

L9 : 1 of 6
19/5/12



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30 May 2012

Justin McKee
Blue Mountains Conservation Society
PO Box 29
Wentworth Falls NSW 2782

By post and email: justin.mckee@ethicalintegration.com

Dear Justin

Coalpac Consolidation Project (MP10_0178): submission regarding legality of proposed financial contribution to the Office of Environment and Heritage and offer to 'release' residual Gardens of Stone Stage 2 land to the OEH

Advice requested

We refer to your request for advice on 21 May 2012. In particular, you have sought our advice on the legality of Coalpac Pty Ltd's (Coalpac) proposal (Coalpac Consolidation Project, MP10_0178):

- (1) to make a financial contribution to the Office of Environment & Heritage (OEH) based on tonnage of coal extracted, and
- (2) to donate rehabilitated land to OEH if required by that Department.

Advice in brief

In light of the questions raised above, we answer in summary as follows:

- (1) The proposed financial contribution is not illegal. However, as presently framed that commitment is uncertain in so far as it is predicated upon the implementation of the Gardens of Stone Stage 2 proposal. There are likely to be difficulties in the enforceability of such a condition.
- (2) In our view the offer to donate rehabilitated land is poorly described and thought out. The offer relates to two categories of land, being:
 - (a) rehabilitated areas within the project boundary, and
 - (b) biodiversity offset properties.

Two issues arise in relation to this offer. Firstly, whether OEH would be interested in accepting ownership of rehabilitated land. Secondly, the proponent's capacity to give effect to this commitment should the offer be accepted by OEH.

Advice in detail

A. Overview of Proposed Gardens of Stone - Stage 2

We understand that there is a proposal to extend the existing Gardens of Stone National Park. This proposal is known as Gardens of Stone stage 2 (**GoS2**). It is a 40,000 hectare proposal consisting of State Conservation Areas and National Park extensions. The reserve proposal is divided into six divisions and stretches over 75 kilometres from Medlow Bath to Newnes Plateau, then north to the Capertee Valley and Mount Airley. The coalpac project will impact the proposed Baal Bone and Long Swamp Division.

At present the GoS2 is merely a proposal and no formal indication has been given by OEHL that it will in fact proceed at all, or to the extent and manner hoped.

B. The proposed project

The Proponent seeks Project Approval under Part 3A of the *Environmental Planning and Assessment Act 1979*¹ to:

- Expand open cut and high wall mining areas, clearing approximately 995 hectares of vegetation, to gain access up to an additional 83 million tonnes of coal,
- Upgrade and building associated infrastructure to produce up to 3.5 million tonnes of product coal per year for domestic and international markets,
- Produce up to 640,000 tonnes of sand products per year for transport to domestic markets, and
- Consolidate existing development consents and project approvals for the Cullen Valley Coal Mine and the Invincible Colliery.

C. Legality of financial contributions

The Director-General's environmental assessment requirements were issued on or about 16 December 2010. Supplementary requirements to accommodate integration of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* process, were issued on or about 19 April 2011. Those requirements included provision for the proponent to identify commitments which they would undertake to observe. The requirement for the proponent to prepare a statement of commitments is a common feature of the Part 3A assessment process. It is within this context that Coalpac indicate their intention to make a financial contribution to OEHL.

The Director-General has required Coalpac to include in its environmental assessment details relating to social and economic issues. The Director-General Requirement's it states:

"Social & Economic – including:

¹ As continued by *Environmental Planning and Assessment Act 1979*, Schedule 6A.

- An assessment of the potential impacts of the project on the local and regional community;
- An assessment of the demand the project may generate for the provision of additional infrastructure and services; and
- A detailed assessment of the costs and benefits of the project as a whole, and whether it would result in a net benefit for NSW."

In this regard, Coalpac has provided a statement of commitments, including the following:

Coalpac will implement its mine rehabilitation program and Biodiversity Offset Strategy consistent with the objectives for the establishment of the proposed GoS2 State Conservation Area.

Further to this, Coalpac will support the progressive establishment of GoS2 by providing a monetary contribution to OEH (or other relevant body) of \$0.015 per tonne of coal sold throughout the life of the Project; for the development, implementation and management of the GoS2.²

Reference is made in the statement of commitments to s 8.15 of the proposed project which provides further detail as to the commitment the proponent is undertaking. Section 8.15 is entitled Biodiversity offset strategy³.

