

## *“Reclaiming our Valley”*

### Hunter Communities Network

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Friday 4 November 2016

### **SUBMISSION**

Wambo Mine – MOD 12 – Southern Longwall Modifications – D435/16

#### **Introduction**

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

HCN lodged a submission of objection to the Wambo Mine MOD 12 (MOD 12) development application in May 2016.

The proposal was on public exhibition for only three weeks from 22 April to 13 May. This gave the community very little time to digest and respond to the complexity of issues associated with the Wambo Mine and this next expansion proposal.

HCN has major concerns about MOD 12 and considers the footprint to be a significant change to the current mining operations approved in 2004. This submission has reviewed the Planning NSW Environmental Assessment Report (the report) and raises a number of key issues that need to be addressed.

We also wish to raise the Planning Assessment Commission’s (PAC) attention to the ongoing subsidence impacts occurring on private property after a period of 20 years post longwall mining operations. These impacts have not been addressed by Wambo Mine and demonstrate the intensity of long term mining impacts in the landscape.

The issue of subsidence impacts over time has not been properly addressed in the MOD 12 Environmental Assessment Report (EA) or the Planning NSW report.

HCN does not support the application to have the open cut mine operations extended by another 3 years to 2020. The lack of certainty surrounding mine closures in the Hunter Region is an ongoing issue that needs to be addressed in the NSW planning system.

Finally, HCN has concerns about the proponent being a fit and proper person to hold a mining lease under the NSW *Mining Act 1992*.

### **Significant changes to mining operations**

The MOD 12 proposal was initially lodged with Planning NSW in 2012. Another three modifications were subsequently approved including six additional longwall panels and an increase in ROM coal production. The cumulative impact of these ongoing modifications has not been adequately identified or assessed.

HCN considers that the MOD 12 proposal to increase the mine footprint with 7 new longwall panels in Area 3, 8 new longwall panels closer to the surface in Area 1 and the reconfiguration of 7 approved longwalls and 6 new longwall panels in Area 2 is a major change to the current mine approval.

The area of potential subsidence impact will more than double from the currently approved 860 ha to 1700 ha with 185 ha of new land to be directly impacted by mining.<sup>1</sup>

The impacts of subsidence from MOD 12 are predicted to increase in a number of areas. These include the steep slopes beneath the Wollemi escarpment<sup>2</sup>, Wambo and Stony Creeks<sup>3</sup> and the North Wambo Creek diversion.<sup>4</sup>

The combined peak predicted inflow rate also demonstrates an increase in daily water interceptions.<sup>5</sup>

The proposal also includes 4 new ventilation shafts and relocation of a fifth approved shaft plus 2 gas plants for the flaring of methane with associated roads and surface disturbance. The location of this infrastructure has not been identified. This disturbance footprint is unknown and not assessed.

HCN considers that the proposed modification is outside the scope of the former section 75W of the *Environment Planning and Assessment Act 1979* and should be assessed and determined as a new project under Part 4 Division 4.1.

We consider that MOD 12 has such serious adverse environmental impacts that it is inappropriate to characterise it as an s 75W modification. The particular test from the Court of

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<sup>1</sup> Environment Assessment Report, October 2016, Planning NSW p15

<sup>2</sup> Ibid Table 7 p 17

<sup>3</sup> Ibid Table 8 p 23

<sup>4</sup> Ibid Table 9 p 25

<sup>5</sup> Ibid p 22

Appeal's decision in *Barrick Australia Ltd v Williams* is whether “*the modification of an approval was something intended to have limited environmental consequences beyond those which have been the subject of assessment*”.

We note that the Planning NSW letter of referral to the PAC on 18 October 2016 describes MOD 12 as ‘a more economical and efficient’ layout of the currently approved mine. However, the Planning NSW report fails to adequately consider the scale of the proposed changes and the regional significance of the environmental impacts.

Our submission of objection highlighted the issue of cumulative impact with this major change to the mine operations. The report acknowledges that there is a regional zone of depresurisation in the coal measures within the Wambo area and adjoining mining operations.<sup>6</sup> Also that permanent changes in hydraulic conductivity and storage will occur with subsidence.<sup>7</sup>

The report considers that the potential for hydraulic connectivity requires further consideration.<sup>8</sup>

Throughout the report Planning NSW depends on the currently approved environmental impacts that were assessed in 2003. A number of substantial expansions of mining activity has occurred in the Wambo Mine area since that time.

