



Nature Conservation Council

The voice for nature in NSW

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Re: Wallarah 2 Coal Project

The Nature Conservation Council of NSW (**NCC**) is the peak environment organisation for New South Wales, representing 150 member organisations across the state. Together we are committed to protecting and conserving the wildlife, landscapes and natural resources of NSW.

The Nature Conservation Council of NSW (NCC) **objects** to the Wallarah 2 Coal Project, SSD-4974 for the reasons outlined below and in our previous submission. NCC also notes that the PAC is the determining authority under delegated power from the Minister. This empowers the PAC to reject any recommendations and conditions made by the NSW Department of Planning and to refuse the development application.

NCC disagrees with the Department's recommendation for conditional approval of the Wallarah 2 Coal Project due to the impacts the project will have on the local environment, water catchment, climate and the local community.

Climate Change Impacts

The purpose of the Wallarah 2 project is to supply up to 5 million tonnes of thermal coal per annum for 28 years, under long-term contracts, to South Korea. When burned this coal will contribute significantly to climate change.

The Wallarah 2 Coal Project Amendment is being considered in the shadow of the historic agreement at the UN Conference of the Parties (the Paris Agreement) on 12 December 2015, signed by 195 countries. The agreement commits all nations, including Australia, to keeping global average temperatures to below 2 degrees Celsius.

The Climate Council of Australia has stated what this target means for Australian coal mining:



“For Australia to play its role in preventing a 2 degree C rise in temperature requires over 90% of Australia’s coal reserves to be left in the ground, unburned”¹

International researchers from the University College of London, following extensive modelling, have come to a similar conclusion. They suggest that to have at least a 50% chance of keeping global warming below 2 degrees C throughout the twenty-first century, globally a third of oil reserves, half of gas reserves and over 80% of current coal reserves should remain unused. Even if carbon capture and storage becomes technologically and economically available which there are no indications will happen, the report indicates that **over 90% of Australasian coal reserves would have to remain unburnt before 2050 to meet the 2 degrees C warming ceiling².**

Australia is currently the highest exporter of coal in the world, and Australia therefore punches well above its weight in terms of population in contributing to planetary climate change. The earth’s atmosphere is not concerned with national boundaries – it responds to carbon dioxide emissions from coal burning wherever the coal is burnt, either in South Korea or Australia.

NCC maintains that it is fundamentally irresponsible for the NSW Government to continue to approve new or expanded coal mine projects at a time Australia’s GHG emission trajectory is moving in the opposite direction to that required for Australia to meet its international emission reduction commitments.

In light of the unequivocal evidence that the burning of coal contributes to climate change and the international agreement to keep global average temperatures to below 2 degrees Celsius, we do not consider that the approval of the Amended Wallarah 2 Coal Project is in the public interest, either at the State or National level.

Water Impacts

The Wallarah 2 longwall coal mine would undermine drinking water catchments northwest of Wyong. The project will undermine several waterways causing subsidence, which could cause serious and permanent damage to local aquifers, surface water environments and water supplies.

NCC is opposed to mining in water catchments. Polling conducted on behalf of NCC in 2015 indicated that there is overwhelming public support for this position – 73% of respondents polled wanted coal and gas developments banned in our water catchments.

In its 2013 submission on this project the Office of Environment and Heritage (OEH) states that the mine layout poses significant environmental risk resulting from subsidence to the Jiliby State Conservation Area and this area warrants protection. Mining these sensitive areas has the potential to permanently damage ground water aquifers, surface water systems, threatened ecological communities and habitat for threatened species.

¹ Climate Council of Australia (2015): *“Unburnable Carbon: Why We Need to Leave Fossil Fuels in the Ground”*, pp iii – iv, www.climatecouncil.org.au

² C. McGlade & P. Ekins: *The geographical distribution of fossil fuels unused when limiting global warming to 2 degrees C*, Nature, V. 157, 8th January 2015, pp 187-190

Little Jilliby Creek is a particularly significant stream with high conservation value. Subsidence from coal extraction under this creek will lead to loss of water flow and cause significant impact to the fauna of the area including threatened frog species. Furthermore, subsidence is predicted to cause this creek to fracture and drain.

