);

<sup>41</sup> Hunter Development Corporation Media Announcement, 28 May 2012

<sup>42</sup> LPI Dealing AH51517V

<sup>43</sup> LPI Transfer Dealing AH6024B

<sup>44</sup> Hunter Development Corporation Annual Report, 2011-2012

- vi. Benefited in that after obtaining the rezoning and major project approvals, withdrawing the MOU and not dedicating the environmental offset lands, and then selling the environmental offset land (referred to in paragraph 65).

69. On 11 October 2012, NSW Government Legislative Council, General Purpose Standing Committee No.5 – Environment and Heritage;<sup>45</sup>

- a. Question 83 – “HDC sold 242 hectares of land at Tomago to PWCS as an offset for the T4 coal loader proposal. Has this site already been used as an offset by Newcastle Coal Infrastructure Group and WesTrac for other developments in the area?”
- b. Answer – “No”.

70. The Minister for the Environment and Heritage Departments, Robyn Parker’s answer of “no” referred to in paragraph 66 is clearly misleading.

- i. From as early as 1981 the “Tomago Offset Site” was established as a designated environmental buffer zone for Tomago Aluminium as referred to in paragraph 1.
- ii. The “Tomago Offset Site” was then incorporated into the MOU referred to in paragraph 13 as an environmental offset in turn for adjoining land being zoned for employment purposes.
- iii. The “Tomago Offset Site” was again used in the Commonwealth EPBC Act referral for the \$130,000,000.00 Major Project, WesTrac development and Industrial Subdivision referred to in paragraph 36.
- iv. The “Tomago Offset Site” then formed part of the NSW Government’s Department of Planning, Sam Haddad’s Director General Report referred to in paragraph 41.
- v. The “Tomago Offset Site” is now being used again in the Commonwealth EPBC Act referral for the \$300,000,000.00 Major Project, Northbank Enterprise Hub Industrial Subdivision referred to in paragraph 55.
- vi. The “Tomago Offset Site” is now proposed again to be used as an environmental offset for the Port Waratah Coal Services T4 project referred to in paragraph 71.
- vii. The “Tomago Offset Site” is now also proposed to be used as an environmental offset to meet conditions of consent under the Commonwealth EPBC Act for the NSW Maritime’s Hunter River South Arm capital dredging project referred to in paragraph 73.

71. During August 2013, NSW Government Planning and Infrastructure, Major Project 10\_0215, Port Waratah Coal Services Terminal 4, \$3,500,000,000.00 project – Ecological consultant Umwelt Australia, Tomago Offset Site Restoration Project Environmental Impact Assessment Report; - “Port Waratah Coal Services propose to implement a comprehensive Biodiversity Offset Strategy”... “A key component of the T4 Project is the proposed Biodiversity Offset Strategy”... “This strategy includes the

<sup>45</sup> NSW Government Legislative Council, General Purpose Standing Committee No.5 – Environment and Heritage



proposed conservation and restoration of a 238 hectare site at Tomago"... "The Tomago Offset Site comprises a single landholding known as Lot 1002 DP1127780, and is owned by Port Waratah Coal Services".<sup>46</sup>

