



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-986745

INDEPENDENT PLANNING COMMISSION

MEETING WITH DEPARTMENT OF PLANNING AND ENVIRONMENT

RE: LIDDELL COAL MINE MOD 7

PANEL: **GORDON KIRKBY**
DR IAN LAVERING

ASSISTING PANEL: **BRAD JAMES**
ALANA JELFS

**DEPARTMENT OF
PLANNING AND
ENVIRONMENT:** **HOWARD REED**
PHILIP NEVILL

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

DATE: **10.59 AM, WEDNESDAY, 30 JANUARY 2019**

- MR G. KIRKBY: Good morning and welcome. Before we begin, I would like to acknowledge the traditional owners on the land on which we meet, the Gadigal people. I would also like to pay my respects to their elders past and present and to the elders from other communities who may be here today. Welcome to the meeting today. Liddell Coal Operations Proprietary Limited, the applicant, is seeking to modify its development consent for the Liddell Open Cut Coal Mine to facilitate remediation works in the historic Mountain Block Mining Area in order to achieve successful rehabilitation outcomes.
- 10 The project involves the minor adjustment to the northern boundary of the consent area to facilitate remediation works in the completed Mountain Block Mining Area. The project also involves the disturbance of approximately one hectare of remnant vegetation within the established Mountain Block Offset Area. Minor administrative changes to the consent are also proposed. My name is Gordon Kirkby. I'm the chair of this IPC panel. Joining me is my fellow commissioner Dr Ian Lavering. Other attendees of the meeting are Brad James and Alana Jelfs of the Commission Secretariat.
- 15
- 20 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 and made available on the commission's website. The meeting is one part of the commission's decision-making process. It is taking place at the preliminary stage of this process and will form one of several sources of information upon which the commission will base its decision. It's important for the commissioners to ask questions of attendees and to clarify issues whenever we consider it appropriate.
- 25
- If you're asked a question and are not in a position to answer it, please feel free to take up the question on notice and provide any additional information in writing which we will then put up on our website. A request: firstly, that all members here today introduce themselves before speaking for the first time and for all members to ensure that they do not speak over the top of one another to ensure accuracy of the transcript. We will now begin. So I might just get you both to introduce yourself for the benefit of the – who you are.
- 30
- 35 MR H. REED: Sure. Thanks, Gordon. My name is Howard Reed. I'm one of the three directors of resource assessments in the Department of Planning and Environment.
- MR P. NEVILL: And my name is Phillip Nevill. I'm an environmental assessment officer. Howard is my director within resource assessments.
- 40
- MR KIRKBY: Okay. Thanks, gentlemen. I guess we might just start with a bit of – if you could just give us a bit of an overview of I guess – we've had a bit of a discussion – I guess it's a bit of an overview of the issue here and how it has come about - - -
- 45

MR REED: Yes.

MR KIRKBY: - - - a little bit of history and what they're seeking to do and we also
note there's a few other, I guess, administrative updates through the consent that you
5 might also just give some explanation on.

MR REED: Sure.

MR KIRKBY: Thanks, Howard.
10

MR REED: Thanks, Gordon. Well, the Department sees this as a pretty
straightforward modification. It's only coming to the commission because political
donations that were declared some time ago by an associated company to Liddell
Coal holdings. The political donations took place over two years ago and no longer
15 have application for a new application by a company associated with Glencore but
because of the timing of this application and the length of time it has been on foot, it
is caught by that two-year timeframe for political donations to no longer remain
relevant. So that's the reason it's here.

20 I believe there were no community objections. There were a few wrinkles in the way
different agencies and the council looked at it through the exhibition process, but
certainly the department and I think most people now see it as something necessary
that has to be done to basically fix up an area of rehabilitation that was
unsuccessfully undertaken in 2003 and 2004 and later works, I believe, up to 2009 as
25 well.

MR KIRKBY: Just because we discussed – the rehab that has failed – where does
that – does that go right back to the 2003 consent or an earlier approval?

30 MR REED: The works were primarily undertaken in 2003 and 2004. A summary
of the history is in the department's assessment report, but I think the most useful
document for getting a good overview of the history and why things haven't worked
the way Liddell wanted them to is in correspondence that came to us from Liddell at
our request. It was dated 10 January 2019 and it's on our website.

35 MR KIRKBY: Okay.

MR REED: And I imagine that the commission has had regard to that already. So
we ask the – we ask Liddell how many times operator attempts had been made to fix
40 the issues at this site, why the previous remediation failed and a number of other
questions regarding options to deal with the problems and how they come about.
And that letter went into quite a bit of detail about why, really, the remediation works
had not worked at the site. Phil has some very interesting aerial photos from Google
Maps and also from Nearmaps that that show the extent of the problems on-site.
45 There's extensive gully erosion - - -

MR NEVILL: That was the best I could get.

