

Vickery Extension Project (SSD-7480)

Submission by the Armidale Branch National Parks Association. (NPA)

The NPA NSW was established in 1957 and the Armidale Branch was formed in 1974. [SEP]

We are a not for profit organisation, working with community to protect nature.

We have environmental, social and health concerns with the project and we object to the Vickery mine extension.

We have rural members living throughout north western NSW, some of whom are being directly and adversely affected by the proximity of existing and expanding coal mines.

Problems with the mine include:

Water

« Catastrophic fires, heatwaves and unprecedented drought conditions have heightened our awareness of the critical importance of water in the landscape »

The Minister for Agriculture and Western NSW, Adam Marshall

This Project is a controlled action under the *Environmental Protection and Biodiversity Conservation Act*, and is a “large coal mine” under the terms of the EPBC Act. There is insufficient and not enough accurate nor complete information regarding the protection of water, vital for the on going well being of the environment and agriculture in the region – the Whitehaven EIS groundwater assessment *conducted by Heritage Computing was based on numerical modelling that incorporated Taarrawonda Coal Mine to the north and Rocglen Coal Mine to the east and the data and information from the mine plans and groundwater models developed for these projects. The two main groundwater systems that occur within the Project mining area and surrounds are: porous and fractured hard rock groundwater systems within the coal measures of the Maules Creek Formation; and [SEP]aquifers associated with the unconsolidated alluvial sediments of the Namoi River floodplain (i.e. the Upper Namoi Alluvium aquifer). [SEP]The groundwater modelling predicts that the zone of groundwater drawdown surrounding the Project open cut during operations and post-closure would be largely restricted to the Maules Creek Formation.* Whitehaven states in that “A transient calibration of the numerical regional groundwater model was conducted and the model was then used to simulate the potential effects of the Project on the local and regional aquifer systems and groundwater users.” (Extract from Whitehaven EIS Groundwater)

“There is one privately-owned bore within the island of Maules Creek Formation in which the Project is located (i.e. Bore SK1). This bore has been drilled to a depth of between 85 and 87 m and is predicted to experience a drawdown of 1 to 5 m. For Bore SK1, Whitehaven **would provide** mitigation/ compensation/offset measures commensurate with the level of impact.” “No privately-owned census bores within the Upper Namoi Alluvium groundwater system surrounding the Project are predicted to be materially impacted during mining operations or post closure (i.e. any drawdown effect would be less than 1 m and is therefore considered to be negligible). The Project would therefore not impact the agricultural use of the Upper Namoi Alluvium groundwater system for irrigation or other agricultural purposes. A groundwater monitoring program **would be developed** and implemented for the Project. This program, and ongoing validation of the regional numerical groundwater model, **would be used to identify, assess, and manage potential impacts on groundwater users in the vicinity of the Project.** A Surface Water Assessment for the Project was undertaken by Evans & Peck. The Project mining area is largely located within the Stratford Creek and Driggle Draggie Creek sub-catchments which ultimately flow into the Namoi River south of Boggabri. Runoff from the south-western extent of the Project mining area flows directly into the Namoi River.

In the Australian Government’s Bioregional Assessments on *Aquatic species and communities* it states that

The Namoi River forms part of the Darling River endangered ecological community (NSW Fisheries

Management Act). The community occurs in lowland riverine environments with meandering channels and

provides a variety of aquatic habitats including deep channels and pools, wetlands, gravel beds and

*floodplains. The reach of the Namoi River between Narrabri and Boggabri forms part of the Namoi Aquatic Habitat Initiative Namoi Demonstration Reach, a collaboration between the Namoi CMA, Murray–Darling Basin Authority (MDBA), NSW Department of Industry and Investment and land owners (Commonwealth Environmental Water Office, 2012). A number of aquatic species protected under state and federal legislation occur in the Namoi river basin. Four aquatic species known to occur in the river basin are listed as endangered in the NSW Fisheries Management Act (see Table 17). The Australian Government recognises that there are **gaps in the knowledge** of the *Groundwater-dependent ecosystems include floodplains, wetlands, riparian areas and springs. These ecosystems provide important environmental services including potable water, habitat for fish, invertebrates and aquatic and terrestrial flora and fauna. They can also play an important role in the removal of wastes and containments or provide important cultural and aesthetic values (Tomlinson and Boulton, 2008). However **knowledge of the process that regulates function in groundwater-dependent systems has lagged behind that of ecosystems dependent on surface water.****

In 2018 the NSW Department of Industry delivered a scathing assessment of Whitehaven Coal's own water analysis and modelling. The Department found the Whitehaven's 2017 review into its water use was "deficient in a number of areas" and the company did "not provide sufficient evidence to adequately determine if impacts [were] occurring to groundwater and connected water systems". Later in 2018, **the Department again took Whitehaven to task over its groundwater modelling and "generally poor correlation between modelled and observed data". The Department warned of "significant implications" for the mine's "licensing requirements and the water balance".**

There is insufficient information in the Vickery coal mine EIS particularly in light of Whitehaven's poor performance with regard to water misuse for other mines in the area.

