

14 December 2017

**NSW Planning Assessment Commission Determination Report
Rocky Hill Coal Project (SSD 5156)**

1. INTRODUCTION

On 23 October 2017, the Planning Assessment Commission received from the Department of Planning and Environment a State significant development application from Gloucester Resources Limited (the applicant) for the Rocky Hill Coal Project (the project).

The Department has referred the development application (along with an associated modification application for the Stratford Mining Complex SSD 4966 MOD 1) to the Commission for determination in accordance with the Minister for Planning's delegation because the Department received an objection from the local council and more than 25 submissions from the public in the nature of objections.

Ms Lynelle Briggs AO, Chair of the Commission, Mr John Hann and Dr Peter Williams constituted the Commission to determine the development application.

The Commission notes that there was a change in panel membership after the publication of the original panel on 23 October 2017. Mr Andrew Hutton was originally nominated to the panel but became aware of a perceived conflict of interest and subsequently requested to be removed. This request was accepted by the chair of the panel and on 26 October 2017 Dr Peter Williams was nominated to the panel.

This report should be read together with the report outlining the Commission's determination on the Stratford Mining Complex SSD 4966 MOD 1.

1.1 Summary of Development Application

The development application proposes to develop a new open cut coal mine, 5 kilometres (km) south of the Gloucester town centre in the MidCoast Council local government area (LGA). The Rocky Hill Coal Project will:

- produce up to 2 million tonnes of run-of-mine (ROM) coal per year from three open cut pits for up to 21 years;
- construct and operate a private coal haul road to link the Rocky Hill Coal Project with the Stratford Mining Complex (SMC), approximately 9 km to the south;
- install and operate a rotary breaker to reduce ROM coal size to <120mm;
- transport sized ROM coal on the private coal haul road between 7:00 am and 6:00 pm only, Monday to Saturday;
- use the private coal haul road to deliver heavy equipment and construction materials to the mine site;
- require the construction of amenity barriers; and
- rehabilitate the site to resemble pre-mining landform and drainage patterns following the cessation of mining operations.

The mine area would cover approximately 764 hectares (ha) — accommodating the three open cut pits, western and northern amenity barriers, overburden emplacements and general mine-related infrastructure. The mine will produce high fluidity coking coal (95%) and thermal coal (5%) and provide 60 construction jobs and 110 operational jobs.

The SSD 4966 MOD 1 modification application proposes to amend the development consent of Yancoal's Stratford Extension Project (SEP) at its Stratford Mining Complex to receive the Rocky Hill project's ROM coal, process it and dispatch it by rail for export.

1.2 Original Project Description

On 18 December 2012, the applicant lodged a development application for the Rocky Hill Coal Project to develop an open cut coal mine 5 km south of Gloucester. The project sought to extract 2.5 million tonnes per annum (Mtpa) of ROM coal over 21 years. The project included the construction of site facilities including site offices and amenities, as well as a coal handling and preparation plant. The project also sought to construct an overland conveyor to transport product coal 2 km west to a dedicated load-out bin and rail loop for transport to the Port of Newcastle for export.

On 16 April 2015, the applicant was informed that the Department's assessment had concluded that the proposal was not in the public interest, and that it would be recommending refusal to the Commission. Prior to completion of the Department's assessment report, the applicant requested that the Department place the application on hold so that potential project amendments could be considered. The Department accepted this proposal.

1.3 Amended Project Description

In December 2015, the Department was informed that a formal agreement had been reached between the applicant and Yancoal for the receipt, processing and dispatch of the project's coal at the Stratford Mining Complex (SMC). On 11 August 2016, the Minister's delegate agreed to accept an amended State significant development application. On the same day, the applicant submitted an amended development application and amended environmental assessment to the Department.

Key amendments to the project include:

- removing one of the four open cut pits from the overall mine plan;
- removing the proposed coal handling and preparation plant, overland conveyor, train load out bin and rail loop from the site, and instead utilising similar infrastructure at the SMC;
- adding a private coal haul road linking the project to the SMC;
- installing a rotary breaker onsite so that sized ROM coal can be transported to the SMC for processing;
- reducing daily operational hours, with no operations to occur between 10 pm and 7 am or on Sundays;
- no mining operations to occur during evening hours (6pm-10pm) for the first 3 years;
- reducing the maximum coal production rate from 2.5 to 2.0 Mtpa;
- improving rehabilitation outcomes by the inclusion of micro-relief in a final landform that mimics the existing landform and does not result in a final void; and
- realigning earthen amenity barriers to improve effectiveness, remove linearity and create a more natural appearance.

The Department considers that the applicant has substantially reduced the impacts of the project by scaling down development and reducing surface infrastructure.

This determination report addresses the amended project, as described in **Section 1.1** only, and not the project as originally submitted to the Department unless expressly referenced.

1.4 Need for proposal

The project has been redesigned to address the issues raised by government agencies and the concerns of the community. In their amended Environmental Impact Statement (EIS), the applicant considers that the amendments have resulted in a project that is better able to address community expectations, while providing an acceptable financial return. The project would provide for the mining and despatch of high quality coking coal products destined for export to Asian steel mills.

The applicant states that the project would have a reduced level of environmental impact whilst maintaining positive social and economic benefits. These include:

- a range of local, regional, State and national economic benefits, such as employment opportunities and royalty payments;
- a Community Grants Program, which would contribute \$6.5 million (up to \$400,000 per annum) to the local community over the lifetime of the project;
- improved local infrastructure, including contributions to the maintenance of Jacks and Waukivory Roads, as well as The Bucketts Way; and
- improved agricultural productivity, including ongoing cooperation with the Speldon Partnership dairy farm located to the west of the project site.

2. DEPARTMENT'S ASSESSMENT REPORT

The Department's assessment report identified visual, noise, vibration and blasting, air quality, surface water, groundwater, rehabilitation, health, economic, social, Aboriginal heritage, historic heritage, biodiversity, traffic and transport and agriculture as the key impacts associated with this proposal.

The Department's assessment report concluded that the project is incompatibly located with respect to the southern fringes of the nearby rural-residential area of Gloucester. The Department considers that the project area is not a suitable site for an open cut coal mine, due to:

- potential land use conflicts with existing established land uses, in particular rural-residential and tourism; and
- its incompatibility with the underlying aims and objectives of the RU1 Primary Production and E3 Environmental Management strategic land use zonings of the *Gloucester Local Environmental Plan 2010* to protect the scenic amenity of Gloucester township and the broader Gloucester Valley by retaining scenic and rural surroundings for the town.

The Department therefore considers that the project is not in the public interest and should be refused.

The Department has also assessed the modification application for the SEP and considered noise, air quality, biodiversity, Aboriginal cultural heritage, and flooding and floodplain management to be the key impacts associated with the proposal. The Department states that determination of the SEP modification application should reflect the determination of the project.

3. COMMISSION'S MEETINGS AND SITE VISIT

As part of its assessment of the proposal, the Commission met with the Department, the applicant, MidCoast Council (Council) and visited the site. Minutes from these meetings and the site inspection are provided in **Appendix 1**. The Commission also conducted a public meeting over two days. The list of speakers and summary minutes from the public meeting are provided in **Appendix 2**.

3.1 Briefing from the Department

On 1 November 2017, the Department briefed the Commission on the proposal.

3.2 Briefing from the Applicant and Site Visit

On 1 November 2017, the applicant briefed the Commission on the project. The briefing was followed by a site visit on 14 November 2017.

3.3 Meeting with MidCoast Council

On 14 November 2017, the Commission met with MidCoast Council to discuss their views on the proposal.

3.4 Public Meeting

The Commission held a public meeting at the Gloucester Soldiers Club on 14 and 15 November 2017 to hear the public's views on the proposal. A list of the 54 speakers that presented to the Commission and a summary of the issues raised by the speakers is provided in **Appendix 2**. In summary, the following matters were raised:

- the location of the mine;
- visual impacts;
- Aboriginal and cultural heritage impacts;
- tourism impacts;
- social impacts;
- health impacts;
- economic impacts;
- environmental impacts;
- biodiversity impacts;
- noise and air quality impacts;
- water impacts and treatment of brine;
- mine hazards; and
- strategic planning context and the project's permissibility.

4. ADDITIONAL INFORMATION

After meeting with the applicant on 1 November 2017, the Commission sought the following clarifications:

- the peak maximum height of landforms above ground level;
- whether the Rocky Hill mine will use different seams and different extraction techniques than the existing Stratford and Duralie mines;
- a summary of the number of owner agreements for properties in the locality; and
- a copy of the water entitlement agreement with Yancoal.

This information was provided to the Commission on 17 November 2017 and on 29 November 2017.