MR REED: Okay. So there's – I think you can see an area of slumping up here – that's how I would interpret that - - -

MR NEVILL: Yes.

5

MR REED: - - - and scalding and areas where the vegetation hasn't been able to grow well. I think some of the other photos show quite a lot of exposed rock which I'm not certain but I believe to be the felsic rocks which the company has indicated at the upper part of the site outside of the sedimentary rocks in the main Hunter basin. And from this upper area, there's extensive gully erosion. This sediment dam has got a couple of – well, it has got three little deltas in it with eroded material. You can see within context there have been extensive efforts made to rehabilitate the site with slopes, good contour banks.

15 There's erosion nowhere else within this broader domain. But there was something, if you like, particular about this area which has made it difficult to rehabilitate. I understand that primarily to reflect the slopes in this area which in places are more than one in one – more than 100 per cent slope and commonly exceed – I think it's one in – well, it's one in 3 – the average gradient of this slope is 38 per cent. So
20 basically it's very steep. There were landform reasons why that was the case. This is obviously the edge of a mining area. There's an upthrust fault block sitting beside it. Those rocks themselves are – they're felsic – won't grow things so easily.

The area is strongly faulted with a major regional fault, the Hunter Thrust and the
25 highly sodic and dispersive nature of the soils has also been a clear cause for the gully erosion, basically. They had a good go at it, I would say, in the circumstances but it wasn't successful and to be assured of a good outcome, the consent requires a safe, stable and non-polluting landform. This is not stable. It could be argued that it's not safe and there is extensive sedimentation coming from it. So it's not at the
30 stage where it's non-polluting and to fix it up and be assured of its success on those criteria for – in the long-term, they need to get in and do a more radical job in reshaping the landform.

DR I. LAVERING: Ian Lavering, for the Commission. Howard, that wasn't clear
35 to me in reading the correspondence that this was the Carboniferous – the other side of the Hunter fault.

MR REED: Well, I think – my belief is that this area up here is but you would need to confirm that with the company.

40

DR LAVERING: Yes. If I were to guess, I would say that you're more than likely to have a fault running through there, if there was, but I will have to check that. But it wasn't clear that this wasn't mine waste to me. Yes.

45 MR REED: No, I think some of it certainly is.

DR LAVERING: Is, but - - -

MR REED: This area down here. Some of the other photos will - - -

DR LAVERING: Okay.

5 MR NEVILL: These are just photos from the heritage assessment, so - - -

DR LAVERING: Yes.

MR REED: There are a number there.

10 MR NEVILL: And it has a description of each photo.

DR LAVERING: And because in my mind, it would be very different ways of dealing with the problem that's associated with just tree removal on that

15 Carboniferous sequence north of the Hunter Thrust would be very different to dealing with revegetation and contouring of mine waste out of the Permian sequence.

MR REED: My understanding is it's a high wall on the edge of mining.

20 DR LAVERING: Yes.

MR REED: I don't think any of the documentation that we received showed the high wall in relation to the Hunter Thrust.

25 DR LAVERING: Yes. No.

MR REED: But that high wall has been pushed down from above and it has been buttressed from below - - -

30 DR LAVERING: Okay.

MR REED: - - - with mine spoil. My feeling – and perhaps I'm being a little adventurous here – but I would have thought the mine spoil comes up to roughly this area - - -

35 DR LAVERING: Okay. Yes.

MR REED: - - - and that this land, to me, looks as though it was no disturbed and - - -

40 DR LAVERING: Where your major mature tree growth is evident to the north would be the evidence of where disturbance had taken place.

MR REED: Yes, yes.

45 DR LAVERING: Yes. Okay. But then on top of the Carboniferous material that may be the bedrock there – you've put mine waste on top of that as well.

MR REED: Well, I think in part in order to smooth out that high wall.

DR LAVERING: Okay.

5 MR REED: Yes. That's my understanding.

MR KIRKBY: And then there's as a result - - -

10 MR REED: But again, it's something the company could provide more accurate detail on.

DR LAVERING: I mean, it's probably a technical detail that's really going to be the issue for them, but it's just to help me understand what I'm dealing with or thinking about, then that helps.

15 MR REED: Yes.

DR LAVERING: Yes. Okay. Good. Thank you.

20 MR NEVILL: There's some other aerials underneath. I don't know if that paints another, sort of, picture, but they're similar.

MR REED: The incident light is different here. It shows the extent of the gully.

25 MR KIRKBY: Yes, it's a mess.

MR REED: It is. The other thing I should say is that Liddell is coming to the end of its mine life, so clearly they're looking to fix up some legacy issues in a way that they can comfortably and confidently walk away and this is one where I think they're not prepared to try again in a way they're not confident will work.

