

Professor Mary O'Kane AC
Chair
Independent Planning Commission NSW
Suite 15.02, 135 King Street
Sydney NSW 2000

Dear Professor O'Kane

**For immediate attention
McPhillamys Gold Project SSD 9505**

Preamble

I offer my condolences to you, your fellow Commissioners officers and staff of IPC NSW for the sudden death of a Commissioner on 8 December 2022.

Thank you for the then prompt public notification that the Public Hearing into the DPE Assessment Report for the McPhillamys Gold Project had been postponed until further notice.

Thank you also for re-opening until 30 January 2023 the opportunity for speaker registration for the IPC Public Hearing into the McPhillamys Gold Project.

1. IPC Record of Site Inspection - Site inspection map

Please arrange for the Record of Site Inspection to be reviewed in consultation with me and others familiar with the locality to examine and if necessary amend apparent errors.

The Record of Site Inspection lists 7 Locations and Key Observations. On the Site Inspection Map I can find no more than 5 such places. Please amend the Site Inspection Map to show the correct location of the 7 Locations and Key Observations.

The following text is shown for: "Location 5 Tailings Storage Facility The Panel viewed the proposed location of the tailings storage facility from Dungeon Road, and the Hallwood House complex."

On the Site Inspection Map Location 5 is shown as "Open Cut Mine".

The following text is shown under the Site Inspection Photo on the first row on the right for Location 5 Tailings Storage Facility: "View of proposed tailings storage facility location, looking east (including Vittoria State Forest visible at image centre right)"

Although I did not attend the IPC Site Inspection on 28 November 2022 and I doubt that I have ever stood at Location 3 as shown on the Site Inspection Map, I contend that the Site Inspection Photo described above was actually taken from Location 3 as a view towards the east south east. The Open Cut Mine (shown as Location 5 on the Site Inspection Map) is south west of the area of Gardiner's Section Vittoria State Forest shown in that Site Inspection Photo.

The view east from the Open Cut Mine does not include any part of Gardiner's Section of Vittoria State Forest, the southern boundary of which is to the north of the Open Cut Mine and east of the site of the Processing Plant.

In response to my request that the Record of Site Inspection be reviewed, please check that the Site Inspection Photos are shown for the correct Locations and Key Observations therein.

2. Depiction of scope of amenity impacted

The DPE Assessment Report, Section 6.2.1 at Clause 78 states "The project has the potential to impact the amenity of around 85 privately owned rural residential receivers around the mine site (within approximately 2 km from the mine site boundary), particularly 47 privately owned residential receivers located to the south of the mine within the Kings Plains locality, including 19 residences in the Kings Plains settlement, in and around Walkom Road. This is a key issue for the Department with a high number of objections from people living in this locality."

I am unaware of any depiction of the area which shows the mine site boundary and the adjacent 2 km plus the details shown in the IPC Record of Site Inspection - Site Inspection Map (corrected?), the DPE Assessment Report Figure 6 at page 21 and elevation contour lines.

It is desirable that receiving locations other than south of the mine and within the Kings Plains locality be as readily identifiable as the localities of the receivers shown in the DPE Assessment Report Figure 6 at page 21.

Please arrange for, first the preparation of a single image which includes a scale and shows the altered boundary of the mine site boundary if that boundary was shifted 2 km outwards in all directions, all of the details in the IPC Record of Site Inspection - Site Inspection Map (corrected?), the DPE Assessment Report Figure 6 at page 21 and elevation contour lines, and secondly, publication of that image on the IPC web site and email distribution to all who are registered to speak at the IPC Public Hearing and have commented to the IPC on the McPhillamys Gold Project.

3. Request for comprehensive site inspection

Having regard to the following, please arrange for the conduct of a comprehensive site inspection of the McPhillamys Gold Project before the Public Hearing into that Project is conducted.

I understand that Professor Neal Menzies did not attend the 28 November 2022 inspection, that the scope of the inspection was curtailed by boggy ground and from my knowledge of the locality and by reference to the IPC's Record of Locality Tour and Site Inspection Map, the IPC did not inspect the area to the east of the eastern mine boundary south from the Bee Keepers and north from where the IPC turned around on Pound's Lane and the lay of the land looking west from that locality.

The previously referred to Record of Site Inspection and Site Inspection Map currently appear to show from Location No. 5 a view from the Tailings Storage Facility towards Gardiner's Section of Vittoria State Forest. Importantly the notes under that Site Inspection Photo do not state it overlooks the site of the processing plant and its proximity to Gardiner's Section of Vittoria State Forest. If such an important feature was not observed and noted during the Site Inspection, a further inspection is needed to demonstrate the importance of that view.

I understand there are receivers within the 2 km "buffer" zone referred to in the DPE's Assessment Report, Section 6.2.1 at Clause 78 who are not located to the south of the mine within the Kings Plains locality. Some of these receivers are downwind of the mine site during prevailing winds and have access to ground water at elevations above the open cut mine. Two of the Forestry Corporation's comments upon the proposed mine state that Gardiner's Section of Vittoria State Forest is not to be treated as a screen against impacts of the mine.

