

26 February, 2019

Professor Chris Fell
Chair of IPC Panel – Hume Coal Project and Berrima Rail Project
NSW Government Independent Planning Commission
Level 3, 201 Elizabeth Street
Sydney NSW 2000

Dear Professor Fell,

**Independent Planning Commission Review and Public Hearing
Hume Coal Project SSD 7172 and Berrima Rail Project SSD 7171**

On 28 June, 2017 the National Trust of Australia (NSW) put in a submission to the NSW Department of Planning and Environment, on the then publicly exhibited Hume Coal and Berrima Rail Projects State Significant Developments.

I understand that the Panel will be considering all submissions received on the projects and do not intend to repeat the points raised in the June 2017 Trust submission.

The National Trust owns four properties in the Southern Highlands. Two, listed on the State Heritage Register, are affected by coal mining proposals. We note with great concern that in both cases, as they are deemed State Significant Developments, the NSW Heritage Council is reduced to an advisory role in the Development Approval process.

The National Trust has lodged a strong objection to the State Significant Development Application for the *Tahmoor South Coal Project – Extension of Underground Mining* highlighting the adverse impacts of the proposed development on the National Trust property at 3105 Remembrance Driveway, Bargo where Wirrimbirra Sanctuary operates, an area of approximately 95 hectares of bushland. I note:

- The Subsidence Report clearly identifies that there will be subsidence impacts to the land within Wirrimbirra Sanctuary. Amongst other impacts, it predicts that ground cracking and movement may drain the existing natural watercourse through the property.
- The Biodiversity Assessment Report also clearly identifies that there will be negative impacts of the proposed development on an identified Critically Endangered Ecological Community and two threatened flora species.

“Golden Vale Homestead” at 278 Golden Vale Road, Sutton Forest is also owned by the National Trust. The Trust is deeply concerned that the Hume Coal project may impact on the property’s water supplies.

The Trust regards the limiting of the protection provisions of the Heritage Act through State Significant Development designation as unfairly facilitating coal mining development over the proper protection of our most significant built and natural heritage.

Why should State Significant Development be given priority over State Significant Heritage? The National Trust is campaigning vigorously to have this unfair bias removed from State legislation.

The National Trust notes the recent landmark decision of the Land & Environment Court in *Gloucester Resources limited Minister for Planning for the State Significant Development SSD5156 – Rocky Hill Coal Project*



[2019] NSWLEC 7. In dismissing the appeal against the refusal of development consent, the Chief Judge Justice Preston held that the mine proposal had come at the “wrong time”, observing that the greenhouse gas emissions that would be generated by the proposed coal mine and its coal product would increase global total concentrations of greenhouse gases at a time when what is urgently needed, in order to meet generally accepted climate targets, is a rapid and deep decrease in those emissions. He said that these dire consequences should “be avoided.”

The National Trust commends the Chief Judge of the Land & Environment Court’s findings to this Independent Planning Commission Review. The Trust regards the views expressed by his Honour as representative of current thinking among environmental jurists and lawyers and as indicative of future prospects of any legal challenge to these kind of developments. It also corresponds with broader community sentiment.

The Trust notes the following issues recorded in the transcript of the meeting between the Independent Planning Commission and the Department of Planning and Environment on 11 February, 2019: -

- The proposed Hume Coal Project coal extraction method, the pine feather method is “unconventional” and there are no other operations in the world where it is being used.
- If some of the mine pillars start to yield and the roof cracks, there is a risk of exposure to a roof fall. Pillar extraction is the most hazardous form of underground mining.
- The biggest issue with this project is the impact on the groundwater which could also cause surface water impacts.
- Within the current legislative and policy framework the Department of Planning & Environment does not consider the proposal acceptable in terms of impacts. There is a highly productive aquifer here, which the aquifer interference policy seeks to protect. From an environmental standpoint, the aquifer is an environmental feature in itself which ought to be protected. Notably:
 - The Department of Planning & Environment has never seen such numerous impacts on a highly productive aquifer, and
 - It has no confidence that the concept of making good is ever going to work in this scenario. Both the social and environmental impacts of the water drawdown are highly relevant to the Department of Planning & Environment assessment of the development proposal.
- If there are going to be hazards or risks - safety or otherwise – underground, and they can’t impound the water in the way they’ve proposed, what are they going to do with that water, temporarily or over the medium to long term? Suddenly, you’ve got, potentially, a surface water problem.