30 DR LAVERING: Yes, yes. We did pick up some of the gullying on the photographs here. Whether that was scarring there, I – that was a guess on my part, but it was just a matter of interpretation, but it's certainly evident that you've got some creeping growth there on that lovely shadow one there.

35 MR REED: Yes, yes, you can see the slumping.

DR LAVERING: Scarring and then the toe forming down the slope.

40 MR REED: Yes.

MR NEVILL: That one didn't turn out too well, but it's a different angle.

45 DR LAVERING: And the difficulty is that when water falls, it picks up velocity as it's going down a slope and then starts eroding and unless the tree cover or

vegetation cover is there to slow it up, it just gets away – it gets worse and worse. Okay. But anyway, that’s technical detail.

5 MR REED: So from there, I think it’s just an unfortunate necessity from both
Glencore’s perspective and also the government’s that – to get proper access to the
area to reshape the slopes at a lesser angle – requires going into the edge of the
biodiversity offset area. I don’t think Glencore would have done that easily. It
requires revision to the consent whereas otherwise they would have been empowered
under the consent to do – they would have been empowered under the consent to go
10 back and try all of this again or to work within the existing boundary in any way they
chose. They could have done that without seeking a modification, without getting a
site verification certificate, without getting a grant of a mining lease over an
extended area. So, in my view, the – that effort by Glencore indicates that there was
no better and easier way to address this problem.

15 MR KIRKBY: So obviously you’ve referred to OEH who have pretty much come
back and said they’re comfortable with the I guess one hectare of additional
disturbance offset by 5.6 hectares.

20 MR REED: 5.6, I think.

MR KIRKBY: So, really, in here we’re dealing with these marginal areas; is that
- - -

25 MR REED: That’s right. That’s right. That says – I see the one hectare.

MR KIRKBY: And the vast majority of this area has already, I guess, been
disturbed in them trying to fix it all up.

30 MR REED: Well, I think – well, the additional disturbance area is this area here.

MR KIRKBY: Yes, yes.

35 MR REED: And – but it was previously disturbed, and to be honest, Gordon, I’m
not sure under what consent that disturbance happened or how that was disturbed.
And I don’t think the SEE goes into that or the EIA goes into that detail, does it?

MR NEVILL: No, it doesn’t.

40 DR LAVERING: From your photographs, it would appear the access tracks
have been put in that disturbance area there, but some parts of the original vegetation
as we inherited it with the lease are still there.

45 MR REED: I think that’s as displayed on that diagram.

DR LAVERING: Yes, yes. Okay. So the grey is the access roads.

MR REED: Yes.

MR KIRKBY: Yes, there it is.

5 DR LAVERING: Yes. Okay. Yes, I understand. Makes a bit more sense.

MR REED: Well, that's why we're here, isn't it.

10 DR LAVERING: Yes, it's very important, particularly the distinction between, you know, with the colour on these maps you just don't get the detail of what's clearly evident on your other photograph.

MR REED: Yes.

15 DR LAVERING: And you can see why those access tracks have been put up the ridge there around the back for various points of disposal of material down on this slope here where the lease boundary previously may have been present. Yes.

MR REED: I'm – I can't be sure.

20 DR LAVERING: Yes, yes.

MR REED: Whether it was to do with exploration or whether it was to – under an exploration title or whether it was by a different landholder, I really couldn't be sure.

25 DR LAVERING: No, and I couldn't be either.

MR KIRKBY: Yes. So basically the offset is in these two areas and my understanding is there's already more than what they need in those areas.

30 MR REED: Yes, that's my understanding too.

MR KIRKBY: So that 5.6 is split between the two. And so that – yes, it all adds up under the offset agreement.

35 MR REED: Yes.

MR KIRKBY: So there's no additional land because they're already providing more than what they're entitled to.

40 MR REED: Yes, that's correct.

MR KIRKBY: Yes.

45 MR REED: Yes.

MR KIRKBY: Okay. Fine on the biodiversity issue – look, just a couple of really, really minor – but, obviously, EPA – they went away and said, “redo the noise modelling” – to I guess more – so it’s all in order. That has all been signed off now.

5 MR REED: I believe so.

MR KIRKBY: The other just little bit around this area here, just to clarify this boundary adjustment, is that just really fixing up an anomaly that has been sitting in the - - -

10

MR NEVILL: I can comment, yes. That was an error, I think originally, so they’re trying to fix up land, so it didn’t accurately show the consent boundary.

MR KIRKBY: So it encroached on - - -

15

MR NEVILL: So they – so they realised that - - -

MR KIRKBY: - - - to a neighbour’s land.

