



12 June 2019

DA 49/94 (MOD10)
Rix's Creek South Coal Mine - Modification 10

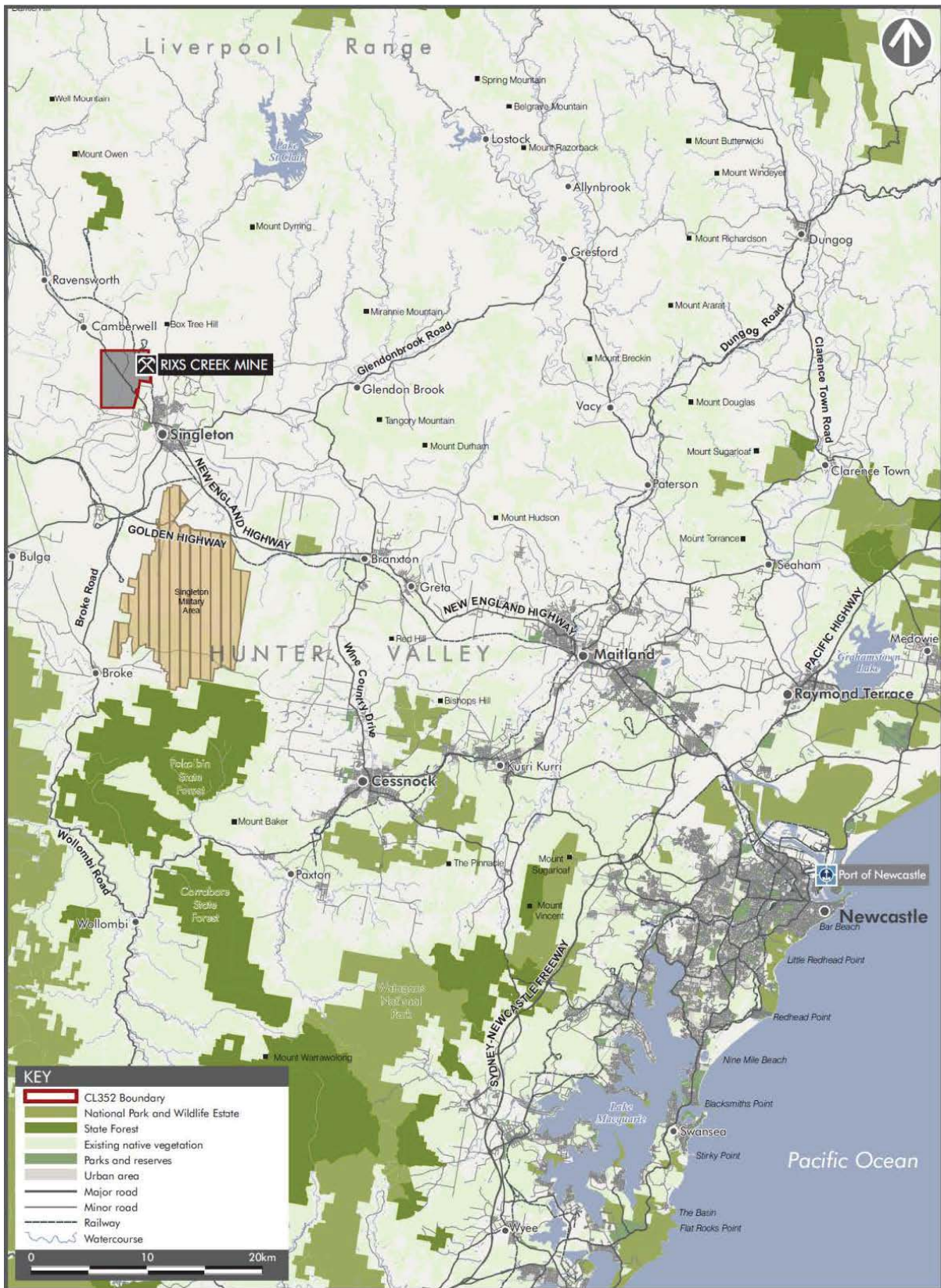
1. INTRODUCTION

1. On 18 April 2019, the NSW Independent Planning Commission (**Commission**) received from the NSW Department of Planning and Environment (**Department**) a modification request under section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) from The Bloomfield Group (**Applicant**) to extend the approved period of coal extraction under Development Consent DA 49/94 (**DA 49/94**) at Rix's Creek South Coal Mine (**Project Site**) by 9 months (**Application**), which is due to expire on 24 June 2019.
2. The Commission is the consent authority in respect of the Application under section 4.5(a) of the EP&A Act and clause 8A of the *State Environmental Planning Policy (State and Regional Development) 2011* (**SEPP SRD**). This is because:
 - the Application constitutes an application to modify a development consent for State Significant Development (**SSD**); and
 - the Department received more than 25 submissions from the public objecting to the Application.
3. DA 49/94 was originally approved under Part 4 of the EP&A Act on 16 October 1995 by the Minister for Urban Affairs and Planning. It was and continues to be SSD.
4. Professor Mary O'Kane AC, Chair of the Commission, nominated herself (Chair), Andrew Hutton, and Tony Pearson to constitute the Commission determining the Application.

1.1 Site and locality

5. The Project Site is an open cut coal mine in the Hunter Valley, located approximately 5 km northwest of Singleton as shown in Figure 1. The Project Site is within the Singleton local government area (LGA) and zoned RU1, primary production.
6. The Project Site is divided by the New England Highway, with Rix's Creek North Coal Mine bounding the north side of the Project Site as part of an integrated complex. Run of Mine (**ROM**) coal from Rix's Creek North is sent to the Project Site for processing and train loading. Coal is transported using heavy rail from loading facilities on the Project Site. Both the Project Site and Rix's Creek North are jointly owned and managed, but operate on different leases and under different approvals.
7. There are other open cut mines to the northwest, west and south west of the Project Site, including the Integra Underground Coal Mine on the northern boundary of Rix's Creek North, the Mt Owen mining complex, Ravensworth Complex and Ashton Coal. Surrounding land uses include agriculture, light industrial and residential. Singleton has grown in the last 16 years, from being approximately 8 km from the mine site in 2003 to its current 5 km.

Figure 1: Project Site



Source: Department of Planning and Environment's Assessment Report, April 2019

1.2 Background to Development Application

8. Under the current DA 49/94, the Applicant is permitted to extract coal from the Project Site for a total of 21 years, expiring 24 June 2019. This is the 10th modification to DA 49/94. DA 49/94 (up to and including MOD 9) allows for a total movement of materials not exceeding 16.1 million bank cubic meters (Mbcm) in any year. According to the “Instrument of Consent Assessment report” dated 29 September 1995, consent was granted to DA 49/94 in part because of the favourable income, employment and industrial output impacts, and it was found to accord with the objectives and provisions of regional and local environmental planning instruments at the time. DA 49/94 has been modified nine times as set out in the Table 1 below.
9. The Commission considered the reasons for the approval of modifications 1-9 of DA 49/94. The Commission notes that modification 1 (MOD 1) is correcting two administrative errors in DA 49/94. The common thread in the approvals for modifications 2-9 of DA 49/94 is that the development as modified is substantially the same development, and there is minimal environmental impact of each modification.