It appears the offer by Coalpac to provide a financial contribution to OEH would be considered beneficial both economically and socially. The Proponent has made reference in the Environmental Assessment that the reason for this financial contribution is to support the progressive establishment of GoS2. In other words, they want to assist in the development, implementation and management of GoS2.

Undertakings to make a financial contribution, or contribution in kind, are a common feature of a project proposal. Such contributions are taken into account by the Minister as part of the broader social or economic impact of the project. Whilst the community has expressed considerable concern about such proposals they are legal under s 93F of the *Environmental Planning and Assessment Act 1979*.

The public nature of the proposal means that it cannot be considered a bribe. Further, the financial contribution is not for a private or restrictive benefit but rather one which the public at large could potentially enjoy. Whilst the financial contribution is, in effect, "a sweetener", so far as making the proposal more desirable, it does not remove or reduce the requirement to fully consider the environmental impacts of the proposal.

The *Independent Commission against Corruption Act 1988* section 8 defines 'corrupt conduct' as that which:

- (a) ...adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any

² Environmental Assessment Statement, March 2012, at p. 256

³ Note that this section provides a summary of the full strategy as outlined in Appendix J to the Environmental Assessment Report .

public official, any group or body of public officials or any public authority, or
(b) ...constitutes or involves the dishonest or partial exercise of any of his or her official functions, or
(c) ...constitutes or involves a breach of public trust, ...

It is difficult to characterise the financial contributions to the OEH as falling under any of these definitions as, as explained above, it would not be a dishonest nor partial exercise of the official function of the Minister in deciding whether or not to approve the Project.

Financial contributions by mining companies are common as they help support local and regional development. The method of donation proposed by the Proponent, namely contributing \$0.015 per tonne of coal sold across the life of the Project, is merely an alternative to a lump-sum. For example, rather than an upfront lump sum donation to OEH, the Proponent has offered to donate a fixed proportion of coal sold. We can discern no reason in principle why a lump sum would be considered legitimate but a staggered contribution would not. Whilst an ongoing versus upfront payment may be seen as less desirable, this is a question of merit rather than law. This is further discussed at E, below.

D. Enforceability of the financial proposal

Notwithstanding the general view that offers of financial contribution are legally valid, in the circumstances of the present case there is a risk that the commitment will not be enforceable. This is because the offer is predicated upon the implementation of GoS2. In the event GoS2 does not proceed, the condition will be unenforceable.

We are instructed that OEH has informally indicated they are unlikely to accept the proposed funds. It is suggested that, in the interests of certainty, you try to ensure that OEH does make a formal statement of its position in that regard. This is because, if OEH does not intend to accept such funds, Coalpac's offer is not a matter which the Minister should be taking into account in the assessment of the project.

Equally, if the matter were not conditional upon being put towards GoS2, but rather to be made to OEH for use in their discretion, there is no certainty that it will be used for the benefit of the local area. Whilst a contribution is relevant to considering the broad (NSW) public interest, it should not be taken into account as regards local interests.

E. Merit/weight to be attributed to the financial proposal

In addition to the issues of legality canvassed above, there is also a significant argument which can be made as to the limited weight which should be given to the offer.

As noted, the Proponent proposes to support the progressive establishment of GoS2 by providing a monetary contribution of \$0.015 per tonne of coal sold (estimated to be approximately \$1,000,000) to OEH. This contribution is to be made over the life of the project, ie 21 years.

In considering the merits of this particular aspect of the proposal, it is suggested that the Minister should consider the present value of the contribution. That is, because the contribution of funds is spread out over a lengthy period of time, it should be discounted to its present value.

