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Independent Planning Commission
by email: ipcn@ipcn.nsw.gov.au

RE: Further comments on DPIE additional information on Rix's Creek South Continuation of Mining

Thank you for the opportunity to comment on DPIE's additional information on Rix's Creek Continuation of Mining Project.

We prepared this submission prior to the announcement of the approval of the project last week two hours before the deadline for comment closed. We are submitting them now because we believe there are issues that need attention. We do so knowing that the decision to approve this mine has already been made, and this process of public comment is a masquerade. Until the public and the broader community in which these mining projects are situated are given a genuine role in the processes of determination, the environmental and social conditions of the Hunter region will continue to suffer.

Lock the Gate's comments relate specifically to:

1. The spike in air quality health alerts in proximity to Singleton in light of the mine being the closest open cut operation to Singleton. The inadequacy of the department's response to concerns raised by NSW Health and Hunter New England Health regarding air quality impacts.
2. Scope 3 emissions.

Air quality impacts

The discovery in July that a number of sensitive receivers in close proximity to Camberwell had not been included in the assessment of air quality impacts should have been a trigger for the Department of Planning to revisit the conclusions of its assessment report for this project.

This discovery was over a month after the Department provided its Final Assessment Report "that "the benefits of the project outweigh its residual costs" and "the project is in the public interest and is approvable." Despite the error and requests from Lock The Gate (letter to minister, 26/7/19) the Department never withdrew or modified its recommendation to the Commission, giving a strong indication to the public that the actual outcomes of the air quality assessment *have no bearing on the Department's evaluation of this project*. Additional properties have been added to the list for acquisition, but there appears to be no air quality impact that the Department would consider to be unacceptable.

NSW Health advised the Department in December that it continued to have concerns about the project's predicted air quality impacts and the company's ability to comply with the NEPM goal's for particulate matter. A transcript of the IPC's meeting with the Department about the project published by the IPC records the Department's contradictory, misleading and negligent response the concerns raised by the Department of Health and poor air quality in the Hunter generally.

In the Assessment Report for the Rix's Creek Extension, it is stated that "Following review of the draft conditions, NSW Health advised its concerns had been addressed," but in the transcript of the meeting with the IPC, Mr Reed states that the Department of Health has not responded to the Department of Planning again since its letter of 21 December. He says "They left it there." The Assessment Report appears to have misrepresented NSW Health's position on the mine.

Mr Reed also stated in that meeting, "I know that in the Hunter Valley, a significant proportion of the, um, particulate matter in the air derives from sea salt" and "a significant proportion of – of particulate matter derives from other non-mining sources." These comments are misleading and biased and an indication that the Department of Planning Industry and Environment is not taking seriously the health impact of particulate pollution in the Hunter Valley, much of which is caused by coal mining.

Contrary to Mr Reed's representation of the situation, the EPA's Issues Paper for the Load-based licencing review states that "Between 1992 and 2008, emissions of PM₁₀ have risen increasingly quickly in the region by 48% overall, largely due to increased coal mining" and that "Predictive modelling commissioned by the EPA (Pacific Environment 2014) shows that an annual average PM_{2.5} Ambient Air Quality Standard of 8 µg/m³ is unlikely to be attained in Singleton and Muswellbrook into the future as coal production in the Hunter Valley is expected to continue to increase."

Proximity to Singleton

Rix's Creek is the closest open cut coal mine to Singleton and as such the added burden it will inflict on people in the district in the form of worsening air pollution is one of the most severe and significant impacts for consideration.

Already, the air quality in Singleton North West and Camberwell frequently fails to meet national standards. In the central Hunter Valley around Singleton, there have been *hundreds* of alerts issued this year warning the public of dangerous air quality. These alerts are issued when particulate pollution is measured at regional air quality monitors that breaches national standards. The public's experience of air pollution and its health consequences in Singleton is at odds with the Department's continued insistence that new and expanding open cut coal mining operations in the vicinity are consistent with pollution standards and policies. We note that In Attachment 1B, provided to the Commission ("Summary of Agency comments on draft conditions") the Department has not included the Department of Health as an agency whose input warranted a response.

In our view, the Department of Planning, Industry and Environment is reckless, and even contemptuous, of the effect of poor air quality on the health and wellbeing of people in the Hunter region. It is unacceptable that the population of the district should be subjected to pollution of this degree on this sustained basis, and not even have the problem be acknowledged by the Department.

