



AUSCRIPT AUSTRALASIA PTY LIMITED

ACN 110 028 825

T: 1800 AUSCRIPT (1800 287 274)

E: clientservices@auscript.com.au

W: www.auscript.com.au

TRANSCRIPT OF PROCEEDINGS

TRANSCRIPT IN CONFIDENCE

O/N H-1305530

INDEPENDENT PLANNING COMMISSION

MEETING WITH MUSWELLBROOK SHIRE COUNCIL

RE: MAXWELL UNDERGROUND COAL MINE

PANEL: **MARY O'KANE (CHAIR)**
JOHN HANN

OFFICE OF IPC: **STEPHEN BARRY**
CASEY JOSHUA

COUNCIL: **MARTIN RUSH**
SHARON POPE
FIONA PLESMAN
ZIGGY ANDERSONS
ANTHONY WILLIS

LOCATION: **VIDEOCONFERENCE**

DATE: **1.33 PM, THURSDAY, 15 OCTOBER, 2020**

THIS PROCEEDING WAS CONDUCTED BY VIDEO CONFERENCE

PROF M. O'KANE: Thank you very much for meeting with us. And in meeting,
5 I'd like to acknowledge the traditional owners of the lands on which we're variously
meeting, and pay respects to their elders past, present and emerging. As I said,
welcome to the meeting today for Maxwell Underground Coal Mining Project, which
includes the construction of a new mine entry area, transport and services corridor
and ancillary infrastructure. Extraction of up to 8 million tonnes of runoff mine coal
10 per year using long wall and board and pillar extraction methods, the ongoing use of
processing, rail loading and export infrastructure at the Maxwell infrastructure site,
and the partial realignment of the southern end of Edderton Road.

My name is Mary O'Kane. I'm chair of the independent planning commission, and
15 of this panel of the commission. I'm joined by Deputy Chair John Hann, who's a
panel member of this particular panel, as well as being a commissioner and deputy
chair. And we're supported by Stephen Barry and Casey Joshua from the Office of
the IPC. In the interests of openness and transparency, and to ensure full capture of
information, today's meeting is being recorded and a full transcript will be produced
20 and made available on the Commission's website. This meeting is one part of the
commission's consideration of this matter, and will form one of several sources of
information upon which the commission will base its advice.

It is important for the commissioners to ask questions of attendees, and to clarify
25 issues whenever it is considered appropriate. If you are asked a question and are not
in a position to answer today, please feel free to take the question on notice and
provide any additional information in writing, which will be then posted to our
website. I request that all here today, as Casey mentioned, introduce themselves
before speaking for the first time, and for all members to ensure that they do not
30 speak over the top of each other to ensure accuracy of the transcript. So thank you.
Shall we pass over to you. And we got some material you sent us. And you might
like to tell us what you'd like to tell us. And then we might have some questions.

MR M. RUSH: Thank you, Commissioners. And thank you for the opportunity to
35 give our submission. I'm going to introduce those here. First of all, we have Fiona
Plesman, who is council's general manager. Sharon Pope, who is council's Director
of Environmental Planning. We have Antony Willis, who is counsel's corporate
lawyer. And we have Mr Ziggy Andersons, who is council's senior ecologist and
team leader of sustainability. And I might take the opportunity of just saying a little
40 bit more about Ziggy Andersons, who may answer any questions of an ethological
nature from the commission. And particularly, we would wish the commission to
accept him as an expert for these reasons.

The first is that he holds a Bachelor of Science degree, majoring in Botany from the
45 University of New England, and is an accredited BAM assessor for the purpose of
assessing biodiversity. He has been the Ecologist and Sustainability team leader here

at Muswellbrook Shire Council since 2019, and was for six years the Senior Ecologist at the City of Cessnock, and has been engaged in senior roles in ecology assessment since 2010, including a three year stint with the Department of Planning, Infrastructure and Environment, and within the team dealing with conservation and planning and within the Office of Environment and Heritage within that department. And my name is Granton Rush and I'm one of the councillors at Muswellbrook Shire Council. What I propose to do first is to take the commission to the minute of proposed amendments. And I might ask that that be that that be made available on Zoom.

