



Caroona Coal Action Group Inc.

www.ccag.org.au

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Chair
NSW Planning Assessment Commission
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Dear Ms Briggs and Commissioners

R020/13 - SHENHUA WATERMARK COAL PROJECT

Thank you for the opportunity of presenting at the public meeting on 11 December 2014 on the Shenhua Watermark Coal Project. I attach a copy of the Caroona Coal Action Group's presentation made on the day of the meeting along with the presentation and report undertaken by GML Heritage.

This submission is additional to the information presented to the Review PAC and we request that the Determination PAC consider this submission in conjunction with our previous submission.

Caroona Coal Action Group

The Caroona Coal Action Group represents over 400 local businesses, landholders and individuals committed to protecting the unique Liverpool Plains - a region that is recognised by the NSW Government as one of the most important agricultural production areas in the State.

Liverpool Plains – Critical to our State and National Food Production

The Liverpool Plains, its rare fertile soil types, reliable rainfall, climate and availability of surface and groundwater, is acknowledged by the State Government as having the highest agricultural productivity in NSW.

It is an area that is rich in sustainable agricultural and environmental (particularly water) assets, which yield multiple (summer and winter) crops a year. These include durum and bread wheat, malt barley, sorghum, maize grain legumes and cotton. The Liverpool Plains agricultural and environmental assets render it not only drought resilient but critical to the state's and the nation's food production and food security.

In its New England North West Strategic Regional Land Use Plan, the NSW Government recognised the region "is a highly productive agricultural region with \$1.8 billion of agricultural commodities produced in 2006 despite the region being in drought at the time. (ABS 2006)" (p 16).

In her presentation to the PAC, NSW Farmers President, Ms Fiona Simson, noted that:

- ABARE states that the Liverpool Plains produces approximately 40% above the national average of food per hectare;
- The New England and North West region is the highest contributor to agricultural value in



NSW;

- In 2012/13 the total Gross Value of Agricultural production was \$2.4 billion – accounting for 21% of the states total;
- In 2012/13 the region produced the highest value of crops in NSW of \$1.7 billion – accounting for 23% of the state’s total; and
- According to ABARE data published in 2014, the region accounts for:
 - 91% of NSW sorghum production;
 - 58% of legume production;
 - 54% of cotton production; and
 - 26% of cattle production.

By all accounts, it cannot be disputed that the Liverpool Plains is critical to the state’s and the nation’s food production and food security. It is, in our view, beyond any doubt that agricultural production, and the vital and interconnected water resources in this area, are of state and national significance and that it was the Government’s policy intention that they should be protected at all costs.

In addition, the Liverpool Plains is historically significant (in terms of both Indigenous and European history) and has one of Australia’s largest koala colonies. On all fronts it is highly vulnerable to the impacts of mining, especially open cut coal mining in the location proposed by Shenhua, and should be afforded the highest level of protection.

Agricultural Sovereign Risk

The sovereign risk to agricultural investment is often overlooked in the assessment of mining proposals. The process of allocating and evaluating mining proposals, by definition and experience, imposes investment uncertainty and paralysis on rural communities and strategic agricultural industries – in many cases for up to 20 years. It undermines landholder property rights and stifles investment and innovation.

The allocation of the Shenhua Watermark exploration licence, by a disgraced former NSW Minister and for the highest exploration licence fee ever paid in NSW history, has created significant uncertainty and has suffocated agricultural investment and innovation in the Liverpool Plains.

Over the past 9 years, since the granting of the Shenhua Watermark Exploration Licence, our efforts on the Liverpool Plains have been diverted from investing in our future, to fighting for our future. We have been involved in 27 court cases and commissioned many studies and sought expert advice to determine the risks and impacts of this mine proposal. Despite our efforts, uncertainty remains and many of the critical questions we raised at the commencement of this process, including the impact of this proposal on our sustainable agriculture and water systems, remain unresolved.



Expert Advice

Economic, water, environmental and cultural heritage expert reports have reinforced the importance of the Liverpool Plains and have identified significant flaws and omissions in the analysis presented by the Proponent and the Department's Environmental Assessment Report. This includes important technical reports that have not been made available and have not been the subject of independent public scrutiny.

Given the findings of independent experts, the absence of critical information, lack of transparency and suitable scrutiny, and the lack of compliance to key Director General Requirements and other professional standards, we submit that this application cannot be determined or conditioned and should be refused.

Economic Advice

In our previous submission we outlined that the independent economic evaluation report by the Australia Institute (TIA) into Shenhua Watermark's coal proposal identified flawed economic modelling, overstatements of coal prices and benefits of the Watermark proposal, understatements of costs, no assessment of the impacts on our agricultural sector and deliberate disregard for the water reforms in the Liverpool Plains and the billions of dollars invested by farmers in water innovation, reform and technology.

