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TRANSCRIPT OF PROCEEDINGS

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INDEPENDENT PLANNING COMMISSION

MEETING WITH DEPARTMENT OF PLANNING AND ENVIRONMENT

RE: RIX'S CREEK COAL MINE MOD 10

PANEL: **PROF MARY O'KANE**
ANDREW HUTTON
TONY PEARSON

ASSISTING PANEL: **DENNIS LEE**
DIANA MITCHELL

**DEPARTMENT OF
PLANNING AND
ENVIRONMENT:** **MEGAN DAWSON**
GENEVIEVE SEED

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

DATE: **9.00 AM, FRIDAY, 10 MAY 2019**

PROF M. O’KANE: So I would like to start by acknowledging the traditional owners of the land, the Gadigal people of the Eora Nation, and pay my respects to their elders past and present and to their emerging leaders. Welcome, as I said before. As you know well, the Bloomfield Group is seeking approval to extend the approved period of coal extraction at Rix’s Creek South coal mine which is due to expire on 24 June 2019 and they’re seeking to extend it by nine months. The purpose of this modification is to allow for the continuation of mining at Rix’s Creek South while the assessment is of a new State Significant Development application SSD6300 which would extend mining operations for a further 21 years while that is finalised and determined.

My name is Mary O’Kane. I am the chair of this Commission panel. Joining me are my fellow commissioners Andrew Hutton and Tony Pearson. The other attendees are Dennis Lee and Diana Mitchell from the Commission Secretariat. In the interests of openness and transparency and to ensure the full capture of information, today’s meeting is being 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 is taking place at the preliminary stage of this process and will form one of the several sources of information upon which the commission will base its decision.

It is important for the commission to ask questions of attendees and to clarify issues whenever we consider it appropriate. If you are asked a question and are not in a position to answer, please feel free to take the question on notice and provide any additional information in writing which we will then put on our website. I request that speakers today introduce themselves before speaking for the first time and for all people to ensure they do not speak over the top of each other to ensure accuracy and clarify of the transcript. So, now we will start the questions. Can – do you want to make an opening comment on any kind?

MS DAWSON: Sure. First of all, I will just introduce who is here.

PROF O’KANE: Yes.

MS DAWSON: Howard Reed who is my director sends his apologies, and Mike Young as well who is our executive director – they both were unable to attend. So I’m Megan Dawson. I’m team leader from the resource assessments team, and I oversaw this modification. I’ve also brought along Genevieve Seed who didn’t directly work on the MOD but is quite familiar with the continuation project. So she will be great to have if you have any questions on that. I thought it might help before getting into the specific questions just to kind of provide a summary of our assessment. I think that was the - - -

PROF O’KANE: That would be good and I think then maybe if you wouldn’t mind – we might pause before we then even go into the questions. Yes.

MS DAWSON: Sounds good. Yes, that sounds great. So Mary already went through the purpose of the modification so I won't re-summarise that. But I guess in summary, so to us it was quite straightforward in scope and despite this, the modification did attract a high level of community interest. The department notes
5 that this is a noticeable trend for Hunter Valley coal projects, even for minor modifications such as this one. Interestingly, none of the government agencies objected to or raised issues with the MOD. However, there was a large divide between the community submissions. You would have seen there was 28 objections and also 24 in support.

10 Those in support were largely either directly or indirectly involved with the mine and could see the socioeconomic benefits that the mine and the modification would provide and they generally supported Bloomfield as an organisation. However, in contrast, those in objection were concerned with health, amenity and environmental
15 impacts of the mine and the continuation of coalmining more generally. The department endeavoured to address all the community concern in section 4 of our report, however we had to focus in section 5 really on the relevant matters. As the modification is not proposing to intensify, expand or alter the approved mining operations, our assessment focused on the extended duration of the prolonging of
20 impacts over these nine months and with a particular emphasis on air quality and noise.

