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**TRANSCRIPT OF PROCEEDINGS**

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TRANSCRIPT IN CONFIDENCE

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O/N H-1028349

**INDEPENDENT PLANNING COMMISSION**

**MEETING WITH RESOURCES REGULATOR**

**RE: RIX'S CREEK COAL MINE MOD 10**

**PANEL:** **PROF MARY O'KANE**  
**TONY PEARSON**  
**ANDREW HUTTON**

**ASSISTING PANEL:** **DENNIS LEE**

**RESOURCES**  
**REGULATOR:** **HOWARD REED**  
**MATTHEW NEWTON**  
**MONIQUE MEYER**

**LOCATION:** **CHAMELEON ROOM, CHARBONNIER**  
**44 MAITLAND ROAD**  
**SINGLETON, NEW SOUTH WALES**

**DATE:** **12.35 PM, MONDAY, 20 MAY 2019**

**THIS PROCEEDING WAS CONDUCTED BY TELEPHONE CONFERENCE**

PROF M. O’KANE: So good afternoon. Before we begin I would like to  
5 acknowledge the traditional custodians of the land that we’re meeting on in the  
different places we are, and pay my respects to their elders past, present and future.  
Welcome to this meeting regarding Rix’s Creek South Coal Mine Modification 10  
from the Bloomfield Group. That group is seeking to extend Rix’s Creek South  
Mine by nine months. It is currently due to expire on 29 June 2019. The purpose of  
10 the mod is to allow the continuation of mining at that mine while the assessment of a  
new SSD application, SSD6300, would extend mining operations for a further 21  
years, and while that has finalised and determined.

My name is Mary O’Kane, and I chair the Independent Planning Commission and  
15 this particular panel which has been appointed to determine the proposal. Joining me  
are my fellow commissioners Andrew Hutton and Tony Pearson, and we have  
Dennis Lee here from the Commission Secretariat. In the interests of openness and  
transparency, today’s meeting is being recorded and a full transcript will be produced  
and made available on our website. This meeting is one part of the Commission’s  
20 process. It’s important for commissioners to ask questions of those attending our  
meetings and to clarify issues whenever we consider it appropriate. If you’re asked a  
question and are not in a position to answer, please feel free to take it on notice and  
provide any additional information in writing which we will then put on the website.  
And could you introduce yourself and you speak, just so we know who is who on the  
25 transcript.

MR M. NEWTON: Mary, there’s some shuffling around. Your voice drops out a  
little bit.

30 PROF O’KANE: Okay. I will speak much closer to the phone. Is that better?

MR NEWTON: Yes, that’s a lot better.

PROF O’KANE: Okay. I’m leaning over the phone.

35

MR H. REED: I will just interrupt, Mary, and say Howard Reed joining the  
conference.

PROF O’KANE: Howard, thank you. That’s great. No, we tried to ring you, so  
40 just ignore a call that will be sitting on your phone.

MR REED: Okay.

PROF O’KANE: Okay. So thank you all - - -

45

MR REED: Thank you.

PROF O'KANE: - - - for being available at this notice and for doing it by teleconference over what is a slightly funny line, but I think it is good enough, so say if my voice drops out or anyone else does. And, Matthew, you will have seen the questions from us. We thought it would be helpful to send them. And, I think, if  
5 you're comfortable, it might be best to ask you to address those three dot points and then we can follow through with questions.

MR NEWTON: Yes, certainly.

10 PROF O'KANE: Fire away.

MR NEWTON: Okay. So starting off with the first one, which is a verbal summary of the gap between current mine closure plan and practice mine closure. I guess I would say as an overview that the rehab has been completed to date at Rix's Creek and is outline in the response to submission to the continuation project. With the  
15 combination of rehab in what we call the ..... establishment phase, which is in the very early phases ..... sustainability phase is where it's a little bit older, but no rehabilitation to date has actually been signed off by the department, nor have we actually seen an application for the company seeking progressive sign off. So  
20 broadly, I guess, in terms of resource regulated view of what we see as potential gaps between best practice and what are the – the practice that is happening in Rix's Creek, I would say that broadly Rix's Creek are adopting more of a conventional approach which is not unusual across the Hunter Valley and there's certainly opportunities to improve and head towards best practice.

