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TRANSCRIPT OF PROCEEDINGS

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INDEPENDENT PLANNING COMMISSION

PUBLIC MEETING

RE: TAHMOOR MOD 4

PANEL: **ANDREW HUTTON**
PROF ALICE CLARK

ASSISTING PANEL: **JORGE VAN DEN BRANDE**
DAVID KOPPERS

**DEPARTMENT OF
PLANNING AND
ENVIRONMENT:** **OLIVER HOLM**
JESSIE EVANS
CLAY PRESHAW

LOCATION: **IPC OFFICE**
LEVEL 3, 201 ELIZABETH STREET
SYDNEY, NEW SOUTH WALES

DATE: **2.02 PM, WEDNESDAY, 26 SEPTEMBER 2018**

MR A. HUTTON: All right. Yes. So we will kick off, so good afternoon and welcome to the meeting this afternoon. Before we begin, I would just like to acknowledge the traditional owners of the land on which we meet, the Gadigal people, and pay my respects to the elders past and present. Tahmoor Coal is
5 proposing to modify developmental consent for the Tahmoor North Underground Coal Mine to allow mining-relating subsidence within a small area that was not previously predicted to experience subsidence.

The area referred to as the “modification area” comprises some 11 hectares and lies
10 outside of the footprint of the proposed land use in the modification area includes some 48 residential houses in South Picton, as well as including the Picton High School. My name is Andrew Hutton. I’m the chair of the IPC panel. Joining me is my fellow commissioner, Professor Alice Clark. The other attendees at the meeting
15 include Jorge van den Brande, a planning officer with the IPC, David Koppers, a team member of the IPC, Oliver Holm, the ED resource assessment and compliance, Clay Preshaw and Jessie Evans.

In the interest of openness and transparency and to ensure the full capture of
20 information, today’s meeting will be recorded and a full transcript will be produced and made available on the Commission’s website. This meeting is one part of the Commission’s decision-making process. It’s taking place at the preliminary stages of the process and will form one of several sources of information upon which the Commission will base its decision.

It is important that the Commissioners ask questions of the attendees to clarify issues
25 whenever we consider it appropriate. If you are asked a question and you’re not in a position to answer that question, then please feel free to take it on notice and provide any additional information in writing which we will then also put up on our website. So I think we’re right to begin. So thanks again. Obviously we’ve had the benefit of
30 reading through the department’s assessment report and other associated documents. So I was just keen initially to throw to you guys to give you, I guess, the opportunity to talk to us about your views on the project – some of the key issues or considerations if you want to start off the discussion.

MR O. HOLM: Okay. Thank you. Would you like us to, for the benefit of the
35 recording, to announce who is speaking? I guess, in terms of protocol, would that be beneficial?

MR HUTTON: Yes. I think we should do that, yes. Thanks, Oliver.
40

MR HOLM: So, Oliver Holm. So the modification that’s before us relates to an
existing approval that has been subsequently modified in 2006 and it’s important to
note that since that original approval was granted, there is an improved
45 understanding of the subsidence impact in the area, due to ongoing monitoring. So the proponent, in this instance, is seeking to gain approval to have what it would argue are negligible subsidence impacts in an area that has built features.

5 So it's important to note that the pre-existing approval is to mine the resource – to extract the resource by underground methods, and this is really a subsequent approval that they're seeking to have those negligible impacts, even though they have a prior approval to extract the resource. So I think it's important to just to set the framework of what they are seeking to do in this instance.

MR HUTTON: Yes. I see.

10 MR HOLM: So if it's appropriate, I might ask Jessie to talk in, perhaps, more detail around the background history of this particular modification.

MR HUTTON: All right. Thank you.

15 MS J. EVANS: So, Jessie speaking. I think Oliver summed it up quite nicely. Tahmoor currently has three consents covering it. If you're on page 3 of the assessment report, you can see the three different consents.

MR HUTTON: Yes.

20 MS EVANS: There's the council consent in the southern part, and then DA5793 in the blue and then the one that we're talking about today is A6798. The one in the blue was originally a court consent and that prohibited mining in more areas than the most recent one does. So they came back in in 1999 and got a consent that allowed them to go into the areas that were – most of the areas that were prohibited under the court consent, and it was always, sort of, envisaged that at the time there wasn't
25 enough information to allow mining in all the areas and that's why the cross-hatch is in place.

30 MR HUTTON: Okay. So the history is driven by the information available at the time so - - -

35 MS EVANS: Yes. Yes. So originally it was driven by environmental planning instruments with a court consent and then subsequent they got changed which meant that mining could be allowed in those areas but, at the time they applied for mining, they didn't have enough information for under these areas and built features.

MR HUTTON: Yes.