10 PROF O'KANE: We've got printed copies.

MR RUSH: Commissioners, are you able to see that on the screen?

15 PROF O'KANE: Not at the moment but we do have printed copies in our hands. We each have a printed copy.

MR RUSH: All right. Well, I might, while that's being shared, just take you then to the first - - -

20 PROF O'KANE: Now it's come up. Thank you.

MR RUSH: The first of those amendments sought by the council. And the material difference - - -

25 PROF O'KANE: Could I clarify something. Did this come out of the meeting you had, I think, yesterday?

MR RUSH: No. I was going to come to that.

30 PROF O'KANE: Right. All right.

MR RUSH: So the material difference between the proposed condition as recommended to you by the department and the one that we submit should be preferred has the date on which the planning agreement becomes effective from the six months from the approval of the development, and not from construction. The reason for that is firstly, because it brings it into parity with all the other mining developments within the Shire of Muswellbrook that have had approvals in more recent times. And I'm going to come to one of those by way of example.

40 But secondly, because as the Commission may appreciate, the major impacts on a community from a triple bottom line point of view – and I'm talking not just here about the economics, which no doubt is the reason for the applicant's insistence on this particular phrasing of the condition, but also the social and environmental. Most of those social impacts occur pre-construction, and of course during construction. Indeed, the ramp up to construction from a social point of view is often, in terms of housing, employment, infrastructure and so on, the peak time when a community is

impacted. And for that reason, council has conditions with all of the more modern approvals that they date from the time approval is given. And I'm going to take you to the Drayton South recommended conditions of consent, and particularly to page 6 of that document by way of illustration. Commissioners, are you able to see that document on the screen?

MR HANN: Not yet.

PROF O'KANE: Not on the screen. Are you referring to the conditions of the proposal that was refused?

MR RUSH: Again, I'm going to come to that, Commissioners. But yes. This was a recommended condition – and I phrased it that way deliberately – from the Department to the IPCs predecessor. And as you point out, that was a development proposal ultimately refused by the department. But I hasten to point out not for this reason, not as a result of condition 15, but for a whole range of other concerns the consent authority had with that particular development. But it is, of course, the same mining tenement as the one presently before you. And you will note that condition 15 dates from six months of the date of the consent. Like this one, it was proposing a new mine. And in our view, that is the appropriate condition that should be applied.

PROF O'KANE: Right.

MR RUSH: The way that's being framed now, in our submission, considers only the economic part of the triple bottom line assessment, and not the social and environment – or environmental aspects, rather, of the assessment process. And a proper consideration, in our view, would structure the condition in this way. The other thing I wanted to say about that is that the terms that are contained in the schedules are not yet agreed by council. And council made that clear not only to the applicant, but also to the Commission. We did meet with the applicant yesterday, and the applicant has expressed a desire to have some more time to come back to us with some suggestions we've made to those schedules. They've requested they have until Wednesday next week to make those suggestions. For those reasons, I really can't talk in any detail about them but that if there is a resolution of those issues, it will take the form of an amended schedule, which I would think would be jointly provided to the commission by the council and the applicant.

PROF O'KANE: Right.

MR RUSH: Unless there are any questions about that matter, I - - -

PROF O'KANE: No. That's very clear. Thank you.

MR RUSH: I do just perhaps in – just before I move on – point out that all the modern consents have the phrasing that was contained in that Dreighton South planning assessment report and recommended conditions. And although there are extant minds that don't have those conditions, they are minds that have been

operating for some considerable period of time, and were operating at the time the modifications giving rise to these conditions at all first came about. So all the new minds have these conditions. And if the commission has any concern about that statement, they might come back to us. And we'll be able to show - - -

5

PROF O'KANE: No. I think that's - - -

MR RUSH: - - - why they can be distinguished.