25 I would say, I guess, in terms of what's the difference between best practice would be that a lot of the rehab areas, we would say, have not been actively managed towards its final land use so ..... weed control and things like that. Where you see – particularly for the agricultural purpose, best practice mines generally actually  
30 actively utilise that rehab from the very early phases in accordance with the intended final land use, for example, they would actually have cattle grazing progressively over that, so actually testing the system as to whether or not it actually can withstand that type of grazing regime.

35 I guess also they set it up to have all the infrastructure – is set up for that purpose as well, for example, they have ..... paddocks and watering troughs and things like that to be able to stand that type of ..... rehab objectives and completion criteria, in our view, will require further refinement to be more specific for us to be able to sign off and validate that rehab has been successful. That's not an unusual process. The  
40 Mining Operations Plan provide that flexibility to further strengthen rehab completion criteria based on monitoring it and any ..... of rehab. Monitoring programs in site, we would say are limited in terms of developing of our understanding whether rehab is on a trajectory of meeting the final land use outcomes.

45 So whilst they will have – for interim monitoring which is – identifies whether or not there's any failure of rehab, it's more so with looking at improving – particularly

seeking companies to approve better practices, looking at evaluation of performance against the actual rehab objectives and completion criteria. So effectively what we're saying is that rehab is effectively untested, but also, based on the outcomes of the Hunter grazing trails which was somewhat similar land to what Rix's Creek is on, that was shown to be successful. That process was actually overseen by the Department of Agriculture. And based on that, we think it's indicative that rehab at Rix's Creek definitely could be successful.

10 PROF O'KANE: Okay.

MR NEWTON: Yes. So anything further on that?

PROF O'KANE: I will just check, Matthew, with the colleagues.

15 MR A. HUTTON: Yes. Matthew, Andrew Hutton speaking; how are you?

MR NEWTON: ..... Andrew?

20 MR HUTTON: Good. Thanks. Just one quick question. You've spoken to rehabilitation specifically, but if you were to discuss the mine closure planning process as well. So you've spoken about the rehab and where they're at, but what about their current mine closure planning documentation, by that MOP or a plan, and how that sits against the current best practice guidelines for mine closure as the department sees it?

25 MR NEWTON: I would say that it's certainly not best practice. I would certainly say it's in accord generally with achieving what their project approval requires them to do. But it has been untested. So what I was trying to outline earlier in my conversation was that gap between what we consider is best practice. We certainly wouldn't think that, you know, we've reached the best practice, but certainly it's a conventional rehab technique that has been applied across the Hunter Valley.

30 MS M. MEYER: Andrew, it's Monique Meyer speaking. So we've classified Rix's Creek as a continuation operation so we wouldn't have delved into that full phase of mine closure plans for closure. However, it's a condition of the mining operation plan where we're trajecting towards closure so there's the aspect ..... engineering studies with specifics but we haven't been put to that level.

40 PROF O'KANE: Could you just - - -

MR REED: Andrew, I might – if Monique has finished, I might pop in there too. Monique, have you finished?

45 MS MEYER: Yes. Thank you.

MR REED: Okay. I might pop in there too with a few facts that you probably know and one or two that you might not. And so looking at the consent, there's a

requirement for a three part landscape management plan that includes the mine closure plan and those conditions have been in place since 2009. But I agree with what Monique said, that the operation is a continuing operation and there's no immediate end in sight, as indeed is evident from the extension project application that's also on foot. But what might not be so straightforward is that the three part landscape management plan was last considered by the department and approved by the department in January 2014.

There's a – I pulled out a letter that was signed by Scott Brooks, who is the team leader of the Singleton part of the department's compliance team, and back in those days, back in around 2014, a bit before and a little bit after, it was the compliance team that was in charge of revealing all management plans for Hunter Valley coal mines. That responsibility now rests with the assessment teams but at the time it fell to the newly established Hunter team within the overall compliance team. So I can say that the mine closure plan and the final void management plan and the rehab management plan were considered by the department in the first part of 2014 and approved.