All four of Whitehaven's coal mines in the Namoi region of north west New South Wales breached at least one – and in some cases, several – of their licence conditions most years between 2010 and 2016, an investigation by Environmental Justice Australia (EJA) has revealed. EJA, a public interest legal centre, requested documents through Freedom of Information in October 2016 after Whitehaven reported negative pollution concentrations near the company's mines. The documents have finally been released to EJA. The documents show Whitehaven provided authorities with minimal explanation for its non-compliance with licence conditions and often went on to breach the same conditions year after year.
– please refer to section below regarding water breaches (Media releases)

It is important for all developments to take into account Water and Landscape Connectivity and the Cumulative Effect of impacts of large scale mining activities in this context:

The Australian Government Bioregional Assessments 6 December 2018 states that *regional-scale hydrological modelling indicates that an area of 2299 square kilometres could experience groundwater drawdown due to modelled potential new coal resource developments. About 5521 kilometres of streams and 1415 square kilometres of water-dependent ecosystems are in the area potentially affected by changes in groundwater or surface water. **Further analysis is needed to determine the level of risk to these ecosystems. Potential hydrological change could not be quantified in 3629 km of streams in the area potentially affected by changes in groundwater or surface water. The total area where the eight modelled potential new coal resource developments could result in changes in groundwater or surface water is 7014 square kilometres.***

This area is the zone of potential hydrological change. For example, small areas of floodplain or lowland riverine ecosystems may merit closer attention, including areas near Maules Creek, Back Creek and Bollol Creek and adjacent to parts of the Namoi River.

*Of the 1690 ecological assets in the assessment extent, 624 are in the zone of potential hydrological change. Of these, 161 intersect areas that are more at risk of hydrological changes than other areas in the zone and may merit closer attention when considering potential impacts. **These include the potential habitats of five threatened ecological communities and 11 threatened species listed under the Environment Protection and Biodiversity Conservation Act 1999***

The NSW Department of Planning, Industry and Environment (DPIE) is concerned that there might not be enough water to run the mine in prolonged periods of dry conditions. Whitehaven's nearby **Maules Creek coal mine has had difficulty sourcing water, has been found to have taken water unlawfully and has come into conflict with farmers in the region over the mine's water demand.** Whitehaven proposes a new borefield to supply the mine and it appears this borefield will be separately assessed by DPIE Water. The Assessment Report says this borefield is deemed 'a legislative **post-approval** requirement' and Whitehaven is required to lodge an application for a licence to construct it, with 'no guarantee that the requested volume will be approved' (according to DPIE Water's advice). DPIE Water also clarify that Whitehaven has conceptualised Zone 4 of the Namoi alluvium in its borefield assessment as 'confined/semi-confined' which affects the predicted impacts. It has also **not considered the impact of the borefield on the adjacent stream.** All of that, it seems, is relegated to "post-approval."

Whitehaven's proposal to put a **mine spoil pile on top of Zone 4 of the Namoi alluvial aquifer has been objected to by the DPIE's own water agency, with concerns it will lead to contamination of the aquifer as water seeps through acidic and saline spoil, carrying metals and contaminants into the aquifer below.** **The surface water environment** - possible changes to the local hydrology, particularly at the various stream crossings, have not been honestly assessed, with little assessment or measurement of existing conditions. There is a grave risk of adverse effects on the Namoi River and aquifers which would severely and permanently affect the whole region and those depending on it for their livelihoods. ^[1] There are major environmental concerns **regarding ground water and impact on native flora and fauna** such as endangered koala populations and the Federally listed Murray Cod.

Cumulative Effects By confining assessment to the footprint of proposed development and ignoring the obvious addition to the impacts on the landscape of adjacent existing and proposed mine developments beyond the Vickery Coal Mine, such as Maules Creek, Tarrawonga as well as the Santos Coal Seam Gas proposal (850 wells) and the Whitehaven long-wall coal mine (both in The Pilliga forests) - all of which seriously deplete water sources and the remaining vegetation cover in an over-cleared landscape which cannot tolerate more clearing. ^[2]

We are concerned to keep Namoi River water intact & protected from severe damage if this mine proposal proceeds, and are very concerned that the water quality and downstream flows will be damaged to the detriment of the environment and of downstream users.

