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Nature Conservation Saves for Tomorrow

Mr Ross Carter
Chair
Planning Assessment Commission
Level 3, 201 Elizabeth Street
SYDNEY NSW 2000

16 May 2017

Dear Mr Carter,

Springvale Water Treatment Project (SSD 7592), Western Coal Service Project (SSD 5579) Mod 1, Springvale Mine Extension Project (SSD 5594) Mod 2

Summary

Blue Mountains Conservation Society supports the construction of the Water Treatment Project (SSD 7592) particularly now that treated mine water will be transferred to Thompsons Creek Reservoir as recommended. It is a good outcome for the environment because it stops toxic discharges to the Cocks River and removes the need for water extraction for Mount Piper Power Station (MPPS).

Western Coal Services (WCS) Mod 1 is needed but the likely increased discharge from WCS needs to be dealt with. There should be improved management of this polluted site and stronger, explicit requirements within the consent conditions for the Environment Protection Licence (EPL) for LDP006 to reduce the licensed pollution levels particularly for salinity. To do anything less than that could mean years of negotiation between the EPA and Centennial Coal as has been seen, most recently, with Centennial's Clarence colliery.

Springvale Mod 2 should be refused. The Springvale Mine Expansion Project (SSP 5594) consent was on condition that the salinity levels in the mine waste be progressively reduced. Centennial Coal should meet the consent conditions so that the Cocks River and Sydney's Drinking Water Supply can be progressively protected as the consent authority envisaged.

1. Water Treatment Project (SSD 7592)

The society support the Springvale Water Treatment Project (WTP), however, we have a number of concerns with the details of that scheme.

We believe the conclusion that an increase in salinity levels from LDP006 on the Western Coal Services (WCS) site is "likely to be within historical levels over an annual basis [DPE Assessment Report for WTP, page 16] does not meet the neutral or beneficial (NorBE) use test in Sydney's Drinking Water SEPP. We believe that the discharge needs to be treated to meet NorBE. As this applies to the main project, the application of Sydney Drinking Water SEPP is stricter than it is for a modification.

2. Western Coal Services (WCS) Mod 1

Sediment from WTP will be sent to the Western Coal Services (WCS) site for storage. This will lead to increased salinity in discharges from the site, that is, from LDP006. The site is problematic without an additional pollutant load and the discharge from the site is highly polluted.

Receiving Site (WCS) Issues

- The site is porous from previous shallow underground mining and there is interconnectivity. [WCS Mod 1 SEE, Vol 2, appendix DB, Sectn 2.3 pp.9-10 and figure 4-2 p.23]
- There are cumulative impacts on the groundwater of the site (See for instance Colong Foundation's cross section of the various sources of pollution which include the council tip which has yet to be operational).
- Despite these problems, the emplacement areas are not lined with impermeable membranes.
- Different water sources are not separated. Clean and dirty water streams are mixed and "clean" water is actually just less polluted with salinity etc than the "dirty" water.
- Centennial committed to separating the clean and dirty water through some site works in gaining its current approval for the WSC in 2014.

"All surface water groundwater and aquatic impacts are minimised to the greatest extent possible. (Heading) 5.3 Within 5 years of the date of the Project Approval, complete the separation of clean and dirty water at the Springvale Coal Services Site. ..." [Commitment 5.3 in WCS conditions of consent approved in April 2014.]

However, DPE seems uncertain this separation works will be completed. The PAC should recommend both "clean" and "dirty" water streams are collected and treated, for instance at the proposed treatment plant, to ensure WCS is suitable to receive more pollution.

- Wangcol Creek is heavily polluted from LDP006 discharges.

Discharge quality and quantity issues

The discharge from LDP006 will be more polluted if Mod 1 is approved in its current form. The Statement of Environmental Effects shows that the toxic discharge from LDP006 will

- (i) increase the saline toxic discharge to Coxs River and
- (ii) exacerbate the pre-existing damage to Wangcol Creek [references "will increase volume and salt" [WCS Mod 1, vol 1, sectn 7.7, p.93]
- (iii) increase the frequency of discharges to Wangcol creek and increase exposure of aquatic species to toxics" [WCS Mod 1, vol 1, sectn 7.7, p.93] (set out in our previous submission)

The proponent claims it is no impact or small and Department of Planning and Environment (DPE) assessment report accepts this. The DPE relies on modelling to reach its conclusion that there will be substantially the same water discharges from the site after the residual waste is placed on site [WCS Mod 1 Assessment Report at p.9] However, Water NSW remains concerned about this increase in salinity from LDP006. [DPE WTP Assessment Report, p.16]

The conditions on the Wangcol Creek discharge point (LDP006) are very weak with no upper limit for salinity or metals typical of mining.