I'm not sure, to be honest, whether it's those versions that are on the company's website. I did have a look the other day and I saw that some of the documents were dated 2010 and I really don't know – I can't tell you whether those versions were supplanted in 2014 or whether the approval in 2014 related specifically to the three documents that are on the company's website.

PROF O'KANE: Howard, would it be inconvenient for you to find out for us?

MR REED: No, no. I'm sure I can do that.

PROF O'KANE: Thank you. Appreciate that.

MR REED: Yes.

PROF O'KANE: Could I just go back, Monique, to something you raised, that the operation is a continuing operation. Because it's due to close on 24 June this year - - -

MS MEYER: Yes.

PROF O'KANE: - - - so wouldn't you normally, with a closure, require things at this stage?

MR NEWTON: Yes – it's Matthew Newton. Ideally, yes. So the process is if they are to go into detailed closure, we require them to actually submit a detailed closure plan and certainly if operations were not to proceed beyond that date, we would require them to submit that plan and that would require a detailed schedule for implementation of final rehab, further refinement of their ..... and completion criteria and detailed monitoring programs to track their progress towards that. And we hold

on to the lease and hold on to the security whilst that obligation is still on foot and we don't sign off until we actually get that evidence that ..... obligations and the consent and the mining lease/ ..... are achieved.

5 PROF O'KANE: And - - -

MR NEWTON: And I - - -

PROF O'KANE: Thank you, Matthew.

10

MR REED: And, Mary, I have to mention again the existence of the continued operations project, the extension project and I think it's important to note that that application has been on foot now for something like four years. Now – so the company clearly demonstrated a desire to extend or in fact replace its current consent  
15 some time ago. Now, there have been a number of reasons why that hasn't been finalised in the last four years but the most important of which is the compliance action that was taken by the department over the inappropriate clearing that had taken place under the previous consent. So in the end, time has evaporated.

20

I think it is fair to say that the company embarked on this journey with the full expectation that it would have a replacement consent by this time. But through a number of circumstances, primarily of its own making, that hasn't been the case. So it's now kind of between a rock and hard place in terms of seeking an extension to the consent. In the extension project it clearly indicates mining out to – forgive me, I  
25 don't have the figures in front of me. I think it's 2038 that - - -

PROF O'KANE: That's correct.

30

MR REED: Is it? There's also a proposal buried away in the back of those documents for continued underground mining after that time. So you know, certainly Bloomfield does not see themselves anywhere close to completing resource extraction at Rix's Creek.

PROF O'KANE: Tony. Yes, please.

35

MR T. PEARSON: Could I ask Howard – it's Tony Pearson here – what's the criteria that you use when an application is lodged with the department? What's the criteria that's used to move that project into a continuing operation?

40

MR REED: Well, it's simply a – well, I don't understand there to be, you know, a formal register or assessment of projects that are truly expected to come to completion in the next one year or five years, or even 10 years and on the basis of that, to determine which projects are either certainly or expected to be continuing, as against closing, and I think one of the key reasons for that is that coal is a strata form  
45 resource, it's in large plain sheets that ..... bold and be truncated by faults but you've got large plain sheets of resource generally stacked.

And so it's not like, say, a ..... that's concentrated at the intersection of two lineaments and it just goes down and you get to a depth where you can't economically mine any more. It's a much more open and accessible resource and therefore it's – it was subject to ..... technology, changes in labour practice, changes  
5 in market ..... and indeed the depreciation of capital. So what is an economic resource today may or may not be at a future time, but more commonly it has become more economic over time.

10 So I would venture to say that there are quite a few mines in the Hunter Valley that were in either one of two situations: first of all, they didn't expend the capital to identify every skerrick of accessible coal on their tenements in the first instance but rather expended enough capital to prove up a mineable resource and then used the cashflow from mining that resource to prove up further reserves and a mine future. There are other mines where change of circumstance – whether it's technology or  
15 mine practices or market conditions – has seen resources develop where they weren't previously considered, and I think a standout example of that is a number of pits that have been deepened by 100 metres or more and sometime mining through old overburdens at the same time to access deeper coal seams that were previously discounted as being economic.