Endangered Ecological Communities

- The has not been a proper assessment nor explanation in the EIS nor does the EIS recognise compliance with the EPBC Act. This is a serious omission by Whitehaven and therefore Armidale NPA recommends that the consent for the Vickery Coal mine extension proposal be refused.

Koalas

are listed as an endangered species under NSW and Commonwealth legislation. The entire locality where the Vickery mine is intended to be built is prime koala habitat, including the area where the rail loop is to be built. There is no account of the impact of removing 500 hectares of scattered trees nor any adequate way to offset

this loss – native vegetation if it is planted to “off set” this loss will be difficult to establish in good conditions and very difficult or impossible to cultivate in drought conditions.

What are displaced koalas to do while waiting for replacement habitat and food trees to grow??

Landscape connectivity losses and replacing destroyed ecosystems and habitats

The EIS downplays the adverse effects of clearing scattered trees and the loss of patches of remnant vegetation and the importance of these creating corridors in a fragmented landscape that will experience further destruction of land and water species as well as impact on nearby areas such as Vickery State Forest.

The Auditor-General’s June 2019 Report to Parliament /Managing native vegetation/Executive summary :*the vegetation Code states that management actions on set asides are expected to promote vegetation integrity and achieve restoration. However, there are no clear measures or goals in management plans to indicate whether such restoration is being achieved. For example, a goal for the restoration of a set aside might be to recover 50 per cent of composition, structure, and function to the regional benchmark within five years. The lack of such measures or goals makes it harder to gauge whether management actions are achieving their stated purpose.*

It is therefore clear that there are flaws in government regulations, requirements and monitoring and the capabilities of under resourced agencies such LSS and EPA to carry out their required duties, and it is therefore unlikely that replacement of lost trees or habitat will effectively achieve any goals, even if clearly articulated.

Biodiversity Offsets

- The EIS fails to prove scientifically and in practical terms that offsets really can accurately and fully recreate complex native ecosystems and specific vegetation communities. Biodiversity offsets, supposedly including ecological outcomes from mine rehabilitation plantings and the existing mine Biodiversity Offset Strategy put forward as compensation for any impacts which may occur, but there is strong evidence that there is no like-for-like vegetation available to replace the vegetation, the threatened ecological communities and koala habitat that will be destroyed. The whole concept of biodiversity offsetting is deeply flawed and cannot meet the objects of the Biodiversity Conservation Act. [SEP] Biodiversity offsets, supposedly including ecological outcomes from mine rehabilitation plantings
- Large areas of natural habitat are being destroyed and these cannot, according to scientific research and reports by botanists, be compensated by ‘off-sets’ as **delicate and complex native vegetation communities and ecosystems cannot be constructed or re-created, especially impossible as short term solutions.**
- Whitehaven’s claims that all its offsets can be managed successfully need to be treated with scepticism given the flaws and lack of offset finalisation for the Maules Creek Mine. Whitehaven’s track record in these matters is not credible and should not be relied upon. We recommend that Whitehaven’s Biodiversity Offset Plans are inadequate.

Social and health impact on communities

Communities that are already affected by open-cut coal mining in the primarily agricultural district of Boggabri will be intensified by the mine, which will include some fly-in fly-out and drive-in drive-out workers. The Narrabri Council is objecting to the coal mine because of its social impacts and loss of

agricultural land and its implications for food security. There is anxiety amongst agriculturists and pastoralists over water supply and pollution and many fear for the well-being of the environment. There are impacts from noise pollution from the mine and by increased truck traffic. The Noise Impact Assessment has vitally important ramifications for the surrounding community. The construction of a coal handling and processing plant at the Vickery coal mine is an additional threat, as it will produce unacceptable levels of low-frequency noise. This is well-known to occur, and is well-documented that CHPPs produce highly disturbing noise in the 16-25Hertz range. Whitehaven's Maules Creek coal mine has intractable noise problems at the 50 Hz frequency. In addition, the Noise Impact Assessment is lacking an All Years Worst Case Scenario, and fails to include key noise producing infrastructure in its modelling. There is failure to adequately address the issue of noise with private haul road and Kamilaroi Highway overpass is located approximately 200 m to the west of the Namoi River on its floodplain. Vehicular Movements : Road transportation of heavy plant and equipment, and increased road haulage of coal road transport since 2012 has grown dramatically, including mine workers, from Tarrawonga mine which gained approval subsequent to 2012. Since 2010, the Dept of Planning has continued to approve increases in truck movements on the Highway from 2Mtpa to 3Mtpa to 4Mtpa, rather than building the Kamillaroi Highway overpass as promised. These are not accounted for in the Vickery Road Transport Assessment

