



8th of June 2018

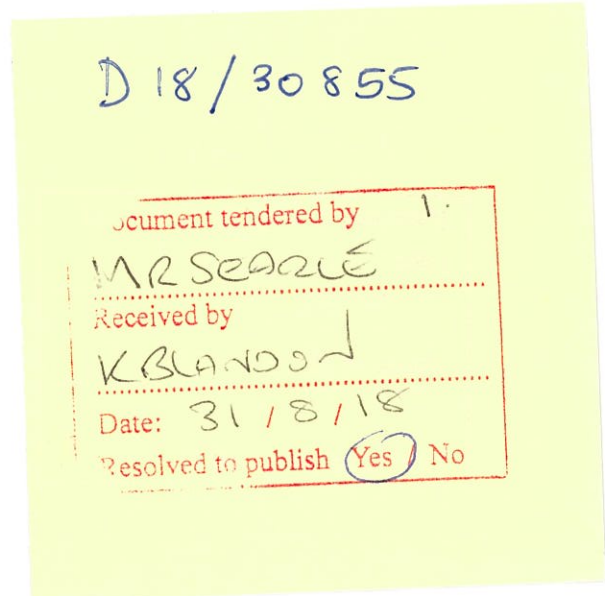
Lee Shearer

Resources Regulator

Resources and Energy Division

Department of Planning and Environment

lee.shearer@industry.nsw.gov.au



Dear Ms Shearer,

I write in relation to Ridgелands Resources and its compliance with clause 58 of Exploration License 8064 in the Upper Hunter Valley of NSW.

In this connection, I understand there was a variation or purported variation by the department, or officials within it, reducing the EL condition 58 on Ridgелands from \$5 million down to \$500,000. On this being discovered, the original obligation was either reinstated or the variation found to be invalid/improper or illegal. I want to know what occurred in relation to these matters within the department, how it was able to come about and what actions have occurred to address it.

Please find attached to this correspondence a series of questions asked in the Parliament of the Minister for Resources, the Hon Don Harwin MLC, regarding issues associated with Ridgелands and EL 8064 which indicates:

- i. That the issue of Ridgелand's non-compliance with EL condition 58 has been given to the Resources Regulator for investigation and possible enforcement actions; and
- ii. That the issue of how the department came to vary the \$5 million Community Fund obligation down to \$500,000 has also been referred to the Resources Regulator for investigation and action.

In relation to the first matter, can you confirm your office has investigated the issue of Ridgелand's non-compliance with condition 58 of EL 8065? Has the investigation been completed and what enforcement or other actions has your office determined should be pursued, if any? If your investigation is not yet complete, can you indicate when it will be?

In relation to the second matter, has the issue of how the department came to vary Ridgелand's \$5 million Community Fund obligation down to \$500,000 been referred to the Resources Regulator for

investigation and possible action? If not, is the Resources Regulator the appropriate body to have this referral? If not, what in your view is the proper body to investigate this serious matter?

Please also find accompanying this correspondence copies of emails I have received disclosing communication within the department, which reveal:

- That there was an *'inadvertent variation'* by the department (Paul Dale email of 3 August 2017)
- That this was caused by the department being *'unaware'* of condition 58 of the EL (Paul Dale email of 3 August 2017), despite being the agency that (presumably) proposed the condition and has responsibility for ensuring such conditions are met; and
- This explanation/excuse was not accepted by the former Divisional Deputy Secretary, Ms Kylie Hargreaves (Hargreaves email of 4 August 2017).


Subsequent to these communications, Ms Hargreaves left her position with the department in circumstances which have not been publicly explained, despite being pursued in the Parliament (see Hansard records of Question Time in the Legislative Council).

One possible construction of this information is that the variation of the Community Fund obligation came to light and that Ms Hargreaves did not accept the frankly unlikely explanation proffered, which led to her leaving the department, either voluntarily or involuntarily.

Can you inform me as to what occurred within the department in relation to these matters, and why Ms Hargreaves came to depart her employment?

I look forward to your early response on each of these matters and am happy to discuss if that would be useful.

