

Rixs Creek South Continuation of mining project SSD6300

10th October 2019.

Clear objection remains related to the project:

On these grounds:

Submission in relation to additional information provided by the department of Planning and Environment

There is major concern that the Independent Planning Commission had not followed procedural process adhering to the original statement published on the website on the closing time of acceptance submissions or written comment but the fact the commission assessed the project prior as per the below could be potentially result in the perceived perception of now that these submissions will not have any bearing of the result as the independent commission has made their decision already.

Please be advised that the Determination for the above listed project is now available online. Please click on the link to view the signed report: <https://www.ipcn.nsw.gov.au/projects/2019/06/rixs-creek-south-continuation-of-mining-project-ssd-6300>.

The commission statement of reasons for the approved decision:

In its Statement of Reasons for Decision, the Commission concluded the application is in the public interest - because (in summary):

- it is "in respect of an existing brownfield site, with existing operational mining infrastructure"
- "noise and vibration impacts have been adequately assessed" and "appropriate mitigation, management measures and accelerated noise attenuation are proposed"
- "air quality has been adequately assessed and found by the Department to be aligned with contemporary best practice for NSW coal mines, and improvements should continue to be pursued over time"
- "GHG emissions have been adequately minimised as far as practicable and within the capability of the Applicant's control... Conditions of consent have been included to require the Applicant to take all reasonable steps to improve energy efficiency and to reduce the Application's GHG emissions over the life of the Application"
- "biodiversity offsets have been quantified and a staged offset strategy identified to retire the necessary biodiversity offsets for the Application"
- "biodiversity impacts have been appropriately assessed and can be managed through conditions of consent"

- "water resources have been appropriately addressed and conditions of consent proposed to ensure impacts are appropriately managed and mitigated"
- "rehabilitation and risk of early closure has been appropriately assessed... The requirement for a Rehabilitation Strategy and Rehabilitation Management Plan, updated every three years, and risks of unplanned closure incorporated into risk assessments provides assurance that the Applicant's closure arrangements will consider unplanned closure and have regard for the Council's strategic planning and community expectations given the close proximity of the Application to the Singleton Township"
- "visual impacts are appropriately assessed and considered to be relatively minor overall"
- "heritage impacts have been assessed and would be appropriately managed through conditions of consent"
- "blasting impacts have been adequately assessed and would be appropriately managed"
- "traffic impacts have been adequately assessed and would be appropriately managed"
- "social and economic impacts have been adequately assessed appropriately managed, consistent with the guidelines for the economic assessment of mining and coal seam gas proposals... The Application would generate significant economic and social benefits as a result of employment opportunities and revenue to the State. A planning agreement would be entered into by the Applicant and [Singleton Shire] Council which would provide further benefits locally", and
- "the Applicant has adequately addressed the recommendations in the Commission's Review Report"

Brownfield site definition from websites on the internet:

A **brownfield site**, also referred to as "brownfield land" or simply "brownfield," is a commonly used term in urban planning. It is defined by the [Environmental Protection Agency](#) as "a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant." The term typically describes areas of land that were once used for commercial or industrial purposes such as factories and warehouses.

Dry cleaners and gas station sites are known to produce high levels of contaminants – however, abandoned lots are also very likely to be contaminated by illegal dumping of hazardous materials. The EPA estimates that there are over half a million known brownfield sites in the United States, but the actual numbers are most likely much higher, as only reported brownfield sites have been counted.

In the UK a brownfield site is defined as "previously developed land" that has the potential for being redeveloped. It is often (but not always) land that has been used for industrial and commercial purposes and is now derelict and possibly contaminated. In the USA a brownfield site always refers to industrial land that has been abandoned and that is also contaminated with low levels of hazardous waste and pollutants

Assessment

All brownfield sites need to be assessed by an experienced environmental consultant before they can be redeveloped. This involves an analysis of the soil, groundwater and surface water through testing for hazardous compounds, and ensures that appropriate measures are taken to reduce identified risks and liabilities. Any development plans must be made compliant with current regulations. Special licenses are required to reclaim brownfield sites and strict environmental regulations can be prohibitive for developers. If the environmental assessment is positive and supports the redevelopment, the next step is remediation.

