

ADDRESS TO PLANNING/ASSESSMENT COMMISSION ON WALARAH 2

Wyong April 5th 2017

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THE PROCESS

When Alan Hayes, Warwick O'Rourke and myself were battling away on the Wyong Coal Community Liaison Committee a few years ago often the Department officers would get a bit heated with our questioning. Ron Hansen, a consultant on the committee, remonstrated one day.....

"Look...the role of the community members on this committee is to disseminate information to the community, not to analyse reports....there are experts doing that!"

All we can say is that the experts have succeeded in taking this mine application on an 11 year journey of contradiction, ham-fistedness and total lack of concern for the community or the likely result of their actions. They still deny debating the plan in open community forum.

Firstly may I let the Commission know what sort of antics that we have had to endure from the Company beyond their glossy brochure campaign which has permeated the area for the last 11 years.

In the company's Winter 2006 brochure they state;

"When crossing deep beneath the Dooralong Valley floodplain, which is necessary to access coal reserves within the surrounding State Forest, the mine design has been selected to reduce the subsidence effects. Such subsidence protection zones have been included in both the Yarramalong and Dooralong Valleys as well as the Hue Hue residential area".

This indicates to the public that they only want to get to the forests yet half of the mine is under 245 properties and road infrastructure. And the subsidence is going to be large and unknown especially now that they have chosen to experiment on chain pillars yielding and second workings of the coal seams as opposed to their original plan of retaining pillars to shore up the valley floors. Experimentation it certainly is.

Some of the subsidence figures from the EIS Appendix H are...1.75 metre drop for Jilliby Road, 2 metre fall for Little Jilliby Flat, up to 2.3 metres for a home in Beavan's Lane and generally 2.6 metre fall for the forested hills.>2

Yes, so far as Hue Hue Mine Subsidence District is concerned, there was protection established by the then Minister in 1988. We will come to that later. To our knowledge there has not been no protection established over the valley region.

Another example of misinformation was in their brochure of May 2013. I quote:

"The only direct impacts from the Project will occur on suitably zoned land generally owned by W2CP at Buttonderry and Tooheys Road. A ventilation shaft will be constructed after year 10 on a small area of state Forest land."

And then we get other pearls from the Planning department. Their public statement to the media in May 2013 says;

"The mining area is predominantly under Wyong State Forest."

A note on the distribution for the Department's 2013 Draft Conditions says:

"Please note that the draft conditions are to be kept confidential"...we were always outside waiting to analyse, despite the culture within.

Yet of course we find that the current Conditions applying are also "Draft".

When the Office of Environment and Heritage in 2013 were dragging their feet especially on the issue of massive damage within side the Jilliby Conservation Area and its effect on various fauna and flora and streams, they said that the longwalls in that area should not form part of this consent as agreed..

"OEH (Office of Environment and Heritage) believes that the location of the unapproved longwalls should not be shown but that the boundary of the area intended for further development should still be indicated".

They were being pushed hard by Howard Reed, Manager of Mining projects at the Department of Planning...he says in his long email to OEH (Office of Environment and Heritage)two weeks later on 18th December 2013

“Planning is unaware of any proposal to amend the nature of the DA in the area of Jilliby SCA(State Conservation Area). If the PAC(Planning and Assessment Commission) does propose any such amendments

(however unlikely), then Planning would consult with OEH over their acceptability. (We assume he means acceptable to Planning)

“There are two ways that OEH can progress this matter. Either landowner’s consent from the Minister, or a ‘letter of comfort’, with the matter to be finalised following the PAC’s review”.

“Planning would be pleased if this matter could be progressed by either one of these means prior to Christmas, which will provide a substantial level of comfort to the principals behind WACJV, in particular Kores.”

A month earlier Wallarah 2 Coal Project had been quicker off the mark by writing to the Minister for the Environment Robyn Parker quoting:

“Part of the coal resource that is proposed to be mined by the Project lies beneath the Jilliby SCA. ...Because the underground mining operations will be conducted at a depth in excess of 50m,the Project’s longwall operations do not occur within the Jilliby SCA”.

Anyway W2 ‘s Kenny Barry goes on to say;

“I have taken the indulgence of drafting a template letter of a kind which we need you to sign and forward to your colleague, the Minister for Planning & Infrastructure.”

In all this, Commissioners, I am trying to demonstrate that when the coal mining industry gets together with planning in this state, powerful things happen. More often than not, people, their homes and properties, water resources, streams and natural areas and habitats suffer terminal damage. This collateral damage which happens all over NSW is not factored into the cost/benefit analysis. The communities and the environment can just do for themselves.

The well publicised NSW Aquifer Policy struck by Government soon was gutted by a mass of amendments making the protection of aquifers a secondary thought.

MERIT RIGHTS REVIEW

Legally we have been shut out of the process by the Liberal Government in NSW.

