Chairman
Planning Assessment Commission

WALLARAH 2 COAL PROJECT (SSD 4974)
- ENVIRONMENTAL IMPACT STATEMENT DATED APRIL 2013
- RESPONSE TO SUBMISSIONS DATED SEPTEMBER 2013
- DIRECTOR GENERAL’S ENVIRONMENTAL ASSESSMENT REPORT DATED JANUARY 2014

I thank the Commission for the opportunity to address this hearing.

I request that the PAC panel ensure that the issues I raise today are addressed in their report.

I would ask that the Commission clarify the independence of the PAC or at the very least the apparent perception of lack of independence due to NSW Planning and Infrastructure issuing a document (which I downloaded on 19 February 2014) “Wollongong 2 Coal Project Recommended Consent:pdf” on its website for the project, which begins with the words “As delegate of the Minister for Planning and Infrastructure, the Planning Assessment Commission of New South Wales (the Commission) approves the development application ...”. I note that the PAC website has provided this document retitled as “draft recommended conditions.pdf.” At the very least why did Planning and Infrastructure not emblazon "DRAFT" throughout the document and why did it not issue the document with it’s name against the recommendations and not the PAC. On first reading this document it appeared that the project had already been approved without a PAC hearing or notification of referral to the PAC. I would also note that the letter attached to the email I received advise of this hearing also stated that if I wished to make a written submission then I should send it to an email address at planning.nsw.gov.au, I therefore chose not to send in a written submission.

I would also request the Commission to review the openness and transparency of the assessment process by Planning and Infrastructure – on what basis does it request only government agencies to advise residual concerns on the Response To Submissions by the Proponent and not everyone who made submissions. Subsequently the Proponent has apparently provided a document “Residual Matters Report” which has been utilised by Planning and Infrastructure in preparing its Project Assessment Report but this has not been provided on either the Planning or Proponent’s websites. I note that the Project Assessment Report states that the Residual Matters Report is included as Appendix F of the report but this is not included in the pdf version of the report on their website (I also note that Appendices E and G being Agency responses on the Response To Submission report and Residual Matters Report are not included in the pdf version on the website).

I would point out that the Proponent’s Response To Submissions did not address each and every issue I raised in my submission and I have a number of residual concerns as I am sure many other respondents would. I had always understood that this process was supposed to take account of the input from ALL stakeholders and question why my residual concerns were not requested, why are Government Agencies input and concerns any more important than mine.

I would request that this PAC panel clearly spell out it’s findings in it’s report on this application as the Proponent has consistently stated that the previous PAC review of the previous application “approved the proposal” and also the Project Assessment Report by Planning and Infrastructure on this application states that the previous PAC review “supported approval” of the previous application, neither of these statements are how I would interpret the previous PAC report.

I repeat the comments in my submission on this application as well as those made in the submission on the previous application, that the simulations made for subsidence effects are only
that - simulations - and can not be considered guaranteed effects as appears to be the Proponent's view as expressed repeatedly in their EIS and various other media releases. I do not argue that it may not be current best practice or state of the art but only that like all simulations it is dependen upon a whole series of assumptions and that the predicted outcomes are dependent on these assumptions (if the assumptions are changed than the outcomes will change). I note that a number of the experts in this field (including the Proponent's peer reviewer) also note this fact. I am a Mechanical Engineer and have worked in the rail industry for around 40 years and in the design of freight wagons the rail industry has used Finite Element Analysis (FEA) software to assist in the design of the structure of the wagons for over 30 years. The FEA software has improved over this time but the latest wagon designs still have failures in service. The assumption that the wagon material is homogeneous is considered to be the predominant cause of the failures, the wagon structure is made of various sections of steel welded together and the welded joints are predominantly the areas where the failures occur. The welding of a particular joint is not a 100% repeatable and consistent process and thus there can not be a simple single assumption for its strength that can be used in all circumstances. I would contend that a similar situation occurs in the geological structure of the project area and the geology of the area can not be considered homogeneous and changes in its structure will occur over very small distances which will never be picked up in doing random core sampling of an area of the size intending to be mined. I would raise the question - Why does a river valley form where it does and not 10 or 20 metres to the left or right, why does the beehive structures of the Bungle Bungle ranges exist, why did a structure such as London Bridge form on the Victorian coast along the Great Ocean Road, I believe that many geologists will state that the reason is that the rocks and ground is not homogeneous and some parts are weaker than others and the forces of nature attack these first. Many respondents as well as the Proponent also state that the geology of the area is different to that of the Southern coalfields as well as that of the Hunter coalfields and thus what will occur in terms of subsidence is currently unknown.

