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12th October 2016

Director Resource Assessments
Planning Services
Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

RE: Rocky Hill Coal Project
Letter of Opposition

The writer of this report* objects to the development application SSD 5156 by Gloucester Resources Limited known as Rocky Hill Coal Mine on the grounds that it is thought unsafe for the Minister as consent authority to approve an application that is:-

1. an incomplete development, not being able to function wholly as a mine without the assistance of the neighbouring, Yancoal / Stratford Coal company satisfying the mining responsibilities of the applicant
2. being totally reliant on a neighbouring enterprise that itself lacks legal consent to receive, transport and treat coal from a mine owned by a second party
3. Without the ability to treat mined product and transport to the market place within the scope of work covered by the development application causes some doubt as to the financial benefit of the development to the community and therefore give it's justification in achieving State Significant Development Status
4. Without SSD status, it is doubtful that much of the site could be used for open cut mining as suggested by s89E(3) of the EPA Act.
5. Other similar projects where reliance on joint partnerships have failed, have resulted in compromised environmental outcomes
6. Furthermore, the proponent has failed to resolve to a satisfactory level, many of the environmental issues required by the EPA Act Part 4. These are not covered in this report.

We therefore submit that Consent of the application in its' present form must be denied totally and not approved subject to a Deferred commencement subject to other outcomes being achieved.

Incomplete Development

The development application totally relies on the co-existence of a partnership with Stratford Coal to complete the mining activities undertaken from RHCM. The application has been made solely by RHCM with a separate application from Stratford Coal to modify it's existing mining consent in order to receive and treat coal from another entity.

Furthermore the subject development application relies on the movement of heavy vehicles through the Stratford site. Until such times as the Stratford Mine achieves suitable development consent, the RHCM cannot operate as a complete mine.

Where the application presented relies on works to be carried out by Stratford Coal, the subject DA/ EIS does not contain a detailed description of how the mined product will be prepared for market. For example there is no mention of:-

- how the mined coal product would be transported to an appropriate washing facility, and
- there is no discussion of how the dust generated by movement of product around the site be controlled. Nor is the nature of the treatment of waste water and particles held in suspension would be managed, and
- whether the waste material would become the sole responsibility of Stratford Coal and
- there is no detailed description or quantitative assessment provided of the volume of waste to be disposed of in a tailings dams, deposited over agricultural land or buried on site etc.

The application as presented does not demonstrate the extent and nature of impact mining procedures will undergo prior to the transportation of product to the market place.

Reliance on Joint Venture

Whilst there would be no doubt a legal agreement between the two parties to establish a satisfactory working relationship between both parties, maintained co-operation would be essential to ensure the success of the RHCM development. Such a partnership would be considered as a business risk not a legislative responsibility.

It is common planning procedure that when various sites are required to complete a development, a plan of consolidation would be required to prevent the removal of key lots from being removed from the development over the time of the development. Where two parties are required to enter into an arrangement such as this project, a unique joint venture would be created and planning legislation has no means of consolidating two entities having two separate owners. ***Therefore, such a venture must not be deemed permissible under planning law.***

The Springvale Coal mine had an agreement to transfer all its dirty water to Wallerang Power Station for re-use, then the power station closed down. Eventually, the EPA gave Centennial Coal permission to pump into Sydney's drinking water catchment!

At the time of this application we understand that Yancoal / Stratford Coal has made an application SSD 4966 Mod 1, to modify existing State Significant Development to allow the existing Stratford Coal

facility to accept mined material from RHCM, transport it across their site from the boundary with RHCM to a washing facility and prepare the product for transport to the market place. This process is being carried out at present with the product from the Duralie Mine some miles away, but the Duralie mine is part of the Yancoal Group of companies and whilst this procedure might work, an association with another entity such as RHCM is different.

We consider that the proposed use of the Stratford Coal site does not constitute an appropriate form of modification under part 96 of the EPA Act " A consent authority may, on application being made by the applicant To modify the consent if it is satisfied that the development to which the consent as modified relates is substantially the same development.'

Clearly the original DA made no mention of RHCM so it cannot be deemed to be the same development.

We believe that Development Application, perhaps even Integrated Development, is the more appropriate application for the following reasons:-

1. The product to be received is from another source of mined product produced by another company who is not mentioned in the application or consent of the existing Stratford Mine SSD
2. The life of the proposed RHCM far exceeds the life of the approval granted to Stratford Coal and such extension of time should be subject to community consideration, this can only be possible through a DA submission, and
3. The development proposal by RHCM requires all movement of heavy machinery to pass through the Stratford Coal mine site. The legality of vehicles moving through the site not in control of the site owner is questionable. Does this mean that portion of the Stratford Mining Site will require a road with legal capacity for such movement of vehicles? Perhaps a Right of Way or the formation of a public road, given that a variety of differing enterprises not directly controlled by Stratford Coal, would need to cross through the Stratford Coal site to RHCM?
4. Such a development may be required to be an Integrated Development under the Roads Act of NSW.
5. Similarly, the increased water requirements to treat the increased waste product from RHCM would be an Integrated Development with Water NSW and the EPA would require modifications to the licensing of waste water with the increased volumes of waste.

With the need to make a new Development Application it is doubtful such an application would be considered as State Significant Development for the following reasons:-

- The application would be to expand existing facilities in order to treat mined product from another coal mining entity
- Such a process would not generate additional product from the Stratford Coal Site so it would not be deemed to require development under the Mining Act of 1992 as amended
- The value of work undertaken and the numbers of staff required would not satisfy the objectives of a State Significant project
- The consent authority would therefore be local council. A recent decision by Midcoast Council to object to the proposed RHCM application therefore, puts doubt into the success of such an application by Stratford Coal.

State Significance of the RHCM

With doubts surrounding the viability of a joint venture with Stratford, the current development application by RHCM cannot be realised. If RHCM cannot provide suitably mined product for market then the value of the development questions the validity of the development being of State Significance.

Development Contrary to LEP Legislation

Consolidation of lots does not vary the overall zoning of the combined lot. Each portion of the created super lot will retain its' original zone classification. The combined site of the development application contains 77% of lots zoned E3 with the remaining RU1 zone.

The E3 Environmental Management classification prohibits mining. Its objectives are listed as follows:-

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values*
- *To conserve biological diversity and native vegetation corridors, and their scenic qualities, in a rural setting*

The RU1 zoning permits open cut mining whilst its objectives generally are inconsistent with this type of development. Objectives of this zone are listed as follows:-

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- ***To minimise conflict between land uses within this zone and land uses within adjoining zones.***
- *To encourage eco tourism enterprises that minimise any adverse effect on primary industry production and the scenic amenity of the area*

These objectives tend to support the theme that where this zoned land abuts neighbouring zones of differing development then they should minimise conflict between the permitted land uses. Therefore, in a parcel of land where the greater places prohibition on open cut mining this should be respected.

In conclusion therefore, it would be wrong for the Minister to assume section 89E of the EPA Act would allow the site to be mined regardless of the objectives of the LEP planning instrument.

Furthermore, the minister as consent authority should not give approval to a development that cannot operate in its' own right, on land that has significant environmental issues to be addressed. Clearly the proponent has not addressed to a satisfactory degree how environmental matters would be satisfied.

The consent authority should refuse the application SSD 5156 on the basis of matters raised above.

Yours sincerely,

David Ernest Collett *



Bowman NSW 2422

*** Mr David Collett has been a resident of Bowman for more than twelve years and relies on the Gloucester Community for cultural and social interaction including shopping, sporting, recreation and worship.**