Up until recent times this community had a Right of Appeal process in place wherein we could go to the Land and Environment Court to argue each item within the project EIS. That right was removed from all communities in NSW by the Liberal government.

The Environmental Defenders Office, who do marvellous work for communities in NSW, say in relation to this;

“Recent moves to limit third party (public) merits review...deprive the broader public of the benefits of good decision making in environmental matters and serve to undermine the integrity of the planning system. The consistency, quality and accountability of decision making by merits review undertaken by the Land and Environment Court contrasts with weaker decision-making, poorer outcomes and the inferior processes in public hearings held by the.....Planning Assessment Commission.”

MINING THE COAL

John Williams, a principal identity of the former NSW Land and Conservation Department (1999) from his document “Coal Mining and Groundwater Management” says in relation to underground mining;

“Mining the coal resource has potential to result in a number of environmental and social impacts most of which is related to aquifer depressurisation. Groundwater impacts include reversal of flow directions, increased aquifer infiltration, water quality changes, potential impacts on stream baseflow conditions and possibly aquifer collapse due to removal of fluid void pressure”.

From the Mineral Resources Department’s...“Strategic Study of Northern New South Wales Coalfields’ (Nov 1999) we find....

“....mining that is likely to adversely impact upon either the agricultural potential of groundwater integrity to a significant degree, will not be permitted”.

One asks how does this “integrity” fit with the Company’s groundwater assessment. One of the wildest statements from the company’s consultant MER within the EIS says;

“after more than 500 years, water levels in the workings are predicted to have recovered “. That reads like a Jules Verne novel.

PILLARS

As I mentioned earlier...There was a subsidence restriction over the Hue Hue Mine Subsidence Area. In 1988 there was Ministerial policy invoked to directly refer to that area. This is contained in a minute Paper from the CEO of the Mine Subsidence Board in Newcastle, G.J.Cole-Clark in 1995 headed “Policy for Partial Extraction in the Warnervale/Wadalba Area and Hue Hue Mine Subsidence District”. The Ministerial direction says..;

“The Minister directed that only partial extraction take place.” This would be due to the unstable Awaba Tuff sandy claystone existing below.

It then goes on to say that maximum ground strain should be 3mm/metre and max ground tilt of 4mm/m.

The important thing here for the Commission is to verify the currency of that Ministerial direction. It is vitally important to the 140 odd homes in that area that are to be subjected to a fair amount of subsidence, which may not be the case if partial extraction is adhered to. As it stands Stage One of the development, which is the Hue Hue area, is the first to be experimented on with longwall panels and then, as we now know, second workings, which sounds like the removal of the pillars at a later stage.

This is quite critical to the central theme of this application to mine.

YIELDING PILLARS and the concerns of the 2014 PAC

Over all the earlier years including the 10 year BHP Billiton lease ownership (yes this has been going 22 years) the plan was that pillars would remain essentially, we were told, to hold up the valley floors. This was the case right up to at least 2010, as evidenced in the PSM consultancy charts.

I consider that the Chairman of the Commission in 2014, Dr. Shepherd AM, penned a very important and lengthy letter to WACIV seeking clarification and exhibiting substantial concern over the integrity of the 'yielding pillar' design, as well as, concerns about water loss, including rejection of

"the subsidence impacts projected for Jilliby Jilliby Creek and Little Jilliby Creek (Item 2 Page 4).

Dr. Shepherd states in the letter that..'

"..uncertainties associated with use of yielding pillar mine design...may mean that surface deformation is not as predicted (either in extent or timeframe)".

Dr. Shepherd goes on to say..

"The yielding pillar approach in this mine design has not been attempted in this area previously. The Commission accepts that it is conceptually attractive as a means of achieving a relatively uniform topographical outcome while maximising resource recovery. However the Commission wishes to understand the potential consequences if pillars do not behave as expected in either the short term or long term. Relevant issues include:

"Potential impacts on stream morphology and flow characteristics arising from changes in gradient greater or less than predicted;

"Potential impacts on built infrastructure; and

"Timeframes for reaching surface stability."

Appendix H of the EIS justifies Pillar Yield quote;

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.”to accommodate the potential soft floor conditions from the Awaba Tuff whereby the chain pillars were designed to yield when isolated in the goaf so as to minimise the risk and impacts of any long term pillar failure”.

The same document thus...

“Those soft and weak sections of Awaba Tuff were considered responsible for various unexpected subsidence instabilities...in Newcastle in the mid-1980’s and 1990’s”.

Then also the same consultant, Hanson Bailey in their response to the PAC 2014 (page 39) says;

“If pillar yield does not occur, the impacts on surface features will be similar to or less than the impacts in the Subsidence Predictions and Impacts Assessments (MSEC 2013)...”

Page 3 of the same report says...

“The yielding pillar design therefore provides certainty to the operator, MSB, and owners in terms of timeframe from start of the panel until ultimate subsidence effects and impacts are complete”.