At the applicant's volition, the Commission received further information from the applicant pertaining to their responses to the issues raised at the public meeting.

At its 1 November 2017 meeting with the applicant, the Commission was provided with information regarding modelled water entitlements and licencing requirements for project. The Commission sought clarification from the Department as to whether they or DPI-Water had considered this information as part of their assessment of these matters. A response to this request was provided to the Commission from DPI-Water on 22 November 2017 and is considered in Section 7.2.

5. COMMISSION'S CONSIDERATION

In this determination, the Commission has considered carefully:

- all information provided by the applicant, including additional information;
- the Department's assessment report;
- advice and recommendations from government agencies;
- written and verbal comments from special interest groups and members of the public;
- relevant matters for consideration specified in section 79C of the *Environmental Planning and Assessment Act 1979* (EP&A Act), including:
 - relevant environmental planning instruments;
 - the *Environmental Planning and Assessment Regulation 2000*;
 - the likely impacts of the development on both the natural and built environments;
 - social and economic impacts in the locality;
 - the suitability of the site for the development; and
 - the public interest, including the objects of the EP&A Act.

The key matters considered by the Commission include the relevant environmental planning instruments and the project's environmental, economic and social impacts.

The Commission is satisfied with the Department's assessment of other matters including historic heritage, traffic and transport and agriculture.

6. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

6.1 State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (Mining SEPP)

Clause 12 - Compatibility of proposed mine with other land uses

Under clause 12 of the Mining SEPP, before determining a development application for the purposes of mining, petroleum production or extractive industry, the consent authority must:

a) *consider:*

i. *the existing uses and approved uses of land in the vicinity of the project;*

There are a number of existing and approved land uses within the vicinity of the project. These land uses include, but are not limited to the following:

- residential dwellings;
- hospital and schools;
- tourist and visitor accommodation;
- commercial premises;
- agriculture; and
- open cut mining.

ii. *whether or not the development is likely to have a significant impact on the uses that, in the opinion of the consent authority having regard to land use trends, are likely to be preferred uses of land in the vicinity of the project; and*

It is the opinion of the Commission that the *Gloucester Local Environmental Plan 2010* (GLEP) is the most relevant representation of what land uses are most likely to be considered the preferred uses of land in the vicinity of the project. In producing a LEP, Council will:

- select zones as appropriate to the needs of the local area, informed by studies and consultation with the public and relevant agencies;
- outline the zone objectives, which are used to clarify the role and function of the zone; and
- determine for each zone whether to permit (with or without consent) or prohibit various land uses.

The relevant land use zones and permissible uses within those zones are included in **Appendix 3**.

In considering the Mining SEPP, the Commission is required to establish whether or not the development is likely to have a significant impact on the preferred uses of land. Regardless of the permissibility exemptions afforded to mining pursuant to clause 7 of the Mining SEPP, the GLEP has sought to exclude mining as a permissible use in all zones within the vicinity of the site with the exception of the RU1 zone. The nature of the existing surrounding permissible land uses is clearly distinctive by both their intensity and potential impacts and are not comparable to even an environmentally compliant open cut coal mining operation.

It is the opinion of the Commission that the preferred land uses are residential, tourism and low intensity agricultural activities. This is a position that was reinforced by Council during its meeting with the Commission on 14 November 2017.

The Commission has formed the view that the development will not have a significant impact on the open cut coal mine which is located to the south of the project. The Commission acknowledges that the project complies with the non-discretionary development standards for mining pursuant to clause 12AB of the Mining SEPP. However, the evidence presented to the Commission, and as discussed in this report, demonstrates that on balance, the project is likely to create significant negative impacts on the preferred land uses identified above with the exception of agriculture based activities.

iii any ways in which the project may be incompatible with any of those existing, approved or likely preferred uses; and

The Commission considers that the project would not be incompatible with open cut coal mining that is located to the south of the project.

The Commission acknowledges that applicable environmental criteria, such as noise and air quality, are designed to address potential impacts on humans and structures, and that the development complies with these standards.

However, in assessing incompatibility with existing and approved land uses in the vicinity of the site, the Commission notes that open cut mining operations would be in close proximity to existing residential, tourist and visitor accommodation, hospital, school, and home based commercial activities. While the Commission acknowledges that the project is technically compliant with the relevant policy frameworks, the project would create significant impacts on visual amenity and create noise and air quality impacts above what is currently experienced by people within these land uses. These impacts are discussed in detail in **Section 7** of this report. The Commission finds that the project is therefore incompatible with these land uses.

b) evaluate and compare the respective public benefits of the development and the land uses referred to in paragraph (a) (i) and (ii); and

The Commission recognises that open cut coal mining delivers significant economic flow-on benefits to the community and a number of associated industries. The project is predicted to create up to 110 direct jobs during operation and 60 short-term construction jobs, with indirect employment of up to 450 positions in the region over the 16-year life span (or 19 years including rehabilitation) of the project. The predicted monetary value of the project is estimated as follows:

- approximately \$9 million in wages per annum;
- \$63.4 million to the NSW Government in royalties;
- \$60 million to the Commonwealth Government in company tax;
- \$19.1 million company income tax attributable to NSW;
- \$5.6 million local Government rates attributable to NSW;
- \$6.5 million to the local community over the lifetime of the project from a Community Grants Program;
- \$90.3 million capital investment;
- \$32 million annual operational spending; and
- upgrades of local roads and road maintenance contributions.

The Commission accepts that there would be significant public benefits derived from job creation and the revenue and expenditure generated as a result of the project. The public of NSW would also benefit from increased government expenditure directly resulting from mining royalties.

The Commission considers it important, when evaluating and comparing the respective public benefits of the project and the existing land uses identified within the vicinity of the project, to highlight that whilst both the project and other land uses generate benefits, there is a significant difference in the nature of these land uses and subsequent benefits that make any direct comparison challenging.

However, the Commission finds that the preferred land uses are sustainable in the long term and will play a significant role in the future growth and development of the Gloucester region. Conversely, the project has a finite lifespan of up to 19 years and would not create such significant long-term benefit to the region that would so outweigh the combined negative impacts to be considered as a preferred land use. The Commission considers that this is an important and relevant distinction in evaluating the public benefits of the development and the land uses referred to in paragraph (a) (i) and (ii).

c) evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).

The applicant has proposed a number of measures to avoid or minimise the incompatibilities identified in paragraph (a) (iii) that include visual, noise, vibration and dust impacts.

The Commission finds that the measures proposed to avoid or minimise blast noise and vibration, air quality and lighting impacts are capable of operating within regulatory criteria, noting that no criteria for visual impacts exist.

Clause 12A – Voluntary Land Acquisition and Mitigation Policy (VLAMP)

The VLAMP has specific application only to Property 6, which is located to the north of Waukivory Road near the proposed mine entry via McKinleys Lane. This property is predicted to receive noise levels 5 dB(A) above the relevant noise impact assessment criterion. The applicant has informed the Commission that they have negotiated an agreement with the owners of Property 6.

Clause 12AB - Non-discretionary development standards for mining

Pursuant to clause 12AB of the Mining SEPP, the EIS demonstrates that the project complies with the non-discretionary development standards for mining in relation to cumulative noise level, cumulative air quality level, airblast overpressure, ground vibration and aquifer interference. The Commission is satisfied that the project can comply with the relevant regulatory criteria.

Clause 13 – Compatibility of proposed development with mining, petroleum production or extractive industry

Specifically, in relation to clause 13 (2)(a) the Commission has given consideration to the following:

- the existing and approved uses per clause 13(1)(a) within the vicinity of the project;
- the potential of significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials; and
- any potential incompatibility between the project and existing or approved uses, or current or future extraction or recovery.

The Commission finds that exploration of the site has revealed that significant coal resources exist within the site and the project's open cut operations would not preclude the future recovery of further coal resources. The Commission further notes that neither the applicant's EIS, nor the Department's assessment report, make reference to any other notable resources within the site that would be sterilised as a result of the project.

Furthermore, the Commission finds that the project would not prevent the future recovery of resources from within the vicinity of the project, nor does the project present any noted incompatibility with other mining, petroleum production or extractive industries within the vicinity.

In giving consideration to clause 13(2)(c) the Commission finds that the project is unlikely to generate any incompatibility with the Stratford Coal Mine due to the similar nature of both land uses.

Clause 14 – Natural resource management and environmental management

The Commission is satisfied that the applicant has appropriately addressed the requirements of these clauses and that they can be appropriately managed and mitigated.

Clause 15 – Resource Recovery

The Commission is satisfied that the applicant has appropriately addressed the requirements of these clauses and that they can be appropriately managed and mitigated.