10 PROF O'KANE: - - - clear.

MR HANN: Yes.

15 MR RUSH: If I can move now to condition B47, a biodiversity credit requirement. Commissioners, the material change here is to omit the ability for the planning secretary, by application from the applicant, to not retire biodiversity credits prior to construction. That's the material difference. So the first thing I want to take the commission to is again a discussion about a triple bottom line assessment of these things. But before I do that, I might just ask if the Biodiversity Conservation Act,
20 division 4 – sorry, division 4 of, I think, chapter 2, 7.14 subclause (4). Can the commission see that document presently on the screen?

PROF O'KANE: No.

25 MR RUSH: Right.

PROF O'KANE: We've still got the old Drayton South thing. I mean, we can look them up separately if you like, because you did send them to us.

30 MR RUSH: Well, I'm hoping to take the Commission - - -

PROF O'KANE: Now we've got it. Thank you.

35 MR RUSH: Thank you. You'll see there the condition 4 relates to the retirement of biodiversity credits and requires them to be complied with before any development is carried out that would impact upon biodiversity values. What the Department's recommended commission – condition, rather – does is to essentially allow the secretary of the department not to obey that condition – that clause of legislation. We say that that's there for very good reasons. And some of these we'll flesh out
40 when we come to some of these other clauses we're going to deal with. But again, this is to put economic considerations, in our respectful submission, before environmental ones in this particular instance.

45 We assert that the commission has to take into account the triple bottom line assessment, which considers environmental impacts and social impacts and not just the economic ones. And whilst we accept that there are enormous economic benefits in deferring some of these considerations, there are – there is, rather, in our respectful

submission considerable harm that could be done if these particular biodiversity credits aren't entered into prior to construction commencing. And I'm going to talk about our particular concern, which is around the orchid *Diuris tricolor*, shortly. But again, I wanted to point out that the law as it stands, in our respectful submission,
5 doesn't permit the commission to do what the department recommends it does. Are there any questions about that, Commissioners, before I move on to the next - - -

PROF O'KANE: No. That's very clear too. Thank you.

10 MR RUSH: Thank you. Well, (b), I think, (48) is the next one. And, Commissioners, this is in almost – in identical terms as the last one. This concerns not the construction of the mine proper but a part of the mining development which allows the realignment of a particular road. And for exactly the same reasons, we say that allowing the planning secretary the ability to not have the applicant retire
15 those credits prior to the moving of that road should not be permitted. And our construction should be preferred. Unless there are any questions about that, the argument is exactly the same, that it would be to put economic considerations not only before the environmental considerations but, in fact, in our respectful submission, ignore the proper exercise of the planning discretion, which is to
20 consider all three of them as equals in a carefully balanced assessment of that triple bottom line.

Commissioners, (b)(49) concerns what is a fairly modest change, one of the more modest changes that we propose in that short minute. And it is, in material effect,
25 that council be consulted with, amongst the other agencies to be consulted with, in the preparation of a number of documents. But particularly, the survey associated with the biodiversity credit requirements. And particularly for us, the *Diuris tricolor*. But the others as well. And, Commissioners, there's a number of documents I want to take you to. The first is the New South Wales Scientific Committee findings and
30 determination when it comes to the *Diuris tricolor*.

UNIDENTIFIED MALE: Can you see that determination, Commissioners?

MR RUSH: Commissioners, are you able to see - - -
35

PROF O'KANE: Yeah. We can see that. Thank you.

MR RUSH: What I particularly want to point out here is – and first of all, the whole of the document is relevant, we say. But particularly, I want to point out – and I
40 might have to ask Ziggy to assist me here – two things. The first is the hectares – sorry, the area of occupancy of the population is less than 50 kilometres squared. You'll see that in the sixth point in that document. And the geographic distribution of the population is estimated, therefore, to be highly restricted. I just note in passing too that this is a particular orchid that has become, as I understand it, scattered and
45 pocketed. And that the Muswellbrook LGAs version of *Diuris tricolor* – known here, at least, as the pine donkey orchid – is potentially genetically distinct from the rest of

the species, being slightly larger than the rest of the species. And it is also at its extent, or at the extent of the known population.

