

November 26, 2017

**Planning Assessment Commission,
Mr Paul Forward, Chair,
Ms Annelise Tuor,
Mr Alan Coutts.**

**By email: pac@pac.nsw.gov.au.
Attention: Megan Webb**

Personal submission opposing D490-17 Invincible Colliery Southern Extension Modification 07_0127 MOD 5

Preamble

I am a member of the Management Committee of the Blue Mountains Conservation Society and have responsibility for National Parks and the Greater Blue Mountains World Heritage Area. I also convene the Subcommittee dealing with the Gardens of Stone Stage 2 Proposal.

The Society's formal response to the PAC will be delivered at the public meeting on 29 November by Ms Madi Maclean, President of BMCS.

I intended to make a personal power-point presentation at the public meeting but will be in Nepean Private Hospital for surgery on 29-30 November; unavoidable! I have therefore opted to make a written submission which, I understand, will be accepted for up to a week following the public meeting.

1. A short history

I did the Society's submissions for the **Coalpac consolidation proposal (CCP)** and the **modified Coalpac proposal (CMods)**. In so doing, I worked with Keith Muir of the Colong Foundation, Chris Jonkers of the Lithgow Environment Group, and Haydn Washington of the Colo Committee. There was some pooling of knowledge but each organization made a submission reflecting the expertise of the author.

In the case of the CCP, well into the process of submissions and responses to submissions, Keith Muir and I met with senior representatives of Planning. The gist of the conversation was that we needed to clearly articulate what was unique about the region – what integrated the various facets of the region and why those facets were not adequately preserved elsewhere. We, together with input from Chris Jonkers of the Lithgow Environment Group and Haydn Washington, decided that a **land-system** approach was the best way of integrating land units, scenic values, ecosystems and current state of preservation.

The result was the unique Ben Bullen Pagoda Land System (BBPLS) comprising three Land Units which, from top to bottom in terms of altitude, are termed the: Cullen Plateau Unit (CPU), Ben Bullen Range Pagoda Unit (BBRPU) and Tablelands Grassy Woodland Complex Unit (TGWCU). We explained that the BBPLS embraced all three units and that the destruction or absence of one compromised the BBPLS.

Cumberland Ecology produced maps of the BBPLS for Coalpac with the aim of showing it was more extensive than we were claiming. Instead, the maps showed that the BBPLS was largely restricted to the CCP's area of mining, particularly because the floristics necessitated being on the west-facing escarpment within specific ranges of temperature and rainfall. They further showed that the TGWCU was the most significant unit in relation to limiting the distribution of the BBPLS.

The outcome is history (covered in the DPE’s current Assessment Report p3). But to summarize:

CCP	Reviewed and rejected by by PAC	Assessed and rejected by Department of Planning	Withdrawn by Coalpac before the PAC’s final determination
CMods	Planning recommended approval	Rejected by the PAC	Coalpac went into liquidation

2. Reasons for and implications of past decisions

2.1 Reasons for rejection/approval of the CCP and CMods

The PAC comprehensively **rejected** the CCP because of its (*inter alia*) unacceptable impacts on regional biodiversity values, threats to the stability of the internationally significant rock pagodas, destruction of the integrity of the ‘pagoda landform complex’ (the BBPLS), and disruption to the amenity of Cullen Bullen’s residents.

The Department of Planning recommended **refusing** the CCP largely on the basis of the site being inappropriate for such a large and elongated open-cut mine, and the overall impact on the area’s conservation values. A level of hesitancy was conveyed by the lack of emphasis on the BBPLS, and the expressed view that a smaller proposal could enable some of the coal reserves to be exploited and some of the past mining voids to be rehabilitated. In effect, because the Department offered a degree of ‘encouragement’, Coalpac withdrew the CCP to avoid the PAC’s final determination and focus on the CMods.

Having encouraged the concept behind the CMods, the Department **recommended approval** because a smaller portion of the ‘pagoda landscape’ would be impacted and such impacts would be outweighed by the proposal’s economic benefits.