I note that many of the experts are recommending a pro-active approach to the validation of the simulation as various headings and panels are mined and while I don't disagree that this is the only plausible way to validate the simulation software and assumptions used but question what would occur if the assumptions prove incorrect and subsidence is far greater than predicted - is the Proponent's proposal to change the size of the headings and panels a suitable means of correction or should the project be stopped completely. What is there to suggest that the results during the mining of the first panels will be equivalent to the results of mining the latter panels at different depths and thus that if there is validation (or changes to the correction factors) for the first panels this would be correct for future panels.

I note that the Strategic Inquiry, the previous PAC review and many other documents have commented upon the lack of base line data for the area and I do not see that the Proponent has sought or obtained the baseline data required to suitably monitor any changes if the project goes ahead.

I would ask the PAC to review and comment on the level of compliance with the Director General's requirements that the Proponent has to obtain in its EIS and how many times is it able to continue to revise its EIS before complete and final rejection is enforced. I would contend that the Proponent must have full compliance, that this should occur upon original submission of it's EIS and that a pass mark of 51% is never acceptable.

In my opinion there were many areas in the EIS where the Proponent did not fully comply with the Director General's requirements. As an example I raised in my submission that the Director General had a requirement of "detailed drawings" under the heading of "Plans and Documents" yet there were no detailed drawings for the train loading facility or the rest of the infrastructure at the Toorkey's Road site, in it's response to my submission the Proponent glossed over this non-compliance and simply stated that it had provided detailed drawings, I would suggest that any reasonable person would expect detailed drawings of all areas of the project infrastructure and not just the detail drawings of the Buttronderry site in order to comply with the Director General's requirement.
I would ask that the PAC carefully consider all issues raised in the various submissions made objecting to the proposal and note the fact that the Proponent has not fully addressed each and every issue raised by the respondents in its Response To Submissions.

The Proponent in its Response To Submissions did not address the many instances of factual errors in its documentation that I raised. If it can not get easily verifiable data correct why should the public believe anything that it states, how many opportunities should it be given to get simple facts correct.

The Proponent in its Response To Submissions did not address my request for evidence of the reported inability to obtain access to various private properties in order to more thoroughly document the project area. As stated in my submission I am not aware of any requests for access being made.

The Proponent in its Response To Submissions did not address the issues I raised on the conduct of the risk assessment and the expertise of the people involved.

I would suggest that if the Proponent is considering extending the project beyond the nominated 28 years to in excess of 40 years that this should be done up front and that the situation that is now occurring in various coal mines around NSW (and would no doubt occur in 28 years’ time for this project if approved) of extension to approvals being requested with a significant reason being given that the extension to the approval is required to ensure that jobs are not lost should not be allowed to occur. If a project has a life of “X” years then that is it and the jobs only last for that length of time and then cease to exist. I find this scenario quite hypocritical as I believe that the mining companies have always had the plan to extend their mine sites or time frames but did not present these at day one due to concerns of rejection.

In relation to the Planning and Infrastructure Environmental Assessment Report I would request that the statement “The Department has found that subsidence impacts on the creeks and rivers are likely to be minor, and that there is very low risk to the ground water resources.” be quantified and an explanation given as to how this conclusion has been reached.

I would also request that the statement “The Department has recommend performance criteria requiring that there is no connective cracking between the surface and the underground workings, ...” be quantified and that they clearly advise how this is practically implemented, what is to occur if cracking does eventuate.