5 Now, that figure of 50 kilometres squared I want to come back to because I'm now
going to go through a number of other documents. The first is one that you already
have, so we've not linked it. And that is the assessment report – the department's
assessment report, and particularly page 101 of the assessment report. And I'm not
going to take you to that document except to say that on that page, it's noted that the
10 Diuris tricolor has been assessed to be on 153.5 hectares of the mine site. The next
document I wanted to take you to is the biodiversity conservations division's
supplementary advice that it provided to the Mangoola mine in 2019. And,
Commissioners, are you able to see that on the - - -

15 PROF O'KANE: Yes. Thank you.

MR RUSH: Over the third paragraph there, you will see that the relevant
assessment regards 567.81 hectares of orchids – this is the Diuris tricolor again –
affected by that particular proposal. Commissioners, if you'll just pardon me one
moment. Now, Commissioners, that is a – I should point out for transparency that is
20 a proposal that is presently before the Commission – sorry, it's presently before the
Department but will come to the Commission time. I point it out because their
proposal is for the open cut mining of these orchids whereas in the present proposal,
it is disturbance, which could have the impact of nonetheless removing the
population, which is why they've been required to have the credits in the first place.
25 But in the Mangoola instance, what's being applied for is the removal of that
population. So that, Commissioners, you're not left wondering as to where this is all
going, we will try and demonstrate at the end of this that if the Commission were to
approve all of these, some 30 to 40 per cent of the known population of this
endangered orchid will be destroyed.

30 Commission, the next one I want to take you to is the Bayswater Power Station
Upgrade Biodiversity Development Assessment Report. Again, Commissioners, I
don't wish to be taken – you nonetheless might come to approve the condition. But
that we would wish to be part of the consultation given the cumulative impact
35 beyond the documents that the department has provided to you to assist you with
your assessment. As a number of these assessments are being – a number of these
decisions, or a section – they're essentially being deferred back to the secretary after,
Commissioners, you arrive at any decision you make. It is imperative, in our view,
that these cumulative impacts are not forgotten. And that is really the reason why we
40 wish to be consulted as part of all of this process.

Commissioners, the Bayswater Power Station Upgrade Biodiversity Development
Assessment Report – and it's page (iv) of that document shows a further 166 hectares
of Diuris Tricolour to be impacted potentially by that project. Again,
45 Commissioners, this is a project approval that is still with the department, and will
ultimately be the subject, no doubt, of a permission to the Commission. And again,
it's therefore likely something that is still in the assessment phase. But nonetheless,

that's what the environmental assessment says of the impact that that development proposes on the *Diuris tricolor*.

5 The next one I want to come to is the Anvil Hill Project Environmental Assessment Report, and particularly the pages 4.23 and 4.24 of that document. That shows – and this is – the Anvil Hill Project Approval, now of course Mangoola, this is a part that's separate to the one that you heard earlier about. That's the Mangoola extension to the north. This is the original mining approval, critically approved after the assessment done by the State Government in the scientific findings I came to.
10 Disclosed 934 hectares of habitat loss for the *Diuris Tricolor*. Again, an open cut mine. And so the commission can have relative confidence, given that it's progressed into surface mining, that that orchid no longer exists on that site, at least insofar as the disturbance area is concerned of that fairly large project.