The PAC needs to make recommendations about strengthening this licence because:

- There will be consequential impacts from WCS Mod 1 if approved:
- Logical options to address the impacts on site including lining area for emplaced material have been ruled out as costly and operationally difficult by proponent and DPE [WCS Mod 1 Assessment Report at p.7]
- Current discharge restrictions are being improved in other mines;
- Using the conditions of consent to support and progress discharge licence improvements is necessary because there has been very slow progress where consent conditions have not reinforced the improvements. For instance, in the case of Centennial's Clarence mine, the EPA indicated its desire to reduce salinity in that discharge back in 2014 when the Clarence EPL review started. This aim was restated most recently in March 2017 but it is still not yet included in the licence. . (Clarence is currently being prosecuted for a massive coal slurry spill into the Wollangambe River and Greater Blue Mountains World Heritage Area. Centennial has pleaded guilty to the offence.) In contrast, the Springvale Mining Extension Project (MEP) consent included a plan to progressively improve the Upper Coxs River with targets.
- DPE is misguided and abrogates its responsibility as a consent organisation when it says that the EPA should get on with improving the EPL ("kick-start" in DPE jargon). The proposed conditions of consent so far only contain actions relating to cleaning up the site after discharge finished.
- If the proponent is not prepared to line the emplacement areas because of operational issues then ensuring the residual waste does not increase pollution at

WCS must be achieved in other ways, namely, by treating the waste before it is discharged.

Conditions of consent need to be strengthened to deal with these issues which are being exacerbated by the approval.

It is recommended that the PAC includes in its conditions of consent the following requirements:

- The proponent must commit to plan to reduce salinity levels from LDP006 to a level appropriate for Cocks River catchment. For instance it could be included in Upper Cocks River Action & Monitoring Plan in the Springvale MEP consent conditions;
- There will be no increase in salinity from LDP006 from Mod 1;
- Treating the residuals waste before it is placed on WCS;
- Independent experts' report to DPE Secretary, in consultation with EPA and WaterNSW, on improving WCS' onsite management and reducing pollution.

3. Springvale Mod 2

The Springvale Mine Expansion Project (SSP 5594) consent was on condition that the salinity levels in the mine waste be progressively reduced. However, six months from the first deadline for reducing its pollutant concentrations, the mine has sought to modify the consent to remove the interim (June 2017) water quality conditions relating to salinity and to defer for two years (June 2019) the requirement to eliminate acute and chronic toxicity of the discharges. The only remaining target is a limit of 500 micro siemens/cm by 30 June 2019.

The existing June 2017 targets should be retained.

- These targets were a critical condition in the consent
- They were fundamental to satisfying the "neutral or beneficial use" requirement in the Sydney Drinking Water SEPP in the approval for Springvale MEP in 2015, according to the Land and Environment Court. If the development hadn't passed that test, Springvale MEP could not have been approved. DPE's assessment report has ignored this point.
- They were included to protect Cocks River and Sydney's drinking water supply
- Centennial actively agreed to these conditions; they were not unilaterally imposed.
- Once removed from the consent conditions, the Planning Minister cannot change the conditions if, for instance, there is a long delay on the water treatment project or it does not deliver the improvements that have been put forward in the proposal.
- It is a poor precedent.
- Successive modifications over time can weaken the original consent conditions.

The outcome of the Mod 2 application will be an important test of the efficacy of the Sydney Drinking Water SEPP. The conditions relating to water quality were fundamental to the mine being approved by the PAC in 2015 and, according to the Court, to allowing the PAC to satisfy the requirements of the Catchment SEPP. DPE has ignored this point. Failure to meet the 'neutral or beneficial' impact test means that the development cannot be approved (though not for a modification.)

Pepper J said, in [203] "The PAC had before it not only the text of cl 10(1) of the Catchment SEPP but was ... aware of its obligation under the clause. The PAC was also aware of the various assessments of the application of the NorBE test to the project and the advice of the Department and the EPA that the NorBE test would be satisfied if the recommended conditions concerning salinity were imposed. The granting of the consent with the adoption of the recommended conditions is, in my opinion, a powerful indicator that the PAC formed the requisite state of satisfaction."¹ (underlining added)

It is important that protections such as these are not avoided or undermined by modifications to consent conditions, especially when the PAC approved the project on the understanding that the condition would protect water quality in the catchment.

These conditions should stay in place because of their fundamental role in the approval and the protection of Sydney's Drinking Water. This issue has been foreseeable since the decision to seek approval for the transfer scheme. The proponent could have taken steps to meet these requirements. Options are still open to the proponent eg temporary treatment of some of the discharge to lower salinity levels. It is up to the proponent how they meet the requirements. They have had two years nearly to plan and execute a means to do it.

Water NSW is clearly concerned about the current lawful discharge to the Coxs River be allowed to continuing for some years. They recommended that if Mod 2 is approved, the WTP should be conditioned to require it to be constructed and ready within 18 months of the approval to ensure current untreated discharge from LDP009 cease as soon as possible. (WaterNSW 8.2.17 letter)

Construction projects can meet unexpected challenges and run late, financial difficulties can arise. If the WTP falls behind schedule the proponent may be back to remove the 2019 limit also. If completed, the WTP will be a successful solution to a long-running problem of mine water discharge into an important catchment and world heritage area. It is better to leave the targets in place.

¹ 4nature Incorporated v Centennial Springvale Pty Ltd [2016] NSWLEC 121

Recommendations to the PAC

- Mod 2 removing first target for salinity improvement and eliminating chronic toxicity of discharges from Springvale mine LDP009 should be refused
- If PAC does decide to approve Mod 2, it would be prudent to delay making these changes in force until the actual date the transfer scheme will operate is confidently known.

Thank you for the opportunity to comment on these applications.

Yours faithfully,

A solid black rectangular box used to redact the signature of Madi Maclean.

Madi Maclean
President
Blue Mountains Conservation Society