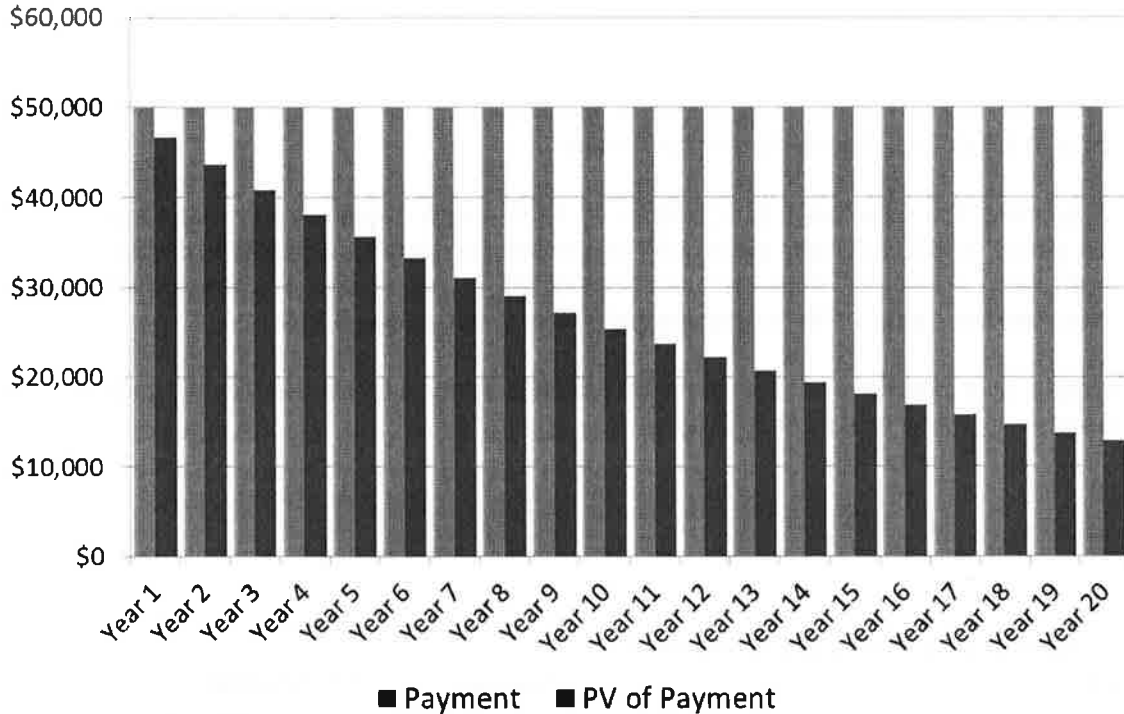
Assuming the payments by Coalpac to OEH were made evenly over a period of 20 years at \$50,000 per year (with payments occurring at the end of each year), and using a conservative discount rate of 7% in nominal terms this would equate to a present value of the commitment in the order of \$529,701.

Below, is a tabular and diagrammatic representation of the decline in value of the payment over a period of 21 years.

Assumed Discount Rate

7%

Payment Year (Assumed to be paid at end of year)	Payment	PV of Payment
Year 1	\$50,000	\$46,729
Year 2	\$50,000	\$43,672
Year 3	\$50,000	\$40,815
Year 4	\$50,000	\$38,145
Year 5	\$50,000	\$35,649
Year 6	\$50,000	\$33,317
Year 7	\$50,000	\$31,137
Year 8	\$50,000	\$29,100
Year 9	\$50,000	\$27,197
Year 10	\$50,000	\$25,417
Year 11	\$50,000	\$23,755
Year 12	\$50,000	\$22,201
Year 13	\$50,000	\$20,748
Year 14	\$50,000	\$19,391
Year 15	\$50,000	\$18,122
Year 16	\$50,000	\$16,937
Year 17	\$50,000	\$15,829
Year 18	\$50,000	\$14,793
Year 19	\$50,000	\$13,825
Year 20	\$50,000	\$12,921
Total Present Value	\$1,000,000	\$529,701



F. Proposed donation of rehabilitated land

Coalpac has stated in its environmental assessment that:

If required by OEH, rehabilitated areas of the Project Disturbance Boundary and biodiversity offset properties will also be progressively released into conservation in GoS2.⁴

Of the 958 hectares proposed to be disturbed by the Project approximately 528 hectares are located within the GoS2. In particular, within the Baal Bone and Long Swamp Division of the Stage 2 proposal.⁵

The project, as it falls within the Baal Bone and Long Swamp Division of the Stage 2 proposal involves the following:

- Clearing of vegetation, although it is noted that the proponent states '[t]he Project will not clear significant geological formations. It will not remove any pagoda villages or cliff lines within the Project Boundary.'⁶
- Recovery of open cut coal resource ,
- Rehabilitation.

The proponent further states that:

The Project will avoid all pagoda landscapes and Coalpac has committed to a 50m buffer between mining operations and all pagodas or sandstone

⁴ Environmental Assessment, p. 215.