40 MS EVANS: So the way the consent is actually worded – it says that they can come back in under part – what was part 4 to get consent to mine under those cross-hatch areas, and that's what they're doing today and what they did in the 2006 modification as well.

45 MR HUTTON: Yes.

MS EVANS: In terms of features in this modification area where there's expected to be subsidence of 20 to 70 mils. We've got Picton High School and 48 houses and a bit – and a couple of other built features like local roads

5 MR HUTTON: Yes.

MS EVANS: There has been quite a lot of work done by the company in response to both department requests and other agencies in terms of understanding what the impacts of that 20 to 70 mils of subsidence would be on – particularly on Picton
10 High School.

MR HUTTON: Yes.

MS EVANS: That's all quite detailed in the report. But it's – pretty much boils
15 down to that – with ongoing modelling and monitoring that they've had from Longwall 22 onwards. Their predictions have improved and it has now been shown that they will have 20 to 70 mils in that area of cross-hatching which, under the current consent, they're not allowed to have any.

20 MR HUTTON: Yes. Do you know the extent of the SMP assessments that were undertaken or the assessment plan for the SMP versus what was undertaken for this modification? Are they – they rely on SMP information?

MS EVANS: They would have – like, there would be overlap between what was
25 assessed under SMPs and what formed part of the modification application, so - - -

MR HUTTON: Okay.

MS EVANS: - - - in terms of subsidence monitoring and modelling and the
30 predictions from that, that would inform both processes.

MR HUTTON: Okay. Okay. I guess my – I was thinking about the – some of the
work for the SMP was undertaken about 2014 and then this process has gone for a
number of years and then a submission was made in '17 – 2017. Just – I want to
35 understand whether the department was happy about that – sort of, that timeframe that passed between '14, relying on SMP assessments versus the application in '17.

MS EVANS: So are you referring to the SMP for Longwall 31, which would have
40 been the most recently approved one?

MR HUTTON: My reading of the documentation was that the – this particular
application relied on SMP assessments and I'm trying to understand to what extent
the applicant rely on the SMP assessments versus, perhaps, taking targeted
45 assessments from the modification

MS EVANS: Okay. Yes.

MR HUTTON: Yes. And just interested in your – whether you're happy with, I guess, that approach.

5 MS EVANS: Yes. It has just certainly been updated for the modification.

MR HUTTON: Yes. Okay.

MS EVANS: Yes. And there has been a lot of consequent – subsequent work as well, based on - - -

10 MR HUTTON: Yes. I did see it. Yes.

MS EVANS: Yes. So there is – the information is up to date. Yes.

15 MR HUTTON: Yes. Okay.

MS EVANS: Particularly in relation to the high school.

MR HUTTON: Yes. I saw that they're – there has been quite a lot of engagement with the Picton High School.

20 MS EVANS: Yes.

MR HUTTON: There's quite a lot of predicted for the area, so that was good to see. It also extends, I think – I was just interested around the stakeholder engagement for the modification. I'm trying to understand whether you know whether there was reliance on the SMP engagement or whether there was specific engagement with the 48 residents specifically for the modification. Are you aware of - - -

25 MR HUTTON: There's quite a lot of predicted for the area, so that was good to see. It also extends, I think – I was just interested around the stakeholder engagement for the modification. I'm trying to understand whether you know whether there was reliance on the SMP engagement or whether there was specific engagement with the 48 residents specifically for the modification. Are you aware of - - -

30 MS EVANS: I will let Clay speak to stakeholder engagement, if that's okay. Yes.

MR C. PRESHAW: Yes. So – sorry – Clay Preshaw here. I guess I'm not entirely clear what the question is in relation to the SMP engagement you're referring to.

35 MR HUTTON: So, as part of the SMP process, there's a requirement to engage with those people impacted.

MR PRESHAW: Yes.

40 MR HUTTON: My question was around whether or not they are – the proponent was relying on the SMP stakeholder engagement to satisfy the engagement that would be undertaken for assessment.

45 MR PRESHAW: Yes. Look, I think I will have to take that question on notice.

MR HUTTON: Yes.

MR PRESHAW: I'm not sure I have the information in front of me right - - -

MR HUTTON: Okay. Yes. I just wasn't clear in my reading.

5 MR PRESHAW: Yes.

MR HUTTON: I thought you guys might have had a view on that, so.

MR PRESHAW: Okay.

10 MS EVANS: Yes.

MR PRESHAW: Yes. Well, I think we will have to get back to you on that one.

15 MR HUTTON: Yes. Okay. Fine. Thank you. Carry on. That's good.

MS EVANS: Is there anything else in particular that you wanted to ask about the assessment on stakeholder engagement in relation to that

20 MR HUTTON: No. It was key questions around just the SMP and the difference between stakeholders.

MS EVANS: Okay. Yes.