Table 1: Summary of modifications

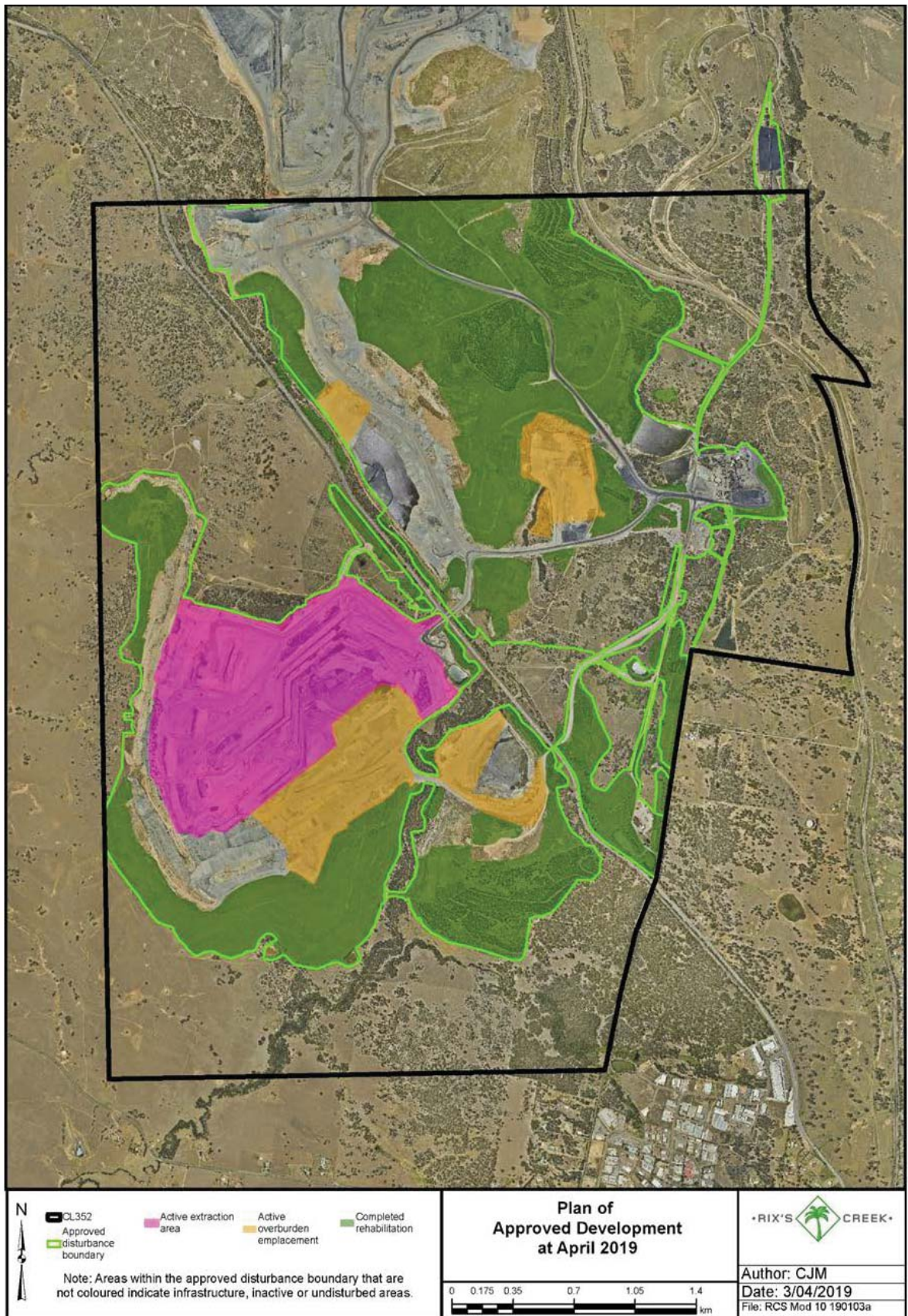
MOD No. & Approval Year	Summary of the Modification
MOD 1 1999 Section 96(1)	Amend noise monitoring conditions
MOD 2 2003 Section 96(2)	Receive ROM coal from Glennies Creek underground mine, process the coal and transport by rail
MOD 3 2004 Section 96(1A)	Receive and process and transport bulk coal samples from the Bickham coal exploration project
MOD 4 2009 Section 96(2)	Allow a cut and cover tunnel under the New England Highway to allow mine vehicles to have unrestricted access between mining pits
MOD 5 2013 Section 75W	Construct and operate a rail loop and associated clean coal stockpile and rail loading facility
MOD 6 2014 Section 75W	Increase the total volume of material that can be moved annually from 15 million bank cube metres (Mbcm) to 16.1 Mbcm
MOD 7 2016 Section 75W	Allow ROM from Rix’s Creek North to be processed at Rix’s Creek South coal handling and preparation plant (CHPP)
MOD 8 2016 Section 75W	Construct and use two satellite ROM coal stockpiles at Rix’s Creek South CHPP
MOD 9 2017 Section 75W	Allow transfer of overburden and reject material to Rix’s Creek North and allow drilling to be conducted in the area between the two operations

Source: Department of Planning and Environment’s Assessment Report

1.3 Summary of Application

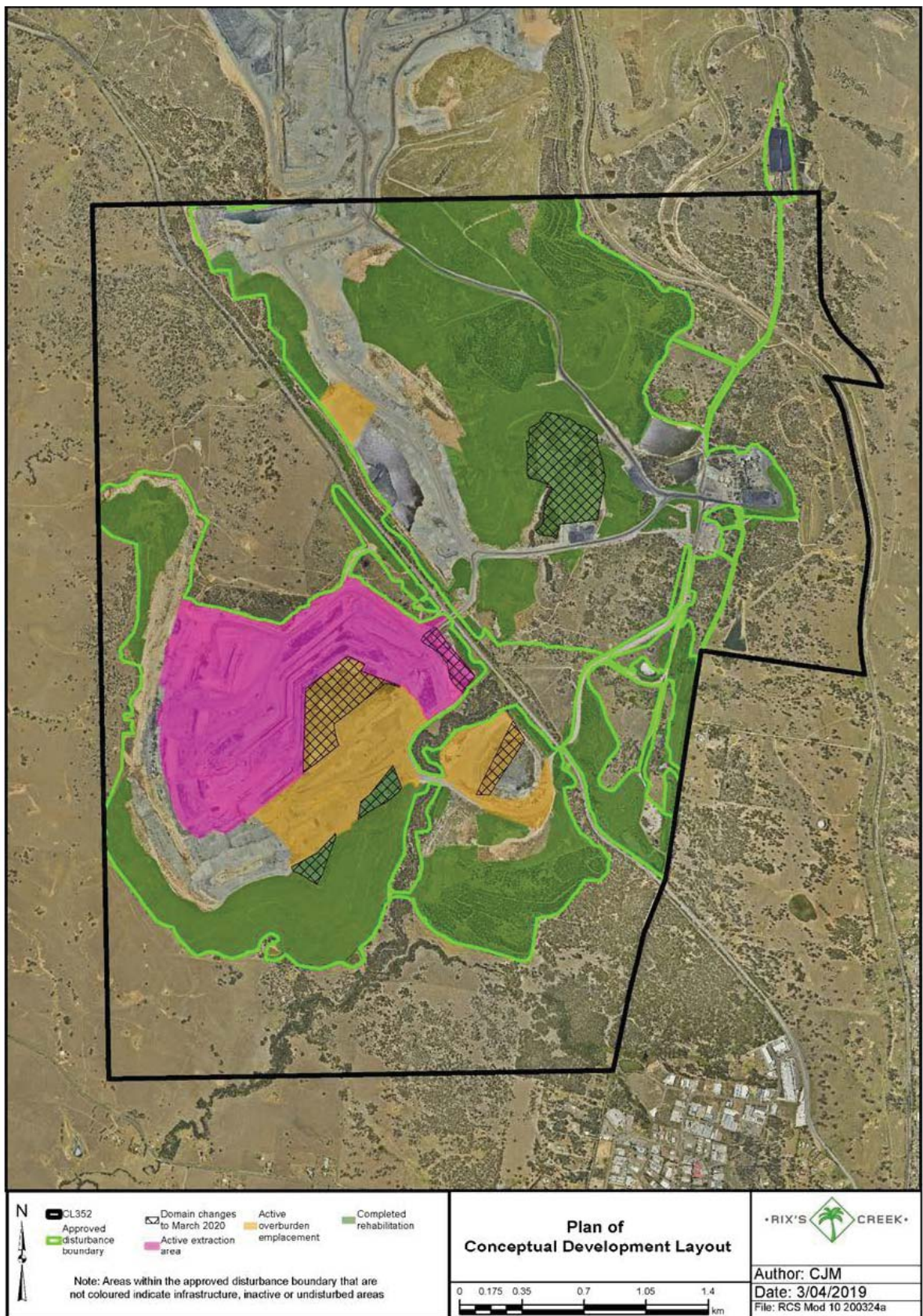
10. The Application before the Commission for determination proposes to extend the approval to extract coal from the current expiry of 24 June 2019 for nine months until 24 March 2020 within the currently approved mining areas and extraction volumes. No other change is sought.
11. The Applicant presented Figure 2 at the public meeting 20 May 2019 as the plan of approved development as at April 2019. The Applicant also presented Figure 3 at the public meeting 20 May 2019 as the plan of conceptual development for the Application. The differences between Figure 2 and Figure 3 are marked in a hash pattern on Figure 3.
12. The Commission has considered the scope of the Application and is satisfied that the proposed modification is of minimal environmental impact and accepts the Department's assessment that the Application is within the scope of section 4.55 (1A) of the EP&A Act because:
 - the Application is within a brownfield site, which is an existing operational coal mine with existing environmental impacts rather than a greenfield site;
 - the Applicant is not seeking any changes to the approved mining areas, mining methods, amount of approved materials for extraction or quantities of approved overburden materials to be moved;
 - the environmental impacts of the proposed modification are considered minimal when compared to the impacts of the existing operating coal mine with the approved mining areas, mining methods, amount of approved materials for extraction and overburden limits within DA 49/94;
 - the impacts are limited to continuation for 9 months only and are minimal when compared with the position if the Application was not approved and coal extraction terminated on 24 June 2019;
 - having regard to the actual operation of the Project Site under DA 49/94, the existing approved impacts are minimal and appropriately managed through the conditions of DA 49/94 for the scope of this Application; and
 - overall, the environmental impacts are minimal for the reasons set out below (and in particular in section 4.6).
13. The Commission is also satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent DA 49/94 (up to and including MOD 9) was granted because it remains an existing coal mine and the Applicant is not seeking any changes to the approved mining areas, mining methods, amount of approved materials for extraction or quantities of approved overburden materials to be moved.
14. The Commission notes that had the Applicant made the Application under section 4.55(2), the Commission would have found that the Application was within the scope of section 4.55(2)(a) of the EP&A Act because it is satisfied that the development to which the consent relates is substantially the same as the development for which consent DA 49/94 (up to and including MOD 9) was granted, for the reasons set out above.

