

Reply to: Georgina Woods

24 January 2018

David McNamara
Director, Planning Assessment Commission

re: Urgent request for assistance regarding United Wambo mine proposal

Dear David,

We are writing regarding the proposed United Wambo coal mine project, which has recently been sent to the Planning Assessment Commission for review. We ask you to share this letter with Commissioner Gordon Kirkby, Chair Lynelle Briggs and incoming chair Professor Mary O’Kane.

As Lock the Gate and Hunter Communities Network discussed with you at a meeting in September, the role of the Commission’s public hearings in extinguishing the right of objectors to appeal on merits the final decision regarding coal mining projects is a source of concern in the Hunter region, to the point where communities have boycotted these proceedings in protest.

We discussed with you and Chair Lynelle Briggs ideas for increasing the rigour and effectiveness of these hearings, particularly with regard to assumptions and assessments made by the Department of Planning which contradict expert opinion and/or community sentiment. Specifically, the Commission has the power to call people and representatives to appear at its hearings, and we are urgently asking you to ask representatives of the Department of Planning and the Office of Environment and Heritage to appear at the forthcoming hearing for the United Wambo project, as provided for in s268Q of the *Environmental Planning and Assessment Regulation 2000* to explain discrepancies we have identified in the assessment.

A public hearing has, as you are aware, been scheduled for this project on 8 February. The project proposes to clear over 200 hectares of critically endangered forest and it will exacerbate cumulative noise, air and water impacts in the central part of the Hunter Valley.

On reviewing the Department of Planning’s Assessment Report for this document, we are gravely concerned that the assessment is incomplete, biased and inaccurate. We are appealing to you and the incoming Commission Chair to require the agencies to appear at the Commission’s public hearing to respond to questions about the assessment.

This project will clear over 200 hectares of a nationally critically endangered ecological community, much of it in moderate to good condition. This ecological community grows nowhere but the Hunter Valley and it is threatened with extinction. The conservation advice for the listing of the Central Hunter Valley Eucalypt Forest starkly warns that the community could be extinct in 45-60 years if key threatening actions continue, and lists avoiding further clearing for mining as the first priority for its preservation. The advice identifies remnants of moderate quality condition class as being areas *critical to the survival of the community*. This includes the area proposed for clearing for this mining project.

We raised this critical habitat status in our submissions but it has been repeatedly omitted by the proponent and the Department of Planning and Environment. So, we are appealing to you for help.

The Assessment Report presents contradictory and confused information about the quantum of vegetation clearing to be undertaken. It also claims that “The quantum of the proposed biodiversity offset package and rehabilitation works *would adequately compensate for the proposed vegetation clearing and associated impacts on threatened flora and fauna species and their habitats.*” This claim is not borne out by the information provided. The proponent itself admits that it has only sufficient offsets to meet 78% of its initial offsetting requirement. This includes an offset property that has so far been identified but not assessed for adequacy by the Office of Environment and Heritage.

In its Assessment Report, the Department describes finding the additional offsets to meet the shortfall as a “minor matter” but it is far from it. The forest community in question exists nowhere but the Hunter Valley and hundreds of hectares of it have been approved for clearing in the last five years for coal mining projects.

The currently identified offset areas provide less than half of the total area of offsets required across the life of the mine. Furthermore, a quarter of the offset area proposed are future mine rehabilitation proposals. The most recent statements from OEH that are provided with the document note that this might be unacceptable to the Federal Department of Environment and Energy. Given the critically endangered status of this community and of the Regent Honeyeater, we do not believe that mine rehabilitation is an appropriate approach.

The Department claims that “OEH has advised that, if effectively implemented, the direct offset areas, proposed rehabilitation, conservation funding and retirement of residual ecosystem and species credits would be sufficient to compensate for the proposed biodiversity impacts under relevant NSW policies.” There is no evidence of this in the documents provided for the Commission’s review.

In short, the Department has produced an Assessment Report that does not provide the necessary information to either the Commission or the public that would allow proper robust scrutiny of its claims.

The public hearing for the Commission’s review will extinguish any right the public has to appeal the merits of a final determination of this project. For that reason, it is utterly unacceptable that this hearing and review should take place without full information being provided about the biodiversity and other impacts of this project, and the proponent’s proposals to mitigate and offset that impact.

The hearing has already been scheduled for 8 February and Lock the Gate and Hunter Communities Network will take part, but we ask the Commission to ensure that the assumptions, conclusions of deliberations of the Department of Planning and the Office of Environment and Heritage be open to the scrutiny of the Commission and the public at the hearing.

We ask that the Commission immediately write to the Department of Planning and the Office of Environment and Heritage calling officers of those agencies to appear at the public hearing to provide evidence regarding the Assessment Report specifically and the assessment of this project more generally.

We appreciate that time is limited, but it is crucial that the severe impact this project is likely to have on a matter of national environmental significance be adequately investigated at the public hearing, given its role in extinguishing subsequent examination of evidence by the Land and Environment Court.

I look forward to your prompt response in this matter.

Regards,

Georgina Woods

Lock the Gate Alliance

Bev Smiles

Hunter Communities Network

Kate Smolski

CEO, Nature Conservation Council of NSW