The mine will be directly beneath the Central Coast's major water catchment area. It puts approximately 300,000 people within the Wyong and Gosford area and 53% of the water catchment area supplying these residents at risk.

The key issues facing groundwater and surface waters from this development are drawdown and aquifer depressurisation, downstream river flow losses, water quality impacts and salinity. These impacts will have an effect on catchment water resources threatening water quality and availability in the region, which poses an inherent risk to the land, biota and community of the Central Coast.

There have also been significant environmental impacts from coal mining in Sydney's drinking water catchment which have been documented over decades by an environmental organisation closely affiliated with NCC, the National Parks Association of NSW. Issues such as cracking of river beds, disappearance of rivers and loss of ecologically precious swamps have all been shown to be caused by underground coal mining beneath the Sydney drinking water catchment. These experiences should not be allowed to be repeated in a geologically similar Central Coast catchment overlying the proposed Wallarah 2 mine.

Social and Health Impacts

NCC objections in this area go to the lack of suitability of the site for a coal mine, a matter for consideration under Section 79C of the EPA Act.

This proposed mine will be placed amid new growing suburbs, putting the health of a growing population of residents at risk. The development of the mine and extraction and transport of the coal will cause the release of particulate matter (PM 10 and PM 2.5). Short-term exposure to particulate matter pollution can lead to diminished lung function, damage and inflammation of lung tissue, increased mortality rates in children and young adults, aggravation of asthma symptoms, heightened risk of cardiac arrhythmias, heart attacks and other cardiovascular issues.

The May 2017 PAC Review Report (pages 29-30) is vague and inconclusive in relation to particulate air pollution which is a legitimate community health concern. For example, on the subject of fine particle pollution classified as PM_{2.5} (the particle size most strongly associated with adverse human health impacts), the PAC report quibbles about the gazettal date for PM_{2.5} criteria as an excuse not to apply these standards to the development that "was lodged after the gazettal date". Prior to the gazettal date the EPA states that no PM_{2.5} standards applied, so the PAC accepts this. This is an unacceptable attempt to deny the application of an important human health related pollution criterion to the Wallarah 2 Coal Project. The standard is based on World Health Organization guidelines, and according to the 2016 Australian State of the Environment Report became an Australian compliance standard in 2016. If the development is approved, the NSW Government has the power to apply these PM_{2.5} standards as a condition to the Wallarah 2 Coal Project, this should be a strong recommendation of the PAC should the PAC recommend approval.

Earlier this year, NCC submitted an objection to the NSW Department of Planning opposing the Hume Coal Project, an underground coal mine proposal underneath a drinking water catchment in the NSW Southern Highlands. Coincidentally, the Hume Coal proponent is a large corporation with its headquarters in South Korea. Wallarah 2 is also an underground coal mine project in a drinking water catchment proposed by a large corporation with its headquarters in South Korea. While there are many similarities between the two projects, there is one significant difference - the Hume Coal project proposes to use covered rail wagons due to the health and nuisance problems associated with trains hauling uncovered coal wagons through residential areas.

NCC asks the obvious question - if covered rail wagons are good enough to protect the health and amenity of residents living in Berrima, Moss Vale and Robertson, why aren't they good enough to protect the health of residents in Wyong and Newcastle? If the PAC does recommend approval for the project, we strongly advocate that the PAC recommends a condition of approval be that the coal wagons are covered.

This project should be refused based on the health risks associated with air pollution from mining, stockpiling and transporting coal so close to residential development.

Threatened Species Impacts

The proposed mine could have a significant adverse impact on native plants and animals in the region. Thirty-seven recorded threatened and migratory fauna species and six vulnerable or endangered flora species are within the project site, including:

Lathamus discolor (Swift Parrot), Tyto tenebricosa (Sooty Owl), Xenus cinereus (Terek Sandpiper), Pandion haliaetus (Osprey), Limosa limosa (Black-tailed Godwit), Ixobrychus flavicollis (Black Bittern), Haematopus longirostris (Pied Oystercatcher) and Haematopus fuliginosus (Sooty Oystercatcher). These species are protected under state and federal legislation.

