

“Reclaiming our Valley”

Hunter Communities Network

PO Box 14 Singleton 2330

Independent Planning Commission NSW
Level 3, 201 Elizabeth Street
Sydney, NSW 2000
ipcn@ipcn.nsw.gov.au

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Submission to Independent Planning Commission Review Objection to Rix’s Creek Continuation of Mining Project (SSD 6300)

Introduction

The Hunter Communities Network is an alliance of community based groups and individuals impacted by the current coal industry and concerned about the ongoing rapid expansion of coal and coal seam gas exploration and mining in the region.

Hunter Communities Network was established in 2011 to represent communities living near coal mines in the Hunter Region. The ongoing cumulative environmental and social impacts are a result of a major imbalance in decision-making that has increased the disadvantage to remnant communities and isolated private property owners.

The Secretary’s Environmental Assessment Report (the Assessment Report) for the Rix’s Creek Continuation of Mining Project (the extension proposal), prepared by the Department of Planning and Environment (DPE) in May 2018, is further evidence of the imbalance in the planning and assessment process in NSW.

Hunter Communities Network lodged a substantial objection to the extension proposal in December 2015. Our objections remain basically the same because none of the issues we raised in that submission have been addressed.

We are further concerned by the fact that the proponents of the extension proposal were taken to the Land and Environment Court in 2017 for the illegal mining of 96 hectares outside current approvals.

The outcome of that process was a new name for the extension proposal and a new assessment over a smaller area.

The community can be forgiven for being sceptical about the entire process when after the initial response to submissions dated October 2016 there have been eight additional provisions of detailed information, mostly due to lack of compliance with existing approvals.

None of the information provided has addressed the key concerns raised by community submissions objecting to the proposed expansion, in the first instance.

Furthermore, the complexity around the biodiversity impacts of the proposal appears to have not been clearly resolved and DPE has identified three areas where more information is needed ie the concept of staged biodiversity offsetting, the accuracy of information in the economic assessment and the finalisation of the Payment Agreement with Singleton Council.

The proximity of the Rix's Creek Coal Mine to Singleton, to highly impacted remnant communities and to recently approved mine expansions results in significant cumulative social, environmental and land use impacts.

Hunter Communities Network recommends that the Rix's Creek Continued Operations proposal be rejected for the following detailed reasons.

Key Issues:

1. Poor DPE assessment

The Assessment Report provided to the Commission has a number of key errors and assumptions and a very poor analysis of cumulative impact. There is a failure to meet planning policy for the Hunter Region.

1.1 Incorrect prediction of coal demand

DPE exposes a bias towards the coal industry in the description of the NSW coal industry provided in Chapter 3 Strategic Context.

Incorrect information is provided in 3.1: *'Port and rail capacity throughout the State is continuing to be developed to support the resource industry, with future expansions at the Newcastle coal terminals expected to provide a total of around 230 Mt of annual coal export capacity. NSW coal production and exports are expected to rise in line with this capacity, subject to market fluctuations.'*¹

The Port Waratah Coal Services announced in May that the Terminal 4 coal export expansion planned for Newcastle has been scrapped after demand for the fossil fuel failed to increase as expected. The predicted need for additional export capacity was over inflated.

Coal exports will not reach 230 Mt through the Port of Newcastle, therefore DPE should not be providing misleading information in assessment reports.

¹ Secretary's Environmental Assessment Report, May 2018, p8

The ongoing bias towards coal industry expansion is inhibiting the Hunter Region's ability to undertake the necessary community consideration and planning processes needed for economic diversification.

1.2 Biased reporting of community support

The Assessment Report notes that submissions supporting the extension proposal '*believed that the mine had a good record of environmental performance.*'² However, these submissions were written before the proponent was taken to the Land and Environment Court for illegally mining 96 hectares.

It is inappropriate for DPE to raise this example, as an argument in favour of the extension proposal, when the proponents have demonstrated a flagrant disregard for the assessment and approvals process.