Regards,



The Hon. Adam Searle MLC

Leader of the Opposition in the Legislative Council |

Shadow Minister for Industry, Resources and Energy |

Shadow Minister for Industrial Relations |

Level 11, NSW Parliament House | Macquarie Street, [SYDNEY NSW 2000](#)

P [\(02\) 9230 2160](tel:(02)92302160) | F [\(02\) 9230 2522](tel:(02)92302522) | Eadam.searle@parliament.nsw.gov.au

MOBILE: 0418 381 636

Legislative Council Hansard – 14 February 2018 – Proof

DEPARTMENT OF PLANNING AND ENVIRONMENT STAFFING

The Hon. ADAM SEARLE (14:30): I direct my question to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Will the Minister confirm that Ms Kylie Hargreaves, the Deputy Secretary of the Division of Resources and Geoscience at the New South Wales Department of Planning and Environment, has resigned her position? Will he inform the House why?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:30): Ms Kylie Hargreaves has left her position as Deputy Secretary of the Division of Resources and Geoscience. Decisions as to the staffing of my departments at levels below departmental secretary are for the departmental secretary to make. I have no other comment to make about that; they are matters for Carolyn McNally, the Secretary of the Department.

Legislative Council Hansard – 14 February 2018 – Proof

DEPARTMENT OF PLANNING AND ENVIRONMENT STAFFING AND RIDGELANDS RESOURCES

The Hon. WALT SECORD (14:38): I direct my question to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Why did the Government fail to enforce the condition on Ridgeland Resources to set up a \$5 million community fund—a key condition of exploration licence No. 8954—and was this connected to Deputy Secretary Kylie Hargreaves' departure?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:38): The Hon. Walt Secord's question makes assertions that are entirely wrong. There has also been media attention regarding Ridgeland Resources. I make it clear that as of today Ridgeland Resources is yet to lodge any renewal application for consideration. Therefore, there is nothing before the Government for consideration in terms of an exploration licence renewal. Should a valid application be lodged before the current term of the exploration licence expires on 27 February 2018, the titleholder's performance against all conditions and requirements of the previous term will be taken into careful consideration. This includes any and all actions taken in relation to the establishment and operation of a community fund.

I am advised that this \$5 million community fund has been established and that the money has been paid in full. I am further advised that Ridgeland Resources has received 18 applications relating to the fund, nine of which have been approved. Notwithstanding the establishment of the fund, the Resources Regulator is continuing its investigation, which commenced in August last year, into whether Ridgeland Resources has contravened its obligations under the Mining Act.

The simple fact is that when this Government grants a licence for exploration or extraction, it expects all conditions of the licence to be delivered, and it will ensure that that happens. In fact, it was this Government that established the New South Wales Resources Regulator to ensure that all conditions were followed. During the 16 years that members opposite were in government there were six resources Ministers, two of whom held office for eight years. As we all know, they are currently serving at Her Majesty's pleasure. Frankly, I find it a little unctuous to be fielding questions like this from the Deputy Leader of the Opposition.

The Hon. Walt Secord: You are forgetting the part about Kylie Hargreaves.

The Hon. DON HARWIN: The member is suggesting some sort of issue regarding Ridgeland. I will be clear and repeat what I said earlier: The Resources Regulator—who is part of the Resources portfolio—started an investigation into Ridgeland Resources' compliance last August, the \$5 million is now in the fund, and applications have been received and approved.

The Hon. Walt Secord: You are not answering the Kylie part.

The Hon. DON HARWIN: In terms of Ms Hargreaves, I refer the Deputy Leader of the Opposition to what I said in my earlier answer.

Legislative Council Hansard – 14 February 2018 – Proof

RIDGELANDS AND COMMUNITY FUND

The Hon. PENNY SHARPE (14:52): My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Will the Minister assure the House that no-one in his agency attempted to reduce, or supported reducing, the obligation on Ridgeland, and can the Minister confirm when the \$5 million was deposited into the community fund?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts)(14:52): I thank the Hon. Penny Sharpe for her question. Rather than immediately responding to the two aspects of her question, I will take the question on notice and get an exact answer with the relevant information that the honourable member seeks.

Legislative Council Hansard – 14 February 2018 – Proof

DEPARTMENT OF RESOURCES AND ENERGY

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:30): In response to an earlier question from the Hon. Penny Sharpe, I am advised that Ridgeland's paid the entire amount of \$5 million into the community fund on 9 February 2018.