Clause 16 – Transport

The Commission is satisfied that the applicant has appropriately addressed the requirements of these clauses and that they can be appropriately managed and mitigated.

Clause 17 – Rehabilitation

The Commission acknowledges the applicant's comprehensive approach to rehabilitation, and its intention to leave no void.

6.2 Gloucester Local Environmental Plan 2010

Pursuant to the provisions of the GLEP the project site is zoned RU1 – Primary Production and E3 – Environmental Management. It is noted that the majority of the project site is zoned E3 – Environmental Management. Open cut mining is permissible with consent within the RU1 zone and prohibited within the E3 zone. The objectives of the zones are as follows:

RU1 – Primary Production

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base;
- To encourage diversity in primary industry enterprises and systems appropriate for the area;
- To minimise the fragmentation and alienation of resource lands;
- To minimise conflict between land uses within this zone and land uses within adjoining zones; and
- To encourage eco-tourism enterprises that minimise any adverse effect on primary industry production and the scenic amenity of the area.

E3 – Environmental Management

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values;
- To provide for a limited range of development that does not have an adverse effect on those values; and
- To conserve biological diversity and native vegetation corridors, and their scenic qualities, in a rural setting.

Whilst the objectives talk to minimising the fragmentation and alienation of resource lands, it is evident that the zone objectives of both the RU1 and E3 zones are focused on the preservation and development of primary industry production; minimisation of land use conflict; the encouragement of eco-tourism in co-existence with agriculture; the enhancement, protection and preservation of lands with special environmental, social or aesthetic characteristics; and to support development that does not have an adverse impact on those characteristics.

It is clear from the evidence provided to the Commission that the approval and operation of an open cut coal mine in the proposed location, within the RU1 and E3 zones, is indisputably in direct contravention of the zone objectives, and is therefore inconsistent and incompatible with the surrounding land uses which have been developed in a manner consistent with the zone objectives.

Clause 7 of the Mining SEPP permits mining as permissible development with consent where agriculture is permitted, which is the case within the RU1 and E3 zones. This clause directly overrides the land use permissibility of the E3 zone which prohibits mining; but far more manifest is the inconsistency of mining with the objectives of both the RU1 and E3 zones of the GLEP.

It must be stressed unequivocally that permissibility and compliance with development standards does not equate to a project that is compatible and suitable with the surrounding locality and existing land uses.

6.3 Other applicable Environmental Planning Instruments

Applicable provisions of the following Environmental Planning Instruments (EPIS) were addressed by the Department in its assessment report:

- *State Environmental Planning Policy No.33 Hazardous and Offensive Development;*
- *State Environmental Planning Policy No.44 Koala Habitat Protection;*
- *State Environmental Planning Policy No.55 Remediation of Land;*
- *State Environmental Planning Policy (State and Regional Development) 2011;* and
- *State Environmental Planning Policy (Infrastructure) 2007.*

The Commission considered these EPIS and has formed the view that the project satisfies the requirements in each.

7. ENVIRONMENTAL, ECONOMIC AND SOCIAL IMPACTS

7.1 Visual impact

The Commission heard concerns at the public meeting regarding the visual impacts of the project. This was the most significant issue raised in objections received by the Department and the Commission, and related to:

- the impact on far ranging views of the Gloucester Valley for residents and travellers;
- the impact on residents of nearby residential estates due to the site's proximity;
- proposed visual mitigation itself being visually intrusive; and
- potential light pollution impacts.

In assessing the visual impacts of the mine, the Commission has considered the landscape character, its impact on nearby residential receivers, the impact of the proposed amenity barriers and the proposed rehabilitated landform.

- *Landscape character*

The Commission received comments raising concerns over the mine's impact on the valley's scenic value and character, and its potential cumulative impact with the presence of the Stratford Mining Complex to the south.

The Gloucester Valley is a relatively narrow valley characterised by gently undulating, cleared valley floors, flanked by the slopes and hilltops of the Mograni Range to the east and the distinctive Gloucester Bucketts Range to the west. It is the landscape which contributes to the valley's scenic value and character, making it an attractive place to live and destination for visitors and travellers.

The scenic value and character of the Gloucester Valley appears in the far-ranging views from elevated positions, such as tourist lookouts and trails, and the valley floor, from residences and while travelling along local roads and The Bucketts Way.

The Commission notes the applicant's assessment of the potential cumulative visual impact from the presence of the Rocky Hill Coal Project and Stratford Mining Complex in the Gloucester Valley. The applicant's VIA states that these developments would not be predominantly visible in the same view composition, except for long distance views such as the Kia Ora Lookout, and from isolated locations along The Bucketts Way.

- *Impact on residential receivers and public realm*

The Commission received comments regarding the project's visual impact on residents of the nearby rural-residential estates and travellers along The Bucketts Way. These concerns related to:

- the impact on visual amenity from direct views of the mine site; and
- the impact on residential amenity from substantial light pollution.

The applicant states that there would be short-term, moderate visual impacts on some locations in the public and private domains, predominantly along parts of The Bucketts Way that provide short duration views to motorists, and on some of the residences to the west and northwest of the mine site. The applicant notes that approximately one third of the residences would potentially have views of the mine site from their main living areas. However, the applicant believes that visibility of mining operations would be reduced as the proposed amenity barriers are progressively constructed and vegetated. The applicant has also proposed mitigation measures that they would adopt using a range of physical lighting controls, together with restricted operations during the evening and no night-time operations that would also limit visual impacts after dusk.

The applicant acknowledges that there would be cumulative visibility of some activities associated with the project that are not confined to the mine site, including construction traffic, the transportation of materials, and new road, bridge and culvert construction. These would be most evident in the site establishment and construction stage of the project, and would have more of a localised impact on visual amenity.

The Department considers that residents of the nearby residential estates would be aware of the 497ha area of disturbance within the local landscape. These residents would have views of the mine site, either from their property directly, or as they drive the public roads to gain access to their homes. As the residents would be reminded of the presence of the mine on a daily basis, the Department considers the visual impacts of the project would adversely affect their quality of life and the amenity of their current residential locations.

The Department further considers the mine would have a significant impact in terms of light pollution in the Gloucester Valley, with ambient light from the proposal likely to be intrusive for residents of the Gloucester community who currently experience largely uninterrupted evening skies set in a rural landscape lit only by the moon and stars. The Department considers that lighting impacts from the project would be a factor in reducing the amenity for all residents living near the proposed mine, not just those with a direct line of sight of the mine site.

- *Amenity barriers*

The Commission heard concerns at the public meeting and received written comments regarding one of the applicant's visual impact mitigation measures, which proposes the construction of amenity barriers.

The proposed western and northern amenity barriers cover an area of 95ha and have a maximum height of 41m above existing ground levels. While they will serve several purposes, including noise mitigation, the primary reason for their construction is to obscure views of the project, such as the pits and internal haul road, from surrounding residences and public viewing points. The applicant considers that they will also reduce the impacts of lighting during evening operations, principally as they would shield light from both mobile and stationary light sources.

The applicant has acknowledged that construction of the barriers would have noticeable visual impacts, but has argued that the change to the landscape would be temporary and visual impacts would lessen as the project progressed, with the barriers proposed to be completed by early in Year 3. The applicant provided the Commission reasoning why successful revegetation of the external face of the barriers is achievable, which includes topsoil thickness, moisture levels and moisture retention.

The Commission notes that while the Department considers that there is little doubt the project would have a significant impact on the visual and scenic values of the Gloucester Valley, and on the visual amenity of the nearby rural-residential estates, the Department also acknowledges the applicant's substantial visual mitigation strategy.

Despite acknowledging the applicant's attempt to reduce the visual impact of the mine through the proposed amenity barriers, the Department considers that the barriers would in themselves present a high visual impact. The 'saucer' shape of the landscape means that certain aspects of the mine site would be visible at all times from many of the residential properties in the estates, from The Bucketts Way and from higher, more distant viewing locations. The Department adds that, even if well-vegetated, their success would be dependent on the length of time before the vegetation is established. It concludes that the barriers would not blend seamlessly into the surrounding landscape or go unnoticed by local residents, travellers or tourists.

- *Rehabilitation*

At the public meeting and in written comments, concerns have been raised with the Commission over the proposed final landform and the risk that the site will not be able to be properly rehabilitated.

In its VIA, the applicant states that its strategy for using landform to control visibility and to quickly work toward the final landform has been a central consideration of the design of the mine. It was noted by the applicant that the final rehabilitated landform would begin to be visible from approximately Year 3 across the part of the mine site east of the alignment of McKinleys Lane. The applicant also believes that its proposal to create a final landform that clearly emulates the existing topography would ensure issues relating to visual impact after mine closure would be minimal.