In contrast, the PAC rejected the recommendation and **refused** the CMods because of their unacceptable impact on the ‘pagoda landform complex’, their potential to destabilize discrete pagodas, and their scale of mining being incompatible with the site’s significant conservation values. **Fundamental to this decision was the separation between: (a) structural destabilization of discrete pagodas, and (b) damaging the integrity of the ‘pagoda landform complex’ in terms of its spatial relationships and currently preserved continuity.**

2.2 Implications arising from the decisions

The PAC did not embrace the formal land-system terminology advanced by the Colong Foundation, BMCS and LEG, but it certainly appreciated the concept by using the ‘**pagoda landform complex**’ and separating it from structural damage to pagodas as indicated in 2.1(a) and (b) above.

I emphasise the foregoing because the stability of the internationally and nationally important pagodas, rather than the integrity of the unique ‘pagoda landform complex’ (i.e., the BBPLS and its 3 units comprising the CPU, the BBRPU and the TGWCU) progressively, and perhaps inadvertently, influenced the Department of Planning’s assessment. **In reality, protecting the integrity of the unique BBPLS should and does include protecting pagoda-integrity, whereas protecting pagoda-integrity does not preclude compromising the whole land system (the BBPLS) by open-cutting the grassy woodlands unit (the TGWCU).** This is particularly so if one appreciates that the floristically important TGWCU is the least well-preserved unit within the land system and thereby its limiting component (see Section 1 para 4 above).

The implications arising from past decisions are clear and fundamental:

- The PAC believes that the ‘pagoda landform complex’ (the BBPLS) has unique significance and that the grassy woodlands (TGWCU) on shallow slopes should not suffer further depredation by open-cut mining.
- The Department of Planning accepts the ‘pagoda landform complex’ (the BBPLS) but pragmatically believes that a ‘small’ proposal could be approvable.
- **Open-cut** mining (as opposed to highwall and underground mining) is only viable beneath the shallowly-sloping grassy woodlands (TGWCU), thereby adversely impacted the ‘pagoda landform complex’ (the BBPLS) through destruction of its most vulnerable unit.

3. Southern Extension Mod 5 - the current proposal

3.1 Reasons for objection

I object to the Mod 5 proposal because:

- The development of open-cut mining in the Ben Bullen State Forest (BBSF) is against the objectives of the Gardens of Stone Stage 2 (GoS2) proposal. The DECC Assessment of the GoS2 Proposal in 2006 suggested that the BBSF was of little commercial value from a forestry viewpoint and might, in the medium term, become the next section of GoS2 to be designated a State Conservation Area. It remains under consideration by OEH.
- The proposed Southern Extension is within the extremely restricted grassy woodlands unit (TGWCU) of the unique pagoda landform complex (BBPLS). The Director-General’s Environmental Assessment Report (June 2013, p36) indicated that an impact to any part of the pagoda landform complex (the BBPLS) has the potential to compromise the entire land system. Due to past mining and clearing for a range of purposes, the TGWCU is poorly preserved; any loss of this unit reduces the extent of the unique BBPLS. Offsetting damage of this magnitude is neither practicable nor excusable.
- Despite contrary assurances about the small size and limited life of the Mod 5 proposal, and the lack of plans for future developments, there is no doubt that Manildra (Castlereagh Coal) will continue to test the current DPE and PAC through incremental proposals. This is implied in a recent interview by Brett Moore (Invincible’s Project Manager)¹, from the very large exploration licences held variously by Manildra (Castlereagh Coal) and its associates, and from the current Mining Lease Application 545 by Shoalhaven Coal Pty Limited; there is no doubt that a range of options are ‘under investigation’.

The DPE says that it can only assess the proposal as presented, but this does not mean it should be oblivious to a company’s intention. Incremental proposals could and should be dismissed by the DPE and the PAC due to the cumulative impact on areas previously rejected because of their environmental significance. I also note that the Secretary’s report (p24) on Coalpac’s Invincible MOD 4 opposed incremental increases in open-cut coal mining in the Ben Bullen State Forest (BBSF).