Legislative Council Hansard – 14 March 2018 – Proof

RIDGELANDS RESOURCES EXPLORATION LICENCE

The Hon. LYNDA VOLTZ (15:14): My question is directed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Given that Ridgeland Resources has failed to comply with its current licence conditions on its mining operations in the Upper Hunter, will the Minister inform the House whether the Government going to renew its licence? If it is, how will the Minister ensure that his department enforces conditions that were imposed as part of its approval?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:14): I will attempt to answer this within the four minutes, but it is a complicated matter. Ridgeland Resources holds exploration licence 8064 in the Upper Hunter Valley near Muswellbrook. In August 2017, the Government became aware that Ridgeland had not established the \$5 million community fund required to be created as soon as reasonably practical under its exploration licence.

The matter was immediately referred to the NSW Resources Regulator to determine if there had been a breach of the licence conditions. That investigation is ongoing, and will soon conclude. If non-compliance by Ridgeland is established a range of penalties and prosecutorial options are available. Ridgeland's exploration licence was due to expire on 27 February 2018. On 23 February 2018, Ridgeland Resources lodged a renewal application for 100 per cent of the existing area of exploration licence 8064 for a term of six years.

I have seen comments in the media that imply that the renewal application was unusually late. However, I am advised that it is quite common for exploration renewals to be submitted shortly prior to the expiry of their current term. The renewal application is being assessed by resources and geosciences staff within the Department of Planning and Environment in accordance with the Mining Act 1992, relevant policies, guidelines and procedures, after which a recommendation will be made for me as Minister for Resources to consider. Under the provisions of the Mining Act, the existing licences and its conditions remain in force until the renewal application is determined. In assessing the renewal application the department will consider the licence holder's performance against all conditions and requirements of the previous five-year term. This includes the licence condition requiring the establishment of a \$5 million community fund as soon as reasonably practicable.

Legislative Council Hansard – 07 June 2018 – Proof

RIDGELANDS RESOURCES COMMUNITY FUND

The Hon. ADAM SEARLE (14:30): My question without notice is directed to the Leader of the Government, the Minister for Resources, and Minister for Energy and Utilities. Given his previous answers on Ridgeland's licence requirements, which included setting up a \$5 million community fund, what is his response to emails from the resources and energy division of the NSW Department of the Planning and Environment, dated 3 August 2017, which states, "We've inadvertently approved the variation of the community fund without knowledge of the special condition 58."? Given this inadvertent approval led to the community fund obligation being reduced to just \$500,000, why was his department not aware of the licence condition?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:31): What matters is that the money has been paid in full. In fact, the cheques are going out the door as we speak. I imagine the Mayor of Muswellbrook is very happy about that. When I said "the cheques are going out the door", of course I was speaking figuratively. The reality is that on 14 February the Hon. Penny Sharpe asked me a question about the department's actions, which I took on notice. Under condition 58 of its exploration licence, Ridgeland's was required to complete the exploration work program on 27 February 2018. On 27 March 2017, Ridgeland's wrote to the department to request—no, that is not what I want to go through. We are not having a good start this afternoon. It has been a long week.

The Hon. Walt Secord: Point of order—

The PRESIDENT: Order! I cannot hear the point of order of the Deputy Leader of the Opposition with so much chatter coming from members behind him. The Deputy Leader of the Opposition is entitled to be heard in silence, particularly from his own colleagues.

The Hon. Walt Secord: I seek leave to allow the Leader of the Government to table his notes.

The PRESIDENT: There is no point of order. Has the Leader of the Government finished his answer?

The Hon. DON HARWIN: No. The \$5 million has been paid into the community fund and it is being dispersed. A number of people have applied for grants and are receiving them. This is not a government fund. It is a fund that Ridgeland's set up. The money is being dispersed. The council has a representative on it and the community is benefiting as a result.

The Hon. ADAM SEARLE (14:33): I ask a supplementary question. Will the Minister elucidate the part of his answer when he explained the inadvertent approval and why the department was unaware of the condition that was implemented?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:33): I refer the Hon. Adam Searle to my previous answer.