15 Commissioners, in total, I understand that it is some – just those five projects. And our analysis has not extended, simply because we do not have time, to Liddell Coal, an open cut mine; Muswellbrook Coal, an open cut mine; Bengalla Coal, an open cut mine; the Mount Pleasant Mine, an open cut mine; to Darkbrook; to Ridgeland; to Muswellbrook West; to the other open cut mines proposed for
20 Muswellbrook. But at 40 per cent, the habitat loss of this particular orchid is already significant. And for those reasons, we would ask that we be included in any consultation with respect to those surveys. Commissioners, I want to take you now to a map just to highlight – and this is not a document we've linked, but we will undertake to provide it to you by close of business today to add to the documents that
25 you have. Commissioners, are you able to see a map there of the Shire of Muswellbrook?

PROF O'KANE: Yes, we are. Thank you.

30 MR RUSH: You might have just lost it.

PROF O'KANE: Well, we - - -

MR HANN: We just have. Apologies.
35

MR RUSH: All right. Commissioners - - -

PROF O'KANE: Yes. Got it.

40 MR RUSH: - - - in the bottle green colour there is the World Heritage Area, the Blue Mountains World Heritage Area known in the Muswellbrook Local Government Area as the Wollemi. In the – just where Ziggy is taking his cursor now is the township at Muswellbrook. And just where he is taking his cursor now is the township of Denman. Commissioners, in the grey area – and this is the bit that I
45 really want to come to – are the – that's the darker of the grey areas – are the approved disturbances – that's surface disturbance – of the open cut coal industry in the Shire of Muswellbrook. And Commissioners will appreciate that the orchid is a

valley floor orchid. It exists in grasslands. And therefore, outside, predominantly, the Wollemi. And it really is, therefore, only in the area of where you see that contiguous dark grey.

5 In the lighter grey, the exploration licences and development proposals for a series of
additional mines, all of them open cut with the exception of the one appearing as
Drayton South, now Maxwell, the one that's the subject of this decision; and Spur
10 Hill, which is to its west. So – yes. To its west there. Which is also, at least at this
stage, proposed to be underground. What this doesn't show is the disturbance areas
proposed by the Bayswater and Liddell projects, which are thermal coal power
station projects. We send that through just to highlight the importance of cumulative
assessments when it comes to biodiversity offsetting for orchids whose only known
15 location is the Shire of Muswellbrook. It's all very well to have a biosecurity plan in
New South Wales that allows offsets many local government areas away. But when
you're dealing with threatened species only found in the local government area,
cumulative assessments become extremely important in our respectful submission.
Commissioners, unless there's anything further on that point, I intend to move to the
next topic.

20 PROF O'KANE: Sure.

MR RUSH: And that is (b)(51). And the material part of this – apart from – I
withdraw that. The material part of this is identical to the last one. We just simply
25 wish to be consulted as well in the preparation of these documents, Commissioners,
for all the same reasons we came to when we discussed the last point. Are there any
questions about that before I move to (b)(76)?

PROF O'KANE: No. Thank you.

30 MR HANN: No.

MR RUSH: Thank you, Commissioners. This is, again, one of the more substantial
changes we propose. And I apologise, Commissioners. The document you have
before us is not the final document. Commissioners, will you pardon us a moment
35 while we – on your version of B76.

PROF O'KANE: Yes.

MR RUSH: Does it say, in the objective - - -
40

PROF O'KANE: Yes.

MR RUSH: Commissioners, pardon me a moment while we just find the right
document.

45

PROF O'KANE: Do you want me to read it out because it's longer?

MR RUSH: Yes. It is longer. Good.

PROF O'KANE: The second dot point - - -

5 MR RUSH: Thank you.

PROF O'KANE: Sorry?

10 MR RUSH: I just wanted to make sure.

PROF O'KANE: Yeah.

15 MR RUSH: It's a longer version. It carries on beyond 2013 to say provided that where, despite that document, a reference site has not been determined, a reference site selected by council. And so it goes.

PROF O'KANE: Yes. We've got that. Thank you.

20 MR RUSH: In all events, Commissioners, we'll send you another version to be absolutely certain the version you have is the version we rely on. As you might appreciate, Commissioners, we've gone through about six of these versions today.