Health concerns, include those those caused by pollutants as well as mental strain from anxiety. Local residents are suffering from respiratory problems and mental health concerns relating to the impacts by vibrations from mining explosions, noise, dust, pollution and increased vehicular truck movements. People are suffering from the cumulative effects of expanding coal mines in this area. There is inadequate attention directed at these concerns for example, the Namoi Air Quality Monitoring System does not incorporate dust monitoring in or near the town of Boggabri. The EIS did not adequately address these serious issues.

Message from People4Plains (primary producers) in the Namoi River area:

This project is a really bad plan - it will be a stones throw from Namoi River, it will be another step towards turning the Namoi Valley into the Hunter with a huge tract of coal mines across the back of Boggabri, it will further hollow out the town of Boggabri, put further stress on water resources and it is run by Whitehaven which is notorious for having the worst environmental record in the state.

The Boggabri community is fed up with the lies they are fed by Whitehaven. Last month Whitehaven presented to the community about the Vickery coal mine EIS but did not mention the fact that it includes a whole new borefield for a region already under water stress, they also spent considerable time boasting about the employment benefits that Boggabri would receive and then we find out they have presenting to their investors that actually they intend to use automated trucks at Vickery. We do not want to be the next Hunter Valley, do we?

Employment and Economy

Mining contributes little to employment relative to other industries. It accounts for less than 2% of employment in Australia (Parliament of Australia 2016) and often negatively impacts local employment in agriculture (Reserve Bank of Australia, 2014). As the mining sector becomes increasingly automated, it employs fewer people. Mining is in for the extractive short haul compared with productive sustainable agriculture that will continue to provide employment and food and other products far into the future.

Climate

What can we expect in the north west region? Local Land Services through the NSW Office of Environment states that climate change is no longer something of the future and writes that in the north west region we can expect more hot days, fewer frosts, less rain, more time in drought and a harsher fire events. Further that there is also strong scientific evidence to suggest that this change is a result of human activities, **such as the burning of fossil fuels**. Over the past 15 years in Australia, the frequency of very warm months has increased five-fold and that rainfall has been declining and that the duration, frequency and intensity of heatwaves has increased. As well as experiencing more extreme fire events across large parts of Australia. Changes in climate are seriously impacting on native flora and fauna as well as food production.

Variabilities in climate affect how crops grow, the quality of the crops and how much the crop yields. Different crops are affected in different ways. Some crops, such as canola, are more sensitive to climate variations, while wheat and barley are more drought-resistant. There is a fair degree of certainty that cropping will be affected by less rainfall and that there will be fewer opportunities to plant. In some cases, changes in climate could also lead to the establishment of invasive species, such as weeds and pest animals. Hotter temperatures and a more variable climate will affect the way we manage our region's wealth and the way we live our daily lives. Australia's changing climate doesn't just affect the natural environment. It affects us all. It affects the farmers who grow the food we eat; it affects the amount of water we have; it affects the survival of animal and plant species.

Agriculture

In praise of farmers in the NW region involved with a rehydration project, the Minister for Agriculture and Western NSW, Adam Marshall commends farmers for working together to **achieve positive, catchment-wide outcomes**. "Catastrophic fires, heatwaves and unprecedented drought conditions have heightened our awareness of the critical importance of water in the landscape," Mr Marshall said. "What is innovative about this rehydration project is that it focuses on the soil profile to act like a sponge for water storage," he said. "Through projects like these, in partnership with Local Land Services, we're helping build the knowledge and capacity of landholders to survive and thrive in tough times like drought so they can keep growing great food and fibre and looking after natural environments." Local Land Service website 25 June 2020

□ Long term inter-generational viability of coal mines & communities

(Extract from Whitehaven EIS) *Development of the Project mining area would result in disturbance to 1,520 ha of Class 4 Agricultural Suitability land, 595 ha of Class 3 land, and 123 ha of Class 2 land. These areas would be progressively disturbed during the 30 year life of the Project as the open cut advances. Areas of the Project mining area that would not be disturbed until later in the mine life would continue to be used for cattle grazing until such time as they are required. The private haul road and Kamilaroi Highway overpass would disturb 4 ha of Class 2 and 3 Agricultural Suitability land.*

There is a threat to the long term viability of essential sustainable agricultural businesses and the associated long term well being of communities and economics of local towns such as Boggabri.^[1]

Unpolluted Water-Earth-Air = Healthy biodiversity, healthy environments and healthy communities with long-term sustainable economies – our legacy for current and future generations

Polluted Water-Earth-Air = what future for our environment and our communities?

