



Ms Anna Summerhayes
A/Executive Director
NSW Independent Planning Commission
Level 3, 201 Elizabeth Street
Sydney NSW 2000

Dear Ms Summerhayes

**Rix's Creek South Continuation of Mining Project (SSD 6300)
Additional Information**

I am writing to you following the Independent Planning Commission's requests for the Department to provide additional information in relation to the above project, contained in Samantha McLean's letter of 17 July 2019 and Dennis Lee's email of 10 September 2019.

I also refer to Mr Howard Reed's email of 23 July 2019 advising you that the Department intended to submit an addendum to its assessment report regarding the air quality impacts of the project.

The Department has sought to provide a consolidated response to the above and has attached detailed responses to the Commission's questions in **Attachment 1**. The Department's further consideration of air quality impacts is provided in **Attachment 2**.

The Department has also provided revised draft conditions of consent for the recommended Option 2 in **Attachment 3**. The Department considers that the main difference between the recommended conditions and those for Option 1 would relate to biodiversity matters.

If you have any enquiries in relation to this matter, please feel free to contact Matthew Sprott A/Director Resource Assessments on [REDACTED]

Yours sincerely,

Mike Young
A/Executive Director
Energy and Resources

24/9/19.

Attachment 1

Response to questions dated 17 July 2019

1. *The Commission seeks further information from the Department to understand whether the costs discussed in the Department's Assessment Report in response to Recommendation 16, page 28, for Option 1 and Option 2 are in net present value (NPV) terms? Are the anticipated costs over the life of the consent?*

The costs expressed in Table 6 of the Department's Assessment Report are not expressed in NPV terms, as these costs are anticipated to accrue over the life of mining operations, with rehabilitation efforts and associated costs expected to continue following the cessation of mining operations.

Bloomfield however, provided an additional response to the Commission (dated 5 August) that included NPV calculations of the incremental costs for Options 1 and 2, being \$7.9 M NPV and \$1.2 M NPV respectively.

2. *Could the Department please provide to the Commission a copy of Table 7, page 34, that includes Option 1?*

The Department has prepared an updated version of Table 7 of its Assessment Report to include both Options 1 and 2. This updated table is provided at **Attachment 1A** and reflects the total credit requirements provided in Table 4.1 of Appendix H to Bloomfield's Response to the Commission's Review Report.

The Department notes that in response to additional requests for information made by the Commission, Bloomfield provided the Commission with a further detailed breakdown of the staged credit requirements for Option 1 (dated 18 September 2019). The Department notes that the total credits expressed in this additional information are consistent with the updated credits shown in **Attachment 1A**.

3. *The Commission would like to understand what has not been modelled in the cost benefit analysis (CBA)? For example are the following included: the Scope 3 Greenhouse gas emissions assessment, reasonable costs for mine closure, and the additional impact of achievable noise criteria (ANC)?*

Scope 3 Emissions

The Department can confirm that Scope 3 emissions were not included in the CBA. This approach is consistent with the Department's *Technical Notes supporting the Guidelines for the Economic Assessment of Mining and Coal Seam Gas Proposals, 2018*.

Costs for Mine Closure

The costs associated with mine closure were included in the CBA as part of rehabilitation expenditure. These costs are incurred at the completion of mining activities and have been aggregated to include the costs associated with the rehabilitation of land to its final land use as well as the costs associated with decommissioning the operations and any infrastructure that is not approved to be retained on site (including the CHPP, roads, rail lines, buildings, working areas, walls and ramps, plants, waste dumps and dams).

Under the base case scenario, reasonable costs were included for closure and rehabilitation of the existing mine and were considered to occur in full during the last year of production (including any estimates for ongoing third-party management).

As the extended project life allows rehabilitation and mine closure costs to be incurred more progressively over time (and avoids some third party management costs), the CBA

distributed these costs across the expenditure for progressive rehabilitation in each year. This is discussed further in section 3.2.5 of Bloomfield's *Revised Economic Assessment, March 2018*.