HCN considers that the cumulative environmental impacts of mining in this area of the Hunter, particularly on water sources, biodiversity, community health and social fabric, Aboriginal cultural heritage and in the case of Wambo Mine, European cultural heritage, have not been assessed with any rigour.

## **Extraction Plan**

We are particularly concerned that the assessment of most of the environmental impacts of MOD 12 are proposed to occur after approval in the development of the Extraction Plan.

The report identifies that a number of key issues are left to be considered in the Extraction Plan. These include subsidence impacts on:

- Farm-related facilities including fences, dams and groundwater bores
- Cliffs associated with the Wollemi escarpment
- Steep slopes beneath the Wollemi escarpment including surface cracking, compression heaving and erosion.
- Wollemi National Park
- Vertical hydraulic connectivity of groundwater

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<sup>6</sup> Ibid p 21

<sup>7</sup> Ibid

<sup>8</sup> Ibid p 26

- Surface water sources including ponding, flooding, erosion, scouring, cracking creek beds and fracturing bedrock
- Vegetation and Goundwater Dependent Ecosystems

The Extraction Plan is to include impact assessment, monitoring, mitigation and remediation of all water sources.

The location of gas management infrastructure including 5 ventilation shafts, 2 centralised gas plants, gas drainage bores and associated access tracks are also to be provided in the Extraction Plan and Flora and Fauna Management Plan prior to commencement of operations.

HCN is of the strong opinion that this assessment information should have been provided in the MOD 12 EA. The PAC and the public must have access to this information to adequately understand the significance of the impacts.

There is no process in place to prevent impacts that are greater than those predicted in the very limited assessment undertaken for MOD 12 as appeared for community comment. There is no public consultation process in regard to the development of the Extraction Plan.

HCN regards the proposal to leave key areas of impact for assessment after approval is not compliant with the objects of the *Environmental Planning and Assessment Act 1979*, particularly for a project with this scale of impact over such a large area.

### **Water source impacts**

Of particular concern is the potential risk of exacerbated fracturing caused by the proposed shift from the deeper approved Bowfield Seam to the shallower Woodlands Hill Seam. The DPI Water advice that as fracture width doubles, the potential flow volume is cubed<sup>9</sup> is significant and requires further investigation.

HCN fails to understand how Planning NSW can come to the conclusion that *‘there is no potential for increased flux of more saline water from the Permian strata to the alluvium’*<sup>10</sup> while acknowledging that the proposal would result in *‘subsidence-induced fracturing and increased hydrological connectivity’*.

The increase in fracturing can cause increases the *‘ability to transmit water upwards to the alluvium could increase exponentially over the long term’*<sup>11</sup> This is a significant impact that has not been adequately assessed.

HCN is particularly concerned that Planning NSW and DPI Water predominantly rely on available groundwater modelling<sup>12</sup> that has been produced on behalf of the proponent.

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<sup>9</sup> Ibid p 19

<sup>10</sup> Ibid p 32

<sup>11</sup> Ibid p 19

<sup>12</sup> Ibid p 19

This is a critical issue that must be urgently addressed. The impacts of mining on the groundwater and surface water systems in this area of the Hunter catchment are profound and must be independently assessed before greater cumulative impact can be considered.

The fact that Wollombi Brook has changed from a gaining stream to a losing stream ‘*due to the complex history of mining in the area*’<sup>13</sup> is a significant issue that cannot be ignored.

It is of note that the Independent Expert Science Committee (IESC) has identified that key potential impacts of the proposal as:

- Altered hydrology with surface water features due to subsidence, cracking and ponding, groundwater drawdown and potential leakage from South Wambo Dam
- Impacts to vegetation, especially Ground Water Dependent Ecosystems (GDEs) overlying longwalls due to subsidence, ponding and potential lowering of the shallow groundwater table
- Impacts to surface water quality due to the discharge of mine water and increased sedimentation and erosion
- Impacts to aquatic biota and subsurface fauna (eg stygofauna) due to altered groundwater tables, creek hydrology (especially low flows) and impaired water quality (eg fine sediments, contaminants)<sup>14</sup>

The IESC identifies a range of information gaps in the MOD 12 EA that limits their ability to adequately assess the significance of the impacts of the proposal. HCN contends that the PAC is in a similar position and has not been provided with adequate information to make a final determination.