- Manildra seemingly had significant investments in Coalpac, apparently gained possession of the various leases (and associated rehabilitation commitments) through the liquidation process, and did so knowing the high level of environmental opposition to mining in BBSF. Manildra clearly believed it would gain approval for a small mining operation despite the previous

¹ <http://www.lithgowmercury.com.au/story/5093228/were-not-short-term-people-manildra-qa-on-plans-for-Invincible-mine/?cs=1464>

decisions by the PAC, elected to take the risk, and is consequently making specious arguments to support its gamble. Thus:

- Rehabilitation is a legal requirement, not a bargaining chip. Too often, the argument is made that more needs to be mined in order to achieve better rehabilitation outcomes. I contend that rehabilitation is a cosmetic veneer which is totally incapable of recreating the three-dimensional geohydrology. It follows that creating more holes to better rehabilitate existing messes is an extension of geohydrologic damage and should never be presented as an argument favouring approval of a proposal².
- The Assessment Report (p8) emphasises the large number of submissions from the South Coast region in relation to long-term sustainability of Shoalhaven Starches. Whilst businesses are always trying to increase profits by cutting input costs, there is no reason to believe that Shoalhaven Starches is on the verge of collapse. It follows that the submissions are largely a response to a minimal risk magnified by the company; they should be treated accordingly.
- Potential employment at Invincible is exaggerated. Manildra currently receives its ‘nut’ coal from two other providers (Clarence Colliery and Whitehaven Colliery in the Gunnedah Basin). It presumably believes that the nut coal from Invincible would be cheaper, and that it could use the Invincible cost to renegotiate prices with Clarence and Whitehaven. This may be so, but it could be that jobs gained at Invincible would be counterbalanced by jobs lost at Clarence and Whitehaven. Overall employment gains might be a zero sum, despite the very local benefit for Cullen Bullen. Employment should not be a major consideration when assessed in the context of the limited mine-life, changing energy demands and the future of Mt Piper, health impacts from open-cut extraction and road transport, and the false hope it might provide to a region which should be transitioning from coal mining to more sustainable industries.
- Much is said about Springvale being the only source of coal for Mt Piper, yet this is another specious argument. Angus Place is ready and waiting, Enhance Place could be brought into production should Mt Piper wish to pursue it, and coal could be transported from Mt Airly and even Clarence should the need arise. Springvale and Mt Piper are working towards a sensible outcome and the dramatics linked to 4Nature’s court-case are no longer significant.
- The Assessment Report (p5) notes that the primary justification for Mod 5 is the nut coal needed for the continuation of Shoalhaven Starches’ operations at Bomaderry. As indicated in the third arrow-point above, nut coal is available from other sources; the future of the business is not directly contingent on Mod 5’s approval.
- The Assessment Report (p5) also notes that the overall coal resource from three seams (Lithgow, Lidsdale and Irondale) is 2.7 million tonnes, but this will yield only 300,000 tonnes of nut coal from the Lithgow seam. In effect, only ~11% of the total resource will go to Bomaderry while the remaining high-ash resource from the overlying Lidsdale and Irondale seams (~89% *in toto*) will supposedly be sent to Mt Piper, although there is no formal agreement³.

The above raises several questions and concerns: (a) Is Manildra really doing this for a small resource of nut coal, or is the principal aim to exploit the ROM resource by selling it

² I am pleased that the Assessment Report p17 rejects rehabilitation arguments as being irrelevant to determining the merits of the proposed Mod 5.