The Department concludes that it is unlikely that there would be any period during the mine's operation or rehabilitation when the project would be visually inconspicuous and highlights a statement from the applicant's VIA that, "*The final landform would never appear to seamlessly fit into the existing context.*".

- *Conclusion*

The presence of a 497ha disturbance within the landscape would not represent a development that is sympathetic to the Gloucester Valley's character and would impact on far-ranging and localised views. The Commission finds that due to the significant impact of the mine on the character of the landscape, it is inconsistent with the underlying strategic aims and objectives of the land use zonings of the GLEP, (in particular E3 Environmental Management within which much of the site is located), to protect the scenic amenity of Gloucester township and the broader Gloucester Valley by retaining the scenic and rural surroundings of the town.

The Commission finds that due to the proximity of the project there would be significant views of the mine site from properties off Grantham and Fairbairns Roads in the Forbesdale Estate to the west. These properties currently experience uninterrupted views across the valley floor to the Mograni Ranges and there is no significant topography that blocks views towards the proposed mine site. The construction and operation of a mine and the considerable landforms created as a result would represent incongruous and significant features in the landscape, which would negatively affect the visual amenity currently enjoyed by residents. This visual amenity would be further impacted by lighting from the construction and operation of the mine.

The Commission finds that the amenity barriers would be substantial structures in the wider landscape as well as at a localised visual level, where the distance of the barriers to the nearest residential receiver would be approximately 350m. The Commission considers there is a risk that the establishment of vegetative cover for the barriers may be impaired by adverse climatic conditions, prolonging the adverse visual impact of the newly formed earth walls. The Commission finds that the barriers would not sufficiently fulfil one of their intended purposes, which is to protect the visual amenity of local residents; would be visually intrusive; and shares the Department's view that they would substitute one substantial visual impact for another.

The Commission supports the Department's and Council's assessment that the residual visual impact of the mine would be significant throughout all stages of the project and the subsequent recommendation that the project be refused consent.

7.2 Surface Water and Groundwater

The Commission heard concerns at the public meeting and written comments regarding the project's impact on surface water and groundwater. These concerns included:

- the potential for surface water from the mine to contaminate the river and pollute local waterways, which would present a risk to the Manning River drinking water catchment;
- insufficient certainty regarding the disposal of solid salt produced by the water treatment plant; and
- insufficient certainty that the applicant has access to water entitlements.

The applicant states that with the implementation of all proposed surface water mitigation and management measures, surface water would be appropriately managed with negligible impacts on the surrounding environment and downstream surface water users.

The applicant proposes to use a water treatment plant from Year 4 of the project to treat mine water to a standard that would allow it to be used in irrigation of pastures or to be discharged to the Avon River catchment. The saline effluent (brine waste stream) will be converted to a solid salt product. The Commission notes that the applicant would consider a range of options for the disposal of solid salt produced by the water treatment plant, including transportation off site to a licensed waste facility, a reprocessing facility or directly to an end user.

The Department considers that the applicant's proposed management systems would avoid, minimise or mitigate surface water impacts, to the extent that is reasonable and feasible, but some significant uncertainties remain about the operation and effectiveness of the proposed water treatment plant. In addition, the EPA has stated that there needs to be, *"a brine management/disposal option that provides certainty on a final approach to ensure appropriate management and disposal of this waste stream."*

The Department highlighted to the Commission that the project could impact on the Permian aquifer and that the applicant does not have sufficient water entitlements to extract from this aquifer. The applicant reported that it has formulated an agreement with Yancoal to obtain, subject to availability, the transfer of surplus water access licence entitlements from Yancoal on an annual basis. However, the Department states that neither it or DPI Water is satisfied that the applicant's proposal provides sufficient certainty for the project to proceed.

The Commission requested details of the applicant's water sharing agreement with Yancoal. The applicant provided the Commission with a commercial in confidence executed agreement dated 28 November 2017, which confirmed that an agreement had been reached with Yancoal to transfer surplus groundwater to the applicant on a year-by-year basis.

The Commission finds that the project would, subject to the mitigation measures proposed by the applicant, have an acceptable impact on surface water and is satisfied that the applicant has demonstrated that there would be sufficient water entitlements available to it to account for the amount of groundwater that the project would intercept.

7.3 Biodiversity

The Commission heard concerns at the public meeting and written comments regarding the Department's and applicant's assessment of the project's impact on the Purvis' Turtle, which is found in the Manning River catchment. It was suggested that the assessments were invalid as they have failed to consider the Office of Environment and Heritage's (OEH) Threatened Species Assessment Guidelines. Furthermore, it was also stated that there is little local information about this species and suggested that a baseline study of this species should be undertaken.

The Commission notes that OEH has not raised any issues with the impact on the project on Purvis' Turtle and that the Department's assessment report states that the project would have no possibility of affecting the water quality at most locations where Purvis' Turtle is known to be present. The Commission acknowledges that the applicant proposes to undertake surveys of aquatic ecology in the vicinity of the project and would target the presence of Purvis' Turtle, which the Commission considers an acceptable measure to ensure the protection of this species.

The project will remove some 41.5ha of native vegetation and habitat for threatened species, however the proposed offsets meet the relevant OEH criteria and would provide more ecosystem credits than required. For the reasons set out above, the Commission finds that the project meets the relevant criteria and would have an acceptable impact on biodiversity.

7.4 Indigenous Cultural Heritage

The Commission heard concerns at the public meeting and written comments relating to the considerable cultural significance of the region to Aboriginal people. Concerns were raised regarding the impact of the mine and haul road on Aboriginal heritage, in particular Waukivory Creek, and lack of consultation from the applicant with local Aboriginal groups throughout the project's life.

The applicant has undertaken a survey of the haul road in 2016 in consultation with Aboriginal stakeholders, which was presented in its amended EIS. The applicant proposes several measures to mitigate impacts to Aboriginal cultural heritage, including salvaging of all Aboriginal artefacts, and the Department notes that the mitigation measures are consistent with OEH's recommendations for the project.

The applicant states that it has carried out comprehensive Aboriginal cultural heritage consultation in accordance with the requirements of OEH's *Aboriginal Cultural Heritage Consultation Requirements for Proponents – DECCW 2010*. The applicant's archaeological consultant was in consultation with Aboriginal stakeholders in 2012 and 2016 prior, during and following surveys of the mine site and haul road for the preparation of any subsequent management plan for Aboriginal Heritage.

The Cook Family Group had previously communicated to the Department that it had not been correctly identified as a stakeholder and subsequently had not been afforded the opportunity to participate in the assessment of Aboriginal cultural heritage for the project. This matter was addressed in May 2017, when representatives of the Cook Family Group undertook a cultural heritage visit to the proposed mine site with an archaeologist and the applicant. The Cook Family Group then provided an amended submission for the Department's consideration, which continued to raise issues with the applicant's level of consultation and assessment of impacts.

The Commission acknowledges that the project would result in impacts on indigenous cultural heritage. The Commission is satisfied that the applicant would adequately address any impacts of the project on Aboriginal heritage through appropriate mitigation measures in accordance with OEH requirements. On this basis, the Commission finds that the project would have an acceptable impact on Indigenous cultural heritage.

7.5 Tourism

The Commission heard a diversity of opinions at the public meeting and views expressed in written comments regarding the project's impact on tourism in the Gloucester region. Members of the community raised concerns that:

- there would be a decline in tourism as a result of any approval of the mine, which would have a negative effect on the local and regional economy;
- despite the applicant's attempts to shield the mine and its operations, the mine would never be able to be fully integrated with its surrounding environment, which would impact on agritourism near the mine site; and
- it is unlikely that the mine will be welcomed by travellers coming to the area for rural valley vistas and peaceful recreation.

The Commission also received comments which:

- cast doubt on the impact a mine would have on tourism in Gloucester; and
- questioned the importance of this industry to the town and wider region.

The applicant agreed that tourism is a significant contributor to the local economy, but challenged the view that the project would affect tourist numbers or tourist spending, given that the mine would be largely hidden from view by its earthen barrier. The applicant has also downplayed the project's impact on agritourism in the area, highlighting that the nearest agritourism enterprise, Hillview Herb Farm, is located about 2 km away and views of mining activities would be visible only in Years 7 and 8. Further, the applicant suggests that mining and tourism can co-exist, citing successful examples from New South Wales and Queensland, and that the mine is an opportunity to develop a new mine tourism industry within the area near the mine site.

The Department is concerned that development of the project could lead to significant impacts on tourism in the Gloucester Valley. The Department considers that the presence of the proposed mine would not be an asset for, in particular, the agritourism industry, and it is most likely that the awareness of an operating mine in the vicinity (as evidenced by noise, dust, blast noise, blast dust, visual and other impacts) would detract from the visitor experience.