25 MR HUTTON: One other question I do have. I noticed in the draft consent, you're requiring an extraction plan requirement to come in - - -

MS EVANS: Yes.

30 MR HUTTON: - - - as part of Longwall 33. I'm just interested to understand whether you gave consideration to that extraction plan criteria commencing on Longwall 32, which is the that will obviously impact this modification and just your thought process around that.

35 MS EVANS: It was considered and it was up for discussion quite a number of times. It basically has boiled down to timing. So it would mean a discontinuation in mining at the end of the day – yes –

MR HUTTON: Right. Okay.

40 MS EVANS: - - - if we were to do it from Longwall 32 onwards instead of 33 onwards - - -

MR HUTTON: Okay.

45 MS EVANS: - - - because the extraction plan requirements are different - - -

MR HUTTON: Quite different. Yes.

MS EVANS: - - - to the SMP requirements – they’re quite a lot more detailed – and there’s also new requirements in here for them, particularly in terms of, like,
5 modelling. They’re more detailed just in general.

MR HUTTON: Yes. I understand.

MS EVANS: Yes.
10

MR HUTTON: Okay.

MS EVANS: Which – and some of those documents do take months to prepare - - -

MR HUTTON: Yes.
15

MS EVANS: - - - which would put the mine out of action.

MR HUTTON: Okay.
20

MS EVANS: We did strengthen the conditions for the SMP though for Longwall 32 by putting in the requirements for high frequency monitoring and extra flood modelling as well.

MR HUTTON: Yes. Yes. Okay. Thank you. The conditions 13A through to 13G, which are the newly included extraction plan conditions, are they standard conditions from the department or have you given consideration to this

MR HOLM: So – Oliver Holm here – as you may be aware, over the last 18 to 24
30 months, the department has been going through a process of updating and strengthening and standardising its conditions to ensure stronger enforceability; to ensure that the conditions meet a higher legal benchmark; to ensure that our compliance function can adequately monitor and enforce those conditions of consent. So those conditions to which you refer are drawn from those indicative standard
35 condition sets.

MR HUTTON: Yep, okay. Alice, did you have any specific questions for

PROF A. CLARK: Yeah, just one. And I appreciate that you may need to reflect on
40 it. On the map – I think it’s on page 11 here – I see Longwall 32 and the subject area lie within what looks to be a fault zone, the Nepean fault zone. It’s not really called a fault zone. And so it’s a question about the geotechnical work that was done that said, you know, subsequent to here, this sort of area had already been encountered and dealt with. But I couldn’t make that assessment from the maps that I had, to see
45 where that might have been, given that, if that is in fact a fault zone through the area, and there’s a buried creep which is also not represented in relation to the fault on any of the information that I could find.

5 And it was more a question about what was the level of assessment, and were you comfortable with the level of assessment, around that, in terms of the substance prediction, because that 20-mill line comes straight through there. And so it's just – coming from a sort of structural geology perspective, and asking this question about that – I was wondering what your thoughts were on that.

MS EVANS: So the location of the Nepean fault, and the proximity to mining, was raised by resource regulator and ourselves as a concern.

10 PROF CLARK: Yes.

MS EVANS: And, as a result of that, we sent the company away to get a lot more information, and they came back with – I believe they had three experts that came back and had a look at it. And there's - - -

15

PROF CLARK: Okay.

MS EVANS: - - - three reports - - -

20 PROF CLARK: Yes.

MS EVANS: - - - examining that. And at the end, their conclusions were that it's not a principal hazard.

25 PROF CLARK: Okay.

MS EVANS: And they had mined close – I can get you the information as to where they have mined in proximity to faults before. I'll take that on notice and - - -

30 PROF CLARK: Yes.

MS EVANS: - - - get that for you.

PROF CLARK: Because, in the reading that I had, I - - -

35

MS EVANS: Yeah.

PROF CLARK: - - - couldn't, sort of, work out what type of fault it was.

40 MS EVANS: Yeah.

PROF CLARK: If there's water in this fault

MS EVANS: Yeah.

45

PROF CLARK: It was just an obvious question. So - - -

MS EVANS: Yeah, yep. No, I'll get that for you.

PROF CLARK: There was the - - -

5 MS EVANS: And where – yeah – so where they have mined in proximity to faults before and not encountered abnormal subsidence of – you know.

PROF CLARK: I think the question is specific, though, to this fault, because not all
- - -

10

MS EVANS: To Nepean?

PROF CLARK: - - - faults are the same.

15 MS EVANS: Yep, yep.

PROF CLARK: And in the text that I read, it was referring to the Nepean fault. So if it's faults in general, then it's - - -

20 MS EVANS: Yep.

PROF CLARK: - - - another question.

MS EVANS: Yep.