1.3 Failure to meet Hunter planning policy

The Hunter Regional Plan 2036 has goals to achieve a biodiversity-rich natural environment and thriving communities. The cumulative impacts of the extension proposal further erode established areas of critical biodiversity and communities in close proximity to the operation. There will also be additional land use conflict with the loss of potential for urban spread of Singleton affecting the goal of greater housing choice.

The Hunter will not be a leading regional economy if opportunities for diversification are not encouraged. The coal industry is moving towards driverless vehicles and rationalization of its workforce in the guise of economic efficiency.

There is very little evidence of an auditing process to verify that the predicted job numbers in each approved mine expansion are actually achieved.

The mining industry has demonstrated in the recent past that if coal prices drop, jobs are shed rapidly with no consideration of the social impacts.

1.4 Poor understanding of cumulative impact

The Assessment Report claims that the impacts from the extension proposal are less than surrounding larger operations. This is a clear misunderstanding of the concept of cumulative impact. For example, in the air quality assessment it is stated that:

*'On all days where an exceedance is predicted, the Project's contribution would be low. The predicted additional days of exceedance are predominantly attributed to elevated background levels and would not be a result of the Project alone.'*³

Any additionality to elevated background levels of air pollution is a key issue for community health and amenity. The issue is that national standards for air quality are already exceeded on a regional level at monitors near the proposed expansion.

² Ibid p17

³ Ibid p 25

Cumulative impact is that additional input, regardless of its size, and must be given serious consideration.

2. Regional Air Quality

The Upper Hunter Air Quality Monitoring Network regularly reports air pollution levels above the national standards. These reports occur most often at the Camberwell monitor. The monitors at Maison Dieu, Singleton North West and Singleton also report regular air quality exceedances for PM₁₀ dust levels.

Hunter Communities Network has raised ongoing concerns about the failure of the Environment Protection Agency (EPA) in NSW to adequately regulate these common air pollution events in the Upper Hunter. The Dust Stop Program and Pollution Reduction Programs (PRPs) as required under mine Environmental Pollution Licences are not successfully keeping regional air pollution at acceptable levels.

The recent approval of large mine expansions in the vicinity of the Camberwell and Maison Dieu communities ie Mt Owen Continued Operations approved in November 2016 and the Hunter Valley Operations modification 5 approved in February 2018, will cause an increase in air pollution near the Rix's Creek extension proposal.

The air quality assessments conducted for mine expansion in the Upper Hunter, generally by the same consultant, have continued to under predict the cumulative impact of increased dust emissions.

How the increase of overburden dumping to the height of 240 m AHD (the height of a 40 story building) can be assessed and approved to not increase dust levels in the Upper Hunter in dry, windy conditions, as has just occurred with Hunter Valley Operations mod 5, is a mystery to the people exposed to constant high levels of air pollution.

There have been 17 air alerts at Camberwell in the first half of 2018, with 10 alerts occurring in May alone. Alerts at other regional air quality monitors in 2018 include:

Singleton North West	10 alerts
Maison Dieu	7 alerts
Singleton	5 alerts

These reports of 24 hour exceedances of the national standard for PM₁₀ dust levels are based on average rolling measurements that can contain hourly levels of air pollution as high as 200 ug/m³

The NSW Air Quality Statement 2017 found *'that Annual average PM10 levels are generally higher in the Hunter Valley than elsewhere in the state.'*⁴ This is a significant issue that is not being adequately managed. Instead, we have NSW Government agencies continuing to approve the expansion of dust generating mining activities in the region.

⁴ NSW Govt, 2017. Clearing the Air p4

Hunter Communities Network is greatly concerned that decision-makers to date have not taken a duty of care for the health of residents in the Upper Hunter.