Rather than yielding a net economic benefit, the TIA report revealed that the Shenhua Watermark open cut mining proposal could yield a **net economic loss to NSW of \$974m** (before the impacts on agricultural, water and other environmental assets are taken into account).

The independent analysis undertaken by Marsden Jacob Associates in December 2021 for Cotton Australia reinforced and expanded on these findings. The Marsden Jacob's analysis found Shenhua Watermark's economic assessment has a number of critical deficiencies that draw into question the economic merit of the mine, including:

- 1. The analysis lacks the necessary transparency to facilitate independent verification of the results and appears to suffer from a material bias in favour of the project.**
- 2. The analysis does not comply with the Director General's Requirements and the NSW Government Guidelines for Economic Appraisal.**
- 3. The analysis over-estimates the benefits and under-estimates the costs, so the claimed net economic benefit is not realistic. If more realistic assumptions are used the mine is no longer economically beneficial.**
- 4. The analysis ignores the unique nature of the Liverpool Plains agricultural industry with its coincidence of quality soils and secure water supply. These features cannot be replaced and, importantly, if they are adversely impacted the result will be lasting.**
- 5. A more realistic set of coal price assumptions means that the project may only generate royalties to the NSW Government of around \$18-20 million per annum on average.**



Based on the advice from economic experts, it is our view that **the Shenhua Watermark mining proposal will not be economically beneficial, will result in lasting adverse impacts to the agricultural industries and the unique water systems of the Liverpool Plains which will be detrimental and irreversible, and is therefore not in the public interest.**

Water

In our previous submission we outlined that billions of dollars have been invested in water reforms and innovation to safeguard the vital water resources, which are critical to the viability and future sustainability of some 250 agribusinesses in the Liverpool Plains. The farming families of the Liverpool Plains have all made significant voluntary water reforms without compensation.

This fact, and the many hundred million dollars of investment made in water and farming efficiency innovation, attests to the commitment farmers in this region have to retain and protect our sustainable agricultural assets. None of these water reforms have been acknowledged let alone taken into account in Shenhua's assessment of the impacts of the Watermark proposal.

Expert assessment undertaken by the Water Research Laboratory of the University of NSW and Earth Systems, identified significant omissions, flaws and biases regarding the modelling and predictive impacts of the Shenhua proposal on the Liverpool Plains' vital water resources – the lifeblood of the Liverpool Plains' state significant agricultural assets.

These experts revealed serious failures to transparently and adequately assess geology, aquifer connectivity and the geophysical limitations of the area demonstrates that the risks and costs to our water systems are much higher than those predicted by Shenhua.

These issues remain unresolved and of serious concern to CCAG. In his presentation to the PAC on 11 December 2014 the NSW Irrigators Council Chief Executive, Mr Mark McKenzie, based on his own assessment and advice provided by the University of NSW, noted that:

- the Liverpool Plains is the “jewel of NSW irrigated agriculture”;
- significant doubt remains over the long term impact on water resources in the Liverpool Plains;
- modelling conducted on this mine proposal does not satisfy the June 2014 PAC direction;
- the Proponent has not presented or properly documented the geological model and field data from which its predictions of groundwater impact are derived;
- as a consequence, neither the Hydrological Conceptual Model and the resulting Numerical Groundwater Model are able to be assessed as fit for purpose.

Mr McKenzie noted that, despite being directed to do so by the Review PAC, Shenhua Watermark has not presented either the field data or groundwater impact model upon which a reasonable and independent assessment of the impacts and risks to groundwater and surface water systems in the region surrounding the mine can be made, and on which the Commission can reasonably rely.



It is of serious concern to us that critical technical data and modelling reports underpinning Shenhua's water analysis have not been made publicly available and therefore cannot be transparently or independently assessed. In the absence of this information, no reasonable decision maker can make a considered decision on this project.

Floodplains and BSAL

Shenhua Watermark and the Department of Planning and Environment have stated that this proposed mine will not intrude on the Black Soils or the floodplains. In our presentation to the PAC on 11 December, we demonstrated through a series of maps derived from the Proponent's EIS and mapping undertaken by state agencies that this is not the case.

Contrary to the information presented by the Proponent, and the Department's Assessment, the footprint of this mine including its planned overburden dumps, sits squarely on the floodplain and on mapped Biophysical Strategic Agricultural Land (BSAL).

Slides 1 to 6 of the CCAG presentation clearly showed that:

- Watermark Hill sits like a small island in the midst of NSW Government gazetted floodplain, (gazetted on 16 December 1994);
- Shenhua Watermark's 3 proposed mine pits all intrude onto the mapped floodplains;
- Shenhua Watermark's mine also intrudes onto mapped Biophysical Strategic Agricultural Land (BSAL);
- Shenhua's Eastern Pit in particular intrudes on the gazetted and mapped floodplain and BSAL;
- Shenhua Watermark's overburden dumps overlap with BSAL by the Eastern Pit and the overburden dumps extend further into the mapped floodplains.