The NSW Planning Process is not adequately addressing this issue.

We are aware that many diverse sectors of the community have expressed real and personal concerns with regard to the natural environment and water resources, concerns over health issues and to the impact of mining on the viability of farming lands, as well as sorrow over destruction of cultural heritage and natural habitats.

We trust that the Independent Planning Commissioners acknowledge scientific data regarding environmental issues and the genuine concerns of north western NSW residents and communities.

Thank you for the opportunity to respond to the Vickery Coal Mine extension proposal.

Lynne Hosking,
President
Armidale Branch
National Parks Association
10th July 2020

References :

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Vickery Coal Mine Environmental Impact Statement

Submissions to Vickery mine EIS 2018 by Beth Williams OAM a Botanist; and Dr. D. Paull, Ecologist.

Media Releases regarding Whitehaven coal mine breaches

2 July 2020 industry. nsw.gov.au Media release Water regulator commences prosecution of mine at Maules Creek

The state's independent water regulator has commenced prosecution in the Land and Environment Court of a mine operator at Maules Creek near Boggabri in the state's north west. The Natural Resources Access Regulator (NRAR) is charging the Whitehaven Coal-owned Maules Creek Coal Pty Ltd with two alleged breaches of section 60A(2) of the *Water Management Act 2000* for taking water without an access licence over a three-year period between 2016 and 2019, or in the alternative section 60C(2). The alleged breaches relate to the failure to divert clean water from major streams on the site, instead capturing the water on the mine site. The maximum penalty for a breach of section 60A(2) for a company is \$2,002,000. NRAR Chief Regulatory Officer Grant Barnes said the alleged failure to obtain licences for the water taken impacts on other water users and the environment – especially during severe drought.

2 July 2020 The Guardian

A NSW mine could face multimillion-dollar fine for allegedly breaching water law
NSW independent water regulator has charged Whitehaven Coal over alleged breaches of the Water Management Act at Maules Creek. A mine operator in north-west NSW could be facing a multimillion-dollar fine after allegedly taking water without a licence over three years. The state's independent water regulator on Thursday said it commenced prosecution in the Land and Environment Court against Whitehaven Coal over two alleged breaches of the Water Management Act at its Maules Creek coalmine. The Natural Resources Access Regulator charged the operator for taking water without an access licence over three years between 2016 and 2019 at the mine near Boggabri. The alleged breaches relate to the failure to divert clean water from major streams on the site, with Whitehaven accused of capturing the water on the mine site, the NRAR said in a statement. The maximum penalty for a breach of the related section of the Water Management Act for a company is \$2m. NRAR chief regulatory officer Grant Barnes said in a statement that the alleged failure to get licences for the water impacted other water users and the environment – especially during the severe drought. The Environmental Defenders Office, on behalf of Lock the Gate, had made complaints in relation to Whitehaven Coal's water use at the Maules Creek site over several years. "We are really pleased to see the regulator has decided to take action in this case," the EDO's principal solicitor, Elaine Johnson, said on Thursday. Whitehaven Coal said the alleged breaches related to matters NRAR began investigating in 2018. "Whitehaven has previously publicly addressed aspects of NRAR's investigation, including noting the

complexity of the water management system in NSW and the fact that some of the alleged non-compliances concern practices widely observed in the NSW coal mining sector," a spokeswoman said in a statement. The prosecution comes as the state's independent planning commission commenced public hearings on Thursday for another Whitehaven Coal project, the Vickery mine, in the Gunnedah region. "Concerns are being consistently raised in those hearings by local farmers and the community about the impact of that mine on water availability for primary producers," Johnson said.

13 December 2019 The Land

Pipeline desist claim over Maules Creek coal mine water bid John Ellicott

Farmers near Maules Creek claim the mining operation is drying up their water sources, above and below ground. Now they say two water pipelines from two farms that Whitehaven bought will also threaten water farm supplies when they start operating. A cease and desist letter over alleged illegal construction and use of a pipeline to transport groundwater from farming properties has been issued to Whitehaven Coal over its Maules Creek operation. But it's not known what legal effect a desist letter will have from the Environmental Defenders Office (EDO) on Whitehaven. The legal letter comes as the NSW water regulator continues an inquiry into the pipeline from two farms, bought by Whitehaven, that run to the Maules Creek mine near Gunnedah. The pipeline has just been completed but is not in operation. Lock the Gate Alliance said that the state's water watchdog, the Natural Resource Access Regulator announced it was investigating the proposed pipeline last month. But the Alliance alleges, and now backed by the EDO, that the pipelines are outside the mine's development consent.