Cost benefits analysis used to justify the public benefit of a coal mine expansion does not assess the health costs from the cumulative poor air quality measured in the Upper Hunter. The high levels of air pollution include dust emissions from mines, pollution from power stations, diesel emissions from heavy mine machinery and vehicle movements on the New England Highway, many associated with travel to and from mines.

This is a key failing of the assessment and approvals process for coal mine expansion in the Upper Hunter. Regional air pollution already exceeds national standards. Programs to reduce dust emissions from mines are not achieving desired management outcomes. Cumulative impacts are not adequately assessed or costed.

The Rix's Creek extension project should be rejected because of poor assessment of cumulative regional air pollution.

3. Noise impacts

The Assessment Report identifies that Rix's Creek Mine *'operates in a complex rural-suburban noise environment'*⁵

The proponent has advised that it would be unable to reduce its proposed noise levels to fully meet its Project Specific Noise Levels (PSNL), particularly during noise-enhancing weather conditions.

'This is largely due to the urban fringe of Singleton township coming closer to the mine site over the past 10-15 years'.⁶ The issue of land use conflict is particularly significant in regard to 24 hour mine noise and amenity for neighbouring properties.

The extension proposal has been assessed for 'achievable' noise criteria which is 5 decibels above the PSNL. The Assessment Report justifies this approach because the mine is currently being managed under very old noise impact criteria approved in 1995.

However, the community expects that all mines should be operating under contemporary environmental management criteria.

The noise assessment for the extension proposal predicts that under noise enhancing weather conditions there will be many exceedances of the 'achievable' noise criteria in the day, evening and night periods. This is not an acceptable outcome.

⁵ Secretary's Environmental Assessment Report, May 2018, p30

⁶ Ibid

We note that the proponent has committed to continue to operate its existing monitoring network to actively monitor noise levels and establish triggers to make decisions when operations need to be temporarily modified or ceased.⁷

The proponent also recognises that it is likely that progressive, or temporary, shutdown of plant and equipment would be required for around thirty per cent of the winter period to achieve compliance with the ‘achievable’ noise criteria at all times.⁸

There is no evidence that the economic assessment or costs benefits analysis has factored in the predicted loss of production hours over the life of the extension.

Communities in other areas where the loss of production is assessed as a feasible mitigation of excessive mine noise have found that increased levels of private property acquisition is a key outcome. These acquisitions occur outside the Voluntary Land Acquisition and Mitigation Policy and cause significant social impacts that are not assessed or recognised as an outcome of the approvals process.

Hunter Communities Network considers that increased noise impacts and land use conflict are a key public cost of the extension proposal that have not been adequately assessed.

4. Ongoing loss of community and social fabric

The noise assessment identifies a number of properties that will be impacted by increased noise if the extension proposal is approved.

We do not support the DPE assumptions that the some neighbouring properties will not be ‘*unduly affected by Project-related noise*’⁹ or that sleep disturbance criteria will not be exceeded.

The level of ‘adaptive’ management relying on temporary shut downs cannot be assured, as mine affected communities have found time and time again.

There is a high level of uncertainty for neighbouring landholders in the proposed management of noise levels that already receive a high number of complaints. Noise complaints occur because families are being disturbed by mine noise pollution. This is an ongoing health and social problem that has not been taken seriously by decision-makers approving mine expansion. The discussion of acquisition rights, including properties with existing acquisition rights from other nearby mines in this area of the Hunter Region, fails to recognise the depth of social impacts caused by existing mine approvals.

The cumulative loss of private property, established families and historic social connections to localities across the Central Hunter is a social catastrophe that has been ignored by decision-makers.

⁷ Ibid p31

⁸ Ibid

⁹ Ibid p34

The discussion of continued property acquisition is conducted in a vacuum of assessment of social impacts and ongoing land use conflict. The loss of productive farming enterprises, social and economic networks and rural community support systems is a critical issue that must be taken into account in cost benefits analysis.

Hunter Communities Network strongly objects to continued private property acquisition in the Hunter. The percentage of freehold land owned by mining companies is substantial and rising with each approval.