Achievable Noise Criteria

The CBA has not included costs associated with adaptive management procedures (ie progressive and temporary shutdown) to achieve the ANC. Bloomfield advised that there is sufficient flexibility in the proposed production schedule to accommodate adaptive management procedures without materially impacting its operations.

The Noise Impact Assessment estimated that these adaptive management procedures would be required for around thirty percent of winter. Higher levels of production could occur outside these winter periods in order to achieve the intended annual production outcomes, if necessary.

Source: Bloomfield's Revised Economic Assessment, (March 2018) and Environmental Noise Assessment (October 2015)

4. Could the Department please clarify for the Commission how the draft conditions of consent were modified in response to the responding agencies' concerns?

The Department's places significant value on consultation with agencies and considers agency feedback on conditions to be an integral part of both the assessment process and the appropriate consideration of regulatory responsibilities.

The Department has prepared a table at **Attachment 1B** detailing how it considered the key recommendations raised by agencies, where it considered that agency advice had already been addressed in the recommended conditions and where further amendments were made to conditions in response to agency feedback. The Department acknowledges that the final recommended conditions do not always reflect agency advice verbatim, however it considers that the intent of the agency advice has been appropriately captured to provide a robust and enforceable instrument under the *Environmental Planning & Assessment Act 1979*.

5. Could the Department please provide a 'track changes' version or table of the draft conditions of consent indicating where a condition has been modified in response to the Commission's Review Report?

The Department wishes to clarify draft conditions were not prepared prior to the Commission's Review Report and that its recommended conditions of consent were drafted during the preparation of its Final Assessment Report.

Consequently, the Department's consideration of the recommendations made in the Commission's Review Report and the additional information provided in Bloomfield's response to the Commission's Review Report.

The Department has provided a summary table indicating how the Review Report recommendations were considered in the draft conditions of consent, at **Attachment 1C**.

6. Could the Department please provide to the Commission a copy of the Statement of Commitments that was provided to the Department by the Applicant on 5 March 2019, as referenced on page 9 of the Department's Assessment Report.

A copy of the Applicant's Statement of Commitments dated 5 March 2019 is provided at **Attachment 1D**.

7. The Commission seeks clarification in relation to the end of mine life date proposed under SSD 6300. Is it 21 years from 24 June 2019 or from the Modification 10 extension date of 24 March 2020?

The proposed duration that Bloomfield is seeking for the project is 21 years of mining from the date of approval of SSD 6300. The Department understands that Bloomfield has confirmed this directly with the Commission in its response of 5 August 2019.

The Department notes that the end date of the existing DA 49/94 (as modified) does not influence with the end date being sought under SSD 6300. Modification 10 to DA 49/94 merely sought to extend the existing operations at the Rix's Creek Mine by a further nine months, to provide continuity of operations whilst SSD 6300 was being determined.

8. The Commission notes that NSW Health indicated concerns in relation to the Project on 21 December 2018. Could the Department please provide to the Commission information about how the concerns raised by NSW Health have been addressed?

NSW Health has previously expressed a preference for the proposal to consider the likely future air quality standards (NEPM goals) for annual average PM₁₀ (ie 20 µ/m³). The Department acknowledges NSW Health's position on this matter but notes that the project must be assessed and determined against the applicable NSW policy, which is the EPA's *Approved Methods for the Modelling and Assessment of Air Pollution in NSW (2016)*.

NSW Health subsequently advised the Department that the concerns of Hunter New England Population Health, particularly in relation to air quality, had been captured in the draft conditions of consent. This was confirmed by NSW Health in the meeting with the Commission on 15 August 2019.

9. Object (e) states: "to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats". The Commission notes that the Application has proposed two options in relation to overburden area emplacement. The Commission would like to understand the Department's preferred option, including which option would be the most desirable excluding economic considerations (i.e. considering only air quality, biodiversity, noise, post-mining optionality etc.)?