Socioeconomic impacts and benefits were also looked at from two perspectives. We looked at it first in terms of the benefits that would be provided due to the
25 modification and then we also looked at it conversely from the negative impacts that would arise if the modification were not approved. In the end, we concluded that the socioeconomic benefits would outweigh the minor prolonging of health and amenity impacts and we concluded that the modification was warranted to protect the mine's workforce, contractors, suppliers, customers and its owners from unnecessary
30 disruption, particularly during this time of uncertainty when the SSD is under its final stages of assessment. That's really kind of just a quick recap of our assessment.

PROF O'KANE: Thank you for that. Can I just ask you a question right there at that starting point – that the application is under 4.55 (1A) and can you just talk a
35 little bit as to particularly how it satisfies the conditions that you would advise us that we should be satisfied that the proposed modification is of minimal environmental impact.

MS DAWSON: Sure. So we considered that – so the applicant lodged the
40 application under 4.55 (1A). We had no reason to disagree with that based on the nine months prolonging of impacts. We consider those to be minimal and acceptable.

PROF O'KANE: Thank you. Colleagues, anything else before we go into maybe
45 the questions?

MR T. PEARSON: No, no, do you assess minimal – what’s the – when you look at minimal, what’s the – the impact versus – what are you assessing the impact against? Is it no mine? Is it - - -

5 MS DAWSON: We don’t have a set test for testing what is minimal. That’s my understanding. It’s – I guess we consider the statement of environmental facts presented and it’s really the applicant presents it as minimal and we agree or disagree.

10 PROF O’KANE: Thank you.

MR PEARSON: Thanks.

PROF O’KANE: All right.

15

MR A. HUTTON: I just have a – Andrew Hutton. Just a question around the nine months – why that particular period of time was selected.

PROF O’KANE: Yes, that’s in the question.

20

MS M. DAWSON: Yes, sure. That’s one of the first questions. That was nominated by the applicant and again, we – their justification was that they thought that was sufficient time for the SSD to be finalised and again, we had no reason to disagree. We agree and hopefully the commission would too that nine months should be sufficient time to wrap up the SSD and determine it.

25

MR HUTTON: Okay.

30 MS DAWSON: Yes. It also fit within the – I guess the minimal environmental impact. They – there was no need to do a longer period, particularly to stay within the 1A.

MR HUTTON: Yes.

35 PROF O’KANE: Right. Would you – and presumably that’s all you really wanted to say under the first part – the background question in the - - -

MS DAWSON: Yes. I guess, the second part was if the SSD is not determined by March, we would expect the applicant to likely – to seek another modification. I know they’re coming in after so they might be able to answer that more specifically. I know continuation of mining is definitely a high priority to them.

40

PROF O’KANE: Thank you. Do you want to then go on to question 2 and the background?

45

MS DAWSON: Sure.

PROF O’KANE: Thanks. And this is referring to a letter sent to Mr Howard Reed from Sam McLean, executive director of the commission, about this issue.

5 MS DAWSON: So just by way of context, Rix’s Creek has – Bloomfield is now referring to it as Rix’s Creek South and that’s largely because they acquired Integra Underground – sorry, Integra Open Cut a few years ago and they’ve renamed Integra Open Cut Rix’s Creek North and so this mine is now called Rix’s Creek South. The question is what would the impact of the expiry of the coal extraction period for the project mean to Rix’s Creek North. So the commission that ROM coal from Rix’s
10 Creek North is currently processed at Rix’s Creek South and dispatched via the Rix’s Creek South train loading facility.

I will draw your attention to section 4 of Bloomfield’s statement of environmental effects. In this section, Bloomfield states that Rix’s Creek North is dependent on the
15 continuation of operations at Rix’s Creek South for shared water and tailings management, coal processing, coal blending and coal blending to meet export requirements, coal loading and the management of overburden disposal. Due to this integration of operations, Rix’s Creek North would also be negatively impacted if this modification were not approved so that I guess the answer to your question is
20 yes. Rix’s Creek North would also be affected.

MR PEARSON: Do you – just off the top of your head what’s the permitted life of Rix’s Creek North?

25 MS DAWSON: That’s a good question.

MR PEARSON: But if it’s a long term approval.

30 MS DAWSON: It’s – I think it’s another few years; yes.

MR PEARSON: Is it? So this issue is likely to come up as well in the State Significant Development project application.