Our evaluations clearly demonstrate that Shenhua Watermark's proposed mine plan sits within the gazetted floodplain and on BSAL. This is a critical matter that calls into question the integrity of the water assessment. The patent risk to our livelihoods cannot be overstated nor swept aside by some magic wand of "stringent planning conditions." This proposed mine is in a place that no reasonable decision maker could conclude was sensible or safe.

Given this mine does intrude on BSAL and mapped floodplains and given the absence of critical information regarding both groundwater and surface water impacts, we have no confidence in Shenhua's or the Department's analysis of the water impacts of this proposal.

With respect, we suggest that the PAC cannot place any confidence in the integrity of the Proponent's water analysis and little weight should be placed on the Secretary's Environmental Assessment Report.

Given the clear intrusion of the Shenhua Watermark proposed mine plan on the floodplain and BSAL, the potential and hitherto unassessed risks and impacts on the floodplain and BSAL and the absence of critical water information and credible analysis, we respectfully suggest that the PAC cannot condition and should not approve this mine proposal.



Cultural Heritage

In the New England North West Strategic Regional Land Use Plan, the NSW Government recognised the New England North West region is rich in both Aboriginal and historic cultural heritage and that urban, regional and mining growth has the potential to impact on known and yet to be identified cultural heritage. (p 67)

The New England North West Strategic Regional Land Use Plan defines cultural heritage - "Cultural heritage consists of places, objects and landscapes that connect us to the past that we value today and wish to pass onto the next generation... Cultural heritage provides links between the past and present – it is an essential part of the people's cultural identity, wellbeing, connection and sense of belonging, and provides a sense of history and local and regional visual character." (p 67)

It further documented that (p 67):

- over the last 30 years, Aboriginal cultural heritage studies have identified over 3,000 sites (objects) within the region which are registered under the National Parks and Wildlife Act 1974 (NPW Act);
- of these over 600 are considered to be highly significant and include sites used for burials, ceremony and dreaming and places that have social and contemporary usage for Aboriginal people today;
- additionally, 11 Aboriginal Places and six Aboriginal Areas have been identified within the region and listed under the NPW Act.

The Commission heard directly from Aboriginal elders their concerns regarding the impact this mine proposal will have not only on their Aboriginal heritage and culture but also on the river system, upon which they rely, at the meeting on 11 December 2014.

The important historic cultural heritage of the New England North West is also highlighted in the New England North West Strategic Regional Land Use Plan where "identifying, recording, assessing **and protecting** cultural heritage throughout the region" is identified as a key challenge and aim of the policy. (p 68)

The New England North West Strategic Regional Land Use Plan states (p 68) that "European exploration of the New England North West region was carried out at the beginning of the 19th century." It also notes that "pastoral activities led to the development of many regional town centres... including Gunnedah. These patterns of development have left a lasting legacy in the natural and build environment of the region" and "the district has connections with well known Australian poet, Dorothea Mackellar, who worked the local landscape and setting into many of her poems."

In its Policy Response, the NSW Government's New England North West Strategic Regional Land Use Plan offers the following guiding principles for the state significant assessment process (p 68):

- "impacts to cultural heritage, particularly significant cultural heritage should be avoided as a first priority;



- cumulative impacts/loss and intergenerational equity should be considered.”

Given the importance and relevance of cultural heritage to the assessment of this proposal and to intergenerational equity, GML Heritage was commissioned to review and critique the Historic Heritage Impact Assessment prepared on the Shenhua Watermark project. This report and GML’s presentation to the PAC on 11 December 2014 is appended in full to this submission.

The report undertaken by GML Heritage found, inter alia, that the AECOM Heritage Impact Assessment report conducted for Shenhua Watermark:

- is inadequate and fails to address the Director General’s Requirements;
- does not provide any decision maker with a sound basis for a comprehensive and adequate assessment of the heritage significance for heritage items within the project application area;
- is deficient, under several significance assessment criteria, in its assessment of significance for individual heritage items;
- does not meet standard professional practice of heritage of ICOMOS Burra Charter in its heritage assessment;
- does not undertake social values assessment for the project area, despite recognising that the land within the project application area and the Liverpool Plains may have strong or special significance to the local community sufficient enough to satisfy criterion (d) of the NSW significance assessment criteria;
- presents no assessment of the heritage values of the project area as a whole has been undertaken;
- does not identify, analyse or assess the project area as a form of evolved cultural landscape that evidences a complex system of continuing historic rural agricultural land use within the context of the Liverpool Plains;
- fails to assess the cultural heritage significance of the project application area holistically.