72. On 27 August 2013, NSW Government Planning and Infrastructure, Major Project 10\_0215, Port Waratah Coal Services Terminal 4, \$3,500,000,000.00 project – Preferred Project Report, consultants EMGA Mitchell McLennan Report; "The T4 project has been modified since the EA was publicly exhibited. Modifications have been made in response to submissions and Government feedback to further minimise environmental impacts"... "with the now fully developed biodiversity offset package, particularly the Tomago offset site".<sup>47</sup>
73. On 27 August 2013, NSW Government Planning and Infrastructure, Major Project 10\_0215, Port Waratah Coal Services Terminal 4, \$3,500,000,000.00 project – Preferred Project Report, consultants EMGA Mitchell McLennan Report; <sup>46</sup> "The biodiversity offset strategy compensates for the residual significant impacts of the T4 project on ecological values, which we not able to be avoided or mitigated. It also provides 23 ha of compensatory wader habitat relating to a separate project, being NSW Maritime's Hunter River South Arm capital dredging project. The habitat satisfies the following State and Commonwealth conditions of the dredging project:
- a) Condition 10 in the instrument of approval for DA-134-3-2003 MOD 8 under the EP&A Act, for provision of no less than 23 ha of 'new or maintained intertidal feeding areas and roosting habitats for waders in the Hunter River Estuary' and
  - b) Condition 6 in the approval under the EPBC Act (EPBC Reference 2003/950) for 'provision of no less than a total of 15 ha of new or restored compensatory roosting habitat and/or intertidal feeding areas for wader birds in the Hunter River Estuary'.
74. On 21 February 2013, Port Waratah Coal Services requested a Proposed Variation Under Paragraph 156A of the Commonwealth Government Department of the Environment EPBC ACT (EPBC reference 2011/6029) – "updated Impact Mitigation and Biodiversity Offset Strategy has been prepared for the T4 project"... "key updates and amendments to the Biodiversity Offset Strategy provided as part of the EA include the identification and inclusion of the Tomago Offset site".<sup>48</sup>
75. On 22 October 2013, Australian Government Department of the Environment accepted the proposed variation to EPBC Act referred to in paragraph 74.<sup>49</sup>
76. The Commonwealth Government Department of the Environment, EPBC ACT referrals have had the "Tomago Offset Site" presented four times in Environment Assessment Reports for development proposals:

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<sup>46</sup> Unwealt Australia, Tomago Offset Site, Environmental Impact Assessment, August 2013, Ref:3104/R01/Final

<sup>47</sup> EMGA Mitchell McLennan, Preferred Project Report for Port Waratah Coal Services, 27 August 2013

<sup>48</sup> PWCS proposed variation letter, Ref:61202-0000-LO-EV-0002

<sup>49</sup> Australian Government Department of the Environment, Ref:2011/6029

- i. Redlake Enterprises \$130,000,000.00 Major Project, WesTrac Development and Industrial Subdivision as referred to in paragraph 36, which obtained EPBC Act approval;
  - ii. Northbank Enterprise Hub \$300,000,000.00 Major Project, Industrial Subdivision as referred to in paragraph 55, which is yet to be determined;
  - iii. Port Waratah Coal Services \$3,500,000,000.00 Major Project, as referred to in paragraphs 74 and 75;
  - iv. NSW Maritime's Hunter River South Arm capital dredging Major Project, EPBC has issued conditions of consent, which as referred to in paragraph 73, is now seeking to also use the "Tomago Offset Site" to satisfy the conditions of consent.
77. On 18 June 2013, The NSW Government Treasurer, Mike Baird announced Newcastle will be the big winner from the NSW Budget from the offer of a long term lease of the city's port facilities. If successful \$340,000,000.00 of the proceeds from the lease would be directed towards the revitalisation of Newcastle.<sup>50</sup>
78. On 26 June 2013, The NSW Government Treasurer, Mike Baird and the NSW Government Minister for Roads and Ports, Duncan Gay announced, "today is a landmark day for the people of Newcastle, and NSW". "The Hunter region was a centrepiece in the 2013-2014 NSW Budget, with the NSW Government committing \$340,000,000.00 from a successful Port of Newcastle transaction to the revitalisation of Newcastle, including a light rail service between Wickham and Newcastle."<sup>51</sup>
79. On 20 October 2013, it is reported coal is destined to remain Newcastle Port's dominant cargo. Fees on coal ships, together with rent from the port's three coal-loaders – plus Port Waratah Coal Serviced Terminal 4 loader if and when it is built – will provide a substantial proportion of any new lease operator's income.<sup>52</sup>
80. On 5 November 2013, The NSW Government Treasurer, Mike Baird and the NSW Government Minister for Roads and Ports, Duncan Gay announced, The NSW Government will proceed with the long term lease of the Port of Newcastle to fund the revitalisation of central Newcastle and priority infrastructure across NSW. The scoping study confirmed it is in the State's interest to go ahead and with the lease of the Port of Newcastle – the world's largest coal exporting port.<sup>53</sup>
81. The Newcastle Port Facilities assets include, Port Waratah Coal Services (PWCS) Kooragang Coal Terminal, including the Terminal 4 Development site. Between 1994-2011 PWCS invested \$1.6 billion to expand the ship loading capacity.<sup>54</sup>
82. During early 2009 the NSW Government brokered the Hunter Coal Capacity Framework, which is the Hunter Valley coal industry's agreement for a long-term solution for providing access to, and expansion of, the coal loading terminals. With the support of all the Hunter Valley coal producers, and following the Australian

