



Nature Conservation Council

The voice for nature in NSW

Ms Lynelle Briggs
Chair
Planning Assessment Commission
Level 3, 201 Elizabeth Street
Sydney NSW 2000
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28 November, 2017

Re: Invincible Colliery Southern Extension Modification (07_0127 MOD 5)

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.

NCC **objects** to the Invincible Colliery Southern Extension Modification due to the adverse environmental impacts the project will have.

Introduction

NCC notes that according to the PAC report dated 17th October 2014, an Invincible Colliery Modification Project, with a different proponent (Coalpac) but with a very similar coal mining proposal causing similar environmental impacts to the current proposal, was rejected by the PAC in 2014. A previous proposal for open cut and highwall mining areas in the Ben Bullen State Forest was also rejected by the PAC in 2012.

For the reasons that these previous proposals have been rejected, we request the PAC reject this current proposal.

Environmental Impacts

NCC strongly objects to the proposal to destroy part of the Ben Bullen State Forest for the project. The NSW Crown holds State Forest land in trust for the citizens of NSW. NCC believes that State Forest land should be used for purposes that are consistent with conservation. We maintain that no fair and objective assessment could decide that an open cut coal mine is a highest and best use of this Crown Land.

The Ben Bullen State Forest contains what the Colong Foundation for Wilderness has described as “an irreplaceable and internationally significant pagoda landscape unique to Ben Bullen”. Mine related damage to the pagoda landscape was one of the reasons why the PAC rejected the mining proposal in 2014. NCC has no confidence that conditional approval will protect the pagoda landscape from blasting impacts. The only way to protect the pagoda landscape is to do what two previous PACs have done and refuse the project from the start.

Climate Change Impacts

The Invincible Colliery Modification 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 world coal reserves should remain unused. Even if carbon capture and storage becomes technologically and economically available, 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.

NCC maintains that it is fundamentally irresponsible for the NSW Government to continue to approve new or modified coal mine projects at a time Australia’s greenhouse gas 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 is a significant contributor to climate change, we do not consider that the approval of the Invincible Colliery Modification Project is in the public interest, either at the State or National level.

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 2degrees C*, Nature, V. 157, 8th January 2015, pp 187-190

Threatened Species Impacts

EIS Section 6.4.2.3 indicates that the modification, if approved, would have the following impacts on threatened species under State or Commonwealth legislation:

- 24 Capertee stringybarks, a threatened species under NSW legislation, would be destroyed by the project.
- The sugar glider is a threatened mammal species under NSW legislation. The report indicates that about 48 ha of high quality sugar glider habitat would be destroyed.
- The broad headed snake, listed as vulnerable under Commonwealth EPBC legislation, is known to occur in the area and would have its habitat adversely impacted by the development.

Matters of National Significance (MNS)– Broad-headed snake.

NCC was unable to find evidence of an EPBC Act referral to the Commonwealth Environment Minister. The reason for this became apparent on reading page 131 of the EIS which stated that no referral of the potential impacts on the broad headed snake was made. The rationale given in the EIS was that the previous Coalpac Modification Project was referred to the Commonwealth Minister in 2014 (referral 2014/147). The Minister declared it not to be a controlled action under the EPBC Act. The proponent's report then states that:

“Approval under the EPBC Act was therefore not required”.

It is not for the proponent to decide whether or not to refer a matter of national significance to the Commonwealth Minister. The 2017 modification had a different proponent and to the 2014 proposal and could have elicited a different response indicating that it was a controlled action. The MNS relating to an impact on the broad headed snake should have been sent to the Commonwealth Environment Minister for assessment. NCC requests that the PAC requires the proponent to refer the matter.

Regardless of whether or not the proposed action was a controlled one under the EPBC Act, the response in the NSW Planning Report on the Invincible Colliery Modification (dated November 2017) is inadequate. The proposed modification required threatened species credits of 388 for the impact on the broad headed snake (DoP report, p 20). The proponent was not able to identify any suitable properties to offset these credits. However the NSW Department of Planning and Office of Environment and Heritage (OEH) were satisfied that:

“Castlereagh Coal has used all reasonable endeavours to locate offsets and considers that supplementary measures may be used to offset the credit shortfall” (DoP report, p 22).

OEH and the Department of Planning have agreed that the funding for the credit shortfall should be based on \$500 per credit. This will provide \$194,000 towards supplementary measures. Supplementary measures have been discredited as an appropriate offset and hence we request that the PAC requires the proponent to find either a 'like for like' offset or not be granted approval.

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. In its 2014 report rejecting the Coalpac modification, the PAC noted that DPE received 748 submissions, around 75% of them objecting to the proposal. Considering this high level of public opposition, we maintain that an approval of the 2017 project with similar environmental impacts to the 2014 project could not be said to be in the public interest.

NCC would like to thank the PAC for this opportunity to submit our concerns with this project. We can be contacted at [REDACTED] or [REDACTED] should the Commissioners require any additional information.

Yours sincerely,

A large black rectangular redaction box covering the signature of Daisy Barham.

Daisy Barham
Campaigns Director
Nature Conservation Council of NSW