The Planning NSW recommendation to approve the proposal is also based on limited information particularly relating to impacts on water sources. The reliance on proponent funded water models is inappropriate.

The issue of calibration of the groundwater model to reflect all recent monitoring results is a critical issue, as well as an independent review of the model. HCN does not consider Dr Franz Kalf to be an independent groundwater expert because of a conflict of interest caused through his regular direct employment by the mining industry.

HCN does not support the Planning NSW position that the proponent’s failure to provide additional paired monitoring bores within the interburden aquifer at sites P114 and P116 is independent of MOD 12<sup>15</sup>.

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<sup>13</sup> Ibid p30

<sup>14</sup> Appendix E, IESC Advice and WCPL’s response P 2

<sup>15</sup> Environment Assessment Report, October 2016, Planning NSW p18

The impacts of current mining operations across the Wambo Mine must be adequately monitored and reported before additional impacts on the scale of MOD 12 can be considered.

HCN considers the cumulative impact of the Wambo Mine operations on surrounding water sources to be significant and should not be increased.

The long term impacts of undermining Wambo Creek have not been adequately regulated by Planning NSW and the mine owners have consistently failed to meet conditions and agreements relating to past damage to water sources and water availability on private property.

The PAC must consider all issues relating to the mine operations to properly assess cumulative impact on water sources at both the local and regional level.

### **Extension of Open Cut Operations**

HCN does not support the proposed extension of time to complete the approved Wambo open cut extractions. The rehabilitation of the mine site should have commenced towards completion and has not progressed as approved under DA 305-7-2003.

Communities in the Hunter are offered no certainty of approved mine closures in the current planning system. The ability for the Upper Hunter economy to commence the necessary transition to non-mining related opportunities is inhibited by the constant change to existing mining approvals that relate entirely to the economic needs of the mining industry with a disbenefit of other sectors.

The justification for the open cut extension does not explain why the approved extraction of coal until 2017 has not been met. This indicates that past predictions of economic benefit of royalties from open cut coal extraction has not occurred. The Planning NSW does not appear to hold the company accountable for this poor economic performance.

HCN considers that the long term liability of responsible mine rehabilitation must be met and should not be further delayed by ongoing extensions of time to extract coal already approved within a clear final date.

This ongoing uncertainty and prevention of clear opportunities to develop regional diversification is hindering the future viability of the Hunter Region.

### **Fit and Proper Person**

HCN lodged a complaint with the NSW Minister for Mining in September 2016 through Environment Justice Australia in regard to Peabody Energy's fit and proper status to hold a mining lease under the NSW *Mining Act 1992*. (letter attached)

The complaint and request for a review outlines concerns with the financial capacity of Peabody Energy to continue operating Wambo Mine and other mines in NSW.

These concerns are in regard to the relationship of the Peabody Australia Holdco Pty Ltd with the parent company that filed for Chapter 11 bankruptcy in the US in April 2016. There are serious issues with the available use of a \$250 million loan that is for operational liquidity not for capital expenditure as required for Wambo MOD 12.

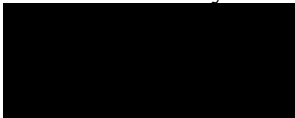
There has been no response to this correspondence to date and HCN recommends that the PAC follow up with the NSW Minister for Mining to ascertain the outcome of any review conducted into this matter.

Recommendations:

1. That the proposal not be approved as an s75W project
2. That the subsidence model and groundwater model be independently reviewed by consultants not associated with the mining industry
3. That the PAC require the Wambo open cut mine be completed as currently approved
4. That the PAC follow up the fit and proper status of Peabody Energy with the NSW Minister for Mining.

For more information about this submission, please contact me on 0428 817 282

Yours sincerely

A black rectangular box redacting the signature of Bev Smiles.

Bev Smiles  
Convenor

Attachment: Letter from Environment Justice Australia to Minister for Mining