<sup>50</sup> NSW Government Budget 2013-2014 Media Release

<sup>51</sup> Joint NSW Government NSW Treasurer and Minister for Roads and Ports Media Release

<sup>52</sup> Newcastle Herald Editorial

<sup>53</sup> Joint NSW Government NSW Treasurer and Minister for Roads and Ports Media Release

<sup>54</sup> Newcastle Port Corporation web page - Facilities



Competition and Consumer Commission's final determination on the matter, the Hunter Coal Export Framework commenced on 1 January 2010. <sup>55</sup>

83. The parties to the agreement referred to in paragraph 82 are Port Waratah Coal Services, Newcastle Coal Infrastructure Group and the Newcastle Port Corporation.

84. Under the Hunter Coal Export Framework, PWCS is obligated to develop an additional coal export terminal on Kooragang Island, known as Terminal 4, the subject development of this submission. <sup>56</sup>

After reviewing the history and developments associated with the "Tomago Offset Site" proposed under T4 it is evident there is a unique path for development approval for entities associated with the NSW Government. It would appear that the pursuit of financial and political gain by the NSW Government comes at great sacrifice for the environment associated with the "Tomago Offset Site" and total disregard to the intent of the environment offset policy.

Specifically looking at the "Tomago Offset Site" conservation lands, the NSW Government and their associated entities have on multiple occasions stated the land is/would/has/in the process of etc being dedicated to National Parks as an offset for the rezoning and major project applications at Tomago. In vast contrast to these commitments the NSW Government has sold the site to Port Waratah Coal Services to be used again as an environmental offset. In the event that all the current approvals remain intact and the proposed approvals are obtained, the "Tomago Offset Site" will have been used as an environmental offset for six (6) separate applications. <sup>57</sup>

With respect to the "Tomago Offset Site" and adjoining employment zoned lands the NSW Government has benefited by approving rezoning applications, rescinding on commitments to dedicate environmental conservation lands to National Park and receiving \$17,960,000.00. This is despite the Land and Environment Court and the NSW Government's Department of Planning Director General determining the process for which the land was zoned was illegal.

Should the NSW Government proceed with the approval of T4 using the "Tomago Offset Site" as an environmental offset, it will no doubt highlight the unscrupulous activities of the past and present NSW Government's, as well as the dubious history of this land. This will further reinforce the lack of faith and trust in the NSW Government and its planning approval process.

We believe the use of the "Tomago Offset Site" has already set a dangerous precedent of abusing the Government's offset policies. Approving T4 using the "Tomago Offset Site", a site tainted with bias, will further accentuate the double standards between Government and private company development approval processes.

The NSW Government should be mindful that the abuse of environmental offset lands and the process for which the NSW Government assesses and approves development applications

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<sup>55</sup> Australian Competition and Consumer Commission, Capacity Framework Arrangements at the Port of Newcastle

<sup>56</sup> Newcastle Port Corporation, Annual Report 2012-2013

<sup>57</sup> 1. Tomago Aluminium designated Environmental Buffer; 2. SEPP (Major Projects) Amendment No.15; 3. Major Project Application 07\_0086; 4. Major Project Application 10\_0185; 5. Major Project Application 10\_0215; 6. Major Project Application 134-3-2003

will expose the NSW Government to potential litigation for past and future developments associated with the "Tomago Offset Site", given the taint of bias associated with the land. It is not difficult to extrapolate that any legal challenge to the approvals will be successful, given the precedent set by Justice Lloyd in the Gwandalan case.

Furthermore, it would be a great injustice to the wider community to jeopardise major projects in NSW such as the lease of the Newcastle Port or the fulfilling of the commitment to the Hunter Coal Capacity Framework.