The Commission finds that there has been no determinative evidence presented to conclude that the mine would have a positive or negative impact on local and regional tourism.

7.6 Impacts on Gloucester's economy

The Commission heard a diversity of opinions at the public meeting and written comments regarding the project's impact on the local economy.

At the public meeting, members of the community noted that:

- there is a need to promote economic diversity in Gloucester to create a resilient economy;
- the mine is an opportunity to provide local employment which would contribute greatly to the economy of Gloucester, at a time when the town has been impacted by mine closures in the area; and
- there would be 'flow-on' benefits to the area, including opportunities to negotiate local supply and service agreements.

Conversely, the Commission heard from members of the community that believe the project:

- will not create long term secure employment for the area;
- will cause a loss in the value of properties and nearby properties will and have already become unsaleable;
- will lead to a loss of productive agricultural land; and
- the mine's impact on Gloucester's economy would be small and outweighed by the big impact on the community.

The applicant considers that the project is estimated to deliver a net economic benefit for the NSW community and the benefits assessed at a local scale would far outweigh the costs associated with the assessed residual impacts. In further information provided to the Commission from the applicant it states that claims of decreasing property values as a result of the mine are unsubstantiated and are not based on any market testing.

The Department considers that the project would generate a range of economic benefits in the local area and more broadly for NSW, including generating royalties for the NSW Government, other tax payments to the State and Commonwealth governments and creating up to 110 direct operational jobs, 60 short-term construction jobs and additional 'flow-on' employment in the region, NSW and Australia. With regards to the issue of property value loss, the Department states that it cannot quantify whether a loss in value has occurred, or the scale of that loss, or whether any loss would continue in the face of approval for the project.

The Commission notes that any positive economic benefits of the project would only be felt during its operational life; after this time, the loss of a significant economic generator may be felt, with potential negative consequences for Gloucester's economy.

While the Commission acknowledges the differing opinions of the project's potential economic benefits, no determinative evidence has been presented to conclude whether the mine would have a definitively positive or negative impact on the local and regional economy over the long term.

7.7 Noise and vibration

The Commission heard concerns at the public meeting and written comments regarding the project's noise impacts from the mine's construction and operation. The project would generate audible and inaudible noise and introduce industrial noise into a rural and residential environment. Noise impacts were identified covering:

- operational noise;
- road noise;
- private haul road traffic noise; and
- blasting.

Council highlighted that the mine would operate on the threshold of noise pollution criteria and that any exceedances would affect a large number of properties.

The applicant has introduced measures which the Department considers best practice, such as:

- not operating the mine in the night-time period,
- not operating the mine in the evening period until the amenity barriers are constructed, and
- operating noise-attenuated haul trucks and dozers.

Amenity barriers to the western and northern areas of the site would also be constructed to limit noise impacts from the mine. Moreover, other measures proposed by the applicant include re-scheduling of intrusive activities to less sensitive times of the day, and noise and weather monitoring to identify appropriate plant and equipment shutdowns if required.

The Department has expressed a lack of confidence about applicable Project Specific Noise Levels (PSNLs) being able to be met and the applicant's ability to consistently and reliably implement its proposed multi-layered active noise management system, a view which is shared by the EPA. The Department is concerned that the mine would operate not only at the margin of its proposed noise limits, but would regularly cross those limits. Slight changes in predicted noise impacts due to meteorological conditions, such as temperature inversions which are regularly experienced in the Gloucester Valley, changes in actual versus predicted noise emissions of equipment, or difficulties in management of and communication with a workforce of more than 100 persons to undertake the required mitigative actions, reinforce this concern.

The Commission acknowledges the Department's conclusion that the consequences of not meeting the relevant noise criteria are high. For example, an increase of 2 decibels (db) in the noise impacts for the nearby Thunderbolt and Avon River Estates would affect 32 residences above the relevant noise impact criterion.

At its meeting with the Department, the Commission was informed that the EPA released their Noise Policy for Industry (NPfI) on Friday 27 October 2017 which will replace the existing Industrial Noise Policy (INP). The project was assessed against the INP which sets a maximum intrusiveness criterion for the daytime period of 35db and evening period of 35db for receivers. The NPfI sets a maximum intrusiveness criterion of 40db for the daytime period and 35db for the evening period for receivers. The Commission acknowledges that assessment of this project under the NPfI would result in a greater margin of noise compliance during the daytime. However, the project has not been assessed against the NPfI and all conclusions are drawn against the INP.

The Commission finds that subject to the mitigation measures proposed by the applicant, the project would be compliant with the relevant noise criteria under the INP. However, the Commission notes that the mine would operate at the margin of compliance and with the risk of regular exceedance which would affect a large number of properties.

7.8 Air quality

The Commission heard concerns at its meetings with the Department, Council and the public meeting regarding the project's impact on air quality. These concerns included:

- the health effects of an increase in airborne particulate matter generated by overburden and coal stockpiles, machinery operation and truck movements;
- particulate matter being deposited throughout the valley via the regular temperature inversions that are frequently experienced in the valley;
- the mine operating on the threshold of relevant air pollution criteria and would need to be carefully managed; and
- the consequences on air quality from any unplanned events such as toxic blast fumes and odour from spontaneous combustion.

The applicant's Air Quality Assessment (AQA), which considered air quality impacts on all privately-owned receivers, states that the project is predicted to contribute to a maximum cumulative PM10 level of 14.8 µg/m³ and pm2.5 level of 5.57 µg/m³ at the most-affected private dwelling. These levels comply with the assessment criteria and the project also complies with the 30 µg/m³ development standard from clause 12AB of the Mining SEPP.

The applicant's probability predictive method, which is used to estimate whether the project would exceed the 24-hour maximum PM10 and PM2.5 criteria, predicted that the probability of exceedance of criterion for PM10 would be increased by less than one day for three residences close to the proposed mine, and that the criterion for PM2.5 would be increased at four residences by two days in certain years.

In its EIS, the applicant has outlined a protocol to control the potential for spontaneous combustion and has committed to refining this protocol over time to manage the risk.

The Department considers that the use of meteorological forecasting and real-time monitoring, tied to trigger levels to initiate progressive shut-downs of mining operations, would be able to reduce the number and severity of these modelled minor exceedances of the PM10 and PM2.5 criteria stated above.

The Department considers that through regular monitoring of operations and the implementation of mitigation and management strategies, such as achieving at least a 90% efficiency in reducing wheel-generated dust, mining operations would be undertaken in accordance with best practice dust management measures.

While the potential air quality impacts are within the relevant assessment criteria for particulate matter, the Department remains concerned with the consequences on air quality from any unplanned events such as odour from spontaneous combustion, and consequent amenity impacts on nearby sensitive receivers. The Department considers that, even though the risk of unplanned emissions from either blast fumes or spontaneous combustion may be low, the consequences would be significant.

The Commission finds that subject to the mitigation measures proposed by the applicant, the project would be compliant with the relevant criteria for air quality and manage the risk of spontaneous combustion.

7.9 Health

The Commission heard concerns at the public meeting and written comments regarding the project's impact on the physical and mental health of the Gloucester community. These concerns included:

- impacts from noise and air pollution generated by the mine;
- potential sleep disturbance as a result of low frequency noise;
- the links between living close to a mine and the number of cases of asthma;
- the stress already suffered by the community as a result of the prospect of a mine being developed near their town and the length of the planning assessment process; and
- impacts from noise and air pollution on local hospitals and schools.

The applicant's assessment of health risk concluded that air emissions from the project would present little likelihood of causing adverse health effects to individuals in the vicinity of the site and that health issues were within levels considered acceptable within NSW. The applicant notes that predicted noise levels would predominately be compliant with relevant noise criteria, but recognises that mining activities would be periodically audible at residences within the vicinity of the mine. The applicant has subsequently proposed mitigation measures to limit noise impacts from the mine, including amenity barriers.

The Department states that the applicant's Health Risk Assessment is correct to consider that the principal physical health risk associated with the project is from particulate matter. While the Department has considered NSW Health's concern that, "*any increase in fine particulate pollution is statistically likely to lead to an increase in health impacts*", they state that the potential particulate matter impacts are well within the relevant assessment criteria and any increases would be reason for the application of good management measures, rather than focussing on this issue as an unacceptable impact.

The Department's notes that this project appears to have divided the community, with resulting elevated levels of stress, angst, anxiety, depression and solastalgia. In addition, the time taken to bring this project to determination has added to the stress on the local community. While the Department acknowledges that the provision of mental health services is the responsibility of State and Commonwealth governments, the Department highlights that the applicant has indicated that its proposed Community Grants Program could be used to enhance programs or facilities that would benefit the local community's mental health.