Figure 2: Plan of approved development at April 2019



Source: Presentation by the Applicant at the public meeting 20 May 2019

Figure 3: Plan of conceptual design for the Application



Source: Presentation by the Applicant at the public meeting 20 May 2019

1.4 Stated need for Application

15. According to the Applicant's Statement of Environmental Effects (**SEE**), the Applicant has SSD 6300 for the continuation and expansion of mining operations at the Project Site awaiting determination. The Applicant has nominated a 9 month duration as its expected timeframe to allow operations to continue at the Project Site until SSD 6300 is determined.
16. The Project Site provides work to 255 full time employees and 44 full time equivalent contractors. According to the Applicant, the requested time extension will provide more certainty of employment for employees and contractors, certainty of supply coal to existing customers, and allow the Applicant to continue fulfilling supply contract obligations.

2. THE DEPARTMENT'S CONSIDERATION OF THE APPLICATION

2.1 Key steps in Department's consideration of the Development Application

17. The Department received the Application on 26 February 2019. It was accompanied by the Applicant's SEE. The Department was not required to exhibit this Application publicly under 4.55(1A) of the EP&A Act, however did so in anticipation of community interest and publicly exhibited it on the Department's website and at NSW Service Centres, Singleton Council's office, and at the NSW Conservation Council office in Sydney between 7 March 2019 to 21 March 2019.
18. The Department received submissions from 7 government agencies and Singleton Council. There were no objections or concerns raised by any of the government agencies or Singleton Council.
19. A total of 53 public submissions was received in response to the public exhibition, with 1 comment, 28 objections and 24 in support of the Application. The key issues raised by those objecting were:
 - Inadequacy and lack in information in the SEE;
 - Public exhibition during the NSW Government caretaker period;
 - Inadequate progress towards mine rehabilitation and closure;
 - Bloomfield's compliance history;
 - Land use conflicts;
 - Air quality standards;
 - Greenhouse gas emissions;
 - Modification pre-empting the determination of SSD 6300.

The key issues by those in favour were:

- Potential disruption of employment to mine workers and associated reduced employment opportunities in the region; and
 - Negative economic flow-on effects to small businesses, community and not-for-profit groups in the Hunter region through loss of contracts.
20. The Department prepared an Assessment report dated 17 April 2019 (**Assessment report**) detailing its assessment of the considerations and evaluation.

2.2 The Department's Assessment report

21. The Assessment report identified air quality; greenhouse gas emissions; noise; and socio-economic issues as the key impacts associated with this Application.

22. The Assessment report concluded that the Application is in the public interest and approvable because: “As *Bloomfield* is not proposing to intensify, expand or alter the approved mined operations, the associated environmental and social impacts of the modification are limited to the extended duration of previously approved impacts. The Department considers that the socio-economic benefits of the modification significantly outweigh the minor continuation of impacts.”
23. The Commission notes that it is independent from the Department and is not bound in any way to agree with the Department’s conclusion in making this determination. This is consistent with section 2.7(2) of the EPA Act that the Commission is not subject to the direction or control of the Minister except for certain procedural matters.

3. THE COMMISSION’S MEETINGS AND SITE VISIT

24. As part of its determination, the Commission met with various persons as set out below. All meeting transcripts and notes were made available on the Commission’s website.

3.1 Meeting with the Department

25. The Commission sent a letter to the Department on 08 May 2019 outlining the issues for discussion at a meeting. This letter was made available on the Commission’s website on 22 May 2019. On 10 May 2019, the Department met with the Commission and discussed the following:
 - how the 9-month extension timeframe was determined;
 - the impact on the expiry of the coal extraction period on the coal handling for Rix’s Creek North coal mine;
 - the mine closure plan;
 - any outstanding compliance issues, such as obligations under the conditions of consent in relation to the Voluntary Land Acquisition and Mitigation Policy (**VLAMP**); and
 - the cost/benefit analysis.
26. The transcript of the meeting was made available on the Commission’s website on 10 May 2019.

3.2 Meeting with the Applicant

27. On 10 May 2019, the Commission met with the Applicant and discussed the following:
 - the background of the Application;
 - reasoning behind the Application; and
 - the impact on the operation if the Application was not approved.
28. The presentation and the transcript of the meeting were made available on the Commission’s website on 10 May 2019. Following the meeting, the Applicant provided ‘Commercial-in-Confidence’ material to the Commission. As per section 3 *Record of meetings* of the *Meeting Record Policy*, the Commission agreed not to make it publicly available because of the sensitive nature of the information contained within the material.

3.3 Meeting with Singleton Council

29. On 10 May 2019, the Commission spoke with Singleton Council via teleconference. The Council did not raise any concerns or objections to the Application. The transcript of the meeting was made available on the Commission’s website on 10 May 2019.

3.4 Meeting with other agencies

30. The Commission sent a letter to the NSW Resources Regulator (**Resources Regulator**) on 15 May 2019 outlining the issues for discussion at a meeting. This letter was made available on the Commission's website on 16 May 2019. On 20 May 2019, the Commission spoke with the Resources Regulator via teleconference and discussed the following:
- the gaps between the current mine closure plan and current best practice mine closure;
 - the level of planning upon expiry of the approved period for coal extraction 24 June 2019; and
 - the residual risks and opportunities in rehabilitation.
31. A representative of the Department's assessment team was also present at the meeting. The transcript of the meeting was made available on the Commission's website on 21 May 2019.

3.5 Site inspection

32. There is no statutory requirement for the Commission to conduct a site inspection or locality tour when determining an application as per the Commission's *Site Inspection and Locality Tour Guidelines*.
33. Under the guidelines, the Panel members decided not to undertake a site inspection on the basis that it was unlikely to assist them in assessing or understanding the nature of the likely impacts of the Application caused by the proposed extension of time, and the Panel members had already had an opportunity to view the physical attributes of the Project Site on a prior site inspection in relation to the separate application SSD 6300 held on 4 June 2018. The details of this site inspection were made available on the Commission's website under 'Rix's Creek Continuation of Mining Project SSD 6300'.

3.6 Public meeting/hearing

34. On 20 May 2019, the Commission held a public meeting at the Charbonnier Motor Inn, 44 Maitland Rd Singleton. The schedule of speakers that registered to present to the Commission; the transcript of the public meeting; and a copy of the material presented at the public meeting were also made available on the Commission's website on 21 May 2019. A summary of issues raised by speakers follows:
- Continuation of the mine providing continued employment to local workers, contractors and suppliers;
 - Contribution to the economy through salaries, wages, taxes and royalties;
 - The preparation for mine closure and rehabilitation for 24 June 2019;
 - The contribution of dust and particulates on the local air quality from the Project Site and the probable consequential health impacts especially for residents of nearby towns;
 - The noise generated from mine equipment and blasts from the Project Site;
 - Local social impacts such as the drive-in/drive-out workers, and contributions from the Applicant to the local community;
 - Local health impacts, particularly the impact of particulates and nitrogen dioxide; and
 - Greenhouse gas emissions from operating the mine and burning extracted coal, the contribution of these emissions to climate change and the critical timing of action to mitigate emissions to meet Australia's commitment under the Paris Agreement.
35. An opportunity to lodge any written comments was afforded until seven days following the public meeting i.e. until close of business on 27 May 2019. All comments were made available on the Commission's website. A total of 487 public comments was received, with

2 comments, 29 objections and 456 in support of the Application. A summary of issues raised follows:

- Continuation of the mine providing continued employment;
- Contribution of the Bloomfield Group to the local community;
- Air pollution health concerns from particulates and blast plumes;
- The current conditions for PM₁₀ and PM_{2.5} are not consistent with current standards;
- Noise was not assessed under the Noise Policy for Industry 2017;
- No consideration for social impacts in the Assessment report;
- No economic assessment conducted in accordance to the *Guidelines for the economic assessment of mining and coal seam gas proposals (December 2015)*;
- The environmental impact of greenhouse gas emissions, and that they will occur in a new time period outside of what was originally approved;
- Disruption to mining operations should not be a consideration; and
- The Department reported Bloomfield carried out mining operations in breach of its approval in August 2017.