The Department considers that differences in air quality, noise and visual impacts between the two options considered in Bloomfield's response to the Commission's Review Report to be relatively minor. The Department considers that Option 2 would result in a lower dump height for the North Pit, would incorporate more natural macro relief features and drainage lines as part of the final landform and would provide a better long-term landform following rehabilitation. On the other hand, Option 1 would provide an improved short to medium term environmental outcome by reducing the area of remnant vegetation to be disturbed by the project.

In this case, the trade-off is between the permanent impacts of increased dump height, visual impacts and landform features of Option 1 and the short to medium term impacts of the increased remnant vegetation disturbance of Option 2. While the Department considers that both options would facilitate sustainable post-mining land use outcomes, it believes that Option 2 would provide the greater likelihood of future beneficial land use opportunities in the long term.

10. The Commission would like to understand the likely greenhouse gas emissions associated with the Project. Could the Department please provide an estimate to the Commission of the Scope 3 emissions for the Project (in quantity and dollars)? The Commission would also like to understand if the Department has a view on whether export

destinations for this Application should be limited to countries that have signed the Paris Agreement?

Bloomfield has advised that Scope 3 emissions for the project were calculated at 71.5 Mt CO_{2-e} over the 21 year project life. Further information relating to greenhouse gas emissions, including the estimated costs of Scope 3 emissions, are contained in:

- Section 1.8 of *Rix's Creek South Continuation Project IPCN Response for the Bloomfield Group (August 2019)*; and
- A letter from Bloomfield to the Department, dated 2 April 2019, titled *Additional information relating to greenhouse gas emissions* (see **Attachment 1E**).

The Department has previously expressed its views on the appropriateness of conditions relating to matters of international trade, in particular through correspondence from its Secretary to the Commission dated 15 August 2019 (see **Attachment 1F**). The decision on whether to impose such a condition is one for the Commission. However, the Department's advice is that for an existing mine, any such condition should be accompanied by a clear inception clause, such as exemption for "all existing contracts".

11. The Commission seeks the Department's view on what regard should be given to the economic scenario where a sudden closure of the mine is required, and rehabilitation and a mine closure plan has not been adequately completed?

- The Commission also seeks the Department's view on how successful rehabilitation outcomes can be integrated into conditions in a sudden closure of the mine scenario?

The Department considers that this economic scenario is addressed and accounted for in the requirement for holders of mining leases to lodge a rehabilitation security deposit with its Division of Resources and Geoscience (DRG).

All mining lease holders are required to lodge a rehabilitation security deposit that must cover the Government's full costs in undertaking rehabilitation in the event of default by the titleholder (refer to Part 12A of the *Mining Act 1992*).

The rehabilitation security deposit is lodged with DRG and can only be released once:

- the rehabilitation objectives and completion criteria have been met;
- all other legal obligations relating to environment and safety have been met; and
- appropriate ongoing management of the site is in place.

If the rehabilitation obligations have not been met to the satisfaction of the Minister or Secretary, then part or all of the security deposit would be forfeited. These funds would then be used by the Government to meet the rehabilitation requirements for the site and achieve the intended rehabilitation outcomes.

In additional, the Department has recommended Bloomfield prepare a Rehabilitation Strategy, detailing the overall long-term rehabilitation objectives and outcomes for the site. This Strategy provides additional strategic guidance for the long-term management of the site over the life of the project and is additional to the Rehabilitation Management Plan, which includes a range of detailed and specific rehabilitation measures to be undertaken on the site as the mine progresses.

Both of these documents set the overarching rehabilitation goals and performance measures for the site and are progressively updated, along with the rehabilitation security deposit, over the life of the mine.

Source of response:

- <https://www.resourcesandgeoscience.nsw.gov.au/miners-and-explorers/applications-and-approvals/mining-and-exploration-in-nsw/rehabilitation-security-deposits>

12. The Commission notes that on page 6 of the KPMG report (appendix J of the Applicant's Response Report) has not fully addressed the Commission's Review Recommendations 21-22, where the Commission recommended a comparison to other coal price forecasts in addition to MQG/World Bank and IMF. Is the Department able to provide further information on why only these forecasts were used, and not other available forecasts? The Commission seeks further information as to what has been included in the environmental externalities?