While the Commission acknowledges the differing opinions of the project's potential health impacts, no determinative evidence has been presented to conclude whether the mine would have a definitively positive or negative impact on health.

7.10 Public interest

In evaluating whether the project is in the public interest, the Commission has given consideration to both the potential positive and negative impacts of the project within the locality. The Commission has also considered the relevant objectives of the EP&A Act, which state:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment; and
- (ii) the promotion and co-ordination of the orderly and economic use and development of land.

The Commission heard support for the project from the members of the community at the public meeting for various reasons, including:

- 'flow-on' benefits of the mine to local businesses;
- direct employment opportunities during construction and operation;
- economic and social benefits for the local community from the Community Grants Program; and

- the upgrading of local roads.

The Commission also heard opposition to the project from the local community at the public meeting for various reasons, including:

- proximity to nearby residences and the town of Gloucester;
- potential long term adverse health impacts, including health impacts on schools and hospitals;
- the landscape being transformed from a rural to industrial environment; and
- reduction in property values.

While the Commission acknowledges that the project has the potential to create positive economic and social impacts, the Commission finds that these benefits would be outweighed by the detriment to the quality of life for residents near the mine site caused by significant visual impacts from the project and potential health risks associated with noise and air quality impacts.

Despite the project complying with the relevant environmental criteria which apply to open cut mining operations (particularly the non-discretionary development standards in the Mining SEPP), the impacts covered by these criteria are not currently experienced in the natural environment or by people living in close proximity to the mine site.

In balancing both the benefits and adverse impacts considered within the report, the Commission finds that the project is not in the public interest.

8 COMMISSION'S FINDINGS AND DETERMINATION

The Commission has considered carefully the applicant's proposal, the Department's assessment report and the relevant matters for consideration under section 79C of the EP&A Act. The Commission has noted the advice and recommendations from MidCoast Council, and government agencies including the EPA, DPI-Water and OEH. Finally, the Commission has heard from members of the community about their concerns for the proposal during the public meeting in Gloucester.

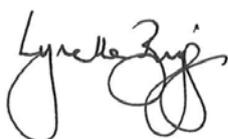
The Commission acknowledges that the project:

- is a permissible land use under Clause 7(1)(a) of the State Environmental Planning Policy (Mining Petroleum Production and Extractive Industries) 2007;
- would be compliant with the relevant non-discretionary standards of the State Environmental Planning Policy (Mining Petroleum Production and Extractive Industries) 2007;
- would have an acceptable impact on surface water and groundwater resources; and
- would have an acceptable impact on Indigenous cultural heritage.

However, the Commission finds that:

- the creation and operation of an open cut coal mine in this proposed location, within the RU1 and E3 zones of the Gloucester Local Environmental Plan 2010, is in direct contravention of each zone's objectives;
- the residual visual impact of the mine would be significant throughout all stages of the project; and
- the project is not in the public interest.

For the reasons set out above, the Commission has determined to refuse consent to the development application for the reasons set out in the instrument of refusal.



Ms Lynelle Briggs AO (Chair)
Member of the Commission



Mr John Hann
Member of the Commission



Dr Peter Williams
Member of the Commission

**APPENDIX 1
RECORDS OF COMMISSION MEETINGS**

**Minutes of Department of Planning & Environment Briefing with
Planning Assessment Commission**

This meeting is part of the determination process.	
Date: 1 November 2017	Time: 1.00pm
Project: Rocky Hill Coal Project (SSD 5156), Stratford Extension Project MOD 1 (SSD 4966 MOD 1) - D489/17	
Meeting place: PAC Offices, 201 Elizabeth Street, Sydney	
<p>Attendees: Commission Members: Lynelle Briggs AO, John Hann, Peter Williams.</p> <p>Commission Secretariat: David McNamara (Director), David Koppers (Team Leader), Robert Bisley (Senior Planning Officer)</p> <p>Department of Planning & Environment: Howard Reed (Director – Resource Assessments), Jeff Parnell (Noise Specialist)</p>	
The purpose of the meeting was for the Department to brief the Commission on the proposal	
<p>The following issues were discussed:</p> <p><u>Background</u></p> <ul style="list-style-type: none"> • The Department first prepared a refusal report in 2013. After discussions, the applicant sought to amend the project. • Significant amendments have been made, particularly those elements that would have created considerable noise impacts, such as the rail loop, the Coal Handling Processing Plant (CHPP) and the twenty-four-seven operations. • The applicant entered into an agreement with Yancoal to use their coal processing and rail infrastructure, located nearby at their Stratford mine • The Yancoal Stratford open cut mine is not currently operating and is only receiving coal from their Duralie mine by rail for processing before it is railed out to Newcastle. • The Yancoal Stratford Extension Project was approved in May 2015 with some noise impacts due to rail, but they were not considered significant. It hasn't yet commenced, but is likely to commence in early 2018. • Stratford has sufficient rail capacity to not require additional movements for the Rocky Hill project. The Duralie mine is closing down, which will free up rail capacity for the Rocky Hill project. • No review was undertaken for this Rocky Hill proposal. A review would extend the length of the Rocky Hill project determination process. The community is frustrated by the uncertainty and disruption, and a timely decision would be welcome. • The Stratford MOD is intrinsic to the Rocky Hill project and not directly related to the Stratford Extension Project. <p><u>Visual Impact</u></p> <ul style="list-style-type: none"> • The distance of the barriers to the nearest residents is 350m. There is a serious risk that barriers won't appear as proposed. • Visual impacts are exacerbated on the three southern residential estates. • Regardless of how quickly barriers and overburden dumps are developed and planted it will have a significant visual impact on the locality to both residents and visitors. 	

- The success of visual mitigation will be dependent on many factors, including how long before vegetation is established.

Community Impact

- Local concerns started after initial exploration within the locality, when it became apparent a mine application would be progressed. The community sought expiry of local Exploration Licences.
- The first EIS received significant numbers of public submissions due to the extent and impact of mine infrastructure such as rail loop and Coal Handling Processing Plant CHPP.
- There are locality issues that are significant in considering the project's impacts.
- The Department found that too many people would be impacted for too little benefit.

Water Impact

- The project can impact on two aquifers, Alluvium and Permian. They are separately accounted for as two distinct water sources.
- Alluvium/river extraction is not an issue with current entitlements. Proposed extraction from the Permian aquifer doesn't have sufficient water entitlements at the present time. GRL has had to go to Yancoal to get their water licences if needed.
- There is limited data on the groundwater impact as not many people use it.
- Water treatment process for salinity remains a risk

Noise Impact

- The project has removed operations during the night period which is where noise would have the most impact. There are to be no evening works for first 3 years while amenity barriers are completed.
- The EPA Noise Policy for Industry (NPI) was released on Friday 27 October, which replaces the Industrial Noise Policy (INP). NPI sets a maximum nuisance criterion of 40decibels (db) and the INP sets this as 35db.
- The project has been assessed under the INP. The NPI would be more favourable and result in a greater margin of compliance.
- Operating periods for the project would be 7am-6pm (day) and 6pm-10pm (evening).
- Daytime compliance with noise criteria isn't an issue as levels would be under 40db. Evening compliance is a concern due to amount of measures needed, particularly in winter due to condition enhancement.
- It would be very difficult for the company to cut db from an operating fleet, without making significant production inroads. Everything has to go right from a noise management perspective for noise requirements to work and for the company to meet its targets in winter.