I would also request that the statement “The Department acknowledges the significant additional cost that this has added to the project in order to reduce surface amenity and health impacts, in that it requires construction of an inclined tunnel nearly four kilometres in length to reach the mining area.” be clarified, on what basis does it come to this conclusion, where are the costs for having the train loading facility at the mine head detailed, where are the costs of the extra mitigation measures that would have had to be implemented for this scenario to reduce the surface amenity and environmental and health impacts to a comparable level to the current proposal.

If the PAC is to recommend that the project is approved then I would strongly request that it ensure that clear plain English documents are prepared clarifying the responsibilities of the Mine Subsidence Board (MSB) and the Proponent in relation to rectification of damage caused to houses and other infrastructure by subsidence or other mining related issues as I have seen conflicting advice that the MSB only is required to rectify damage to houses and not other infrastructure. If this is the case then how does an owner/occupier have damage to other infrastructure rectified.
If the PAC is to recommend that the project is approved then I would also ask that the PAC ensure that clear plain English documents are prepared clarifying the legal responsibility of owners/occupiers in relation to property access and property inspection in relation to preparation of Property Management Plans by the Proponent.

I note that there is currently a draft Voluntary Planning Agreement on exhibition between Wyong Shire Council and Wyong Coal Pty Limited which I understand has been submitted by the Company, yet this development application is from Wyong Areas Joint Coal Venture. Both companies are listed against the same ABN in the two documents. As late as yesterday the Wallarah 2 website still referred to Wyong Areas Joint Coal Venture. Who is the actual company that is undertaking this project, what is their financial capability. I would trust that the Government will ensure that this is not a $2 company with no assets to cover the cost of repairs and mitigation measures mentioned in the EIS and any additional remediation work that would be necessary if the subsidence predictions prove inadequate.

I request that the PAC recommend rejection of this proposal on the grounds that the subsidence predictions are only that “predictions” and if they are wrong (which I believe more than likely that they will be due to the assumptions of ground conditions which differ from other mining areas) and there is an effect on the surface water and aquifers then this is too great a risk to the various water systems of the area. I would also submit that the Proponent has failed to comply fully with the Director General’s Requirements and that this should be a simple straightforward ground for rejection. I would also submit that the Proponent has been lax in getting simple easily ascertainable facts correct and regularly puts a spin on its reporting of other viewpoints and documents – if it can not be clear and correct on these issues why should the public, or anyone, believe it on anything it states.

Thank You

Wayne McCauley

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Sinking ‘not subsidence’

Board boss dismisses responsibility

By DONNA PAGE

MINE Subsidence Board chief executive Greg Cole-Clark broke his silence yesterday and dismissed as “simply incorrect” claims his organisation was responsible for assisting an elderly Waratah couple with their waterlogged home.

Mr Cole-Clark’s state government organisation, which is funded by levies on the coal industry – has come under the microscope for its dealings over more than 30 years with Allen and Claris Watson.

The elderly couple’s Bridge Street home is being inundated by water seeping from a disused coalmine, located just metres from their back fence.

For decades the case has been handled between government organisations as the house and garage sink and the damage bill mounts.

Mr Cole-Clark said the Watsons’ home was not undermined, so there was “no mine subsidence damage.”

“Staff have liaised with Mr and Mrs Watson and explained that the site is not undermined and the water is not seeping from the old mine.”

In the way, the Minister for Resources should look at providing one-off ex gratia financial assistance to the Watsons so they can put this whole saga behind them,” he said.

The Watsons, both in their 90s, fear the legislation has been deliberately designed to ensure more claims are refused than accepted.

A chorus of Hunter residents unhappy with board decisions have called for a review of the Mine Subsidence Compensation Act.

“We need a fair system that deals with the complete problem of these old coal mines that are everywhere in the Hunter not just some parts of it,” Mr Watson said.

“The community should be better protected.”

Last financial year the board received almost $18 million in colliery contributions.

In an online poll on the Herald’s website yesterday, readers voted overwhelmingly in favour of a government review of the operations of the Mine Subsidence Board.

More than 500 people