35 MS DAWSON: Yes. We would address also the integration of the operations in the SSD.

MR PEARSON: Okay.

40 MS DAWSON: So Rix’s Creek North does have its own CHPP and load-out facilities but it’s currently being used by Integra underground.

MR PEARSON: Yes.

45 MS DAWSON: So their preference is to keep sending the coal.

PROF O’KANE: And we saw that on the site visit - - -

MS DAWSON: Good.

PROF O’KANE: - - - for the review. That was – we did last year , yes.

5 MR PEARSON: Yes.

MS DAWSON: I guess the second part of this question is also related to how the condition is framed. So condition 2 which controls the 24 June deadline relates to coal extraction and it’s important to note that Bloomfield has, I guess, taken a conservative approach to this modification and assumed that cessation of coal
10 extraction would also entail cessation of other associated mining activities. There may be opportunity to continue these other activities on the site such as coal processing and transportation.

15 However, the department has recommended that Bloomfield seeks its own legal advice on this matter. We also understand that – so even if the other activities could continue on the site such as processing and just load-out this would still impact Bloomfield’s workforce as the majority of the jobs there are associated with extraction activities. And, again, this could probably be best confirmed with
20 Bloomfield

MR PEARSON: Right.

PROF O’KANE: Thank you. That answers very comprehensively the question that
25 we were putting there. Happy to go on to the conditions?

MR PEARSON: Yes.

PROF O’KANE: Yes. So we might go on to the conditions questions then. So
30 again within this letter we put two questions and so do you want to take those and you might as well do the explaining and the context.

MS DAWSON: Sure. The question is:

35 *Would the department through the Resources Regulator please confirm that the mine closure plan required under the condition 16(d) is consistent with current policy and industry best practice.*

I note that in our assessment reports, section 4.2, where we address all the agency’s
40 comments, we address, but the Resources Regulator’s advice on this – on the modification. And, importantly, they did not request the conditions to be updated. So they noted that they were not – did not reflect current best practice wording but they also carried on to say notwithstanding this they determined that the current conditions remain suitable. And because the Resources Regulator is the – regulates
45 under the Mining Act we do rely on their advice heavily for knowing when and how to update the rehab conditions and then the , because they didn’t ask for it, we also didn’t consider it necessary.

I guess further to this we also considered that based on the scope of the modification being really just a temporal change only we didn't consider it would be reasonable to update these conditions and it would potentially be a stretch of our powers under 455(1)(a). And I guess, thirdly, we also, knowing that the SSD is nearing its
5 finalisation, all these rehab conditions would be fully contemporised under the new consent.

PROF O'KANE: Do you want to – while you're thinking I will put in a question. That in the – in your assessment report in summarising the Resources Regulator
10 comments, you point out that they had said that any – and it's in their note 2 – that any residual risks or opportunities could be effectively regulated through conditions of the mining leases issued under the Mining Act. Do you think they had in mind any changes at all so that – you know, talking about residual risks, do you think – did you get any sense in talking to them that they thought one would need to look a bit at
15 the – at this area?

MS DAWSON: So with this extension they will also have to update their mining operations plan - - -

20 PROF O'KANE: Yes and that's - - -

MS DAWSON: - - - which is also referred to as their rehab management plan.

PROF O'KANE: Yes.
25

MS DAWSON: And so the Resources Regulator was satisfied that in that update – so what's the conditions we aren't expecting the conditions to change.

PROF O'KANE: Yes.
30

MS DAWSON: But in that update - - -

PROF O'KANE: Right. So we – we would – we can note that they will be doing that update as part of this?
35

MS DAWSON: Yes. Yes.

PROF O'KANE: That's – I think that's really – that goes right to the issue we were
40 - - -

MS DAWSON: Yes. Yes.

PROF O'KANE: - - - keen on.

45 MS DAWSON: Because the MOPS have set time periods whereas our management plans don't have, like, a start and end date.

PROF O’KANE: Yes. Good. That really covers that point.

MR PEARSON: Yes. Yes.