PROF O'KANE: right.

25 MR RUSH: We only received the Department's material late last week. And one consequence of that is a lot of – and senior members of staff and necessary members of staff were away until Monday. The one consequence of that is we've not been able to finalise this material until today. Well, we might take that one off the screen because it will become a distraction, and instead go to a document, which is the
30 Rehabilitation and Offset Management Plan for the Drayton approval. Commissioners, an open cut mine called Drayton operated on part of the site proposed.

35 PROF O'KANE: Yes. We're familiar with that one.

MR RUSH: Thank you. Well, Commissioners, this is their last rehabilitation and offset management plan, and still is extant, but won't be as a consequence of any approval given to this mine. And because as you will know, Commissioners, the Drayton approval will be surrendered – or at least it's recommended to be
40 surrendered if the Commission approves the Maxwell project. One of the documents, therefore, that will disappear is the rehabilitation and offset management plan. I want to take you to pages 35 and 36 of that document, and note the reference there. Perhaps not well termed. The monitoring design reference sites, 4.14.1. And you'll note that the rehabilitation has to be carried out against replicate reference
45 sites in the Drayton Wildlife Refuge.

Now, our ecologist has visited the refuge. And I think we're comfortable that that is an appropriate reference site. And we would wish that any rehabilitation continues to match that reference site. If the Commission were to approve the document, we say, in the form recommended by the Department, that requirement would be lost
5 and replaced with a requirement that merely would have the applicant rehabilitate it for an intended post-mining land use. We don't know what that means other than we think it is vague, it's ambiguous and sets a very low bar when the existing approval sets a much higher bar. I mean, this mine was endorsed originally by the council. It was a council consent.

10

The community and the council bargained very hard to get some of these conditions. And in our respectful submissions, the community is entitled to have that mine deliver them to finality. And therefore, those biodiversity sites should replicate the reference sites. I visited the site, and I would urge the commission to make a
15 particular effort when visiting the site to have a look to see not only the reference site for the wildlife refuge and - - -

PROF O'KANE: We are visiting on Monday so we'll arrange to see it, if we could.

20

MR RUSH: Not just the reference site but then compare it to the work being done on the rehab against that reference. Commissioners, you will note that in the reference site, there are understoreys and mid-storey covers. And you will notice on the Drayton site, there are no such understorey and mid-storey coverage. And that really, it consists only of canopy-layer rehabilitation. And I don't want to be
25 particularly critical of the mine. It is still in the early stages of rehabilitation. Such were the conditions imposed in 1984. But nonetheless, it is so far south of replicating its reference site that to remove this condition would, in our respectful submission, be inappropriate. And again, put too little weight on environmental considerations as against economic ones.

30

Commissioners, the other thing we say that requires is to have some reference sites for pasture. At the moment, there are – we are told there are no reference sites for pasture, which represent some 30 or 40 per cent of the rehabilitation of the mine. Pasture rehabilitation is every bit as important, in many respects, as the biodiversity
35 re-establishment. Having a condition that it simply be fit for its post-mining land use does not go, in our respectful submission, far enough. And a reference site should be provided for pasture. Again, the council has visited the rehabilitation on many occasions. And the areas said to be being rehabilitated for pasture are burdened with exotic species; are burdened by the enormous number of conglomerate and other
40 rocks; have been deluded of topsoil, partly because they didn't stockpile their topsoil from 1984 to 1996.

45

And as a consequence, in our view, that will never meet, easily, the replication requirements of any reference sites. But somewhat inextricably, a reference site was never selected for pasture. In our respectful submission, it should be. Our preference is that council, in consultation with the applicant, select relevant replicate reference sites and be comfortable that they will be able to bring their rehabilitation

to that quality. And again, I would urge the Commission to look at adjoining pasture land, which would be those replicate reference sites. Particularly, I would ask the Commission to look at the land on Wyer Lane, which is what the land did look like before it was mines.