The National Trust of Australia (NSW) continues to object in the strongest possible terms to the Hume Coal and Berrima Rail Projects.

In the context of the history of European settlement of NSW, the Southern Highlands area has had a unique social and economic role and its heritage values need recognition and protection if they are to survive into the future. These values are incompatible with the development of a coal mining landscape.

We look forward to due consideration being given to the concerns raised by the National Trust.

Yours sincerely,

Graham Quint
Director, Conservation

28 June 2017

Mr Clay Preshaw
Director of Resource Assessments
NSW Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Dear Mr Preshaw,

Hume Coal Project and Berrima Rail Project – SSD 15_7172 and SSD 15_7171

The National Trust of Australia (NSW) makes the following submission on the Hume Coal and Berrima Rail Projects which are both covered by a single Environmental Impact Statement. Importantly the impacts of the coal mining and rail project must be considered cumulatively as evidenced by the single Environmental Impact Statement for the two development proposals.

In an earlier July 2013 submission on a proposal for coal exploration and environmental monitoring work at "Hillview", Sutton Forest, the National Trust urged the NSW Heritage Council to reject the Section 60 Application for these works and in that submission set down various general principles and statements regarding potential coal mining operations in Exeter – Sutton Forest.

In the context of the history of European settlement of NSW, the Southern Highlands area has had a unique social and economic role and its heritage values need recognition and protection if they are to survive into the future. These values are incompatible with the development of a coal mining landscape.

Further, the development of coal mining is problematic in the Southern Highlands due to the important subterranean aquifers in the area (which are currently exploited economically for their purity and excellent potable qualities).

Modern mining methods have been demonstrated to have potentially severe impacts upon natural elements through cracking of the substrata and subsidence. While the mining technique proposed by Hume Coal is being put forward as less likely to have these impacts, it is understood that this is a new mining process, not used before in this area and there are no demonstrable precedents by which the company's claims can be verified.

Consequently, where there are major alternative values to be protected, such as occur in the Southern Highlands, the opportunity to protect these values should be seized. Good decision-making should recognise that there are appropriate and inappropriate times and places for all things and governments today at all levels should recognise that the Exeter-Sutton Forest Area in the Southern Highlands is not a suitable place for coal mining.

The Exeter-Sutton Forest Landscape Conservation Area was listed on the National Trust Register in February, 1998 and the Reasons for Listing stated –

The Exeter/Sutton Forest Landscape Conservation Area has historic significance for its association with the Badgery Family from its settlement in 1822 to the Badgery Family dynasty's vital role in the development of the Australian cattle and horse breeding/racing industries. The Area was the country residence for sixteen Governors of New South Wales



from 1879 to 1957 as well as a range of prominent citizens who built architecturally significant buildings from 1826 to the late 1930s. These estates – their 'manor buildings', grounds and landscaping combine to form an 'English style' countryside of the highest aesthetic appeal which also has considerable research and archaeological potential. The Landscape Conservation Area is remarkably intact with its full range of settlement heritage features from original, remnant native vegetation lined country lanes, to historic railway station complex, town centres largely unchanged from 1900, churches and graveyards, original subdivisions, cricket ground unchanged since its use by Don Bradman in the days of his youth, simple barns and outbuildings to grand mansions in a sumptuous cool climate landscape.