Many land acquisitions occur outside the Voluntary Land Acquisition and Mitigation Policy because of poor predictions through environmental assessment modelling.

The environmental assessment of noise pollution and proposed mitigation measures provide no assurances to the community that mine noise will not be an increasing environmental and social problem if the extension proposal is approved.

Hunter Communities Network considers that the cumulative social impacts of mining have not been assessed.

5. Water impacts and final void

The recently released assessment of impacts of coal resource development in the Hunter subregion¹⁰ shows that the extension proposal falls within the zone of potential hydrological change. The report found that additional coal resource development could lead to 19% of the assessment extent experiencing hydrological changes that exceed defined thresholds.

The report also found that water availability could reduce at Singleton.

Hunter Communities Network has raised the issue of cumulative impact of mine interception on water sources for the past 7 years. The assessment of the impact of the Rix's Creek expansion proposal has not been undertaken in the context of cumulative regional impact.

There are a number of outstanding concerns with the Assessment Report consideration of water impacts:

5.1 Water Quality in sediment dams.

It is unacceptable for DPE to recommend that the proponent notify downstream water users to change their behaviour if elevated dissolved metals are released in uncontrolled discharges from the mine.

All discharge of water from the site must be managed through Environmental Pollution Licences.

¹⁰ <http://www.bioregionalassessments.gov.au/products.shtml>

It is unacceptable for downstream water users to have to rely on the goodwill of the proponent to provide compensatory water supplies.

The EPA has recommended that all sediment dams on the mine site be monitored. We concur with this recommendation. The community resents that DPE considers monitoring activities to be excessive when there is a potential to impact on neighbouring landholder's productivity.

This is further demonstration of DPE bias towards the coal industry.

5.2 Final Void

Hunter Communities Network strongly objects to the proposed retention of a 143 ha final void with a predicted long term salinity level of 31,000 $\mu\text{S}/\text{cm}$. There appears to be no assessment of the level of leached heavy metal contamination over time.

We commissioned an independent study of the cumulative impact of final voids in the Hunter landscape in 2016.¹¹ The perpetual nature of these toxic environmental legacies has not been costed as a long term net public disbenefit. Decisions to approve the retention of final voids in the landscape represent a blatant cost shifting exercise from the mining industry onto the environment and community.

If the coal mining industry cannot afford to fully rehabilitate all disturbed land, then it is not viable and expansions should not be approved.

The Assessment Report recommends a Final Void Management Plan including long term management. However, there is no discussion of what this means post mine decommissioning and there has been no costing of this management in the economic analysis.

There is a failure to assess this proposed final void in the context of the impact of currently approved permanent pit lakes containing high levels of salinity and leached heavy metals as permanent fixtures in the Hunter landscape.

5.3 Groundwater outflows

The Assessment Report identifies the potential for subsurface outflows of contaminated groundwater into the surrounding environment.

The recommendation is to extend the groundwater monitoring system to '*to better identify and quantify groundwater outflows both during and post-mining.*'¹² However, there is no discussion of mitigation measures if the proponent's predictions of the impacts of groundwater seepage are proven to be underestimated.

¹¹ http://downloads.erinights.com/reports/the_hole_truth_LR.pdf

¹² Secretary's Environmental Assessment Report, May 2018, p49

The ongoing practice recommended by DPE of pushing back important assessment work into post approval management plans is contrary to the precautionary principle, as required under Ecologically Sustainable Development.

5.4 Cumulative loss of catchment

The extension proposal will cause the permanent loss of 160 ha of catchment area. While DPE identify this area as less than 1% of the entire Hunter River catchment area¹³ there is a failure to add this lost area to the cumulative loss of Hunter River catchment across the current suite of approved mining operations in the catchment.

Once again, the Assessment Report fails to address cumulative impact in terms of additional permanent loss.

Conclusion: The extension proposal will cause a number of permanent changes to water sources and the landscape that have not been adequately assessed, costed or considered as cumulative impacts.