³ The Assessment Report (p5) has sending the poor-quality coal to Mt Piper as a fact, yet Brett Moore (see footnote 1) categorically states that whereas there has been discussion with Mt Piper, there is no formal agreement.

to Mt Piper and undercutting Springvale's better quality lower-ash product? (b) The nut coal will be mined out within 3.5 years, but will meet Manildra's need for about 8 years or longer if blended with other nut coal sources. How long will it be before Shoalhaven Starches' operations become sub-economic due to overseas competition? (c) Is it credible that Manildra has beneficial control over many leases in the Cullen Valley and Invincible regions, yet has no intentions regarding incremental development?

3.2 Inconsistency and balance!

I welcome the Department's view that (Assessment Report, Exec Summary) "*...mining through steep wooded slopes on the eastern boundary of the site would be incompatible with the conservation significance of the pagoda landform complex.*" The recommended excision of the tract identified as Option 3b in Figure 6 of the Assessment Report (pp15-16) is therefore supported as far as it goes; but it does not go far enough. The DPE has failed to see the inconsistency between the protection of the steep wooded slopes and destruction of the shallower slopes which are still part of the pagoda landform complex (the BBPLS) and an integral part of the highly vulnerable grassy woodlands (TGWCU). This is further considered below.

The Assessment Report, Exec Summary states: "*...the Department has recommended that mining is prohibited in the sensitive, steep wooded areas of the site. This recommendation would only allow mining in the flatter, less sensitive parts of the site...*"

It also states: "*...the Department is satisfied that the proposal would be unlikely to have any significant impacts on the conservation significance of the landscape...the proposal would achieve a reasonable balance between ensuring the ongoing operation of the mine, the recovery of coal for use in the Shoalhaven Starches Plant, and the protection of landscape and conservation values.*"

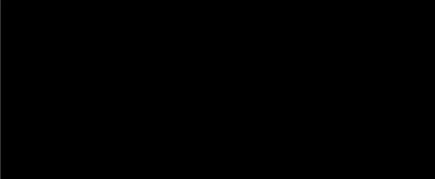
I respectfully draw your attention to sections 1 and 2 of this submission, the previous findings of the Department of Planning in relation to the CCP and the findings of the PACs in relation to the CCP and CMods. In all cases, it was recognized that: the pagoda landform complex (the BBPLS) comprised a sequence of three units, the pagodas were one such unit (BBPRU), and the slopes and shallowly undulating grassy woodlands down-slope from the BBPRU were another unit (TGWCU). Furthermore, it was recognized that: the land system was unique, damage to one unit effectively compromised the integrity of the land system, and that the lowermost unit (the TGWCU) was least well preserved as a consequence of past mining operations, agricultural use and general clearing.

None of this has changed, yet once again we are fighting to prevent further depredation of the lower slopes of the TGWCU. Why? Because:

- The DPE has chosen to redefine the 'pagoda landform complex' as (Assessment Report p11) "*...including the pagoda rock formations, the wet gullies, and the wooded slopes below the pagodas...*". This fails to pay adequate attention to the transition in floristics as the steep talus slopes, dominated by sandstone-derived soil, become shallower and the soils progressively reflect the underlying Permian strata.
- This redefinition, perhaps coupled with a lack of appreciation of land-systems analysis, enables comment as quoted in section 3.2 para 2 (above) about allowing mining in the "*...flatter, less sensitive parts of the site...*".
- It furthermore facilitates the statement quoted in section 3.2 para 3 (above) about the proposal being "*...unlikely to have any significant impacts on the conservation significance of the landscape...*"

In conclusion, I believe that the DPE has failed to appreciate the inconsistency between protecting the steep wooded slopes and destruction of the shallower slopes, when the latter are an integral part

of the highly vulnerable grassy woodlands (TGWCU) and still part of the pagoda landform complex (the BBPLS). I also believe that the statement quoted in section 3.2 para 3 (above) about the proposal achieving reasonable balance between ongoing mine-operation, recovering nut coal for Shoalhaven Starches use, and protecting the landscape and conservation values is unjustified: more of the unique pagoda landform complex (BBPLS) will be damaged, recommencing mining will foster incremental expectations, and the 'nut' coal argument is weak and appropriately named.



Dr Brian Marshall,