The Bloomfield Rixs creek south site for expansion as per the application:

According to the information provided above the said land would be contaminated, and already been developed but the area has not been used as used prior for industrial or urban land use if the land was contaminated then this should have been portrayed in the EIS and list of contaminants and remediation or removal prior to commencement to prevent harm to health, refer to Attachment 1A in relation to the biodiversity credits and land area in hectares associated to credit requirements, of the land as stated

Biodiversity offsets and credits purchase

In relation to the biodiversity credits there is no monetary figure provided related to the credits so the public cannot identify the value of loss in the area which will be disturbed, as per attachment 1A.

Biodiversity Offsets Payment Calculator, from the BCT website, which the biodiversity credits identified in attachment 1A and stated 1C attachment- requires value of a credit to be provided.

Also the timeframe of purchase is unreasonable, that the developer can destroy before actual acquiring the credits or more concern if the actual credit exists to purchase in the shire where the destruction is to take place.

The other concern is that if the species status changes after credit purchase there is no requirement to provide additional payment to the BCT also the legislation does not set a timeframe of offset procurement. As per the below emails.

Also Bloomfield mined outside the mining lease area which resulted in destroying ecosystems, which was not approved and action in the LEC, resulting of the requirement of the purchase of credits, at this stage it is unsure if the offset/credits has been secured by the BCT

Also there was no mention in the attachment's related to fauna(species) and no mention credit offsets but in the commission's approval before removal off the website point 265 and 266 related the Squirrel Glider as vulnerable and loss of habitat but no requirement to secure credits.

When using the biodiversity offset payment calculator for the species: credit value of \$434:47.

Approval of the BCT to provide the emails was granted with removal of personal details etc

Dear

Thank you for your email.

I can confirm that the BCT has received payments into the biodiversity conservation fund with respect to the Bloomfield Rixs Creek mine. Once payment is made, the obligation to secure offsets is transferred to the BCT.

Under the *Biodiversity Conservation Act 2016* and *Biodiversity Conservation Regulation 2017*, the BCT must secure offsets in accordance with legislated offset rules (cl. 6.6 of BC Regulation). These rules guide both the type of vegetation that can be used to offset specific impacts as well as its location. The BCT Board, through its Business Plan, has identified a goal of 'delivering a strategic biodiversity offsetting service' (Strategic Goal 2). It has determined that in applying the offset rules, the BCT will balance:

- ecological benefits and community expectations associated with securing like-for-like offsets
- credit rarity and price, including price fluctuations, relative to the price paid by the proponent
- length of time between the development impact occurring and in delivering the offset
- ecological implications, and community sensitivity, about varying offsets for critically endangered entities.

The BCT primarily uses biodiversity credit tenders (reverse auctions) and fixed price offers to deliver offsets. Information about our program and approach is available on the BCT website at: <https://www.bct.nsw.gov.au/biodiversity-offsets-program>. Please note that the website is currently being updated as we are opening a biodiversity credit tender today and we expect to launch a fixed price offer in the coming weeks.

The legislation does not set a time frame within which offsets must be secured, however, the BCT will make every effort to deliver offsets in a timely fashion. There are no provisions under the legislation to refund developer payments. We will report our progress through our annual reports, including identifying any cases where variation rules have been applied to secure offsets.

I hope this information is of assistance.

Regards,

Manager Biodiversity Offsets Program
Programs Branch

Thank you for your enquiry and contacting the NSW Biodiversity Conservation Trust (BCT).

Please find responses to your questions below.

a) What is the calculation tool used to determine the credit requirement for species a example: Brush tailed phascogale or Koala

Under the NSW Biodiversity Offsets Scheme, the offset obligation imposed on a development is determined through application of the Biodiversity Assessment Method (BAM) by an assessor (typically an ecological consultant) who is accredited to apply the BAM. The accredited assessor uses the Biodiversity Assessment Method Calculator (BAM-C) to calculate the biodiversity credits that must be retired to offset the impacts of the development.