20 PROF O'KANE: Okay. Thank you.

MR REED: So I guess what – the bottom line there is that it's very hard for a mine  
25 ..... to predict exactly when closure will come until people are getting to the edge of their tenement. Even then, sometimes they do a deal with the neighbours to sublease a further resource that is more accessible to them than to the neighbouring operation.

PROF O'KANE: Okay. Thank you. If – can I just go back, though – and I guess  
30 it's to Monique or Matthew or maybe to Howard too – but if this was closing on 24 June, what would you expect to have in place at the moment?

MR NEWTON: So it's Matt Newton here. So what we have in place at the moment is a mining operations plan and that mining operations plan does detail the final  
35 landform and land use that's required to be achieved. What we require come that date and ..... future mining that we will require the company to actually go away and actually prepare a detailed quota plan.

PROF O'KANE: And you would expect that by when, Matt?

40 MR NEWTON: So we would actually ..... for the company in terms of how long that would take, but we would prefer to make sure it's a robust plan – robust schedule, so obviously if the company has actually been planning for ..... and all of a sudden they had to turn their mind to no, this is not going ahead and we're going to have to go to a more detailed closure, anywhere from six weeks to three months,  
45 depending on the level of detail that's needed. We do get into processes where we can actually stage that. So we may require a stage 1 of that and we can actually issue directions so that we want an actual detailed schedule within six weeks and beyond

that we may want further detail. So we can actually escalate up the pathway to getting a detailed quota plan in place.

5 PROF O'KANE: Thank you. And you would normally get that after the mine closes; is that right?

10 MR NEWTON: Now, the better practice is is that we would like to see that well in advance of mine closure. But as Howard said, a lot of mines are in ..... in the boat of there are potential continuing projects, and where we see that there's an active project with planning, we will take that into consideration in terms of whether or not the company seeks – comes to us and says, "Listen, we've got future resources we're investigating at the moment. We've actually got an active project that we can see."

15 We may decide that mining operations planned for care and maintenance ..... whilst they go and evaluate that future resource but also expect that detailed studies in terms of closure planning are undertaken and that at the same time – and that could be anywhere from geotechnical studies to actually understand what they're going to do with a final high wall if there is one, further monitoring in terms of ..... to make sure ..... groundwater levels, etcetera. So we can actually still require those studies that  
20 are required to inform a detailed closure plan to run a parallel while still looking at future operations as well.

PROF O'KANE: Okay.

25 MR NEWTON: And that's the approach we take quite often.

PROF O'KANE: Thanks – thanks, Matt. That's - - -

30 MR NEWTON: .....

MR REED: If I may, it's probably fair to add that that's probably what you would expect in this circumstance. So the company has demonstrated its belief that it has further resources. So let's explore some possibilities. If the IPC decided that it was not a good idea to extend the current approval, then I'm sure the company would .....  
35 care and maintenance option rather than a rehabilitated closeout. And even, you know, staring off into the future, if the IPC decided that the extension project wasn't a good idea for any particular reason, then – and it was refused, then I'm confident to predict that the company would seek to revisit that one way or another and because it considers that it has the resource. So it would in all likelihood seek to go through the  
40 assessment process again in order to access those resources and on that basis, again, it would be likely to ..... care and maintenance MOP rather than a final rehabilitated mine closure.

45 MR NEWTON: It's Matt Newton here. Can I just add to that, as well, I guess, there is also the real scenario that, should mining not continue, it may actually unlock other opportunities as well. So the government may be looking to set up some type of alternative land use from what's currently approved, which means that it has to go

through the approval process, but it may offer opportunities for more beneficial post-mining land uses. So the process also needs to be flexible to account for those type of opportunities.

5 PROF O’KANE: Great. Thank - - -

MR NEWTON: But ideally, we would like to see some solid proposals in front of us to be able to make a determination of whether going into care and maintenance is appropriate, or whether they need actually go into a detailed project planning  
10 process. But ultimately, we hold onto the regulations to fulfil their current consent and mining lease.

PROF O’KANE: Great. Thank you all for that. That’s very helpful. I guess, Matt, we’ve largely covered the first two dot points; correct? Or did you want to say  
15 anything more to either of them?

MR NEWTON: No, I think – I think that’s – I think we’ve covered most of that. If there’s anything further that you have, I’m happy to answer some further questions.