Within the Exeter/Sutton Forest Landscape Conservation Area there are also 43 properties individually listed on the National Trust Register.

In the listing report for the Exeter/Sutton Forest Landscape Conservation Area the National Trust also addressed the State Heritage Inventory criteria and maintains that the Area has State Heritage Significance by meeting many of the State Heritage Register Listing criteria: -

Criterion 1. - Historical significance

The Area has historic significance through its long and direct association with the Badgery Family, one of Australia's earliest pastoralist settler families. This family dynasty was originally based in Sutton Forest and expanded throughout NSW and Queensland, playing a vital role in the development of Australia's cattle and horse breeding and horse-racing industries.

The Area also has a strong historic association with sixteen New South Wales Governors who utilised "Hillview" as their country residence from Lord Augustus Loftus in 1879 to Sir John Northcott in 1957.

The Area has historic significance as the community in which numerous prominent Australian identities established their country estates including Australian Iron and Steel Limited founder Cecil Hoskins and Arthur Yates (Yates Seeds) and garden designer Paul Sorensen at "Invergowrie"; Miss Irene Hope Meek founder of the Australian Brownie Movement at "Whare-Tau"; Benjamin Carter who discovered shale in the Joadja Valley in 1852 and established the shale mining operation at Joadja ("Golden Vale"); Christopher Bennett proprietor of the Sydney Evening News Newspaper at "Rotherwood"; Mr. Justice later Sir William Owen at "Whitely" and James Atkinson author of *An Account of the State of Agriculture and Grazing in New South Wales* - published 1826 and his botanist daughter Caroline Louise Atkinson at "Oldbury".

Criterion 2. - Aesthetic significance

The Conservation Area has aesthetic significance as an homogenous "English-style" landscape of grand estates, gardens and mature plantings, meandering country lanes with remnant native vegetation, churches & churchyards, historic railway complex and very impressive residences in a range of architectural styles all in sympathy with and contributing to the aesthetic qualities of this cultural landscape.

Criterion 3. - Social significance

The Landscape Conservation area is socially significant to the residents of Sutton Forest and Exeter who have each contributed on their own properties towards maintaining the Area's landscape, historic and architectural qualities and who have joined together to fight unsympathetic developments at Mt Gingenbullen and Exeter.

Criterion 4. - Technical/Research significance

The Area has research significance as the majority of its landholdings (subdivision patterns and buildings) have remained intact since the days of its first settlement in the 1820s. There would be significant potential for archaeological investigation on the early Badgery landholdings from the



1820s particularly in the area of the original homesteads. The area is rich in potential for the study of early horticultural and landscaping practice.

Representativeness

The Area is an exceptional example of a very early pastoral landscape the core of which is based on a single family dynasty and which has been enriched by the overlay of a remarkable collection of country estates of many of the most influential and noteworthy persons in New South Wales.

Rarity

The Exeter/Sutton Forest Landscape Conservation Area's combination of early settlement (1820s), superb "English-style" landscaping, remnant Ribbon Gum lined country lanes, largely intact land settlement and land grant patterns, a range of notable architecture of various periods and styles (from the 1820 Georgian "Oldbury", the Celtic style 1890s St Aidan's Church listed on the RAIAs List of Significant Twentieth Century Buildings to the 1937 Professor Leslie Wilkinson designed "Rosedale", the Area's link with sixteen Governors of New South Wales, its two historic townships of Exeter and Sutton Forest with their very low key stores and post offices - all these combine to create a landscape which is arguably unique in the State of New South Wales.

Integrity

The outstanding quality of the Exeter/ Sutton Forest Landscape Conservation Area is its intactness and integrity. There has been exceptionally little of cultural heritage value destroyed or compromised within the area. Those buildings of heritage significance from the very early days of settlement which have been lost (e.g. the original Ivy Hall) were lost through accidental fire or demolished by their original owners when new and grander residences were built to replace them. It is remarkable that when passing through the townships of both Sutton Forest and Exeter, their appearance has remained virtually unchanged from photographs depicting them at the last change of a century. While there have been subdivisions for new housing west of Exeter, the siting of this development has not impacted adversely on the Landscape Conservation Area's key vistas and most historic precincts.