4. THE COMMISSION'S CONSIDERATION

4.1 Material considered by the Commission

36. In its determination, the Commission has carefully considered the following Project-specific material (**Material**):

- "Instrument of Consent Assessment report" dated 1995 prepared by the NSW Department of Urban Affairs and Planning;
- DA49/94 consolidated consent and the modifications 1-9 assessment reports;
- the Statement of Environmental Effects (SEE) dated 26 February 2019 and prepared by the Bloomfield Group;
- The Department of Planning and Environment's Assessment Report dated April 2019;
- Letter to the Department from the Commission dated 08 May 2019;
- Letter to the Resources Regulator from the Commission dated 15 May 2019;
- Information provided during the Commission meetings with the Applicant, the Department and Singleton Council;
- Presentation from the meeting with the Applicant 10 May 2019 and commercial-in-confidence materials provided by the Applicant on shut down plans;
- The Air Quality in the Upper Hunter: Spring 2018 published by the NSW Environmental Protection Authority (**EPA**);
- All Government agency advice, submissions and response to submissions made to the Department;
- The Applicant's response to submissions made to the Department;
- All public written submissions made to the Department during the public exhibition period;
- All material and information provided to the Commission at the public meeting, including verbal presentations and written presentations and associated presentation documents, aids and other information; and
- All public written comments made to the Commission both prior to and following the public meeting.

4.2 Mandatory considerations

37. In determining this Application, the Commission has taken into consideration the following relevant mandatory considerations, as provided in s 4.15 of the EP&A Act (**mandatory considerations**):

- the provisions of all:
 - environmental planning instruments; and

- proposed instruments that are or have been the subject of public consultation under the EP&A Act and that have been notified to the Commission (unless the Secretary has notified the Commission that the making of the proposed instrument has been deferred indefinitely or has not been approved); and
 - development control plans; and
 - planning agreements that have been entered into under section 7.4 of the EP&A Act, and draft planning agreements that a developer has offered to enter into under section 7.4; and
 - the *Environmental Planning and Assessment Regulations 2000* (**Regulations**) to the extent that they prescribe matters for the purposes of section 4.15(1) of the EP&A Act;
- that apply to the land and/or the development to which the Application relates;
- the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;
 - the suitability of the site for development;
 - submissions made in accordance with the EP&A Act and Regulations; and
 - the public interest.
38. In determining this Application, the Commission has also considered:
- The Noise Policy for Industry dated 2017 (**NPI**);
 - The Approved methods for the modelling and assessment of air pollutants in NSW dated (2016)
 - The NSW Climate Change Policy Framework dated November 2016;
 - NSW Aquifer Inference Policy; and
 - VLAMP.

4.3 Relevant Environmental Planning Instruments

39. Under section 4.15 of the EP&A Act, the Commission has considered the following relevant environmental planning instruments (**EPI**):
- SEPP (State and Regional Development) 2011;
 - SEPP (Mining, Petroleum Production and Extractive Industries) 2007 (**Mining SEPP**); and
 - Singleton Local Environmental Plan (**LEP**) 2013.

The mandatory considerations under these EPIs have been considered as set out in section 4.6.

4.4 Relevant Local Environment Plans

40. Under section 4.15 of the EP&A Act, the Commission has considered the Application with regard to the LEP. The Commission finds that the Project is consistent with the aims within the zone RU1 Primary Production of the LEP because the Project Site is currently an operational coal mine and the Application if approved, would minimise conflict between land uses because it is not expanding the area being mined, nor creating a new mine.

4.5 Relevant Development Control Plans

41. Under section 4.15 of the EP&A Act, the Commission has considered the Application with regard to the Singleton Development Control Plan (**DCP**) 2014. The Commission finds that the Project is in line with the aim within the DCP because the Project Site is currently an operational coal mine, its continuation is the orderly and economic use of the land and consistent with the aim to provide for the orderly and economic use and development of land in Singleton.

4.6 Likely impacts of the development on both natural and built environments

4.6.1 Noise

Public comments

42. The Commission heard concerns from speakers during the public meeting and received written comments regarding noise impacts from mining operations and blasts. The continued operation of the mine would continue the noise impacts on receivers.

Applicant's consideration

43. The Applicant stated in its SEE in Section 6 *Impact Assessment* that there will be no change in the assessed environmental impacts because there are no changes to the approved extraction footprint, production rate or mining methods.

The SEE states: “MOD 10 does not involve any changes to the approved extraction footprint, production rate or mining methods. Consequently, all environmental impacts will remain within the limits currently assessed and approved for RCS to operate within.

Operational activities will remain consistent with DA 49/94 (as modified), therefore there will be no change to the assessed impacts relating to air quality, noise, water, visual amenity or traffic.”

Department's consideration

44. The Department states in its Assessment report in Table 3 that noise impacts would continue to occur at or below existing approved rates, in already approved mining areas. The Department acknowledged that the Application would result in prolonging the noise impact, however also considered the 9 month extension minor relative to the 21 year approval. The Department concludes that the impacts would be minimal and acceptable and current practices for managing noise at the mine would be adequate.
45. The Assessment report states: “*The proposed modification would not result in any increase in operational noise impacts as mining operations would continue to occur at or below existing approved rates, in already approved mining areas,*” and “*associated impacts would be minimal and acceptable*”.

DA 49/94

46. The Department notes that the relevant standard is Condition 10 in DA 49/94, which sets the following noise limits:
- LA 10 daytime noise from DA49/94:
 - The Retreat 42 dB(A)
 - Singleton Heights 42 dB(A)
 - Maison Dieu Road 38 dB(A)
 - LA 10 night time noise from DA49/94:
 - The Retreat 40 dB(A)
 - Singleton Heights 40 dB(A)
 - Maison Dieu Road 38 dB(A)
47. The noise limits as per clause 12AB *Non-discretionary development standards for mining* of the Mining SEPP for the recommended amenity noise levels for rural residential (RU1 zone) from table 2.2 of the NPI:

Receiver	Noise amenity area	Time of day	L _{Aeq} , dB(A)
Residential	Rural	Day	50
		Evening	45
		Night	40

48. DA 49/94 lists those affected lands as defined in Condition 17A and additionally in Condition 17C(i): *“In the event that the EPA determines that noise from the mining operation at any residence (built or with building approval at the date of this consent) or over more than 25% of any property in the vicinity of Maison Dieu Road is in excess of the relevant noise level design goals set out in clause 10 of this consent for two (2) consecutive monitoring periods, the Applicant must purchase such property within six (6) months of receipt of a written request to purchase from the owner of the affected property.”*

Commission’s consideration

49. The Commission has considered the noise impacts of the Application and accepts the conclusions of the Department outlined in paragraphs 44-45.
50. The impact of noise as raised at the public meeting and in written comments has been considered. The Commission acknowledges that there will be continued noise impacts from the Project Site, if the Application is approved. The Commission considers that noise from the Project Site, and other nearby active mines, is likely to be managed appropriately by the monitoring and mitigation methods employed by the Applicant as a requirement of DA 49/94.
51. The Commission has considered Condition 17A and Condition 17C(i) and accepts they are consistent with the VLAMP in affording the impacted receivers voluntary land acquisition rights.
52. Based on the Material, the Commission accepts that there will be noise impacts on receivers as raised by the public in paragraph 42. However, the conditions outlined in paragraph 46 that are within DA 49/94 are acceptable for managing noise within the Application because they are within the levels in the Mining SEPP. The Commission considers that the continuation of noise impacts under currently approved conditions for an additional nine months is of minimal impact and will not result in any additional impact beyond the current impacts and is therefore acceptable.