20 PROF O’KANE: Well, why don’t we go – no, I don’t think we have any others there – why don’t we go on to the third dot point, to the residual risks issue.

MR NEWTON: Certainly. And can I just start this by saying, that term, “residual risk”, never came from the regulator; I think that was slipped in through the process.  
25 Our – our correspondence basically – sorry; I’m just looking at the date here in front of me – dated 18 March, to the department, we actually said:

*The resource regulation has determined that sustainable rehab outcomes can be achieved as a result of the project, and that any identified risks or  
30 opportunities can be effectively regulated through the conditions of mining authorities.*

So we weren’t specific to the term “residual”.

35 PROF O’KANE: Yes, we – it’s one of – that’s why we asked, because we saw that, and we weren’t sure where it came from.

MR NEWTON: Sure.

40 PROF O’KANE: So - - -

MR NEWTON: However – would you like me to elaborate in terms of residual risk, though?

45 PROF O’KANE: Why not? Please.

MR NEWTON: Well, so – well, so, I guess, in terms of the residual risk, obviously, that was something that was identified by the 2017 ..... report on mine – mine rehab securities, that ..... government – there wasn't that defined process about "How do we deal with potential significant failure somewhere down the track after leases have  
5 been relinquished and we have securities returned?" And we're talking 10, 20, 30 years down the track, when the ..... no longer exists. So we're working with the Division of Resources and Geoscience, and other agencies, to look at a mechanism.

10 But I guess what I would say is that residual risk is certainly something that we would consider as part of the detailed mine closure process, and indeed before we actually signed off a site, in theory – and particularly with Rix's Creek I would say this – if it met all of its rehabilitation criteria, through providing evidence that they've done that, then I would say that the – the risk of long-term failure would be low, in Rix's Creek scenario, but we certainly consider residual risks as part of that  
15 detailed closure planning process. And if – if we would – if we needed to identify the need to apply a – a residual risk financial mechanism, then we would be seeking appropriate advice at that point in time.

20 PROF O'KANE: Right.

MR REED: I should perhaps speak to the department's use of the term, as well. "Residual risk" is a term that has kind of crept into our assessment reports over the last year or so, to describe the measure of risk or – that remains after management measures put forward by the company have been applied, or – or conditions that are  
25 proposed by the department are applied, or – or in any other case. So I think that it – it stands to reason that – that many environmental risks are – are managed to an acceptable level by management measures or – or conditions of consent, or compliance activity, but that does not necessarily mean that every risk is managed to the 99.999 per cent certainty.

30 So we use the term "residual risk" to encapsulate the – the continuing but diminished risk remaining after – after management measures are applied. And I think what we were trying to say in this particular phrase is that there's a – a comprehensive set of management controls, whether it's through the Environmental Sustainability Branch  
35 itself and its activities, or through the – the statutory requirements of the Mining Act, and the – and the conditions of mining leases, but those – that suite of management measures act as a – if you like – a backstop, or a – a second net, to deal with the residual risk that might continue after application of the current management structure within the – the Rix's Creek consent, which, as I've suggested earlier, the  
40 rehab management plan conditions have been in place for 10 years; they're a little old now, compared with our contemporary framing, and it's now five years since the department last reviewed a – an – the landscape management plan and its components.

45 PROF O'KANE: Right. Thank you. Can I just ask, any other questions from my colleagues? No. I think that's all from us. And thank you very much for making

yourselves available and giving us such detailed answers. So – and, I guess, the only thing out of this is, Howard, if you can find out for us which plans they are - - -

5 MR REED: Yes.

PROF O’KANE: - - - on the website, that would be lovely.

10 MR REED: My – my presumption is that the plans on the company’s website are correct, but I will certainly - - -

PROF O’KANE: I’m - - -

MR REED: - - - confirm that, and – and if they’re not, I will get back to you.

15 PROF O’KANE: Thank you very much. And so thank you all, and see you some time.

MR NEWTON: Thank you very much.

20 MR REED: Okay.

PROF O’KANE: Bye.

25 MR REED: See you, then.

**RECORDING CONCLUDED**

**[1.04 pm]**