Somewhere east of Kings Plains Section of Vittoria State Forest the route of the pipeline climbs out of Fitzgerald's Valley up a steep incline, appears to follow roads through both Kings Plains and Gardiner's Sections of Vittoria State Forest and between those plantations crosses a high flow water course which discharges into my land. It is important for members of the IPC Panel to understand these challenges against the design and construction of a secure and stable pipeline to enhance their knowledge of the applicant's proposed responses.

In Kings Plains Section of Vittoria State Forest (within a few metres of the pipeline route) from a culvert over Dick's Creek the permanent flow from springs could be inspected. A recently installed makeshift (using a tested design) and leaking flow gauge at that location shows sufficient flow to fill an Olympic sized swimming pool within 10 (more likely 5 to 7) days. From that location an opinion could be formed about the likelihood of that spring flow being sourced from the eastern side of the Lachlan-Macquarie Watershed in Gardiner's Section of Vittoria State Forest and the extent to which ground water flows are a subdued reflection of topography.

The "catchment" of the Blayney Branch of the NSW Farmers Association, which was represented at the IPC's 28 November 2022 Site Inspection, does not include my land. Prior to the IPC's Site Inspection I was unaware that the Chairman of the Blayney Branch of the NSW Farmers Association would attend that Site Inspection. Historically, my local involvement with the NSW Farmers Association has been with the Bathurst Branch.

Even with the help of a skilled photographer, amateur drone photography and my best attempts it is not possible to adequately demonstrate the relationship between the mine site, and particularly the processing plant and the Tailings Storage Facility, and land to the east of the mine boundary.

4. Threshold determination of the DPE's capacity to assess public interest

I repeat my letter to the IPC Chairman dated 4 December 2022, with the exception of the first request therein and again rely upon that letter as here amended and its attachment, noting that some of the dates in that letter have already passed.

This is a procedural question which properly is to be answered by either the IPC Chair or the Panel of Commissioners instead of administratively.

The question of whether the Minister revokes the DPE finding on public interest is discrete from the procedural question of whether the IPC should consider this question as a threshold.

It would be contrary to procedural fairness for the IPC to conduct a Public Hearing to consider the McPhillamys Gold Project while that Public Hearing could be tainted by an unacceptable finding by a government department.

One of the reasons I did not previously repeat this request is my now apparently wrong assumption that the Minister would have by now responded to my letter to him dated 1 December 2022.

If the Minister has plausible grounds to reject the assertions in that letter presumably he would have been quicker off the mark and responded with an explanation as to why the DPE's finding on Public Interest for the McPhillamys Gold Project should not be revoked as requested in that letter to the Minister.

I have not received from the Minister or anyone on his behalf a response to that letter. If I had received such a response which argued why the DPE Assessment Report public interest finding should not be revoked as requested by me, I would have reconsidered whether to repeat this request.

To the grounds outlined in my letter to the IPC Chairman dated 4 December 2022 I add:

1. The importance of the DPE having the capacity to make a sound finding on the public interest is elevated because under Section 4.15 of the EP&A Act it is not optional but mandatory for the IPC to consider the public interest in the IPC's consideration of whether to consent to the McPhillamys Gold Project. This obligation upon the IPC could accentuate the importance of any procedural errors by the IPC where the DPE has such impaired capacity to judge public interest and the IPC wrongly refused a request to consider as a threshold that capacity of the DPE.

2. The DPE Assessment Report's failure to adequately explain why the measures in SEPP (Transport and Infrastructure) 2021 Division 4 are irrelevant to the IPC's consideration of the McPhillamys Gold Project which will involve landscape change from the creation of a 70 million tonne stockpile of waste rock.

3. The DPE's failure to have sufficient regard to the unique features of the location of the McPhillamys Gold Project in its numerous Assessment Report findings that the McPhillamys Gold Project passes muster under state wide guidelines. These guidelines were developed with insufficient detailed consideration of the peculiar impacts of a mine of the scale of the McPhillamys Gold Project situated within such close proximity to major centres of population, heritage and critical sources of surface and ground water - a tailings storage facility sitting over more than twenty springs within metres of the water shed for river systems as significant as the Lachlan (Kalari) and Macquarie (Wambool). A hastily prepared update of the DPE's assessment report template is inadequate for a project as risky as the McPhillamys Gold Project!

Please do not hesitate to contact me if I could further assist.

Yours sincerely



Ian Manning

27 January 2022



cc:
Hon Anthony Roberts MP, Minister for Planning
Hon Paul Toole MP, Member for Bathurst, Deputy Premier of NSW
Regis Resources
Belubula Headwaters Protection Group

PS My attempt to email an earlier version of this letter to you on 27 January 2023 at 4:17 pm failed. The only alteration from that earlier version appears on page 2 and is underlined. The earlier version was emailed to the copy recipients shown above on 27 January 2023 at 4:17 pm. A replacement page 2 will be emailed to those copy recipients when this version is emailed to you.