Hunter Communities Network does not support that various unknowns be left to post approval management plans or not monitored at all.

6. Biodiversity impacts

The biodiversity impacts of the current mining operations, including the illegal disturbance of 96 hectares of land, combined with the proposed clearing of critically endangered threatened species habitat and the current cumulative loss of biodiversity from the central Hunter Valley landscape is a significant impact that cannot be adequately offset.

Hunter Communities Network considers it imperative that the extension proposal be referred to the Federal Department of Environment as a controlled action under the *Environment Protection and Biodiversity Conservation Act 1999*.

The increased area of critically endangered *Central Hunter Valley Eucalypt Forest and Woodland* to be disturbed, up from the original assessment of 19 hectares to 47 hectares, is significant and must be referred for full assessment of impact.

The outcome of the Land and Environment Court case into the illegal mining of land without approval has resulted in the requirement for the proponent to retire 2,716 ecosystem credits. It is unclear from the Assessment Report whether this has already occurred.

There is a shortfall in the credits required for the expansion proposal and a number of assumptions made between the 2015 biodiversity assessment and the 2018 biodiversity assessment now before the Commission.

¹³ Ibid p42

An example is the assessment of the threatened Squirrel Glider habitat. There is an assumption that the woodland areas in different locations are interchangeable.¹⁴ This isn't rigorous enough for the assessment of threatened species habitat and needs to be verified before further consideration of the biodiversity impacts can be undertaken.

Hunter Communities Network strongly objects to the concept of a staged biodiversity offset arrangement. This is setting a new precedent for mine approvals where it is plainly obvious that cumulative loss of biodiversity has reached a critical stage in the Hunter Region.

If suitable offsets are not available, then the extension proposal is too great an impact and should be rejected.

7. Economic justification

We are concerned that there are now several anomalies with the economic assessment for this extension proposal.

The volume of coal to be produced is less, the change in capital expenditure (due to the acquisition of the Integra Mine equipment) has not been clearly identified, the legacy management issues (final void management) have not been costed and the increased environmental burden has not been costed (eg increase in regional air pollution, cumulative loss of catchment area, noise pollution).

The noise assessment has identified that progressive, or temporary, shutdown of plant and equipment would be required for around thirty per cent of the winter period to achieve compliance with the 'achievable' noise criteria at all times. This loss of production has not been included in the economic assessment.

We note that DPE have questioned the accuracy of the economic assessment.

It is critical that the review of the Rix's Creek extension proposal require a fully updated economic assessment that accounts for a full costs benefits analysis, all the various changes to the project and the cost of all management commitments, including backfilling the final void.

The original justification for the extension was to provide ongoing jobs for the proponent's workforce when its colliery at Cessnock closed in 2020. This operation is now being considered for an extension to 2030.

The acquisition of the Integra open cut operations, renamed Rix's Creek North, has also provided additional jobs and coal production from a mine that was previously not operating.

Hunter Communities Network considers that the proponent has ample coal mining capacity without this proposed cumulative environmental and social impact.

¹⁴ Ibid p 53

Conclusion

The proponent has demonstrated that they are not responsible environmental managers. The community has no trust in their ability to manage the various complex environmental impacts of the extension proposal, with a lot of outstanding unknowns, as identified in the Assessment Report.

Unlike DPE, the community impacted by current mine pollution is not satisfied that the cumulative impacts from the Rix's Creek extension proposal can be managed.

The nearby communities of Camberwell and Maison Dieu are already severely impacted by the surrounding mines. The private property owners in this area of the Hunter are tired of having their health and well-being sacrificed for the benefit of the mining industry.

We trust that the Commission will take an unbiased view of the proposal, clearly consider the cumulative impacts and take into account the social impacts, including land use conflict.

For more information in regard to this submission please contact me on:

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Yours faithfully

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Bev Smiles
Convenor
Hunter Communities Network