Under the *Biodiversity Conservation Act 2016*, a developer may choose to make payment to the Biodiversity Conservation Fund (BCF) managed by the Biodiversity Conservation Trust to meet their offset obligation. They also have the option to purchase credits directly from a third party or set up their own offset site under a biodiversity stewardship agreement and retire the credits generated. If a developer chooses to meet their offset obligation by paying into the BCF, the amount they are required to pay is determined by the Biodiversity Offsets Payment Calculator, maintained by the Department of Planning, Industry and Environment.

b) What is the time-frame to acquire a species credit?

The timeframe for a developer to meet their offset obligation is determined by the consent authority via consent conditions.

c) What happens if the species changes classification during the process of acquiring credits and the developer has already paid the BCT, is the developer liable to a increase in credit purchase?

If a developer chooses to pay into the BCF to meet their offset obligation, they are required to pay whatever the relevant charge is at that time. The legislation does not provide for additional (or refunded) payments to be made at a later date.

d) Is there any mechanism in place if the BCT cannot secure the credits for species, that will prevent the loss of habitat been destroyed by a developer?

e) In case scenario a developer has already destroyed the land as apart of the approval process, and has requested species credits for instance Koalas, how does the BCT manage this issue and what happens if the said species cannot be acquired under the credit system?

The *Biodiversity Conservation Regulation 2017* sets out offset rules which stipulate how the BCT can secure offsets acquired from developer payments into the BCF. The BCT Board, through its Business Plan, has identified a goal of 'delivering a strategic biodiversity offsetting service' (Strategic Goal 2). It has determined that in applying the offset rules, the BCT will balance:

- ecological benefits and community expectations associated with securing like-for-like offsets
- credit rarity and price, including price fluctuations, relative to the price paid by the proponent
- length of time between the development impact occurring and in delivering the offset
- ecological implications, and community sensitivity, about varying offsets for critically endangered entities.

To date, the BCT has only sought (and purchased) biodiversity credits that meet like-for-like offset rules. The BCT reports on its activities through its annual reports

Note: In this case Mt Owen Complex mod 2 was required to purchase **Brush tailed phascogale of 177 credits.**

Classified vulnerable credit value \$506.66 using the calculator

Yet there is no cumulative impact related the loss of habitat of species in the local area or the fact of actually impact if the species through the credits system survives or if the credits are available, the timeframe for purchase is after the destruction of land mass and removal of habitat, whether these species in that area are secured from destruction and if so how affective is relocation if the native flora has not been purchased under the credits.

Heritage

In relation to the coke ovens – referring to 1994 Rixs creek environmental assessment are classified in the national trust of Australia and Trust register and that Rixs creek stated it has a 14-hectare buffer zone was established to protect the complex and monitoring system in place.

Now in attachment 1B of the continuation project- concerns related to impacts, related to blasting in proximity of the ovens.

Note: Basting incidents that have major consequences, the fly rock incident at Ashton coal where rocks landed within approx. 400 meters from residences in the village. Road slippage incidences resulted from blasting, so the concern of heritage area requires a greater buffer zone for protection, that destroying heritage is not in the best interest of the community.

Air quality in relation to meeting with health

Note: The meeting date was the 15th august 2019, from the transcript below

DR BROOME: Thanks. So Richard Broome. I'm Director of Environment Health 45 Branch at New South Wales Health. Yes. So I think by way of background, the first letter dated 29 June 2018 highlighted issues related to some predictions that the level of PM10 might be higher than 25 micrograms at some residences, and I think that concern continued following the 21 December letter, but the conditions that we have seen say that the proponent has got to achieve a level of below 25 micrograms at any private residence. So I think that ties off the concern.

In relation to the attachment 2A and attachment 2B the cumulative impact would exceed the condition the proponent has assured the department of health that the level would below 25 micrograms at any private residence. These documents were documented 2nd September 2019 and after the meeting of health.

