



# Nature Conservation Council

The voice for nature in NSW

NSW Independent Planning Commission  
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6th August, 2019

## **Submission: Rix's Creek South Continuation of Mining Project, SSD 6300**

Dear Commissioners,

Thank you for the opportunity to provide comment on the above project. We note the IPC Chair has set a deadline for comment of Tuesday 6/8/19.

The Nature Conservation Council of New South Wales (**NCC**) is the state's peak environment organisation. We represent over 150 environment groups and thousands of supporters across NSW. Together we are dedicated to protecting and conserving the wildlife, landscapes and natural resources of NSW.

### **NCC objects to the proposed Rix's Creek South Project to continue open cut coal mining for a further 21 years from 2020 if approved.**

NCC sent a representative to the IPC public hearing on the Rix's Creek project at Singleton on Monday 29<sup>th</sup> July, 2019. Our representative noted the IPC announcements prior to the hearing, the presentation by the proponent and the audience in the auditorium, which appeared to be heavily slanted towards the mine proposal if the proportion of high visibility shirts was any guide.

Our representative was also able to speak to Hunter Valley community members opposing the project who boycotted the IPC hearing and demonstrated against the project in the presence of the media outside the venue.

While this situation is probably beyond the capacity of the IPC to influence, we believe that the main reason for the boycott of the IPC hearing at Singleton was the fact that community rights to seek a merits appeal to the NSW Land and Environment Court against an unfavourable decision by the IPC acting as consent authority have been removed by NSW Parliament under Section 8.6(3) of the Environmental Planning and Assessment Act 1979 (NSW).

For those who have followed the recent amendments to NSW planning law, this removal of community democratic rights which have existed in the past stand in contrast to one of the objects of the EPA Act, viz 1.3(j):

***“To provide increased opportunity for community participation in environmental planning and assessment”***

Removal of community appeal rights also makes a mockery of the Second Reading Speech to the NSW Legislative Council by the Ministers representative<sup>1</sup> when he claimed that:

***“...key amendments (of the bill) aim to improve the planning system through...improved community confidence and participation...”***

The community boycott of the IPC hearing process at Singleton on 29/7/19 is an excellent example of a lack of community confidence and an unwillingness to participate in a process that is inferior to what their legal rights were under the planning legislation before the IPC was created. Hardly an improvement as was asserted in NSW Parliament.

## **Grounds for NCC Objection to SSD 6300**

1. The Rix’s Creek Continuation proposal includes an Environmental Impact Statement (EIS) which we believe is invalid on environmental grounds, particularly with respect to climate change. The Rix’s Creek Mine Continuation EIS was signed-off (completed by the proponent) on 26<sup>th</sup> October 2015, prior to the globally endorsed Paris Climate Agreement, agreed in December 2015, in force from 4<sup>th</sup> November 2016 and ratified by Australia in November 2016.
2. The proposal is inconsistent with post Paris Agreement trends in coal export markets, especially with respect to thermal coal. These trends have been influenced by the Paris Agreement and climate change trends since 2017, and could not have been taken into account when the EIS was produced prior to October 2016

### **Ground 1:**

NCC cannot understand how the sections of the 2016 Rix’s Creek EIS relating to climate change can be held to be valid environmental impact assessment in the light of the Paris Agreement, the major political and resource industry changes that have followed it and their impact on world politics and fossil

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<sup>1</sup> NSW Legislative Council Hansard, 18 October 2017 - Environmental Planning and Assessment Amendment Bill 2017, Second Reading Speech

fuel markets. None of these had occurred at the time the Rix's Creek EIS was signed off.

## **Ground 2:**

The public hearing at Singleton on 29/7/19 was told by the proponent Bloomfield Group that the markets for the coal proposed to be mined from the Rix's Creek Continuation were:

- Japan - metallurgical (coking) and thermal coal
- Taiwan - metallurgical coal (see IPC transcript)
- South Korea - thermal coal

We were further advised that 40% of the coal to be mined was thermal coal, and the remaining 60% was coking coal.