⁵ Environmental Assessment, Appendix J, at s4.2.2

⁶ Environmental Assessment, Appendix J, at s4.2.2

escarpments, and a 20m buffer from any other significant rock exposure (outcrop) that does not fall into the above category.⁷

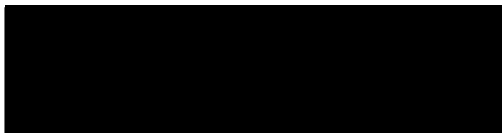
It is difficult to assess the legal enforceability of such a proposal, absent an indication by OEH as to whether the Land would be accepted. From a merit perspective we suggest that this uncertainty should be resolved. Secondly, there is also a real issue as to the capacity of Coalpac to make an offer to donate rehabilitated areas within the project boundary, at OEH's request, in circumstances where they do not appear to have full title to that land. In particular, it appears from the project documents, but without having confirmed, that the land falling within the proposed Baal Bone and Long Swamp Division of the Stage 2 Gardens of Stone is presently owned either by the Crown, or Forests NSW, or both. They may also be real issues about whether the soil can support the biodiversity objectives subsequent to mining.

G. Merits appeal rights

If and when the Project application is approved, it is important to know your rights. A third party (objector) who lodged a written objection in relation to a project during the public submission period, who is dissatisfied with a decision by the Planning Minister to approve a Part 3A project, can bring a merits appeal in the Land & Environment Court. These appeals are only available if the development would normally have been categorised as 'designated development' under Part 4 of the EPA Act. 'Designated development' under this Part refers to developments which are high-impact developments such as those projects likely to generate pollution. It is clear the Coalpac Consolidation Project would have been considered as 'designated development' under the Act.

The capacity to institute a merits appeal in the Land and Environment Court is predicated upon having made a submission by way of objection during the formal consultation period. It is for this reason that you should lodge a written objection to the Department of Planning before **1 June 2012** as that is the date the public submission period for the Project ends. It is important to note that any appeal must be brought within 28 days of receiving notice of the decision.⁸

Yours sincerely,
EDO NSW



Corrina Novak
Solicitor

Our Ref: 17902

⁷ Environmental Assessment, Appendix J, at s4.2.2

⁸ EPA Act, s 75L(3), 153; EPA Regulation 2000, cl 8E(1).

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Nature Conservation Saves for Tomorrow

The Hon. Tony Burke, MP

Minister for Sustainability, Environment, Water, Population and Communities

PO Box 6022

Parliament House

CANBERRA ACT 2600

CC: Kate Smith, Project Officer EPBC Unit

E: kate.smith@environment.gov.au

CC: Carl Dumpleton, Planner

The NSW Department of Planning

GPO Box 39

SYDNEY NSW 2001

28th July, 2011

Dear Minister,

Re: Call for independent flora assessments into Coalpac Pty Ltd's Cullen Valley Mine and 'Coalpac Consolidation Project' proposal (EPBC No: 2010 5776).

We write to draw your attention to our collective concerns regarding Coalpac Pty Ltd's flora assessments for its Cullen Valley Mine, Cullen Bullen NSW and 'Coalpac Consolidation Project' (EPBC No: 2010 5776). Our concerns relate to matters of national environmental significance.

The Cullen Valley Mine is owned and operated by Coalpac Pty Ltd, as is the Invincible Colliery, Cullen Bullen NSW. As you are aware, Coalpac Pty Ltd proposes to consolidate these two mines within its wide-ranging 'Coalpac Consolidation Proposal'.

The 'consolidation' proposal threatens 1088 hectares of the uniquely scenic and biodiverse Ben Bullen State Forest, NSW and the stability of its 'pagodas'. Environment groups around the state have called on the NSW Government to reject the proposal and act to protect the region within a State Conservation Area; it is an area with outstanding natural values. See **Appendix A** for further information as to the basis for this call.

This call supports the NSW National Parks and Wildlife Service's (now within the NSW Office of Environment and Heritage) wish to add the Ben Bullen State Forest to the conservation reserve system as a matter of priority, see **Appendix B**.

We request you take the steps necessary to ensure that an independent flora assessment is undertaken for both Coalpac Pty Ltd's Cullen Valley Mine and 'Coalpac Consolidation Project' proposal. Such an assessment should include the Invincible Colliery mining area due to matters of national environmental significance under the EPBC Act being found in the adjoining referral area.

We outline the basis for this call in two parts:

01. Vulnerable species *Persoonia marginata* identified to be existing at Cullen Valley Mine, Cullen Bullen NSW.

On 21st April 2011 the NSW Office of Environment and Heritage confirmed the existence of the *P. marginata* (listed as vulnerable under the EPBC Act) within the mining lease of Coalpac Pty Ltd's Cullen Valley Mine. A copy of the related correspondence is attached as **Appendix C**.