4.6.2 Air quality

Public comments

53. The Commission heard concerns from speakers during the public meeting and received written comments regarding air quality. The continued operation of the mine would have impacts on air quality (particulates, PM₁₀ and PM_{2.5} from blasts) for the local community. The subsequent potential health impacts of particulates on the local community were also raised.
54. Speakers at the public meeting commented that the cumulative impact of air quality from all nearby mines should be considered instead of the Project Site alone because a number of mines, such as Ravensworth, have begun operation since consent for DA 49/94 was granted.
55. Speakers at the public meeting commented that the latest modification to the Mt Owen mining complex, the Glendell mine (Glendell Mine Mod 4), was required to model air quality to the current standards in the Mining SEPP. The Mining SEPP sets a maximum of 25 µg/m³ of PM₁₀ or 8 µg/m³ of PM_{2.5}, and the Application should be assessed against this standard.

56. At the public meeting, an employee of the Applicant who was an operator of the mine plant equipment commented that they actively monitor dust and will shut down the equipment if they feel it is too dusty. The operator went on to say that they have the full support of management to do so.
57. Speakers at the public meeting also raised the increasing number of air quality exceedances for the Upper Hunter valley region referencing both the Glendell Mine Mod 4 air quality report and the monitoring of the air quality in the Upper Hunter from the *Air Quality in the Upper Hunter: Spring 2018 report* by the EPA.

Applicant's consideration

58. The Applicant stated in its SEE that there will be no change to assessed air quality impacts as per paragraph 43.
59. The Applicant provided a response to the Environmental Defenders Office (EDO) comment on behalf of the Hunter Environment Lobby. The response included an air quality study completed by Todoroski Air Sciences (TAS) which predicts that the Project Site will not exceed the air quality limits in the Mining SEPP: "*TAS 2019 concludes that the modelling predictions indicate that for all privately-owned receptor locations (not within an existing Zone of Affection) the predicted cumulative annual average PM_{2.5} and PM₁₀ levels will remain below the Clause 12AB(4) of the Mining SEPP criteria of 8 µg/m³ and 25 µg/m³.*" The Applicant's response was received 29 May 2019 and was made available on the Commission's website 31 May 2019.

Department's consideration

60. The Department states in its Assessment report in Table 3 that air quality impacts would continue to occur at or below existing approved rates, in already approved mining areas. The Department acknowledged that the Application would result in prolonging the air quality impact, however it also considered the 9 month extension minor relative to the 21 year period approved under DA 49/94. The Department concluded that the impacts would be minimal and acceptable and current practices for managing air quality at the mine would be adequate.
61. The Department received advice from Hunter New England Health (**HNE Health**): "*The modification will have minimal impact on public health, and for this reason, HNE Population Health has no comments to make regarding this proposal*", and advice from the EPA: "*...the EPA considers that the environmental impacts of the mine will be able to be satisfactorily managed under existing conditions...*"
62. The Assessment report states: "*The proposed modification would not result in any increase in operational air quality impacts as mining operations would continue to occur at or below existing approved rates, in already approved mining areas*", and "*associated impacts would be minimal and acceptable*".

DA 49/94

63. The Department notes that the relevant standard is Condition 13B in DA 49/94, which sets the following air quality limits:

Pollutant	Averaging Period	Criterion
Particulate matter < 10 µm (PM ₁₀)	Annual	a,d 30 µg/m ³
Particulate matter < 10 µm (PM ₁₀)	24 hour	a 50 µg/m ³
Total suspended solids (TSP)	Annual	a,d 90 µg/m ³
^e Deposited dust	Annual	^b 2 g/m ² /month ^a 4 g/m ² /month

Notes to table:

^a Cumulative impact (ie increase in concentrations due to the development plus background concentrations due to all other sources).

^b Incremental impact (ie increase in concentrations due to the development alone, with zero allowable exceedances of the criteria over the life of the development).

^c Deposited dust is to be assessed as soluble solids as defined by Standards Australia, AS/NZS 3580.10.1:2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulate Matter - Deposited Matter - Gravimetric Method.

^d Excludes extraordinary events such as bushfires, prescribed burning, dust storms, fire incidents or any other activity agreed by the Secretary,

^e "Reasonable and feasible avoidance measure" includes, but is not limited to, the operational requirements in condition 14.

64. The air quality limits as per section 12AB *Non-discretionary development standards for mining* of the Mining SEPP are not more than a cumulative annual average level greater than 25 µg/m³ of PM₁₀ or 8 µg/m³ of PM_{2.5} for private dwellings.
65. DA 49/94 lists those affected lands as defined in Condition 17A and Condition 17C(ii): *"In the event that the EPA determines that dust from the mining operation increases the dust deposition rate by more than 2 gm/m²/month averaged over any six (6) month period, at any residence (built or with building approval at the date of this consent) or over more than 25% of any property in the vicinity of Maison Dieu Road is the Applicant must purchase such property within six (6) months of receipt of a written request to purchase from the owner of the affected property."*

Commission's consideration

66. The Commission considered the air quality impacts of the Application and agrees with the conclusions of the Department outlined in paragraphs 60-62 above.
67. The Commission acknowledges that the Application will have an air quality impact for the period of operation of 9 months, if approved. The mine has monitoring and modelling systems for air quality and the Commission is satisfied that operators of the mine plant equipment shut down mine equipment when air quality exceeds certain thresholds.
68. The Commission considered Condition 17A and Condition 17C(ii) and accepts they are consistent with the VLAMP in affording the impacted receivers voluntary land acquisition rights.
69. The Commission notes that Condition 31B in DA 49/94 does not include a limit on PM_{2.5}. The Commission considered the Applicant's air quality study that modelled PM_{2.5} and PM₁₀ as referenced in paragraph 63. The Applicant's air quality modelling predicts compliance with the Mining SEPP for PM_{2.5} and PM₁₀ as outlined in paragraph 59. The Commission also noted that the air quality conditions in the Glendell Mine consolidated consent (**DA 80/952**) are consistent with DA 49/94.

70. The Commission considered the *Air Quality in the Upper Hunter: Spring 2018* report as raised in paragraph 57 and notes the number of exceedances. There are a number of coal mines in the upper Hunter as described in paragraph 7 that contribute to the cumulative air quality. The Commission accepts that the Application will not result in further degradation of the current air quality, however the Commission also accepts that continued operation will not improve the air quality as the mine operating at existing performance standards will continue to have a similar impact on air quality as at present.
71. Based on the Material, the Commission finds that there will be some air quality impacts. However, based on the advice from HNE Health and the EPA, as per paragraph 61, as well as the matters considered in paragraphs 66-70 above, the Commission finds that these impacts will represent a minimal environmental impact. The Commission notes the conditions outlined in paragraph 63 within the DA49/94 are acceptable for managing air quality within the Project Site because the Applicant's air quality modelling predicts that PM₁₀ and PM_{2.5} levels will remain within the levels in the Mining SEPP.

4.6.3 Land use and site suitability

Public comments

72. The Commission heard concerns from speakers during the public meeting and received written comments regarding the "*definite economic effects of land use and conflicts between mining, equine, and viticulture industries.*"

Applicant's consideration

73. The Applicant stated in its SEE that there will be no change to assessed impacts as per paragraph 43.

Department's consideration

74. The Department states in its Assessment report that there is no need to reconsider the use of the land. "*The Department acknowledges these concerns but notes that the modification is not proposing to change the use of land nor expand the footprint of the mine. Therefore, there is no direct and immediate need to reconsider the compatibility of the site with other surrounding land uses.*"

Commission's consideration

75. The Commission has considered the land use and the conclusions of the Department outlined in paragraph 74. The Commission finds that because the existing land use is mining, and the Application is seeking the same land use, the continuation of mining within the approved mining areas as outlined in paragraphs 5-7 and 40 is consistent with the aims of the LEP.
76. Based on the Material, the Commission finds that the land use is acceptable and the site is suitable for mining because the Application occurs wholly within an approved, and already disturbed, mining area.
77. The Commission has also found that the Application is consistent with the objectives of the LEP as outlined in paragraph 40.

4.6.4 Greenhouse gas emissions

Public comments

78. The Commission heard concerns from speakers during the public meeting and received written comments regarding greenhouse gas emissions from the mining operation and burning the mined coal, and the impact these would have on the future climate. The particular concern was extraction was occurring outside the approved period for extraction and thus is additional to the DA 49/94.