So clearly we see absolute confusion in all quarters about pillar yield. Nobody really knows what to expect..and amidst this the menacing Awaba Tuff claystone below the Hue Hue Subdivisions....Confusion all at the expense of those living above the mine. The alarm bells must ring for the Planning and Assessment Commission.

The PAC in fact was confused back in 2014..... Page 19 of their report actually says...

“Based on the information of the Proponent, the Commission is now satisfied that the PILLARS WILL YIELD”.....yet the following page 40....states ;

“...the Commission considers that risks arise from FAILURE OF PILLARS TO YIELD either fully or partially”.

DISCONNECT BETWEEN THE PAC 2014 and the DEPARTMENT OF PLANNING AND INFRASTRUCTURE and WALLARAH 2

We see clearly at this point a genuine disconnect between the Commission's concerns and the DPI exposure of their "Draft Development Consent".

The DPI ,having known the concerns of the Commission as expressed in Dr. Shepherd's letter to the WACIV for an entire 3 years, do not seem to reflect those critical concerns, particularly about water, stream damage, and the untested yielding pillar design.

At what point does DPI believe that their view of the development overrides that of the Commission, who essentially, will decide to approve or not to approve.

This disconnect is riddled through the Draft Consent highlighted in Schedule 3 under "Mine Workings".

Firstly, of course, there is no mention of partial extraction (which is described in mining terms as board and pillar construction as apart from longwall) for Hue Hue as required by a previous Ministerial direction.

There is no mention of yielding pillars ...and an amazing Performance Measure for First Workings quoted..

"To remain longterm stable and non-subsiding".

In fact, a disconnect between the DPI and the Wallarah 2 EIS appears in the Draft Consent document under "Extraction Plan" 6 (d). And it quotes;

"include adequate consideration of mine roof and floor conditions, pillar width to height ratio, final pillar design dimensions and the LONG TERM STABILITY OF PILLARS which has been undertaken in consultation with DRE".

DRE is the Department of Resources and Energy. In other words take all this into account about the value of the resource.

So we go from “yielding pillars” in the EIS, to “long term pillar stability” according to the Draft Consent. No wonder Dr. Shepherd and the Commission are concerned..they must be also utterly confused.

COMMUNITIES

Under Section 3 of Schedule 3 “Privately-owned residences” ...Performance Measure reads..

“Serviceability should be maintained wherever practicable”.

Wherever practicable means that DPI says that the company can simply apply that at will, in their own time. Remember this Consent is a legal document.

Further regards to “Public Safety” we are generously afforded under Performance Measures, quote..

“Negligible additional risk”.

In the Draft Consent conditions before us, Commissioners, under Performance Measures – Built Features Section 4 we find the killer blow for those unfortunate enough to suffer subsidence. The edict reads..;

“Any dispute between the Applicant (WACJV) and the owner of any built feature over the interpretation, application or implementation of the performance measures in table 2 is to be settled by the Secretary following consultation with DRE (The resource/value arm of Govt). Any decision by the Secretary shall be final and not subject to further dispute resolution under the consent”. There’s the door!

Who is liable at the end of all this? The Department itself? Kores Resources?, Wyong Area Joint Coal Venture?, Kores Australia P/L or Wyong Coal P/L listed as a \$400 company, we assume limited to the value of its assets. The Commission would do well to clarify this for the benefit of the constituents of NSW well before any thought of approval is debated.

In other words the Department of Planning and Infrastructure give this applicant a very wide legal berth. Should this ever get to a Supreme Court or beyond I would like to be a fly on the wall. Are DPI creating a >10

legal quagmire, not in fact about community class action challenging mining, which is forbidden under the draconian Mining Act, but about the industry threatening homes and infrastructure, based on their own confused mine design, lack of care and disregard of the final result of their actions?

I wish to finish by mentioning in my written submission..the subject of brine disposal in the Wallarah Creek area where in the EIS Surface Water Impact assessment Section 3.2 they mention the volumes of brine water going into Wallarah Creek and also sediment settles brine water/or mine water to sewer and ultimate disposal to ocean waters. I ask that the Commission please investigate the mechanics of this as well.

Finally ,I know that others, including Dr.Whelan will talk on air quality etc that will impact on the Northern Suburbs of Wyong and the 9 storey coal loader, but for the public sake I will also mention a piece from a glossy newsletter prior to 2011 under "Quality Export Market Coal" whereas it is stated that;

"Specific energy largely depends on the percentage of ash in the product coal which ranges from about 14.5% ash for export and greater than 20% for local power station supply".

Not only does the overseas market get to destroy our living environment here, they also get to leave us with a lot more ash to burn for our own comfort. There is a meeting on this aspect of burning coal..it will be held on the 19th of this month at Wye Community Hall at 6.30pm. Please come along.

Thank you to the Commission for their due diligence to date and we wish for a just outcome.

Yours faithfully

Michael A. Campbell OAM (for Community Environment Network) 11<