This identification was made by local botanists Julie Favell and Chris Jonkers, Lithgow Environment Group. Without their voluntary work, the species would have gone unrecorded.

It is alarming that the existence of this species was not identified as the mining lease is in the heartland of the population and distribution of the species described (Weston 1995b) as being: *Restricted to the area between Kandos & Portland in the Capertee district of central-eastern NSW. Localities at which specimens have been collected include: Clandulla State Forest; Capertee; 5 km NE of Dark Corner Post Office...*

We consider that the distribution of *Persoonia marginata* should be enlarged to include the Ben Bullen State Forest as this clearly comprises an additional terrain inhabited by this species (see **Appendix D**).

02. With regards to 'Coalpac Consolidation Project' proposal Cullen Bullen, NSW EPBC No: 2010 5776; Coalpac Pty Ltd has a poor record of flora assessment that understate the diversity of the area to be open cut.

As mentioned, this proposal seeks to consolidate the Cullen Valley Mine and Invincible Colliery mines.

Coalpac's application for said project was declared a controlled action on 24 January 2011 under the EPBC Act. The triggers were Threatened Species (sections 18 and 18A) and Migratory Species (sections 20 and 20A).

The existence of *P. marginata* in the Cullen Valley Mine area is highly unlikely to be restricted to the boundaries of the approved mining area. The 'consolidation' proposal site is immediately adjacent (See **Appendix E**) and the species was not identified by the proponent in the Preliminary Environment Assessment which determined it be declared a controlled action. We suggest an independent flora assessment would assist recording a true representation of the population and distribution of *P. marginata* within the proposal area.

We consider that Coalpac's track record of producing accurate, reliable and thorough flora assessments merits cautious evaluation due to the following:

Despite undertaking seven field surveys before lodging the Proposed Action, at least 75 plant species were missed in Coalpac's field surveys. There are in fact *at least* 350 native plant species within the proposed area to be cleared. Of these, 2 are listed as *vulnerable* under both the EPBC Act and NSW Threatened Species Conservation Act and 4 are listed as Rare or Threatened Australian Plants (ROTAP); see **Appendix F**.

In effect, the ecological surveys have understated the diversity of the area to be open cut. The 1088 hectare proposal site is a plant diversity hot spot.

The number of species the proponent has failed to identify is expected to be higher as the area to be surveyed is extensive. As you are aware, a significant number of endangered flora and fauna species prefer growing in pagoda-related habitats; these habitats have yet to be adequately surveyed.

An independent flora assessment would confirm the high plant diversity of the proposal area and when combined with other threats to matters of national environmental significance may be critical in the determination of this proposal.

The proponent is in the process of finalising its Development Application to present to the NSW Department of Planning.

This area has taken 25 million years to evolve. The natural and recreational values of the area have a life span well beyond the 21 years Coalpac Pty Ltd would take to destroy the heritage value of the Ben Bullen State Forest, the gateway area to the Gardens of Stone National Park as identified in the 'Seeing the Gardens' report **Appendix G**.

Yours sincerely,

Justin McKee

'Gardens of Stone' Campaigner



Lachlan Garland

President,

Blue Mountains Conservation Society

Keith Muir

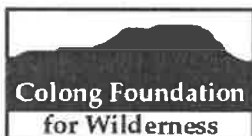
Director,

Colong Foundation for Wilderness

Chris Jonkers

Natural Areas Project Officer

Lithgow Environment Group



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Coalpac is following an age old formula

BLUE Mountains Conservation Society campaigner Justin McKee has warned Cullen Bullen residents to be wary of Coalpac employing 'age old' mining company tactics to win over the region in a bid to forge ahead with its devastating open cut mining project.

At a Cullen Bullen community forum regarding the controversial Coalpac Consolidation Project Mr McKee said Coalpac was following an age-old formula to divide and conquer.

"The process any mining company will follow to divide and then conquer a community is age old and I've witnessed this in the Hunter Region time and time again," Mr McKee said.

"First a company will employ the nicest person they can possibly find to be the community relations officer to forge local relationships.

"The company will then go about understanding exactly what the local issues are, create local community opinion leaders

while buying up land and offer the loudest people in the community either jobs or above market rate sums for their property and demand they sign confidentiality agreements.

"All the while the company will claim the middle ground in all its communications so that others' opinions seem radical.

"Finally, the company will set about marginalising everybody else so that the community is left completely divided.

"We have to keep in mind is that the process in place that approves mining operations gives little consideration to social values or community function.