Applicant's consideration

79. The Applicant estimated the greenhouse gas emissions in its presentation to the Commission during the meeting with the Applicant 10 May 2019. *“Approximate emissions over 9 months:*
- *Scope 1: 34,000 t CO₂-e*
 - *Scope 2: 6,934 t CO₂-e*
 - *Scope 3: 2,943,597 t CO₂-e”*
80. The Applicant also stated that *“Coal mined within the 9 month extension period would be contracted to countries which are signatories to the Paris Agreement or have a similar strategy of GHG reductions”*.

Department's consideration

81. The Department states in its Assessment report that the greenhouse gas emissions would be less than those already approved with the extension. *“the mine has not operated at full capacity over its 21-year life, even with the proposed nine-month extension, Bloomfield has estimated that it would move a total of 252 Mbcm of its 276 Mbcm material limit, therefore the total emissions would likely be less than those already approved.”*

Commission's consideration

82. The Commission has considered the greenhouse gas emissions and agrees with the conclusions of the Department outlined in paragraph 81 because the Application is to extend the approved period of coal extraction only, and does not change the amount of approved material for extraction.
83. The Commission has considered the impact of greenhouse gas emissions on the future climate. The Commission however, recognises the Application estimates approximately 9 Mbcm is within the 276 Mbcm material limit of DA 49/94. This estimated quantity of coal extracted with this Application added together with the quantity of coal extracted to date is still less than the total coal approved to be extracted under DA 49/94. The Commission considers this to be minimal environmental impact.
84. The Commission also considered that extraction would be occurring outside the approved period for extraction. The Commission acknowledges the Application is not seeking to increase production, only extending the timeframe for resource extraction, and could have at any time during the 21 year operation increased production to maximise extraction within the approved material limit.
85. Based on the Material, the Commission finds that there will be greenhouse gas emission impacts, however these will be minimal for reasons outlined in paragraphs 82-84.

4.6.5 Resource recovery

Applicant's consideration

86. The Applicant did not specifically address resource recovery in the SEE.

Department's consideration

87. The Department states in its Assessment report that the Application represents efficient and optimised recovery of an approved resource. *"The modification involves a permissible land use on the subject site and would facilitate sustainable, efficient and optimised recovery of an approved resource."*

Commission's consideration

88. The Commission considered and accepts the Department's assessment in paragraph 87. Based on the Material, the Commission finds that resource recovery is adequately efficient because the Application is proposing to extract an approved resource using approved mining methods in an approved mining area for an additional 9 month period.

4.6.6 Rehabilitation

Public comments

89. The Commission heard concerns from speakers during the public meeting and received written comments that the Application was pre-determining SSD 6300. Speakers also raised the question of why planning and any required action by the Applicant towards mine closure for a 24 June 2019 deadline had not yet begun.

Applicant's consideration

90. The Applicant stated in its SEE that environmental practices will remain consistent as per paragraph 43, however did not specifically mention rehabilitation. The Applicant's response to submissions states *"DA 49/94 conditions allow 'coal extraction' until the approved date, and do not require the mine to have completed closure by this time. There are no requirements requiring the implementation of a Mine Closure plan three months prior to the approval end date."*
91. The Applicant stated in the meeting with the Commission 10 May 2019 and at the public meeting on 20 May 2019 that rehabilitation activities would continue occurring at the Project Site. The Applicant's presentation at the public meeting 20 May 2019 shows the continuing rehabilitation at the Project Site during the Application process as shown in Figure 3. The presentation was made available on the Commission's website on 21 May 2019.

Department and Resource Regulator consideration

92. The Department stated in its Assessment report that *"...Notwithstanding this, the Resources Regulator determined that sustainable rehabilitation outcomes could be achieved under existing consent conditions and that any residual risks or opportunities could be effectively regulated through conditions of the mining leases issued under the Mining Act 1992."*
93. The Department and Resources Regulator confirmed during the meeting of the Commission with the Resources Regulator on 20 May 2019 that the Department and Resources Regulator had not sought a mine closure plan from the Applicant as SSD 6300 is awaiting determination. The Department stated this was standard practice, and it was likely that the

Applicant would opt for a 'care and maintenance' option rather than a rehabilitated closeout if this Application was not approved.

94. The Resource Regulator stated during the meeting of the Commission with the Resources Regulator 20 May 2019 that the Applicant did not have 'Best Practice' rehabilitation. The Resource Regulator stated: *"in terms of resource regulated view of what we see as potential gaps between best practice and what are 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."*

"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 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."

95. The Resources Regulator also stated that the risk of failure of rehabilitation at the Project Site is low: *"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 risk of long-term failure would be low"*.

Commission's consideration

96. The Commission has considered that the rehabilitation conditions are not best practice consistent with the Resource Regulator's statement in paragraph 94 but accepts the Department's finding that they are suitable for the Project Site as per paragraph 92 in the context of the current Application. The Resources Regulator stated there is a low risk of failure of site rehabilitation as per paragraph 95. The Commission notes the practice of the Department and the Resources Regulator of not seeking a mine closure plan if the Project Site has an SSD awaiting determination as per paragraph 93.
97. Based on the Material, the Commission finds that rehabilitation conditions are suitable for the Project and the Application, and, while not best practice as there is no active use or management toward an agreed final land use, accepts the Resources Regulator's assessment that the risk of failure of rehabilitation at the Project Site for the Project is low.

4.6.7 Airblast overpressure

98. Airblast overpressure was not raised as an issue by the Council, and was not specifically addressed by the Applicant or the Department.

Public comments

99. The Commission heard concerns from speakers during the public meeting regarding blasts, particularly the sulphur and nitrogen dioxide in blast plumes and the subsequent potential health impacts of nitrogen dioxide on the local residents.

DA 49/94

100. Condition 12 in DA 49/94 contains the following overpressure limits on blasting:

Receiver	Airblast overpressure (dB(Lin Peak))	Allowable Exceedance
Residence on privately-owned land	115	5% of the total number of blasts over a period of 12 months
	120	0%

101. Condition 12B in DA 49/94 contains the following operating conditions:
“The Applicant must:
- (i) *implement best blasting management practice on site to:*
 - *Protect the safety of people and livestock in the surrounding area;*
 - *Protect private and public property in the surrounding area;*
 - *Minimise the dust and fume emissions from blasting; and*
 - (ii) *co-ordinate the blasting on site with the blasting at nearby mines (including Ashton, Rix’s Creek North and the Mount Owen Complex) to minimise cumulative blasting impacts;*
 - (iii) *co-ordinate the blasting on site with nearby underground mines (including Integra Underground) to minimise operational disturbance and to ensure the safety of underground personnel; and*
 - (iv) *operate a suitable system to enable the public to get up-to-date information on the proposed blasting schedule on site, to the satisfaction of the Secretary.”*

Commission’s consideration

102. The Commission observed the mining method, which uses a series of small blasts rather than one large blast, minimising noise, dust and fume emissions. The Commission considers blasts, with the existing control methods which include controls for noise, air quality (dust and plume emissions), and the controlled blasting method, has minimal environmental impact.
103. The Commission notes that the airblast overpressure limits in DA 49/94 are consistent with the Mining SEPP.
104. Based on the Material, the Commission finds that airblast overpressure is acceptable for reasons outlined in paragraph 102-103.

4.6.8 Vibration

105. Vibration was not raised as an issue by the public or Council, and was not specifically addressed by the Applicant or the Department.

DA 49/94

106. DA 49/94 contains the following vibration limits on blasting:

Receiver	Ground vibration (ppv(mm/s))	Allowable Exceedance
Residence on privately-owned land	5	5% of the total number of blasts over a period of 12 months
	10	0%

Commission’s consideration

107. The Commission has considered the impact of vibration from blasts and, having considered the mining method, considers vibration to have minimal environmental impact due to the

method used. The method uses a series of small blasts rather than one large blast, which significantly reduces the magnitude of vibration impacts.

108. The Commission notes that the vibration limits in DA 49/94 are consistent with the Mining SEPP.
109. Based on the Material, the Commission finds that vibration impacts are acceptable for reasons outlined in paragraphs 107-108.

4.6.9 Aquifer Interference Policy

110. The Aquifer Interference Policy or impacts to aquifer were not raised as an issue by the public, Council or the Department.