5

And the Commission will note if it visits Wyer Lane and the pastoral properties on Wyer Lane – they are beautiful pastoral lands. They’re not on the floodplain, of course, but they’re beautiful pastoral lands. And then again compare it to what is purported to be the replicate rehabilitation on the mine site. And again, the test isn’t whether you could stick a cow or two on the site and the cow might even live without breaking its leg on the rock bed. The test is whether it could be purposefully and economically and viably used, and sustainably used, as a pastoral holding. And therefore, in our submission, the rehabilitation needs to come to the standard of an appropriately selected replicate reference site. That is the effect of our suggested condition. Commissioners, is there any other questions about that?

15

PROF O’KANE: No. I think that’s very clear. Thank you.

MR HANN: No.

20

MR RUSH: Thank you. The next point concerns the same condition, albeit a different part of the table. And that is that again, the wording allows the departmental secretary – sorry. I withdraw that. The resources regulator to agree not to decommission surface infrastructure and development. And whilst we think there are many reasons when mines come to close, and to start to think about repurposing mine sites, there are very good and valid reasons why some of that surface infrastructure might be adoptedly reused or repurposed to preserve the – if you like, the labour intensity of that land use. These are all very good things. We think it is critical that the council also give its consent to the preservation of that infrastructure.

25

30

Otherwise, it should simply be decommissioned. And the reason for that is council will almost certainly be the consent authority and recommend any necessary changes to the zoning which would be required as part of that process. And we wouldn’t want to be left in a hiatus where the resources regulator has said, “Fine, keep your rail infrastructure. Keep your washery. Keep all your hard stand areas and potentially other parts of your surface infrastructure, including your drift.” And for there to be no lawful development use for it. We don’t want to be left in that position. And so it’s critical to us that council have an application before us for some other use prior to relieving the applicant of the ability not to decommission it, and to leave it there sitting on the mine site in perpetuity. So - - -

35

40

PROF O’KANE: All right.

MR RUSH: - - - thank you, Commissioners. That’s that point. We then come to (b)(79). Again, not one of the more weighty points, but one which we would urge the Commission to make the amendment we’ve sought. And that is a requirement that the applicant join in and participate in council’s standing committee on industrial

45

closures when requested to do so by it. Again, the reason for that is this committee has done some enormously valuable work, some leading practice work, in getting in early – and by early, I mean five to seven years before closures – and looking at land capacity of the final landform of surface mines.

5

In particular, we're working at the moment with the Liddell Thermal Coal Power Station and its owner AGL Macquarie, and Muswellbrook Coal and its owner Idemitsu. And the council, together with those land owners, have made considerable strides forward in repurposing that land post-their intended closures. And getting in early and getting in comprehensively in a whole of government way, in a whole of sector way, with not only those land owners but the private sector more generally has meant that we've been able to preserve some of the labour intensity of that land, which is critical for our local economy. And therefore, goes to social impacts.

15 I also note that the Department – and I'm talking about the resources regulator at this stage rather than the planning side of DPIE – have issued a new document talking about rehabilitation. And again, noting that they intend for closure planning to begin from day one of the mine's development, which we think is a good policy measure, and something we're likely to support during our own submissions of – during the
20 feedback process that's sought. But again, that feeds into these sort of committees establishing early, and really thinking about, "Well, what is it going to be used for long-term? Is it for very valuable biodiversity corridors and connectivity?"

25 And the Commission will know that that is a very valuable land use, and particularly places like Muswellbrook which connect the Wollemi – the largest area of pristine wilderness in New South Wales with the Great Eastern Ranges, the largest area of pristine wilderness in Australia. And Muswellbrook sits in that corridor. But other land uses like pasture, industrial land uses, biofuels and renewable energy are all sorts of things that have benefitted from the work of this committee. And we
30 would encourage the applicant on day one, really, to participate in those processes, albeit at a very strategic level early on. And as time goes on, at a more detailed level. Are there any questions about that, Commissioners, before I move to this last point?