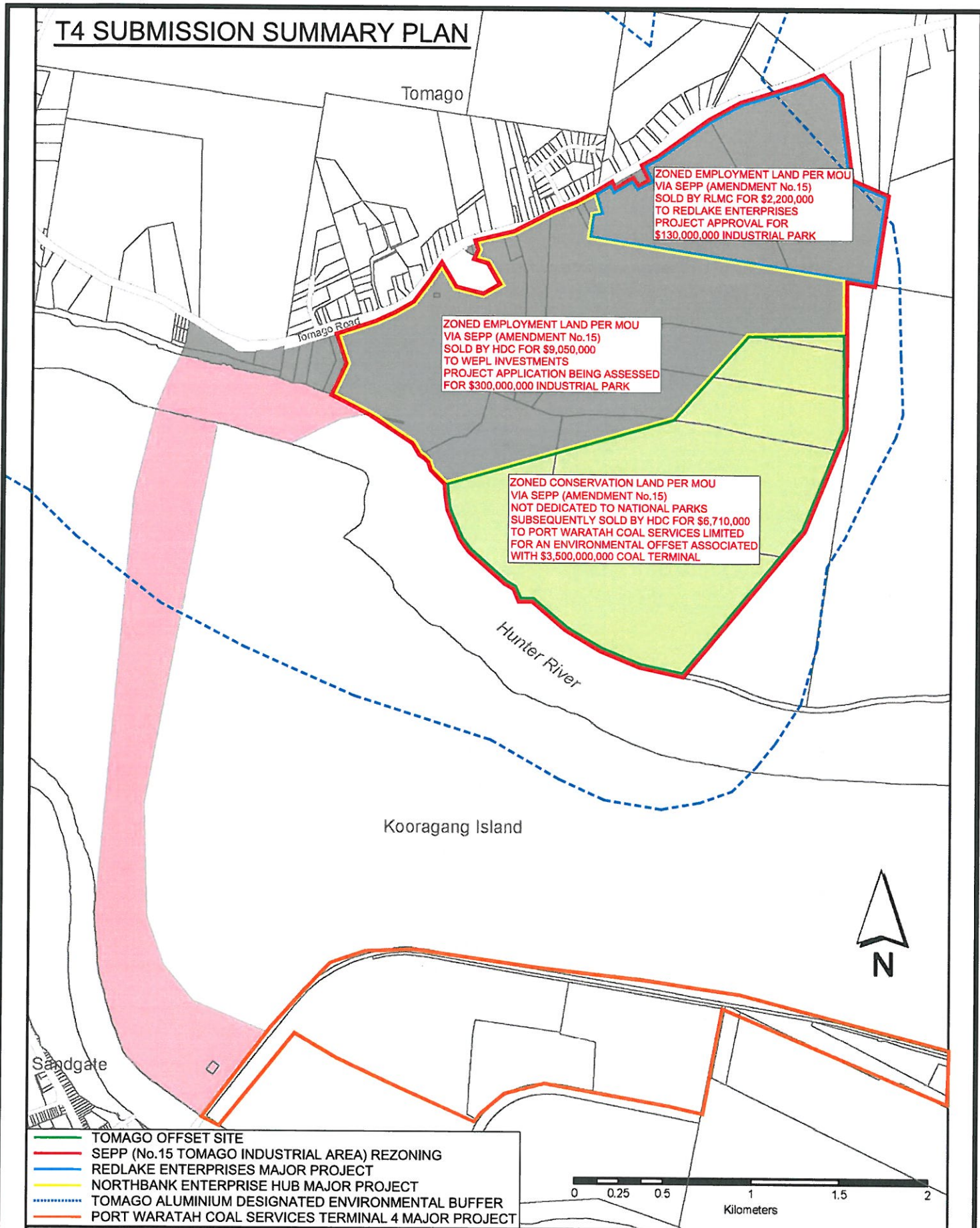
Please contact Duncan Hardie or the writer should you wish to discuss any aspects of our submission.

A handwritten signature in black ink, appearing to read 'Jamie Boswell', with a large, stylized initial 'J'.

Regards,  
Jamie Boswell  
Hardie Holdings



# T4 SUBMISSION SUMMARY PLAN



NSW GOVERNMENT  
Department of Planning

State Environmental Planning Policy  
(Major Projects) 2005 (Amendment No. 15)  
Tomago - Zoning Map