5 MS DAWSON: I thought I would also hope – it’s not directly related to the
question but I guess it’s important to recognise that this consent was granted in 1995
so at first look that sounds like it’s a really old consent but it has been modified a
number of times and in each of those modifications, particularly the larger ones, we
10 have taken the opportunity to update the conditions so even the rehab conditions
were updated in 2009 and some of the other conditions more recently.

PROF O’KANE: Yes. We noted that.

MR PEARSON: Yes.

15 PROF O’KANE: And we noted again – and thank you for reminding us of it. We
also, you know, wondered – we thought what you’ve said happens with the MOP
probably happened but we just wanted to check that point so that has been a very
helpful piece of discussion.

20

MS DAWSON: Yes.

MR PEARSON: So do you mind – could I ask – the mine closure plan, do you have
25 a sense of in which way – in which way or ways that that is not inconsistent with
current practice, current best practice?

MS DAWSON: They didn’t – the Resources Regulator didn’t spell out, like, the
specifics of what was out of date but it’s not the – it doesn’t reflect the standard
conditions anymore.

30

PROF O’KANE: Right.

MS DAWSON: So with the SSD you’ll – and with recent other projects you can
35 look at the new standard conditions have much more details. We have objectives for
a minimal comprehensive rehab strategy and we have a management plan.

MR PEARSON: Perhaps too I could ask you if you could take that question on
notice then and if there are big gaps or differences between the current mine closure
40 plan and current policy you could come back to us.

40

MS DAWSON: I’m sure if that’s given.

PROF O’KANE: And/or if it makes it easier for you we could have a three-way
45 meeting at the Resources Regulator and they can just take us through that if that – it
would save time rather than having to write a long letter back.

MS DAWSON: Yes. I guess there's also, like, practicality issues with – if there was a need to contemporise the wording we would then give them six months to prepare such a document – three to six months usually. And then we have this – they're only seeking nine months but we would give them six months to prepare so they would then put a lot of effort and time into a closure plan ending in March when we know that the SSD is on foot. So I guess there's also just that to bear in mind but I'm happy to respond – talk to the Resources Regulator and get back to you.

5

PROF O'KANE: Maybe we could add to it the question of can they pick up any of the major differences when they - - -

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MS DAWSON: In the MOP.

PROF O'KANE: In the MOP.

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MS DAWSON: Yes. That's a good question.

MR PEARSON: Yes.

20

PROF O'KANE: Yes.

MS DAWSON: Yes. Let me just - - -

PROF O'KANE: And, as I said, just let us know if you

25

MS DAWSON: Let me just write that down so - - -

PROF O'KANE: Sure. Or we can summarise it for you to send it. It could be particularly useful to have that information before we have the public meeting.

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MS DAWSON: Yes, on the 20th.

PROF O'KANE: And it could be something for the - - -

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MS DAWSON: Yes.

PROF O'KANE: Maybe the department to include in its statement, maybe. Were there any other questions on that? Any questions on that question or, if not, we will - - -

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MR PEARSON: I think we will move forward.

PROF O'KANE: - - - we might go onto the next one. Over to you.

45

MS DAWSON: Sure. The fourth question, again it – really it's two conditions and really the context is around if the modification presents an opportunity to update the conditions to rectify any non-conformances. The question itself is:

Can the department please confirm if there are any outstanding issues requiring mitigation and acquisition under the VLAMP which is a Voluntary Land Acquisition and Mitigation Policy or other mechanisms.

5 In response the department is unaware of any outstanding issues requiring mitigation or acquisition under the VLAMP. I was also able to confirm with our compliance team that there are no current – there are currently no significant outstanding or unresolved compliance matters at Rix’s Creek South which means that there’s no strong case to update any conditions.

10

PROF O’KANE: Just on related matters there, at the start you mentioned you particularly looked at the air and noise issues, yes. Did you want to just expand a little bit on that? Was everything - - -

15 MS DAWSON: Sure. So we’ve –the key to our assessment section was focusing on the relevant matters and we considered the prolonging of health and amenity impacts particularly – air was raised as, again, a key concern by the community. And noises wasn’t raised as a key concern of the community as also an amenity impact that would be prolonged. And we consider that considering the minor extension period,
20 so nine months relative to a 21 year mine life, we consider that that would be – would result in minimal impacts and minimal prolonging of impacts and therefore we considered them to be acceptable.