It is these various values that the National Trust believes will be threatened by the coal mining proposal. The major threat is that the mining operation will have a greater impact on the aquifer levels than indicated in the Environmental Impact Statement modelling.

The mining will affect the level of the aquifer requiring existing bores to be deeper and may also effect the levels of surface water, including the many natural streams such as the Medway Rivulet, which, in addition to the bores in the area, are relied on for farm water supplies.

The Trust is also concerned that the aquifer under the Landscape Conservation Area is considered to be extremely fragile and consequently mining activity should be considered to be very high risk.

The modelling of the impact on the aquifer in the Environmental Impact Statement is designed to appear definitive and to give confidence to the reader. However, it is nonetheless theoretical and would include many assumptions in regard to the Area's geology.

Also, a large proportion of the coal is believed to be of generally poor quality. Consequently, the currently proposed method of extracting the coal may prove technically difficult and expensive and may become too problematic or unsustainable.

It is not unusual for mining companies to later seek approval for the use of more invasive methods, citing loss of local employment and opportunities for flow-on economic benefits as justification for such development.

It is true that mining does form part of the history of the Southern Highlands in general. However, much of this mining has been much lower scale than currently proposed. In the public's image the Southern Highlands is known for its tourism qualities and the scenic and rich landscapes not for coal



mining. The proposed mine is much larger than any previous mine and its above-ground infrastructure will be visible.

While the Environmental Impact Statement does note various proposals to minimise the visual impact of the above-ground infrastructure, several important vistas will be negatively impacted including views from Medway Road, the Old Hume Highway, the motorway (Hume Highway), Mereworth Road, Oldbury Road and the properties off Golden Vale Road such as Roscoe Park.

Tree planting to screen the mine development infrastructure will block existing views across the landscape. Additionally the tree planting will likely not mature to effectively block the view if the above-ground infrastructure till nearing the end of the 22 year life of the project.

The combined visual impacts of the coal mine infrastructure and railway project will, in the Trust's view, be considerably greater than the low to moderate rating given in the Environmental Impact Statement. The views from private properties were not included in the Assessment and the night lighting of these developments will also impact on the landscape.

The Trust also understands that there is considerable community concern at the potential for dust impacts from the coal rail-transport system.

In conclusion, the Trust notes the close proximity of the proposed mine surface infrastructure and the proposed railway extension to the historic town of Berrima. The Village of Berrima Urban Conservation Area was listed on the National Trust Register in May, 1976. Berrima dates from 1830 and it was listed as 'A valid, intact historic village of great urban and regional significance, the value of which is reinforced by the high quality of the surrounding natural environment'.

The Berrima Memorial Park 1914-1918 Landscape Conservation Area was listed on the National Trust Register in September, 2000 for its historic and social significance primarily for its close association with the Berrima Detention Camp used during the First World War to detain German internees.

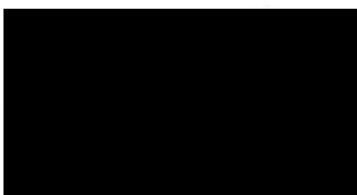
Another forty three places in Berrima are individually listed on the National Trust Register, many dating from the 1830s and 1840s.

The Berrima area is known for its historic and scenic significance and the developments proposed will, in the Trust's view, impact negatively on tourism and the heritage significance of this important historic village.

The Trust must reiterate –

In the context of the history of European settlement of NSW, the Southern Highlands area has had a unique social and economic role and its heritage values need recognition and protection if they are to survive into the future. These values are incompatible with the development of a coal mining landscape.

Yours sincerely,



Graham Quint
Director - Advocacy