35 PROF O'KANE: thank you.

MR RUSH: Commissioners, the last point concerns Thomas Mitchell Drive. And it's condition (b)(88). And can I take you to – there are two documents I've linked. I'm not going to take you to the first one, which is the Thomas Mitchell Drive Contribution Study of May 2015. That document was reviewed in the supplementary
40 report. And I'm going to take you to that document.

PROF O'KANE: We've got it here.

45 MR RUSH: Commissioners, on page 1 – and I – do you happen to have that before you as a printout?

PROF O'KANE: Yes.

MR RUSH: I don't have it here right now. They do. Commissioners, on page 1 of that document, you'll see a table of original cost allocations in 2013 dollars from four mines, those mines being Mangoola, Bengalla, Mount Arthur and Drayton. And by Drayton, that is referring to the Drayton open cut mine that operated there from 1984
5 until 2016/17, and not Maxwell. And then on page 4 of the contribution study, you'll see another table – this is table 3 – sorry. I withdraw that. Table 4. And it's entitled Revised Cost Allocations, again in 2013 dollars. And you'll see four mines are mentioned. These are Mangoola, Bengalla, Mount Arthur and Mount Pleasant. And you'll see that Drayton is omitted, and Mount Pleasant has been substituted.

10 The effect of that is that Mount Pleasant, in very similar dollars, took the place of Drayton in that revised contribution study. Therefore, when you read the proposed condition from the Department, (b)(88), when it talks about the applicant making a contribution under that plan, there is no mention of Maxwell in that plan. And so
15 therefore, the plan will need to be reviewed, just as it was when Mount Pleasant was added to it. And the condition we've asked for is, in fact, the condition that the Commission imposed on Mount Pleasant some years ago. The Commission or its predecessor. And so again, we asked that the contribution study be reviewed for Maxwell, but the applicant pay the reasonable costs of council to undertake that
20 review and condition to make the contribution to council required for any revision – any capital upgrade or operational cost associated with the revision of that document. Are there any questions about that, or at all?

PROF O'KANE: No. That was very, very clear, thank you. Very helpful.

25 MR RUSH: Well, Commissioners, that's our submissions. And unless we can be of any further assistance, we will send through to you a revised minute just to make sure that you have that minute. We will send through to add to the documents we provided earlier today that map. And I think, unless there's anything further, that's
30 it.

PROF O'KANE: Then we have a question. But just before that, have you discussed any of this with the applicant? Yes.

35 MR RUSH: We've provided the applicant a copy of a version of our minute. The applicant received that yesterday.

PROF O'KANE: Right. Okay.

40 MR RUSH: As you may appreciate, we only drafted it yesterday hours before they arrived.

PROF O'KANE: Yes.

45 MR RUSH: They've undertaken to respond by Wednesday next week. So we don't know the attitude of the applicant to those proposals.

PROF O’KANE: Okay. No. I just wanted to know where that discussion was. But that’s helpful to know they’ll be responding next week. Jon, our question.

5 MR HANN: Martin, I just had a query. In relation to one of your earlier submissions – and look, forgive me, I’m not sure of the date. You had a question mark around the timing of the sealing of the road for the infrastructure from the mine entrance area and the dust management. I just wondered, is that now resolved to your satisfaction in terms of what you understand and the condition?

10 MR RUSH: Pardon me just for one moment. Yes. We’re satisfied.

PROF O’KANE: Good.

MR HANN: Okay.

15 PROF O’KANE: Thank you.

MR HANN: Thank you.

20 PROF O’KANE: That’s good. And that’s it from us. Thank you very much for the very helpful submissions. And we – it also gave us some good guidance for when we do the site visit next week. So thank you very much.

MR RUSH: Thank you.

25 PROF O’KANE: We’ll close the meeting.

MR HANN: Thank you.

30 **MATTER ADJOURNED at 2.23 pm INDEFINITELY**