In the material upon which we are asked for comment, the cumulative impact of this project and nearby mines on the health of the people renting the properties owned by mining companies has not been adequately considered by the Department or the proponent. In response to the Commission's recommendation in its Review that Bloomfield provide "evidence of the policies and protocols in place to manage mine owned residences" the Department cites only the proposed Condition B4, requiring notification of health risks, provision of data and fact sheets and conditions of tenancy agreements that give tenants the right to terminate agreements at short notice is insufficient protection. No information is provided from the Applicant, as was requested, about its policies and protocols for meeting this condition or executing its duty of care for people renting mine-owned properties in Camberwell and elsewhere.

We note that in Attachment 1C "Summary of Commission's review report recommendations, the Commission's recommendation "That the Applicant develop a protocol to assist those stakeholders concerned about air quality impact to better access the data from the Upper Hunter Air Quality Network; and provide instruction on how to use the Environment Line provided by the NSW Government." The Department states that it "considers that, between the company and Government agencies, there is sufficient information/data available, either online or over the phone, to enable all interested or concerned stakeholders to make an informed judgement and/or a complaint over air quality." This statement does not address the Commission review's recommendation and is further evidence of the Department's callous disregard of the serious impact air pollution is having on people in this part of the Hunter region.

Scope 3 emissions

We support the Commission's proposal (Recommendation B25, a iii) to ensure that the proponent takes all reasonable steps to improve energy efficiency and reduce greenhouse gas emissions.

The department does not directly address this in its response (24/9/19) but states in its letter that it is under no obligation to do so (25/9/19). Section 14 (1) of the Mining SEPP enables the consent authority to impose conditions of consent on mining developments to ensure "that greenhouse gas emissions are minimised to the greatest extent practicable."

The proponent attempts to address this in its letter of 2/4/19. It does not provide information on how greenhouse gas emissions are minimised but seeks to say the NSW policy framework is not directed at individual projects and fails to provide guidance on how development should proceed. and this condition attempts to achieve that purpose. The public and the NSW Government cannot be satisfied that the proponent is taking all practicable measures to minimise greenhouse gas emissions identified as Scope 3 emissions in the EIS.

Of the recipients of exported coal from Rix's Creek, Japan and the Korea Republic are signatories to the Paris Agreement while Taiwan is not. However, minimising emissions is not just reliant upon export destinations being signatories to the agreement. More detail is required in the condition to specify how the proponent intends to minimise greenhouse gas emissions progressively in its Air Quality and Greenhouse Gas Management Plan.

A time-based review and update mechanism is indispensable to "minimising greenhouse gas emissions to the greatest extent practicable." The life of this project, should it be granted consent and proceed to development, will span a period of crucial transition in the implementation of the

Paris Agreement, with actions from the participating countries progressively becoming more ambitious, expanding the scale of “greatest extent practicable” emissions reductions. This is why it is crucial that the consideration of greenhouse emissions be done in a carbon budget framework consistent with the temperature goals of the Paris climate agreement. We note that the Commission in the Statement of Reasons it erroneously published for this project on 4 October, stated that the proponent, “has no control” over Scope 3 emissions. Such an assertion is irrational since the purpose of the project is to mine coal for burning and Scope 3 emissions are unavoidably consequent to that purpose. If the proponent mined less coal, the emissions from burning that coal would not be created.

To satisfy its intent, The Air Quality and Greenhouse Gas Management Plan should include:

- Description and analysis of the nationally determined commitments of the countries where the coal from Rix’s Creek South is to be burnt with reference to whether or not greenhouse emissions are being reduced to the greatest extent practicable;
- A report based on these countries’ national communications to the UNFCCC as to their progress in reducing greenhouse emissions in line with their commitments;
- Modelling of projected coal use consistent with meeting the goals of the Paris Agreement and the contribution of NSW coal supply in that global trajectory;
- A protocol for reviewing the mine’s Scope 3 emissions in light of the ambition mechanism of the Paris Agreement; Independent expert verification of the above provisions.
- A review of the Air Quality and Greenhouse Gas Management Plan in 2020 coinciding with the first round of the ambition mechanism, and further reviews of the Plan at five-yearly intervals.

Lock the Gate continues to have ongoing concerns in regard to the IPC process. The publication on October 4th of a determination prior to additional public comments being submitted lends weight to community perceptions that approvals are made regardless of key data. Continued air quality health alerts in the Hunter with no further action taken regularly occur and an oversight in this proposal initially saw key data omitted in the initial report. We support the better resourcing of the Commission to provide the community with more confidence in its processes.