Given the above omissions and deficiencies GML concludes that the:

- **project application cannot be comprehensively assessed or determined at this time;**
- **deficiencies in the current non-Aboriginal heritage assessment does not enable a fully informed decision to be made;**
- **the cultural values of the Liverpool Plains will be irrecoverably impacted should the project proceed;**
- **Shenhua Watermark proposed project will generate a range of risks and impacts on the cultural heritage significance of the historic landscape that cannot be adequately managed through conditions of consent;**
- **scale and magnitude of the proposed development activity is not reversible and a cautious approach in line with Article 3 of the Burra Charter, the heritage industry best**



Government Policy

New England North West Strategic Regional Land Use Plan

The NSW Government's New England North West Strategic Regional Land Use Plan unequivocally states that "some of the richest agricultural land in the state occurs in the New England and North West region and the future development of these lands needs to be carefully managed to avoid the loss of the best agricultural land." It recognises there is "the potential for land use conflict, particularly between agriculture and the mining industry and the loss or alienation of strategic agricultural land." (p 19)

In this respect the Government's policy sets the clear objectives including:

- maintaining or enhancing future opportunities for sustainable agriculture (p 19);
- defining and protecting strategic agricultural land (p 19); and
- ensuring the protection of strategic agricultural land and the water resources it relies on (p 22).

The Government's intention to protect the Liverpool Plains was also reiterated by the architect of the NSW Regional Land Use Policy (former Planning Minister Brad Hazzard) and the former Deputy Premier in their public statements:

"... What we determined was that intuitively we knew that it was extremely likely that whatever process, whatever decision making went on, the Liverpool Plains, for example, ... would be protected" NSW Planning Minister, March 2012

"The message I want to leave you all with today is this: if any proposed mining or gas extraction activity is likely to harm our prime agricultural land or other important rural industry clusters or the water resources associated with those areas, it will not go ahead under this government." NSW Deputy Premier 1 May 2012.

State Significant Agricultural Land

In addition to the NSW Government's Strategic Regional Land Use Policy, the May 2008 Rural Lands State Environmental Planning Policy (Rural Lands SEPP), provides a strategic approach to rural planning across the State to manage land use conflicts. **Importantly, this SEPP provides for the identification and protection of State Significant Agricultural Land.**

It is our contention that given the rich and rare agricultural and environmental assets in the Liverpool Plains, their uniqueness and criticality to the State's and the nation's food security and the fact that the NSW Government has recognised the Liverpool Plains as some of the most rare and fertile lands in Australia, **the Liverpool Plains is State Significant Agricultural Land which should be afforded the highest level of protection from mining, should be listed in Schedule 2 of the Rural Lands SEPP 2008.**

The Review PAC also recommended the need to protect the highly valuable, fertile black soil plains where mining should be prohibited (p i)



Conclusion

This is a watershed decision for the Liverpool Plains' rare and vulnerable black soils, the unique and interconnected water systems and the state and nationally significant agricultural industries.

The proposed Shenhua Watermark open cut coal mine, in our view and that of independent experts, does not:

- “encourage the promotion and co-ordination of the orderly and economic use and development of land” (Section 5, (a), (ii), of the Environmental Planning and Assessment Act 1979);
- “facilitate the orderly and economic use and development of rural lands for rural and related purposes” (Part 1, 2, (a) of the State Environmental Planning Policy (Rural Lands) 2008).

Shenhua's Watermark mining project poses unacceptable risks to the long established and successful agribusinesses, environment and water systems in the Liverpool Plains. It is situated on mapped BSAL and gazetted floodplains and has real potential to cause irreparable, irreversible harm and will yield a net economic loss to NSW.

Given the serious omissions, and the lack of transparency in the Proponent's environmental assessment, and that of the Department's, we have no confidence in, and respectfully suggest that decision makers can have no confidence in either the analysis presented by the Proponent or the Secretary's Environmental Assessment Report.

Expert advice reveals that the Shenhua Watermark proposed open cut coal mine proposal presents potential and irrecoverable damage to the Liverpool Plains and unacceptable risks to NSW's and Australia's food security. The project is not economically beneficial and will result in a net economic loss to NSW if the impacts and risks to productive agricultural lands and water systems are taken into account.

Rather than risk the future of the fertile and productive Liverpool Plains, it is our view, and that of the review PAC, that the Liverpool Plains should be afforded the highest level of protection. This is the clear intention of the NSW Government policy and the policy tools for the protection of the Liverpool Plains currently exist and should be applied.

\$18m in royalties is not worth risking the legacy of the loss of productive agricultural lands, risks to intergenerational equity, irrecoverable damage to the environment and the cultural heritage of the Liverpool Plains.

We are strongly of the view that this project is not in the public interest, the precautionary principle should be applied and this project should be refused.

Yours sincerely

Timothy Duddy
Chief Executive Officer