Legislative Council Hansard – 07 June 2018 – Proof

RIDGELANDS RESOURCES COMMUNITY FUND

The Hon. WALT SECORD (14:38): My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, and Leader of the Government. What investigations have taken place as a result of the Ridgeland's issue being raised with the Minister on 14 February 2018? How is it possible that a government agency was able to reduce a community fund from \$5 million to \$500,000?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:41): The requirement for Ridgeland's to establish a \$5 million community fund is enforceable under condition 58 of EL8064.

As I previously told the House, I am advised that Ridgeland's Coal Resources has established a \$5 million community fund. I am further advised that Ridgeland's received 18 applications under the first round of funding, nine of which were approved and paid for at a cost of \$548,565. A second round of applications were considered by the fund committee on 28 May, with more than 40 applications assessed, 27 of which were approved to the total value of \$4,452,628. This means that the entire \$5 million has been committed to the community projects as I informed the House earlier.

Notwithstanding that the community fund has finally established, the Resources Regulator is continuing its investigation into Ridgeland's. The simple fact is that when this Government grants a licence for exploration or extraction, it expects and will ensure that all conditions of that licence are met. In fact, it was this Government that established the Resources Regulator to ensure operators meet their licence conditions. Gone are the days of the Labor Government's approach to mining regulation. I am always surprised when the Labor Party has the audacity to come into this place and talk about the regulation of mining after its record in its time in office. We will not be judged by its degraded standards. Given that the Resource Regulator has yet to complete its investigation, it is inappropriate for me to make further comment.

The Hon. WALT SECORD (14:41): I ask a supplementary question. Will the Minister elucidate his answer in regard to the Resources Regulator investigation? When will that investigation be completed? Will it be released publicly?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:41): If the Hon. Walt Secord had listened he would have heard that the Resources Regulator has yet to complete its investigation. I will not make any other comment until the investigation is finished.

Legislative Council Hansard – 07 June 2018 – Proof

RIDGELANDS COMMUNITY FUND

The Hon. PENNY SHARPE (14:56): My question is directed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. In relation to the Ridgeland Community Fund, departmental officials said that the change was "inadvertent". In an email dated 4 August 2017 from Ms Kylie Hargreaves, then Deputy Secretary to the Division of Resources and Geosciences, she states that she "totally disagrees" with this excuse from departmental officials. What really happened with this fund?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:56): I am advised that in August 2017, the Government became aware that Ridgeland had not established the \$5 million community fund. When the Government became aware of that, the matter was immediately referred to the Resources Regulator to determine whether there had been a breach of the licence conditions. Following that, Ridgeland deposited \$5 million into the community fund through three payments comprising \$500,000 on 1 October 2017, \$500,000 on 25 January 2018, and \$4 million on 9 February 2018. As I informed the House earlier, the Resources Regulator is continuing with its investigation into this matter. If noncompliance by Ridgeland is established, a range of penalties and prosecutorial options are available.

The Hon. PENNY SHARPE (14:57): I ask a supplementary question. My question related to how this mistake was made internally within the department. In his answer, will the Minister elucidate investigations within the department itself into how it allowed this licence condition to—

The PRESIDENT: The Minister will resume his seat. I would prefer that Ministers do not stand until the member asking the question has finished doing so. If the Minister wants to call a point of order, he can do so when the question is asked.

The Hon. Don Harwin: Point of order: The question is essentially the same as the question that was previously asked. There is nothing new in it and therefore it is not a supplementary question.

The PRESIDENT: The Hon. Penny Sharpe will wait until the Minister finishes speaking before standing. As I indicated yesterday, this continual jumping up and down when a member is speaking makes it incredibly difficult for me.

The Hon. PENNY SHARPE: I believe that the supplementary question is in order and I am seeking an elucidation. The Minister spoke about investigations into this matter and I am seeking an elucidation about what is happening within his own department—not what has been referred to the regulator. That is a separate issue. He canvassed both of those matters within his answer, and I am seeking an elucidation on the actions that have been taken internally within his department.

The PRESIDENT: The Hon. Penny Sharpe has, in effect, simply repeated her question again as part of her request for elucidation. It is not an appropriate supplementary question and I will not allow it.