Therefore any potential action over the pipelines from the two properties to access groundwater would have to be handled by the Department of Planning. Lock the Gate says in a time when farmers were struggling in the drought any further water impact in the Namoi will hurt groundwater supplies in the area. Late last week, the Environmental Defenders Office issued Whitehaven Coal with a cease and desist letter on behalf of Lock the Gate Alliance. It alleges that the mine will be taking valuable farm groundwater from an area outside the mine's approved area for water extraction. Lock the Gate NSW spokesperson Georgina Woods said it was the Alliance's view that "the construction of the pipeline was illegal as it was well outside the approved mine project".

"The properties the mine is taking alluvial groundwater from are outside the approved mining area and therefore should not be used to supplement the company's water," she said. The two properties are Olivedene and Brighton. "When the impact of the Maules Creek coal mine was being assessed, the company never said it would be buying up local farms and piping productive groundwater to the mine," Ms Woods said. The mine's water use was modelled for a range of climatic conditions and Whitehaven never planned to use alluvial water for washing coal and suppressing dust. "Whitehaven is a rogue operator, running a mine in a parched landscape at a time when farmers in the region are struggling against this severe drought." Whitehaven Coal has already outbid multiple farmers for groundwater allocations, paying exorbitant prices that farmers simply can't compete against. It has been found to be illegally taking surface water, and now we have this unauthorised groundwater pipeline.

"Locals in the area are at their wits' end. The bores Whitehaven is extracting from were for farming and irrigation - never for mining. We demand Whitehaven immediately stop using these bores to extract water and call on the government agencies to prosecute this company for its blatant breaches of environmental law." She said NSW state authorities should "throw the book" at Whitehaven over the water extraction bid.

Whitehaven said in a comment: "Whitehaven confirms it has received a letter from the EDO to which a response is being prepared. The letter concerns water infrastructure connecting a Whitehaven-owned bore to Whitehaven's Maules Creek Mine, and for which Whitehaven holds appropriate Water Access Licences. The pipeline was constructed following approvals from NRAR and the Narrabri Council and in close consultation with the Department of Planning and other stakeholders. Continuity of water supply underpins mining operations and, at Maules Creek, directly supports over 600 jobs in the local community." The company maintains it has observed all water licence requirements. It is not known if legal action will be pursued over the pipeline.

The controversial Whitehaven Coal Maules Creek mine is being investigated **again**, this time following complaints about its groundwater use which the company denies. The company has already been found by the NSW regulator to have allegedly taken surface water unlawfully. A briefing note prepared by the Natural Resources Access Regulator (NRAR) for the NSW Water Minister Melinda Pavey said NRAR is seeking advice on potential "civil and/or criminal proceedings". Special counsel for the Environmental Defenders Office NSW (EDO NSW) Rana Koroglu has told 7.30 she understands that NRAR is meeting this week to make that decision. "We understand the regulator is considering whether to commence criminal or civil proceedings or some other type of regulatory action," she said.

The groundwater investigation comes as no surprise to brothers Rick and Phil Laird, who are both members of the Maules Creek Community Council and who farm near the mine. They say their bore water has run dry. "In my opinion, I think the groundwater is connected to the coal seams and the coal seams are being dug up for the mine," Phil Laird, a member and former National Co-ordinator of the Lock The Gate Alliance, told 7.30. "I think a lot of the water that we've lost has ended up in the pit, and it's been used for coal washing and ultimately exported along with the coal."

The Lairds first raised their concerns about the mine's water use with the NSW Department of Planning in 2018. "We believe that the Department of Planning never really investigated the water take at the mine," Rick Laird said.

"We knew what was going on. We tried to tell them what we thought." They say they were told that the drought was responsible for the diminishing groundwater. "A drought certainly is playing a part, and there's no doubt about it," Phil Laird said. "But the thing is that the water started to disappear here well before the drought actually started."

At the same time, one NSW government department was sounding the alarm. Internal documents obtained by the Maules Creek Community Council through right to information legislation show that in 2018 the NSW Department of Industry delivered a scathing assessment of Whitehaven Coal's own water analysis and modelling. The Department found the Whitehaven's 2017 review into its water use was "deficient in a number of areas" and the company did "not provide sufficient evidence to adequately determine if impacts [were] occurring to groundwater and connected water systems".