Meeting closed at 2.20pm

Minutes of briefing from Applicant

This meeting is part of the determination process.	
Date: 1 November 2017	Time: 2:50pm
Project: Rocky Hill Coal Project (SSD 5156), Stratford Extension Project MOD 1 (SSD 4966 MOD 1) - D489/17	
Meeting place: PAC Offices, 201 Elizabeth Street, Sydney	
Attendees: Commission Members: Lynelle Briggs AO, John Hann, Peter Williams. Commission Secretariat: David Koppers (Team Leader), Robert Bisley (Senior Planning Officer), David McNamara (Director) Applicant: Brian Clifford (Managing Director, AMCI) – Applicant Representative; Robert Corkery (R W Corkery Environmental Consultants) – Environmental Assessment; Richard Lamb (Richard Lamb and Associates) – Visual; Glenn Thomas (SLR Consulting Australia) – Noise; Judith Cox (Pacific Environment) – Air Quality; Kate Swain – Legal.	
The purpose of the meeting was for the applicant to brief the Commission on the project	
<u>Background</u> <ul style="list-style-type: none">• Gloucester Resources Limited are the applicant, with AMCI being the largest shareholder in project.• There would be no night time operations. The only processing would be the breaker to remove excess rock.• The site has hard coking coal, not thermal coal, which allows blending to upgrade other thermal coal into metallurgical coal.• A formal agreement with Yancoal is in place for infrastructure sharing.	
<u>Visual impact</u> <ul style="list-style-type: none">• 33 houses in the area have been built to the north of the site. Less than 1/3 will have any view of the mine. 9 of the 33 houses will have a direct view.• The site’s amenity barriers will be the last to be removed at the end of the mine’s life. The pit has been designed to be self-filling over Life Of Mine.• There is a 5.5km section of The Bucketts Way where parts of the mine site will be visible, but not completely.• There will be times that activity is visible, but most of the time it won’t be.	
<u>Community impact</u> <ul style="list-style-type: none">• There is a target for 75% local employment by end of year 3, equivalent to 73 full time jobs.• 74% of objections are from outside Gloucester.• 86% of submissions neither support or object.• Nine houses that will have visual impacts have been offered agreements under the Voluntary Price Protection Initiative. This is designed to protect them from a drop in house values from the mine. Gloucester house values are expected to increase.• Three of the 9 houses have provided letters of support. A further three are owned by mine and government. Agreements are in place with the other three houses.	
<u>Noise impact</u> <ul style="list-style-type: none">• There are contracts in place with all six properties required under Voluntary Land Acquisition and Mitigation Policy.• Noise mitigation measures are achievable and are best practice.	

- Operations have been tailored to suit the location and locality characteristics. Levels are 1-2decibels (db) below the requirements and represent an absolute worst case, for example, during a southerly on a winter evening.
- Operations are designed to be amended to accommodate known weather patterns, i.e. more intense operations in hot conditions; reduced operations in cold conditions. Some operations are restricted to daytime only.

Environmental impact

- It will take 2 to 3 years for total rehabilitation completion. There is sufficient material for post mining landform to be free draining and to eliminate voids
- There are 111 dwellings within 3km of the project site. The project will meet all noise and air quality criteria.
- The Department states that the amended proposal will exacerbate air quality, which is incorrect.
- There is limited data on what blast plume will result from the project. The applicant took a conservative approach by modelling above what is predicted, and assumed level 4, which is an orange and brown plume.
- The Department's analysis shows 98% of blasts in the Hunter Valley are less than a level 2, which is 1/10th of the Rocky Hill assumption.

Economic impact

- The Department's economic review was consistent with the applicant's. The project is viable even under economic duress.
- The applicant will provide preferential treatment to local trades and supplies.
- The closest B&B is in the adjacent Forbesdale estate. The mine has an option to buy, and it will continue to operate the B&B.
- Gloucester has a history of co-existence with mining. The applicant argued that towns such as Singleton and Gunnedah have thriving tourist industries despite mining.
- Discussions with the local business chamber and tourist operators have provided their support to the project.
- An agreement with local dairy production has been positive. The applicant has bought 30 farms, many were hobby farms that weren't productive agricultural land. This has significantly increased the productivity of the cumulative land holding for dairy. Productivity will stay over the life of mine.
- There is 7.9% employment for tourism related industries in the Gloucester LGA. Wages from tourism are \$6.6m, whereas project wages will be \$9m. Statistics have been taken from the ABS.
- The Community Grants Program will total \$6.5m, which will equate to up to \$400k per year plus other benefits.
- 450 people have registered for employment.

Permissibility

- The project is permissible under the Mining SEPP.
- The project has taken into consideration the surrounding land uses.

Transport

- The proposed haul road to the Stratford Mine will be sealed to reduce dust and noise.
- A significant amount of road upgrades is proposed, including to Jacks Road, which services the two main housing estates. The Department is supportive of the road proposals.

Meeting was closed at 1655

Minutes of Planning Assessment Commission meeting with MidCoast Council

This meeting is part of the determination process.

Date: 14 November 2017

Time: 2.25pm

Project: Rocky Hill Coal Project (SSD 5156), Stratford Extension Project MOD 1 (SSD 4966 MOD 1) - D489/17

Meeting place: MidCoast Council Offices, 89 King Street, Gloucester

Attendees:

Commission Members: Lynelle Briggs AO, John Hann, Peter Williams.

Commission Secretariat: David Koppers (Team Leader), Matthew Todd-Jones (Senior Planning Officer).

Council: Councillor Claire Pontin, Bruce Moore – Manager, Development Assessment, Ryan Fenning – Team Leader, Environmental Health.

The purpose of the meeting was to discuss Council's views on the proposal.

The following matters were discussed:

- On 25 October 2017 Council resolved to endorse the findings of the Department of Planning and Environment's assessment report that the project be refused. The primary concern was the location of the proposed mine and proximity to residences.
- Council considers the amended proposal to be better than the original but indicated that more work still needs to be undertaken to resolve issues.

Visual impact

- Residences in the area will experience visual impacts due to their proximity to the mine site.
- The E3 Environment Management zoned land in this area has scenic value.
- The proposed visual barriers could cause noise and dust impacts towards the nearby residential areas and the town.
- The barriers have the potential to change the vista of the area and won't screen all views.
- There is potential for the life of the mine to be extended beyond that which is currently proposed, which would mean the barriers would be unsightly for a long time.
- Lighting from night time operation of the mine would affect the amenity of nearby residential areas.

Noise, air quality, vibration and blasting impacts

- Council's opinions in relation to these issues are conveyed in the Department of Planning and Environment's report and Environment Protection Authority's comments.
- Council is concerned that the mine will operate on the thresholds of noise and air pollution criteria and would need to be carefully managed.
- Any exceedances of the noise criteria would affect a large number of properties. These properties would also be exposed to noises they haven't experience before, such as low frequency background noise from the mine.
- The significant number of temperature inversions that occur in the valley will exacerbate noise and air quality problems.
- Truck traffic movements between the mine site and the Stratford mine to the south would create noise and dust issues.
- Council requests further noise impact information for Jacks Road, which has been acknowledged by the Department in their assessment report.
- Council alluded to incidents of spontaneous combustion in the nearby Stratford mine and the potential for such incidents and their impact at the proposed mine.

Waste management

- Council is unsure of what will happen to the brine after desalinization of mine water. This issue was also raised by the Environment Protection Authority.

Surface water and water availability

- Council would be concerned if the mine reduced water availability from the Manning River.
- Council's recent merger means that it now has responsibility for MidCoast Water, who previously raised issues with the impact from surface water quality from the mine on the region's water supply.

Tourism and cultural impacts

- Tourism in the area isn't just associated with the Barrington Tops, it's the whole area around Gloucester as a package.
- Council stated that the Morgani Range has particular Aboriginal cultural significance in the region, but mentioned that they haven't undertaken an assessment of views of the mine from this area.

Meeting closed at 3.05pm

APPENDIX 2
LIST OF SPEAKERS AT THE ROCKY HILL COAL PROJECT PUBLIC MEETING

Rocky Hill Coal Project (SSD 5156) Stratford Extension Project MOD 1 (SSD 4966
MOD 1)

Date & Time: 4:00 pm on Tuesday 14 November

Place: Gloucester Soldiers Club, 32 Denison Street, Gloucester, NSW
2442

Meeting Schedule	
4:00 pm	Opening Statement from the Chair – Lynelle Briggs AO
Registered Speakers:	1. Garry Smith
	2. Deborah Books
	3. Carol Bennit (Gloucester Knitting Group)
	4. Peta Tynan
	5. Helen Evans
	6. Julie Lyford OAM (Groundswell Gloucester Inc)
	7. David Collett
	8. Mark Howland
	9. Margaret Reid
	10. Stewart Redman (Gloucester Business Chamber)
	11. Graeme Healy
	12. Ian Jackson
	13. John David Watts
	14. Bruce O'Connor
	15. John Dugas
	16. Nawal Maharaj
	Genevieve Godwin
	Christopher Sheed
	(Manning Clean Water Action Group Inc)
	17. Vicki Coombs
	18. Tony Tersteeg
19. Ed Robinson	
20. Sue-Ellen Kingston	
21. Steve Robinson (Gloucester Environment Group)	

22. Jane Dargaville

23. Philip Greenwood

24. Rod Williams (Advance Gloucester Inc)

25. John Hannaford

26. Dallas Stokes

27. Anthony Berecny

28. Diana Berecny

29. Linda Benson

30. Bill Williams

31. Ken Eveleigh

32. Sarah Soupidis

END

Date & Time: 9:30 am on Wednesday 15 November
 Place: Gloucester Soldiers Club, 32 Denison Street, Gloucester, NSW
 2442