The Department considers Bloomfield best placed to answer this question. The Department understands that Bloomfield has confirmed this directly with the Commission in Section 1.7 of its additional response of 5 August 2019.

Response to questions dated 10 September 2019.

1. The Department's Final Assessment Report (SSD 6300) Rix's Creek South Continuation of Mining Project discusses both options but the recommended conditions of consent (Appendix C) that relate only to Option 2. We would like to understand as well the Department's view on conditions for Option 1.

As discussed in the Department's Final Assessment Report the Department considered that Option 2 would result in an overall preferred outcome for the project and based its recommendations on this option. The Department has included updated recommended conditions for this option at **Attachment 3**. These updates contemporise the names of government agencies and reflect the additional material above and in **Attachment 2**.

With regard to Option 1, the Department considers the major difference in recommended conditions relates to the quantum and staging of biodiversity credit requirements. The Department notes that this information was provided to the Commission in Bloomfield's response of 5 August 2019 and that the Commission has sought the Environment, Energy and Science Group's advice on these figures. Relevant updates would also need to be made to the figures and plans in Appendices 1-7 to reflect Option 1.

The Department has also considered the potential impacts on the amenity of nearby receivers and maintains there would be relatively negligible differences between the two options from a visual, air quality and noise perspective. While the Department does not consider the minor difference in impacts to affect the overall merits of either project option, should the Commission seek to approve Option 1, it would be advised to review the acquisition and mitigation rights afforded under Conditions D1-D2 to Part D.

2. The Commission is seeking whether there are particular requirements that need further consideration from the Department before granting this Mining Lease? For example, Aboriginal heritage, a mining lease tender process etc.

The Commission notes that section 65 of the Mining Act makes provision for a development consent to be considered prior to issuing a Mining Lease, and the Commission would like to ensure that tenure of the application under consideration is well understood.

Consideration of Aboriginal heritage following the SSD assessment processes must be undertaken in accordance with the requirements of Division 4.7 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Section 65 of the *Mining Act 1992* (Mining Act). Specifically, Division 4.7 EP&A Act includes two requirements that relate to the treatment of additional approvals and authorisations relating to SSD projects.

The first is Section 4.41, which identifies a range of approvals that are integrated into the SSD assessment process and consequently are not required to be separately obtained for the project (eg heritage and water approvals). The second suite of approvals under Section 4.42 comprise those additional approvals that are required for the development to proceed (eg mining lease). These additional approvals cannot be refused and must be granted substantially consistent with a development consent. Additionally, Section 65 of the Mining Act 1992 (Mining Act) requires that a development consent be in place before a mining lease is granted by the Minister.

The integrated nature of the above requirements recognises that detailed consideration of Aboriginal heritage is already undertaken through the SSD assessment process. Notwithstanding, consideration of Aboriginal heritage by the Department's Division of Resources and Geoscience is undertaken during its assessment of an MLA by confirming that a development consent is in place and that the proposed mine is substantially consistent with the development consent for the project.

In applying these requirements to the Rix's Creek South Continuation Project, Bloomfield has already lodged an MLA (ML Application 487) to extend the existing Mining Lease 1432 in a north-westerly direction and notes in Section 7.2.2 of the EIS that MLA 487 would be progressed subject to planning approval. This is consistent with the legislative requirements as Bloomfield is able to lodge a concurrent application for a Mining Lease, but the Division of Resources and Geoscience would not grant the Mining Lease in question until after any approval for SSD 6300 was granted.

Finally, the Department notes that the agencies involved in regulating the above matters (ie the former Heritage Division of OEH and the Division of Resources and Geoscience) have been consulted throughout the assessment process and that the advice provided by these agencies has been considered in the preparation of the Department's assessment and recommended conditions.