Later in 2018, the Department again took Whitehaven to task over its groundwater modelling and "generally poor correlation between modelled and observed data".

The Department warned of "significant implications" for the mine's "licensing requirements and the water balance".

Farmers struggle in bidding for water rights. On top of the alleged unlawful water take, farmers are also struggling to compete with the mine for legitimate water access at auction. Andrew Watson is one of the biggest irrigators and agricultural producers in the region, and he said he is being muscled out by the mine. "Historically, we've been able to get into the market and buy water in a drought," he told 7.30. "The mining industry is buying its way and bidding each other up to take water at prices we just can't get anywhere near." Andrew Watson says the lack of water means his current crop yield is a tenth of what he used to get during times of drought.

Agriculture is getting shoved out of this valley, Mr Watson said.

Mr Watson told 7.30 that farmers typically pay \$110-\$130 per megalitre but have recently been outbid by mining companies paying up to \$950 per megalitre for temporary water.

For permanent water supplies, farmers say mining companies have paid almost twice the usual rate of \$2,850-\$2,950 per megalitre.

Sally Hunter is a farmer and member of People For The Plains, a grassroots group affiliated with the Lock The Gate Alliance. She said Whitehaven Coal's thirst for water is putting more pressure on farmers already struggling with drought. "They look around and they see a mine that's still operating at full capacity and seeking to grow and expand and have more mines in the region," she said.

Whitehaven Coal denies taking more water than it is allowed. In a statement to 7.30, it also rejected that it had contributed to "groundwater drawdowns in the area in any way that has negatively affected local farmers and irrigators". "There is no credible hydrogeological evidence indicating that bore drawdowns in the Maules Creek area are the result of anything other than the combination of lack of rainfall and inadequate aquifer recharge for some bores." It said that it used just under 70 per cent of its water allocation of "10,000 megalitres from a range of licensed ground and surface water sources". The company would not confirm the prices it had paid for temporary or permanent water but noted that water was a tradeable commodity. "It can be sold and bought on an open market where there is a seller and a willing buyer," the statement said. "We acknowledge there is competition for water in the area and, as in any other free market, demand drives up price." Whitehaven Coal said it had worked closely with the NSW Department of Industry to address the concerns raised in 2018 about the mine's water analysis and modelling. 7.30 has sought comment from the Department of Industry.

Potential surface water penalties due this week EDO NSW lawyer Rana Koroglu said the Maules Creek mine was approved on condition that it complied with the relevant water legislation. **"The main source of water that the mine was to rely on for its operations was a 3,000 megalitre water licence from the Namoi River, and that was a high-security license," Ms Koroglu said. She detailed NRAR's preliminary findings into the Maules Creek mine's use of surface water. "Whitehaven didn't build the dams they were meant to build, which were meant to capture clean water runoff," she said. "They didn't divert that clean water around the mine site to be released back into the environment." And they used that water in their mining operations without the appropriate licences."**

Drought-stricken farmers say they are pleased that Whitehaven Coal's Maules Creek mine is again under investigation for its water take. "This mine is taking a lot more water than it was ever intended to take," Ms Hunter said. NRAR announced preliminary findings in September which "concluded alleged unlawful water take is occurring" of surface water at the Maules Creek mine. A briefing note prepared by NRAR for the NSW Water Minister, Melinda Pavey, said NRAR is seeking advice on potential "civil and/or criminal proceedings". Minister Pavey declined 7.30's request for an interview. A spokeswoman said the Minister had neither received nor read the NRAR briefing note.

10 Sept 2018 ABC New England

Maules Creek coal mine under scrutiny by farmers over vast surface water harvest A New South Wales coal mine is being accused of inappropriately taking more surface water than it is entitled to.

A review of Whitehaven Coal's Maules Creek Mine near Narrabri by the campaign group Lock the Gate showed it captured 1,800 million litres (ML) of surface water in 2016, despite being licenced to take 30 million litres. Surface water is water that is collected from rainfall and run off. An examination of surface water licences in New South Wales has been unable to find any other surface water licences held by the mine to justify the additional water. "It does appear that the take is much higher than the licence they have explained to the community," Maules Creek farmer Lochie Leitch said. Whitehaven Coal declined to be interviewed. The company issued a statement saying it was in compliance with its water licences, and the use of rainfall and runoff is permissible under legislation. 'Dirty water' a license exemption