25

MR PRESHAW: Clay Preshaw. Just top clarify on who provided additional expert advice, it was MSEC and SCT Consulting. So MSEC have, in many mines in the past, provided advice to companies on predicted subsidence effects.

30 PROF CLARK: Excellent.

MR PRESHAW: And they've previously provided advice to Tahmoor. And then SCT, which is run by a guy called Ken Mills, who's a highly regarded subsidence expert, provided advice specifically on the Nepean fault. So Ken Mills is one of the
35 experts that we sometimes seek independent advice from. But in this case, it was – the company sought advice from him, so he provided specific advice on the Nepean fault. So we can provide that.

PROF CLARK: And in this context?
40

MR PRESHAW: In relation to that context.

PROF CLARK: Right. Thank you, Clay. I appreciate that. I know both of those
45 groups.

MR PRESHAW: Right.

PROF CLARK: Yes, that's – so - - -

MR PRESHAW: We can provide copies of those, if you haven't got them. I think that was included in the package, but if not, we can certainly give them to you.

5

MR HUTTON: That'd be great.

MR PRESHAW: If I may, as well, just – back to your question on stakeholder engagement - - -

10

MR HUTTON: Yeah.

MR PRESHAW: Yeah. So I was just having a look at some of the documents that the company has prepared, and I think I can answer in part what you were asking, which is, as I understand, what did the – how did the company engage with the community, and how does it intend to engage with the community, in particular those residences or businesses or schools that will be affected, or might be affected, by the mining?

15

20 MR HUTTON: That's right.

MR PRESHAW: So there is a process, as you alluded to, in place for the company to engage with each of the affected stakeholders through the SMP process.

25 MR HUTTON: Yep.

MR PRESHAW: And that occurred on the previous SMP, that Jessie referred to. But as part of this modification application, they also did a whole separate set of engagement with various stakeholders. And so there's some references in the EA – in the environmental assessment – in chapter 5. But in broad terms, following their initial consultation with the department and with Council, they then have had consultation with the high school, and they've also met with various other stakeholders in the community, particularly in relation to the community consultative committee.

30

35

MR HUTTON: Yep.

MR PRESHAW: So that's normally where they – where you would raise issues related to a modification or a - - -

40

MR HUTTON: Yep.

MR PRESHAW: - - - change in a - - -

45 MR HUTTON: Yep.

MR PRESHAW: - - - mining plan.

MR HUTTON: Yep.

MR PRESHAW: So there's been ongoing community engagement, largely through that CCC and with the high school. And then, if the modification is approved and it progresses to the point of needing another SMP, then they will – there will be a set of engagements involved in that process, as well.

MR HUTTON: Yeah, okay.

MR PRESHAW: So it is – I mean – to sort of recap on all that, there is an ongoing dialogue between the company and the community. Some of that is formally required, under the development consent, through the community consultative committee; and some of it is just a process that the company has established, separate to the regulatory framework.

MR HUTTON: Yeah, okay. Probably the key questions from me – there was a couple of just – couple of minor things we just identified in the draft conditions, around some numbering, and bits and pieces, which, you know, we can pick up on as a process. But one in particular that was just in reference to figure 2 in the draft consent doesn't include the approved, as I understand it, longwall panels 33 and beyond, to the north.

MS EVANS: No.

MR HUTTON: And – just interested to get your view on whether that figure should be updated.

MS EVANS: It can be.

MR HUTTON: Yeah.

MS EVANS: This figure is just simply an update of the one that's in the existing consent.

MR HUTTON: Yep.

MS EVANS: That's just purely taking the crosshatching out of the - - -

MR HUTTON: Yeah.

MS EVANS: - - - modification area.

MR HUTTON: Yeah.

MS EVANS: But we can look to get it updated with the additional - - -

MR HUTTON: Yeah.

MS EVANS: - - - longwalls on it.

MR HUTTON: I think, given that the original approval goes through to those - - -

5 MS EVANS: Yep.

MR HUTTON: be worth just - - -

MS EVANS: Yeah.

10

MR HUTTON: - - - putting those on there, for clarity.

MS EVANS: Yep.

15

MR HUTTON: All right. I think, unless anyone else has any other questions – Alice? Or are you happy? Yep. Do you have any other comments around the application from the department’s side? I think the assessment - - -

MR HOLM: Not from me.

20

MR HUTTON: The assessment report in terms of outlining the proposal, and - - -

MR HOLM: Thank you.

25

MR HUTTON: - - - I’ll just say thank you for that.

MR HOLM: Thank you.

30

MR HUTTON: All right. I think, in that case, then, we’ll call to a close the meeting, and thank you for your attendance and contribution today. Thank you.

MR HOLM: Thank you.

35

MS EVANS: Thank you.

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[2.23 pm]