Applicant's consideration

111. The Applicant stated in its SEE that there will be no change to assessed water impacts as per paragraph 43.

DA 49/94

112. Condition 14D of DA 49/94 requires the Applicant to ensure it has sufficient water for all stages of the project, and if necessary, adjust the scale of mining operations to match its available water supply. Condition 15 of DA 49/94 requires the Applicant to develop a Water Management Plan that includes a surface water monitoring program and a groundwater monitoring program to the satisfaction of the Secretary.

Commission's consideration

113. The Commission has considered the current conditions of DA 49/94, and, given the Applicant says that there is no change to water impacts as per paragraph 43, is satisfied that the condition will adequately address any water impacts of the mine via a Water Management Plan. The Commission therefore considers that any water impacts as a result of the Application to be of minimal environmental impact.

4.6.10 Transport

Public comments

114. The Commission heard concerns from speakers during the public meeting regarding drive-in/drive-out workers contributing to traffic congestion through the town.

Applicant's consideration

115. The Applicant stated in its SEE that there will be no change to assessed traffic impacts as per paragraph 43. The Applicant provided a response to the Environmental Defenders Office (EDO) comment on behalf of the Hunter Environment Lobby stating that: "*The Annual Review (Bloomfield, 2018) identifies that over 70% of these employees live in the Singleton, Cessnock or Maitland shires.*"

Department's consideration

116. DA 49/94 states that the Applicant must prepare a Traffic Management Plan, which must be prepared in consultation with the Roads and Maritime Services (RMS) and Singleton Shire Council, and include procedures for regular monitoring and compliance with the Traffic

Management Plan.

117. The Department states in its Assessment report that the RMS “*considered that there would not be any significant impact in the surrounding classified road network as a result of the proposed modification.*”

DA 49/94

118. DA 49/94 states that the Applicant must prepare a Traffic Management Plan, which must be prepared in consultation with the RMS and Singleton Shire Council, and include procedures for regular monitoring and compliance with the Traffic Management Plan.

Commission’s consideration

119. The Commission has considered the impact of transport as the coal is transported using heavy rail from loading facilities on the Project Site. Based on the Material, the Commission finds that transport impacts are acceptable in line with advice from RMS because there are no changes to the approved mining areas, mining methods, amount of approved materials for extraction or quantities of approved overburden materials to be moved, and there would not be a significant impact in the surrounding classified road network as a result of the Application. The Commission considers that there is minimal traffic impact from drive-in/drive-out workers because 70% of employees are local as per paragraph 115. The Commission therefore considers that any traffic impacts as a result of the Application to be of minimal environmental impact.

4.6.11 Biodiversity and threatened species

Public comments

120. The Commission heard concerns from speakers during the public meeting and received written comments regarding the non-compliance on the Project Site conducting mining operations outside of the approved area and the July 2019 deadline on the Consent Order for the retirement of the 2,716 required biodiversity offsets.

Applicant’s consideration

121. Biodiversity and threatened species issues were addressed by the Applicant in its response to the Environmental Defenders Office (EDO) comment on behalf of the Hunter Environment Lobby providing a status update on fulfilling the Consent Order that the Applicant has “*commenced the process of purchasing property considered suitable for land-based offsets*”.

Department’s consideration

122. The Department stated in its Assessment report that in the Application there is no proposed change to the approved mining areas.
123. The Department received comment from the NSW Office of Environment & Heritage (OEH) which advised that that there was no impact on biodiversity and threatened species from the Application.

Commission’s consideration

124. The Commission has considered biodiversity and threatened species issues and accepts the comment from OEH in paragraph 123 that there was no impact on biodiversity and threatened species because of the Application. The Commission accepts that the

Application is for the continuation of mining within the approved, and already disturbed, mining area therefore the impacts of land clearing have already been realised and there will be minimal additional environmental impact as there is no change to the approved mining areas or additional land clearing under this Application.

125. Based on the Material, the Commission finds that the impact on biodiversity and threatened species is acceptable because the Application occurs wholly within an approved mining area as outlined in paragraph 124.

4.7 Additional considerations

4.7.1 Rix's Creek North

126. Under Modification 7 in 2016, coal extracted from Rix's Creek North is sent to the Coal Handling and Preparation Plant (CHPP) and uses the train loading facilities at Rix's Creek South coal mine.

Applicant's consideration

127. During the Commission's meeting with the Applicant 10 May 2019, the Applicant said that it is seeking legal advice on whether the expiry of the approval for coal extraction has an impact on the CHPP and train loading facilities at the Project Site. The Applicant said at the meeting that it is taking a conservative approach towards the expiry of the approval for coal extraction and assuming both extraction and associated mining activities, such as the CHPP and train loading, will also require shut down.
128. The CHPP and train loading facility for Rix's Creek North is currently contracted to service the Integra Underground mine, which is on the northern boundary of Rix's Creek North as outlined in paragraph 7.
129. The Applicant provided a Commercial-in-Confidence document outlining the economic impacts on the Rix's Creek North and the Applicant on a wider scale if the Application should not be approved.

Department's consideration

130. The Department states in its Assessment report that "*Bloomfield advises that, without this modification, it is likely that the mine would be forced to halt mining operations, causing significant disruption to the mine's workforce, contractors, suppliers and customers. Due to its integration with Rix's Creek North, that mine would also be negatively impacted if this modification is not approved.*"

Commission's consideration

131. The Commission has considered the downstream impacts on Rix's Creek North coal mine as socio-economically significant based on the Commercial-in-Confidence material as per paragraph 129.

4.8 Social and economic impacts in the locality

Public comments

132. The Commission heard concerns from speakers at the public meeting and received written comments regarding the social and economic impacts of the Application. These are:
- Continuity of employment for workers.

- Some speakers claimed that the workforce was drive-in/drive-out rather than local Singleton residents;
- Limited youth employment at the mine(s), and primarily low-skill/non-transferrable skills; and
- Ongoing capacity for the Applicant to support community initiatives;

Applicant's consideration

133. The Applicant stated in the meeting with the Commission 10 May 2019 and at the public meeting 20 May 2019 that the Project Site:
- has 255 full time employees and 44 full time equivalent contractors attributable to the Project Site;
 - will be able to provide ongoing support for community initiatives;
 - will contribute net wages of \$15.7 million injected into the Hunter community, and expenditure of \$70 million on suppliers and contractors over the 9 months; and
 - will contribute major payments to Federal and State Governments of \$37 million over the 9 months;
134. The Applicant stated in the meeting with the Commission 10 May 2019 that it already had supply contracts in place for the sale of coal.

Department's consideration

135. The Department states in its assessment report that the Application will provide significant socio-economic benefits: *"the modification would provide significant socio-economic benefits to the mine's workforce, contractors, suppliers, customers and owners."*
136. The Department concludes: *"The Department considers that the socio-economic benefits of the modification significantly outweigh the minor continuation impacts."*

Commission's consideration

137. The Commission agrees with the conclusions of the Department outlined in paragraphs 135-136 because of the economic benefits quantified by the Applicant outlined in paragraph 133, noting that this is currently an active mine site and the impacts are limited to continuation of mining activity representing minimal additional environmental impact.
138. The Commission has also considered that the Applicant has supply contracts already in place, representing minimal risk in terms of royalties to the State and Federal governments.
139. Based on the Material, the Commission finds that, on balance, the socio-economic contribution to the local community is likely to be greater than the impacts of continued mining operations for a further 9 months for an active mine site.

4.9 The public interest

140. In determining the public interest merits of the Application, the Commission has had regard to the objects of the EP&A Act, including consideration of ecologically sustainable development and providing increased opportunity for community participation.

Applicant's consideration

141. The Applicant has addressed how it meets the objects of the EP&A Act through outlining the socio-economic benefits of the Application in paragraph 133 and stated that there will be no change in the assessed environmental impacts because there are no changes to the

approved extraction footprint, production rate or mining methods as per paragraph 43.

Department's consideration

142. The Department has considered how the Application meets the relevant objects of the EP&A Act in table 2 of its Assessment Report. The Department concludes that the socio-economic benefits outweigh the continuation impacts as per paragraphs 135-136. The relevant objects identified by the Department are as follows:

- “(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources;*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment;*
- (c) to promote the orderly and economic use and development of land;*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats;*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage);*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between different levels of government in the State; and*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.”*

Commission's consideration

The objects of the EP&A Act

143. The Commission has considered the objects of the EP&A Act relevant to this Application and accepts the Department's consideration and assessment of these objects as per table 2 of the Assessment report. The Commission accepts that the socio-economic contribution is likely to be greater than the continued impacts of mining operations as per paragraph 139, and there is minimal additional environmental impact for the reasons set out elsewhere in this statement of reasons. Both State Government (through DPE) and Local Government (Singleton Council) support this development. The Commission met with Singleton Council via teleconference as per paragraph 29 and noted that Singleton Council had no concerns or objections. The Commission held a public meeting as per paragraphs 34-35 to hear and understand the views of the community and considered all oral and written comments.