The key threats to these species include land clearing, change in habitat due to subsidence and alteration of water flow, wetlands and floodplains and contamination of land and water.

All of these threats are possible effects of this project. The cumulative loss of threatened species habitat in NSW means that many native flora and fauna species are facing an extremely high risk of extinction in NSW into the future.

NCC is particularly concerned about potential impacts of the project on species of national significance listed under the Commonwealth EPBC Act:

- Loss of habitat for endangered Swift Parrot and critically endangered Regent Honeyeater
- Loss of habitat for endangered Spotted-Tailed Quoll
- Adverse Impact on the endangered Giant Barred Frog, known to exist in the impacted area.

We would also like to note our concern that there is discussion in the PAC report about returning mine treated water to the catchment to make up for water imbalances caused by the development.

There is no mention about how potential contaminants such as metals in mine treated water could impact on endangered frog populations which are particularly susceptible to water contamination.

Economics

NCC notes with concern that the updated economics impact assessment in the 2016 EIS has been undertaken by Gillespie Economics (Gillespie). This is the same organisation that prepared the economic analyses supporting the Warkworth mine expansion which were discredited by the Chief Judge of the NSW Land and Environment Court (LEC) (drawing on independent economic analyses by agencies having no connections with the NSW coal industry).

NCC supports the economic analysis of the Wallarah 2 coal project by the independent Australia Institute in their September 2016 submission on the amended development application. The submission is not only highly critical of Gillespie Economics, but also casts doubt on the economic viability of the Wallarah 2 coal project. We request that the PAC requires an additional independent economic assessment of the project to be done by a truly independent body prior to making any recommendations for approval of the project.

The public interest

The public interest is a broad concept that is one of the compulsory matters for consideration by a consent authority such as the PAC in determining a development application such as the Wallarah 2 Coal Project. It has been stated that:

“Community response to a proposed development can be regarded as an aspect of the public interest...”³.

In its letter to the NCC inviting final comments on the Wallarah 2 Coal Project, the PAC noted that a final public hearing has been called “due to the level of public interest in the proposal”. The level of public interest, as reflected in the number of submissions on the Department of Planning website, is certainly high. A quick analysis of the submissions on the website showed that there were:

112 out of a total of 721 submissions are in support of the project (16%)

609 out of a total of 721 submissions are opposed to the project (84%).

Considering this high level of public opposition, we maintain that an approval of the project could not be said to be in the public interest.

It is well settled in planning law that the requirement for consideration of the public interest directs a consent authority to have regard to the objects of the Environmental Planning and Assessment Act

³ D Farrier & P Stein *“The Environmental Law Handbook”*, 6th Ed (2016), Thomson Reuters (Professional) Australia, p 219

1979, which include the principles of Ecologically Sustainable Development (ESD).⁴ On 3^d March 2011, the then Minister for Planning refused the project application for the Wallarah 2 Coal Project on the grounds that, among other things, it was not considered to be in the public interest.

This raises the question about what has changed over the last 6 years to justify this development application coming up again. It is our firm position that the project remains contrary to the public interest, as it was in 2011.

Additionally, NCC has recently sent a letter to the PAC Chair, Lynelle Briggs AO, expressing concerns about aspects of the PAC project assessment process. This follows the boycotting of PAC hearings into two Hunter Valley coal mine proposals by one of our highly experienced Hunter region member groups. Their concern is that the NSW Government has removed third party appeal rights to the NSW Land and Environment Court and 'replaced' them with a PAC public hearing from which there is no appeal. We maintain that a Planning Assessment Commission public hearing with no prospect of appeal is a very poor substitute for a merits appeal to the independent and expert NSW Land and Environment Court.

However, NCC remains engaged in the PAC process. Our letter to the PAC chair has made some suggestions as to how the PAC process can be improved, and this letter has been included with this submission.

NCC would like to thank the PAC for this opportunity to present our concerns with this project, and we would welcome an opportunity to provide any additional information about our concerns to the Commissioners. We can be contacted at NCC@Nature.org.au or [REDACTED].

Yours sincerely,

[REDACTED]

Daisy Barham
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⁴ Telstra Corporation v Hornsby Shire Council [2006] NSWLEC 133 (24 March 2006)