Note being a contributor to the air shed that produces an exceedance, is responsible and that the cumulative impact assessment needs to be further addressed related to the areas surrounding the mine.

With large number of exceedances of national standard of PM10 in 2019, which is an increase from 2018 at the same timeline, the air quality management plans, mitigation plans have not produced the outcomes as stated. The failure to incorporate adverse weather patterns especially droughts and severity of extreme heat conditions into the cumulative assessment potentially underestimates the issues of air quality levels in the area, number of exceedance's and the cost related to health and essential services.

Note: the state of NSW is facing issue of water availability, with towns looking at having no available drinking water.

The availability of water for mitigation might not be available under extreme climatic conditions and if the implementation of government policy is enforced on water related to drinking and essential services, the proponent has not addressed how will it mitigate or provide employment or ensure air quality standards.

The health impact related to continual exposure to high levels of particulate matter for residences is a concern as they would be considered occupationally exposed as the hazards do not remain on-site, the case of blasting the fallout often leaves the site.

In relation to the Camberwell private residence, there is no social benefit in having poor air quality or having tank water polluted and undrinkable.

There is no benefit in the impact on health system related to poor air quality and there is no benefit in the destruction of ecosystem's or loss of habitat for a final void that remains a continual hazard or a burden for others to deal with in the future.

IN RELATION TO AIR QUALITY FROM ANOTHER SOURCE

Rixs creek Modification 10 application was contingency **Plan D** in which the workforce would be relocated to the Rixs creek north area, that at a CCC meeting 13/6/19 that area of Falbrook can be mined in the future.

So therefore the cumulative impact air quality assessment under the addendum report potentially did not assess the impact of this project if it commenced just after the Rixs creek south continuation approval and the impact this has on residents in the Singleton shire, as stated below they require no approval from a neighbour to proceed in the area and from the department of planning under another approval -status care and maintenance, IPC can refer to email received on this matter.

From the website abstract from the minutes:

DO asked about 'Plan D', Bloomfield's contingency plan. DO asked if Rix's gained approval from one of the neighbours to proceed mining in Falbrook pit? GM responded that approval of the neighbor was not required. DO asked if Rix's will ever mine in Falbrook or if the decision means Rix's will now never mine there. CK advised Rix's can still mine in Falbrook and that will be determined as and when required in the future. DO stated that Rix's were required to obtain approval from a neighbor; this was stated to IPC. GM responded that this was incorrect. He spoke about Falbrook being currently in Care and Maintenance, however, there is current approval until 2035. CK advised that the MOP was submitted for the Contingency Plan. This MOP has an allowance to be retracted if MOD10 was approved. DO asked if the MOP, submitted to the Resource Regulator had been approved? CK confirmed the MOP was withdrawn at about 4pm the previous day. He advised that this was done through a letter to the Resources Regulator.

Conclusion

Biodiversity credits purchase is a major concern and has not been adequately addressed to ensure that these credits are available.

The timeframe for credits purchase after the fact of destruction of land, does not ensure protection of the species in the local area or save the species from extinction, it just highlights the concern that they are vulnerable in the approval and further to note the lack of significance of the cumulative impact related to squirrel glider which was also mentioned in the Mt Owen Mod 2 approval and other native species.

Air quality in the upper hunter is poor, lacks cumulative impact assessment and large number of exceedances has highlighted the fact the Dust stop program of the EPA has not reduced the pollution in the area, just recently the EPA has come up with another campaign BUST the DUST.

The failure to take in account of climatic conditions related to extreme heat events and severity of drought conditions on natural resource ie water, used in the mitigation process of the assessment and how this will impact the air quality at a cumulative level in the upper hunter.

The economic value of Rixs creek south not approved, in relation to air quality and protection of ecosystems, reduction of health impacts, commence rehabilitation of the area and protection of the coke ovens from blasting impacts.

The employment factor continually raised as an economic factor and in the commission approval before removed would be addressed in the Plan D which was raised apart of Mod 10, as per the abstract in the minutes and the area has approval until 2035, retraining of workforce is a normal employment process.