To assess the true figures of export coal demand in these 3 export markets (as opposed to the spin of continued growth in coal export demand consistently produced by the NSW coal industry and the NSW Department of Planning), NCC consulted reports from the Institute for Energy Economics and Financial Analysis (IEEFA). IEEFA was quoted with favour as a reliable data source in the NSW Land and Environment Court (LEC) decision on the Rocky Hill Project considered by the Court earlier in 2019<sup>2</sup>.

In the Rocky Hill decision, Mr Buckley for IEEFA stated that according to the International Energy Agency's World Energy Outlook 2017, a decline in global metallurgical coal exports was forecast, representing a drop of 39% relative to 2016 levels by 2040<sup>3</sup>. It is likely that this trend would be reflected in a reduced demand from Japan and Taiwan for metallurgical coal over the period of the proposed Rix's Creek Mine Extension (2020-2041).

IEEFA is much more specific in documenting a decline in **thermal** coal demand in Japan and South Korea over the 2020 - 2041 period the Rix's Creek mine would be operational.

### **Japan:**

IEEFA reports that 44.5% of all NSW thermal coal exports in 2016/17 went to Japan<sup>4</sup>. The report states that Japan's coal demand is forecast to drop 71% from 168Mt in 2016 to 49Mt by 2040

Even under a business-as-usual scenario, Japan's coal fired power capacity will go into a decline from 2023, with plant closures accelerating in the 2030's and early 2040's<sup>5</sup>.

### **South Korea:**

12.7% of NSW thermal coal exports went to South Korea in 2016/2017. In April 2019, IEEFA reported that the South Korean government was raising

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<sup>2</sup> Gloucester Resources Ltd v Minister for Planning [2019] NSWLEC 7, @ 468-479.

<sup>3</sup> Gloucester Resources @ 469

<sup>4</sup> <http://ieefa.org/wp-content/uploads/2018/10/NSW-Coal-Exports-November-2018.pdf>

<sup>5</sup> [http://ieefa.org/wp-content/uploads/2019/07/Japan\\_Coal\\_July-2019.pdf](http://ieefa.org/wp-content/uploads/2019/07/Japan_Coal_July-2019.pdf)

the coal import tax by a further 28% and cutting LNG import tax by 75% in an effort to reduce reliance on coal<sup>6</sup>. The 2017 plan for the South Korean electricity system called for dramatically reduced reliance on coal and nuclear. Under the plan, coal's share of the power mix was expected to fall from 45.3% in 2017 to 36.1% by 2030.

NCC suggests none of these trends were picked up by the Rix's Creek EIS, which was predicated on continued growth in the thermal coal export markets to these three key countries. We contend that the EIS is invalid with respect to its attempted argument of growing markets to justify the mining of more coal from Rix's Creek.

IEEFA concludes in July 2019<sup>7</sup> that:

***Continuing to approve new thermal coal mines in Australia will add more production into an oversupplied market. A cessation of new thermal coal mine approvals represents a rational economic step in the face of a declining market.***

**NCC agrees with this position and recommends that IPC refuse the Rix's Creek proposal.**

We trust the commission finds this submission helpful. If you would like any further details regarding this project, please don't hesitate to contact me.

Warm regards,

A handwritten signature in black ink, appearing to read 'B. Smith', is centered on a white rectangular background.

Dr Brad Smith  
on behalf of the NSW Nature Conservation Council

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<sup>6</sup> [http://ieefa.org/wp-content/uploads/2019/04/South-Korea-Shifting-Further-Away-from-Coal\\_April-2019.pdf](http://ieefa.org/wp-content/uploads/2019/04/South-Korea-Shifting-Further-Away-from-Coal_April-2019.pdf)

<sup>7</sup> [http://ieefa.org/wp-content/uploads/2019/07/Japan\\_Coal\\_July-2019.pdf](http://ieefa.org/wp-content/uploads/2019/07/Japan_Coal_July-2019.pdf)