Meeting Schedule	
9:30 am	Opening Statement from the Chair – Lynelle Briggs AO
Registered Speakers:	1. Dr John Van Der Kallen (Doctors for the Environment Australia)
	2. Penelope Charles
	3. Pippa Robinson
	4. James Whelan (Environmental Justice Australia)
	5. Dave Windred
	6. Ken Johnson
	7. Jerry Germon
	8. Karen O'Brian
	9. Naomi Hogan (Lock the Gate Alliance)
	10. David Marston
	11. Thomas Davey (Tourism Advancing Gloucester)
	12. Joedie Lawler (Purfleet Taree Local Aboriginal Council)
	13. Ray Dawes
	14. Dianne Montague
	15. Susan Syron
	16. Bob Hawes (Hunter Business Chamber)
	17. James Hooke
	18. Irene McSwan
	19. Mickey Keats
	20. Newman Patmore
	21. Chris Reynolds
	22. Julie Lyford
	23. Lynette Syron
	24. Steve Parkin
	25. Shaughn Morgan
	26. Jeffery Kite
	27. Max Hemmerle
END	

SUMMARY OF ISSUES RAISED AT THE PUBLIC MEETING

Rocky Hill Coal Project, Stratford Extension Project MOD 1 – Public Meeting	
Meeting notes taken by Matthew Todd-Jones	Date: Tuesday 14 November 2017 – 4.00pm Wednesday 15 November 2017 – 9.30am
Project: Rocky Hill Coal Project (SSD 5156), Stratford Extension Project MOD 1 (SSD 4966 MOD 1) - D489/17	
Meeting place: Gloucester Soldiers Club, 32 Denison Street, Gloucester	
Attendees: PAC Members: Lynelle Briggs AO (Chair), John Hann, Dr Peter Williams PAC Secretariat: David Koppers and Matthew Todd-Jones	
The purpose of the meeting is for the Commission to hear the public’s views on the Department’s Assessment Report.	
<p>The following issues were raised:</p> <p><u>Location of the mine</u></p> <ul style="list-style-type: none"> • The site is unsuitable for an open-cut coal mine and is too close to residential areas. • The amended project is more acceptable, as it has lessened the impact on the surrounding area. <p><u>Visual impacts</u></p> <ul style="list-style-type: none"> • The mine will affect views of the Vale of Gloucester. Visual mitigation measures can also be visually intrusive. • The assessment of visual impact is subjective, and there are people in the area that accept the visual impacts. <p><u>Aboriginal and cultural heritage impacts</u></p> <ul style="list-style-type: none"> • There is a cultural and spiritual connection of Aboriginal people to the landscape of the Eastern Ranges, including the Barrington Tops. • The applicant has failed to undertake adequate consultation with the Aboriginal groups in the area. The applicant should acknowledge the significance of Waukivory Creek and undertake a survey of the impact of the haul road on Aboriginal heritage. • The Gloucester valley has a high heritage value, the whole landscape, not just buildings <p><u>Tourism impacts</u></p> <ul style="list-style-type: none"> • Tourism is a valuable revenue stream for Gloucester, contributing \$51 million a year to the local economy. • There would be a decline in tourism as a result of the mine which would have a negative effect on tourism jobs. • Tourism isn’t as valuable to the economy as suggested. It does not provide valuable long-term jobs that the town needs, with associated spin-offs to other businesses and jobs. • A threat to Gloucester tourism would be a threat to the wider MidCoast tourism. • This is an opportunity for the establishment of tourism around mining. • Tourism and mining can coexist. <p><u>Social impacts</u></p> <ul style="list-style-type: none"> • The mine would affect the quality of life of Gloucester residents. • Residents have already left the area because of the threat of mining and Gloucester could also lose out on people moving to the area. • The project has created a divide in the community and businesses have suffered as a result. • There has been a lack of adequate community consultation from the applicant. <p><u>Health impacts</u></p> <ul style="list-style-type: none"> • There would be both mental and physical health impacts from the mine; stress and other mental health impacts have been caused over the years that this proposal has been afoot. 	

- There are links between living close to a mine and cases of asthma in the community.
- Concern for the health impacts on the local schools and Hospital.
- There is no safe level of exposure to particulates for coal mines.

Economic impacts

- The mine will not create long term secure employment for the area.
- The mine will cause a loss in the value of properties and nearby properties will become unsaleable.
- The small economic benefit of the mine would be outweighed by the big impact on the community.
- There is a need to promote economic diversity in Gloucester.
- The coal resource may have greater level of waste than reported.
- The mine will provide employment to a lot more people, especially local people, in real jobs that will contribute greatly to the economy of Gloucester at a time when the town is depressed due to other mine closures and the departure of AGL.
- A minimum local workforce percentage of 75% within 3 years of the start of the project has been negotiated. There would be economic flow-on benefits from the mine, including opportunities to negotiate local supply and service agreements.
- The mine would benefit the local accommodation industry.
- The mine is an opportunity to develop a new tourism industry within the area near the mine site.
- The collaboration between the applicant and the Speldon Partnership dairy is an example of how mining can coexist with the dairy industry. Dairy farms near the Stratford mine have coexisted for 20 years.

Environmental impacts

- The mine would present a risk to the water supply of 80,000 people in the drinking water catchment.
- The applicant has insufficient certainty that it has access to water entitlements.
- Regular temperature inversions experienced in the valley will deposit coal particles.
- The valley is narrow and would be sensitive to mine impacts.
- The applicant is not clear on how it will deal with waste material from the mine and there is concern over treatment of brine.
- Light pollution impacts
- The final landform has not been adequately assessed and there is a high risk that the site will not be able to be rehabilitated. Concern was expressed over the height and gradient of the mine's amenity barriers.
- There is a risk that the Government is unable to provide the level of compliance monitoring required.
- The mine would lead to a loss of productive agricultural land and could potentially contaminate existing beef and dairy industries.

Noise and air quality impacts

- The mine would lead to an increase in particulates in the air from coal dust and machinery operation.
- The mine would create audible and inaudible noise impacts and introduce industrial noise to a rural environment.
- There would be health issues resulting from increased air and noise pollution from the mine.
- A large number of people in the community would be affected by exceedances in noise and air quality control levels.
- The overburden emplacements would create excessive dust which would be swept up the valley.

Biodiversity impacts

- The Department's conclusion of the mine's impact on the Purvis Turtle has no assessment validity. There is little local information about the species.
- The applicant's claim that there will be no impact on this species is unconvincing and a baseline study of the species is required.

Mine hazards

- The mine could experience spontaneous combustion events. Unplanned events occur in mines, such as fires.
- Concern was raised with potential blast plumes. There had previously been a blast plume along the Bucketts Way.

- The area has insufficient resources to deal with any large-scale emergencies as a result of mining hazard.

Strategic planning context

- The project is incompatible with the current E3 Environmental Management land use zone.
- The Stratford Extension Project modification is invalid. The original development application for this project did not mention any connection to the Rocky Hill mine and should be reassessed.
- The project is a compliant development and should be approved.
- Buffer zones should be established around towns.

14 November Public Meeting Closed at 7.25pm and 15 November Public Meeting Closed at 12.30pm

APPENDIX 3
THE RELEVANT LAND USE ZONES OF THE GLOUCESTER LOCAL ENVIRONMENTAL PLAN
2010 (GLEP), AND PERMISSIBLE USES WITHIN THOSE ZONES

Zone RU1 Primary Production

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage eco-tourism enterprises that minimise any adverse effect on primary industry production and the scenic amenity of the area.

2 Permitted without consent

Environmental protection works; Extensive agriculture; Forestry; Home occupations; Horticulture; Roads; Viticulture

3 Permitted with consent

Agricultural produce industries; Agriculture; Airports; Airstrips; Animal boarding or training establishments; Backpackers' accommodation; Bed and breakfast accommodation; Boat launching ramps; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Community facilities; Dual occupancies; Dwelling houses; Eco-tourist facilities; Educational establishments; Emergency services facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Function centres; Home businesses; Home industries; Intensive livestock agriculture; Intensive plant agriculture; Kiosks; Open cut mining; Recreation areas; Recreation facilities (outdoor); Restaurants or cafes; Roadside stalls; Rural industries; Veterinary hospitals; Waste or resource transfer stations

4 Prohibited

Any development not specified in item 2 or 3

Zone E3 Environmental Management

1 Objectives of zone

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To conserve biological diversity and native vegetation corridors, and their scenic qualities, in a rural setting.

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home businesses; Home industries; Home occupations

3 Permitted with consent

Animal boarding or training establishments; Aquaculture; Backpackers' accommodation; Bed and breakfast accommodation; Camping grounds; Caravan parks; Cellar door premises; Dual occupancies; Dwelling houses; Eco-tourist facilities; Farm stay accommodation; Flood mitigation works; Home-based child care; Horticulture; Roads; Viticulture

4 Prohibited

Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3