20

MR NEVILL: Correct. And private land where they helped to correct the boundaries, so when they’ve done a recent audit or review, they’ve picked up on it and so they thought they would include that in this modification at the same time.

25

MR KIRKBY: Okay. Yes. The only other question I really had is just a little bit of a summary, obviously – some of the administrative changes you’ve gone through just to – in the consent that may not be directly related to this issue, but yes.

30

MR REED: Well, sure. Well, over the last 12 months – a little longer – the department has gone through a process of systematising consent conditions across planning services, so across the different types of consents. And I think it’s fair to say that mining consents and extractive industry consents were already very consistent before that, but nonetheless that process of systematising consents has led to further changes in some of the what we like to call template conditions as against, perhaps, standard conditions – slight difference there. So – and in addition, my

35 branch has done a bit of an audit of air quality conditions that were – that have been applied across all mining and quarry consent within my branch over the last – well, some of them are quite historic.

40

They would be 15/20 years old, but others are much more recent. And to be honest we’ve picked up a few errors and inconsistencies in some of the air quality consent conditions, including occasional misreference to footnotes inside, so when the opportunity arises to fix up those inconsistencies and errors, we take it. So that is the case with the Liddell consent in respect of the air quality conditions. We’re proposing a changed footnote reference and a number of the other condition changes,

45 for example, item 8 in the notice of modification that imposes new conditions 15, 16, 17 and 18 in schedule 2 regarding evidence of consultation and compliance, the applicability of guidelines – they’re simply new standard conditions.

MR KIRKBY: Standard, yes.

MR REED: And item 20 in the same notice of modification which replaces conditions 11 and 12 of schedule 5 with new conditions 11, 12 and 12A addressing
5 incident notification, non-compliance notification, monitoring and environmental
audits and they are, in essence, updated template conditions. So in terms of
administrative changes, there are always some in any modification. Agency names
change and we always seek to update those. There's always some change to
10 definitions and then consequential changes throughout the consent in the use of
agency names or – in particular, and there is that kind of administrative change that
has taken place.

There are also the new conditions that I pointed to. There was that error in regard to
the footnotes for the air quality conditions. And then some of the others have been
15 put forward by Glencore, by Liddell. So the update to the consent boundary was, in
essence, an administrative change, but it was identified by the company. There have
been minor changes – I wouldn't call them administrative – but minor changes to the
rehabilitation objectives in condition 37 and an administrative change regarding
20 which agency is referenced in respect of the rehabilitation management plan in
condition 39. Of all that I've mentioned, perhaps the rehab objectives in condition
37 is probably the most worthy of discussion if the commission wants to explore
those.

MR KIRKBY: There was an issue there around – it seems to have been resolved by
25 OEH – around just the makeup. There's the hard and fast 731 hectares of trying to
get back to the Central Hunter Iron – Box Woodland.

MR REED: Yes.

MR KIRKBY: And then there was I think an issue around the amount of grassland
30 pasture.

MR REED: Well, I think that leads to a reduction in the available area for
restoration to pasture in I think - - -
35

MR KIRKBY: Because we're now – yes.

MR REED: I think most people would prefer ecosystem re-establishment rather
than pasture development. There will be some people that prefer pasture
40 development and the general outcome for most mines in the Hunter Valley is a mix,
but probably with an increasing lean towards ecosystem re-establishment over the
last probably – well, 10 or 15 years that I haven't seen the end of that trend yet, so
you would expect to see that continue.

MR KIRKBY: Okay. And that condition also, I guess, is to – you've got obviously
45 the rehab strategy which in the previous consent was pretty hard and fast in

compliance so I guess the wording has been amended to build in a bit of flexibility – seems to be the intent, obviously.

MR REED: Yes.

5

MR KIRKBY: Sort of, I mean, we did have the issue of the biodiversity, I guess, which required this to come in, but – so issues like this, I guess, can be resolved without in the future - - -

10 MR REED: Well, I think this would have been inconsistent with the rehab strategy that's in the EIS because the EIS is a 1991 document – is that – sorry, that's not correct – 2001 document that didn't foresee problems here and the need to adjust boundaries. So I think that's why Glencore has sought to be generally consistent and with the rehab strategy and the EIS and as shown conceptually in appendix 3 which
15 will be amended by this modification.

MR KIRKBY: Yes. Think there are more issues – got any further issues here?

DR LAVERING: None that relate to the modification.

20

MR KIRKBY: Okay. You got anything further to add?

MR REED: No, I think that covers it.

25 MR KIRKBY: Okay. Well, thanks very much for coming in, gentlemen.

MR REED: It's a pleasure.

MR KIRKBY: It has assisted us.

30

MR REED: Yes.

MR KIRKBY: We will close the meeting.

35 MR REED: We're happy to leave those photos with you.

RECORDING CONCLUDED

[11.27 am]