Farmers whose properties neighbour the mine have joined forces with the campaign group, Lock the Gate Alliance, to lodge a complaint with the state's new water watchdog, the Natural Resources Access Regulator. The NRAR was set up in April 2018 following a review of water management and compliance which was prompted by a story on ABC's 4 Corners. The farmers are worried that the alleged collection of this extra surface water is affecting the environment. "[It's] simply capturing too much water that would otherwise be recharging groundwater and flowing into surface water systems," Maules Creek farmer Sally Hunter said. The complaint centres on the alleged unlicensed take of surface water by Maules Creek Mine, the rules governing the use of water, and exemptions within the Water Management Regulation 2011. One of the exemptions relates to dirty water, which is water that is collected from mining areas. **It does not require a**

water access licence because the water can be contaminated. Carmel Flint from the Lock the Gate Alliance said this exemption had been misused. "We certainly don't believe that exemption should be available to the mining industry," Ms Flint said. "If they're taking vast quantities of water that should be in our creeks and our rivers, then they should be subject to the same rules as the agricultural industry."

3 August 2017 MEDIA RELEASE Environmental Justice Australia

Released documents confirm Whitehaven's 'bad neighbour' reputation

All four of Whitehaven's coal mines in the Namoi region of north west New South Wales breached at least one – and in some cases, several – of their licence conditions most years between 2010 and 2016, an investigation by Environmental Justice Australia (EJA) has revealed.

EJA, a public interest legal centre, requested documents through Freedom of Information in October 2016 after Whitehaven reported negative pollution concentrations near the company's mines. The documents have finally been released to EJA.

The documents show Whitehaven provided authorities with minimal explanation for its non-compliance with licence conditions and often went on to breach the same conditions year after year.

The company caused excessive particle pollution from blasting, drill rigs and wheel dust, exposing neighbours to noise pollution levels exceeding licence limits.

Particle pollution levels as high as 91 micrograms per cubic metre were recorded, well above the national standard of 50.

EJA's information search also unearthed seven Penalty Infringement Notices (PINs) issued to three of Whitehaven's four coal mines (four issued to Tarrawonga, one to Rocglen and two to Narrabri).

The company incurred a \$1500 fine for six of the PINs, but a larger fine of \$15,000 when it exceeded the extraction limit for the Tarrawonga mine by more than 136,000 tonnes.

Neighbouring communities have been exposed to blast fumes many times, sending Pat Murphy, who farms immediately next to the Maules Creek mine, to hospital.

"Our analysis cements Whitehaven's reputation as a rogue polluter and bad neighbour that flaunts environmental constraints," said EJA researcher Dr James Whelan.

"Whitehaven only complied with their Environment Protection Licences for these four mines twice out of 24 reports."

Whitehaven Pty Ltd is currently seeking approval to expand a fifth coal mine in the region: the Vickery coal mine.

"It would be negligent for the NSW Planning and Resources ministers to consider approving a fifth coal mine, when Whitehaven consistently disregards its environmental licence conditions and its neighbours' health and welfare."

Read story on ABC News Online



Potential impacts of the Project on surface water quality include the reduction in surface water quality due to uncontrolled site runoff, controlled licensed discharges and/or alteration of groundwater quality affecting baseflow in surface water resources.

The Project water management system would be designed to maintain separation between surface water runoff from undisturbed, rehabilitated and active mining areas, in order to:

- minimise the capture of surface water runoff from undisturbed areas, by optimising the diversion of up-catchment water to downstream receiving waters;
- provide controlled release for surface water runoff from rehabilitated mine areas through licensed discharge points in accordance with Environment Protection Licence conditions;
- capture, store and manage surface water runoff from partially rehabilitated mine areas and infrastructure areas, and provide controlled release of these waters through licensed discharge points in accordance with Environment Protection Licence conditions; and
- capture and store surface water runoff from active mining areas and mine-affected water, with no release off-site.

The Project would result in changes to flows in local creeks due to the progressive extension of the open cut and associated capture and re-use of drainage from operational disturbance areas and controlled releases from licensed discharge points.

The southern part of the Project open cut and the MIA would be protected from extreme flooding events from local watercourses by both temporary and permanent flood bunds.

A Water Management Plan, incorporating the Site Water Balance, Erosion and Sediment Control Plan, Surface Water Monitoring Program, Groundwater Monitoring Program, and the Surface Water and Groundwater Response Plan would be prepared for the Project.

The Surface Water and Groundwater Response Plan would describe how Whitehaven would respond to any potential exceedances of water performance criteria, and it would describe the contingent mitigation/compensation/offset measures that would be implemented in the event that downstream water users or riparian vegetation are adversely affected by the Project.