25 PROF O’KANE: And given the nine months will go from June – nine months from June – are there any exceedances or issues with regard to weather matters over that nine months that might still be in the acceptable range or be – with the number of exceedances and things, was there anything that came up there?

30 MS DAWSON: No. This is something I guess we – when we confirm with compliance that there were any air quality incidents and noise incidents that they were investigating, and there aren’t currently. The air quality conditions were recently updated and I think we noted this in our assessment report 2016.

35 PROF O’KANE: Yes, ’16. I saw that. And I only – I ask the question because they carefully explained to us how the weather – how the different seasons have different effects when we were doing last year’s project.

40 MS DAWSON: Yes, definitely. Yes. So they operate quite a comprehensive air quality management system and noise management system up there. And we were satisfied that that could continue for nine months without needing any updates.

PROF O’KANE: Thank you. Any other questions on that area? If not, then we might go to the last of our questions, number 5. So this time we’re moving to economic analysis issues.

45

MS DAWSON: Sure. This question – just to summarise:

5 *The Commission is required to assess the economic impacts under section 4.15(1)(b) of the Environmental Planning and Assessment Act. Is the Department able to confirm if a cost-benefit analysis has been prepared for the extension or any other analysis that may indicate the potential cost-benefit of the extension?*

10 So importantly the department agrees that section 4.15(1)(b) is a relevant matter for consideration. This clause requires the consent authority in determining a development application to consider the likely impacts of the development, including environmental impacts and social and economic impacts. Importantly, as this modification was lodged and accepted as a 4.55 (1A), we generally consider it appropriate to scale the impact assessment proportionate to the scope of the proposal and based on risk. This is a common approach used in statement by applicants in the statement of environmental facts and used by the department in all of our assessment reports.

15 So it's scaled based on scope and impact. So in this modification, the department considered it appropriate to assess the potential impacts qualitatively, particularly as the modification is not proposing to intensify, expand or alter mining operations. As such, a cost-benefit analysis – a detailed quantitative cost-benefit analysis has not been prepared. We have considered socioeconomic impacts and benefits in section 5 of our report and we consider that the modification would provide continued employment for mine workers and ongoing engagement of contractors and suppliers.

20 The modification would also allow for previously considered economic benefits to the state to be realised. This includes the associated coal royalties from producing the 1.9 million tonnes of brown coal that's expected over the nine-month period. So we consider it – I guess to summarise, we consider that a qualitative assessment such as this was appropriate for this modification and also considered that a really detailed analysis would likely be a lot more work with little value. It wouldn't have assisted us with the assessment.

25 PROF O'KANE: Dennis? The only other thing I had is given the objections, is there anything else we should be discussing, really, there, particularly prior to the public meeting? Is there anything – you know, in thinking about it, you particularly would like to draw our attention to or even wanted – think we should be particularly asking in questions at the public meeting?

30 MS DAWSON: No, we really tried to address the objections in section 4 of the report, even if we didn't carry them through to the assessment because I guess we kind of introduced with the community uses the submissions process as a platform to raise concerns and it's acceptable that sometimes they're not directly related to the modification. It's a platform that's used and, I mean, for that reason we've really tried to acknowledge and address their concerns.

35 PROF O'KANE: No, and it's a very nice presentation. It's easy to read and see.

MS DAWSON: Thanks. Yes, I mean, all of the things raised were really interesting and I don't think there's anything really specific. They did – Bloomfield's prior compliance history was raised, as you will recall, in most of the objections, so that might come up again in the meeting.

5

PROF O'KANE: Yes. And you've pointed that out and we looked at that last year too, so yes, we're familiar with that. Yes.

MS DAWSON: Yes. Other than that - - -

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PROF O'KANE: All right. Good. Well, I think that's all we have. Thank you very much. Thank you for piloting our questions with us, so that was good.

MS DAWSON: No worries. Thanks for having us.

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[9.26 am]