The principles of Ecologically Sustainable Development

144. The Commission has considered the ecological sustainable development principles, including:
- The precautionary principle;
 - Intergenerational equity;
 - Conservation of biological diversity and ecological integrity;
 - Improved valuation, pricing and incentive mechanisms, which emphasises the internalisation of environmental costs

The relevant ecological sustainable development principles are considered in paragraphs 145-146.

Intergenerational equity

145. The Commission considered intergenerational equity and considers that the environmental

impacts caused by the coal mine have already occurred given the mining operation in DA 49/94 has been ongoing for 21 years. However, there is minimal additional intergenerational impact by continuing mining operations for a 9 month period as the Commission has found that the Application will have minimal environmental impact for the reasons discussed elsewhere in this statement of reasons.

Conservation of biological diversity and ecological integrity

146. The Commission considered the conservation of biological diversity and ecological integrity and considers that the damage to local flora and fauna on the Project Site has already been completed as per paragraph 124. The Commission finds that there is minimal additional impact on biological diversity and ecological integrity for the reasons discussed elsewhere in this statement of reasons.

5. HOW THE COMMISSION TOOK COMMUNITY VIEWS INTO ACCOUNT IN MAKING DECISION

147. The views of the community were expressed through:

- public submissions and comments received (as part of the Department's exhibition and as part of the Commission's determination process) as per paragraphs 17; and
- members of the public who spoke at the public meeting and/or sent written submissions or comments before, during or after that meeting as per paragraphs 34-35, together with presentations and associated information and materials.

Views from the community in objection

148. Inadequacy and lack in information in the SEE: The Commission notes the SEE is a short document and accepts the Department's assessment in its Assessment report that "...its scope was limited as the modification did not warrant detailed impact assessment." The Commission also notes the additional information the Applicant provided to show anticipated mining activities, rehabilitation and resource extraction.

149. Public exhibition during the NSW Government caretaker period: The Commission accepts the Department's finding in the Assessment report that exhibition of a 4.55(1A) modification did not contravene caretaker conventions.

150. Mine rehabilitation and closure: The Commission discussed the state of mine rehabilitation and closure at the Project Site with the Resources Regulator as per paragraph 93 and the Commission notes that it is in line with current practice of the Department (both Planning and Resources Regulator sections) to treat cases like this as a "Continuation Project".

151. Bloomfield's compliance history, particularly in August 2017: the Department reported Bloomfield carried out mining operations in breach of its consent: The Commission has considered the Applicant's compliance history but understands from the Department's report that the Applicant appears to be currently complying with the conditions of consent.

152. Land use conflicts: The Commission considered land use conflicts. Mining is a permissible land use and the existing land use is mining, making it compatible for continuation of mining within the approved mining areas as outlined in paragraphs 75-77.

153. The impact of air quality, in particular dust, particulates and blast plumes and the probable health impacts on the residents of nearby towns: The Commission noted that air quality was one of the biggest concerns with the community, with the impact on health of not using contemporary air quality standards. The Commission acknowledges that the Application will have an air quality impact for the period of operation and accepts the Department's finding in the Assessment Report that "*As the modification is unlikely to change the air quality*

impacts of the mine (ie no change in dust generating activities), Bloomfield was not required to undertake an updated air quality assessment.”

154. The Commission considers that the impact of the Application on air quality is minimal as outlined in paragraphs 66-71.
155. Greenhouse gas emissions from operating the mine and burning extracted coal, the contribution of these emissions to climate change and the critical timing of action to mitigate emissions to meet Australia’s commitment under the Paris Agreement: The Commission noted that greenhouse gas emissions were one of the biggest concerns with the community, and the impact of these emissions on the climate. The Commission considers that the impact will be minimal because the total material extracted will be less than the total approved materials for extraction in DA 49/94 as per paragraphs 82-84.
156. Modification pre-empting the determination of SSD 6300: The Commission does not consider this to be a relevant consideration because the Application is required to be determined on the merits of the Application alone, and SSD 6300 is required to be determined on its merits alone. The Commission does not consider that this determination pre-empts the determination of SSD 6300 in any way.
157. The noise generated from mine equipment and blasts from the Project site, and that noise was not assessed under the NPI: The Commission acknowledges that there will be continued noise impacts from the Project Site. The Commission considers that there will be minimal additional impact as per paragraphs 49-52.
158. Local social impacts such as the drive-in/drive-out workers: The Commission acknowledges that there is a contingent of drive-in/drive-out workers but considers the contribution to the wider Hunter region to be positive on balance in terms of socio-economic benefit.
159. No consideration for social impacts in the Assessment report: The Commission has considered the socio-economic impacts in this determination as a relevant consideration. The Commission finds that on balance, the socio-economic contribution to the local community is likely to be greater than then impacts of continued mining operations in an already active mine site as per paragraphs 137-139.
160. No economic assessment conducted in accordance to the *Guidelines for the economic assessment of mining and coal seam gas proposals (December 2015)*: The Commission notes that a detailed economic assessment as per the guidelines has not been completed, however as this is a minor extension of life with no change to approved mining areas, mining methods or amount of approved materials for extraction, and the Applicant has contracts already in place for the supply of coal, the Commission accepts that a more detailed economic assessment is not required.

Views from the community in support

161. Continuation of the mine providing continued employment to local workers, contractors and suppliers: The Commission has considered the socio-economic impacts of providing ongoing employment to workers, contractors and suppliers and on balance, finds that the socio-economic contribution to the local community is likely to be greater than the impacts of continued mining operations in an already active mine site as per paragraphs 137-139.
162. Contribution to the economy through salaries, wages, taxes and royalties: The Commission has considered the socio-economic impacts of the contribution of salaries, wages, taxes and royalties and on balance, finds that the socio-economic contribution to the local community, and the State is likely to be greater than then impacts of continued mining operations in an already active mine site as per paragraphs 137-139.

163. Potential disruption of employment to mine workers and associated reduced employment opportunities in the region if the Application is not approved: The Commission has considered the potential disruption to employment if the Application is not approved to the extent of the certainty of employment and the socio-economic impacts of continuing employment for the 9 month period. The Commission acknowledges that the mine will close at some stage and those impacts are likely to occur then.
164. Negative economic flow-on effects to small businesses in the Hunter region though loss of contracts if the Application is not approved: The Commission has considered the flow on effects to small business if the Application is not approved as to the extent of the socio-economic impacts of continuing employment for the 9 month period. The Commission acknowledges that the mine will close at some stage and those impacts are likely to occur then.
165. Contribution of the Bloomfield Group to the local community: The Commission considered the positive impact of the Applicant's contribution from The Bloomfield Group Foundation to the local community as part of the socio-economic impact as per paragraphs 137-139.
166. The Commission carefully considered all of these views as part of making its decision. The way in which these concerns were taken into account by the Commission is set out in **section 5** above.

6. CONCLUSION: THE COMMISSION'S FINDINGS AND DETERMINATION

167. The Commission has carefully considered the Material before it.
168. The Commission finds that consent for the Application should be granted for the reasons set out in this statement of reasons, and in summary because:
- the Application has minimal environmental impact for the reasons set out above;
 - the Application is consistent with the objectives of the Mining SEPP, LEP and DCP as outlined in paragraphs 39-41, is a permissible use of the land and the site is suitable for mining as outlined in paragraphs 75-77;
 - the Application is in the public interest because it meets the relevant objects of the Act as outlined in paragraph 143, and the principles of ecological sustainable development as outlined in paragraphs 144-146;
 - the socio-economic contribution is likely to be greater than the continued environmental impacts of mining operations in an already active mine site with no change to the approved mining areas, mining methods or amount of approved material for extraction as outlined in paragraphs 137-139; and
 - had the Applicant made the Application under section 4.55(2) of the EP&A Act, and assuming that the Department complied with the requirements of section 4.55(2)(c) in notifying the application, the Commission would have found that consent for the Application should be granted for the reasons set out above.



Mary O'Kane (Chair)
Chair of the Commission



Andrew Hutton
Member of the Commission



Tony Pearson
Member of the Commission