"The community is well and truly informed about the outstanding natural values of the Ben Bullen State Forest and appreciate that ripping it up will negatively impact their health and lifestyle.

"There is a clear understanding that an open-cut mine operating within a few hundred metres of their town will deliver a bleak future.

"It's laughable to see Coalpac Pty Ltd announcing in the media its pithy \$5000 donation to the Cullen Bullen Rural Fire Service.

"In October 2010, The Australian reported Melbourne's Liberman family is planning a sale of its Cullen Valley and Invincible Colliery operations that could fetch \$420 million.

"Environment groups around the state, the NSW ALP, the Greens, Lithgow City Council and the majority of local residents object to the open-cut proposal and want mining in the area to be kept underground.

"Coalpac is on its own with its proposal.

"Let's hope the NSW Coalition Government's process results in an outright rejection of the proposal.

"With the volume of signatures now received from Cullen Bullen residents in their petition that objects to the proposal, is it absolutely clear Coalpac is underestimating the opposition to its outrageous proposal," Mr McKee said.

COALPAC DEBATE: Council procrastination places Cullen at risk

IN Lithgow City Council's last meeting for 2011, it was revealed the Cullen Bullen meeting on the Coalpac Consolidation Project is to be delayed until the proposal is on public exhibition.

But environment groups are not happy with the delays and are calling for council to hold the meeting earlier.

A spokesman for the Mountains-based environmental group said the delay could not be justified as Council had resolved to host a public meeting on the Coalpac Consolidation Project for the people of Cullen Bullen as far back as August 22 2011.

The controversial, open-cut mining project proposed by Coalpac Pty Ltd will surround the town of Cullen Bullen in every direction.

"Four months on, we discover council's planning to hold the public meeting at the very end of the planning process," Blue Mountains Conservation Society's Justin McKee said.

On December 12 Lithgow City Council resolved to call the public meeting when Coalpac Pty Ltd's revised submission has been deemed adequate for public exhibition by the Department of Planning.

"At this point in the planning process, the Director General advertises the environmental assessment documentation and calls for public comment.

"There is typically a 30 day window for people to get their submissions in, this is not the time to start advertising the first public meeting," Mr McKee said.

"The dramatic changes the project would bring are looming in the minds of residents today.

"The residents of Cullen Bullen need to hear from a panel of independent experts, as well as Coalpac, sooner than council proposes.

"They are entitled to a fair and just forum which presents unbiased information and answers the questions they have now.

"This is a town that has been in existence for over 100 years; Coalpac seeks to place it within a quarry and have the residents live in a dust bowl.

"There is no prettying up the reality of what the project proposes."

The Blue Mountains Conservation Society has presented its concerns to all councillors of the Lithgow City Council and its general manager.

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Wed 5th October 2011
Published: Newcastle Herald

Coal-fired injustices must be set straight

Health trumps profit, write Nick Higginbotham and Ben Ewald.

The Medical Journal of Australia article on the health impacts of coal mining and burning raises two unresolved questions: what are the local health costs of pollution from these industries, and how can affected residents be protected?

Dust particles less than 10 microns in size (PM10) are linked to respiratory symptoms and increased hospital admissions. Especially affected are the elderly, children and people with asthma or heart disease. Even more dangerous are the smaller particles (PM2.5) which can penetrate deep into the lungs, increasing the risk of lung cancer.

Burning coal to generate electricity produces a host of other harmful substances, including sulphur dioxide (SO₂), oxides of nitrogen (NO_x), and toxic metals (like arsenic, chromium, lead, mercury).

Until recently, Upper Hunter residents has little access to air-quality information, apart from their own senses, which told them that dust often covered everything, the sky has an unnatural orange tint, and the kids seemed to have asthma.

The National Pollutant Inventory gives sobering results; estimates of PM10 emissions from coalmining and power generation in the Upper Hunter rose from 37,200 tonnes in 2003 to 50,000 tonnes for 2010 – about 58 per cent of such emissions for NSW.

Similarly, PM2.5 were calculated at 2242 tonnes in 2010, 42 per cent of the state total, while the area's power stations released 112,000 tonnes of SO₂ and 62,600 tonnes of NO_x in 2010.

The environmental injustice of this burden of pollution speaks for itself.

What about community concern for the toxic orange plumes that can rise from mine sites after blasting? These contain a variable amount of nitrogen oxides, depending on the quality control of the blasting.

The toxicity of these plumes was highlighted by mishaps at two Queensland open cut coalmines last March; 24 mine workers were taken to hospital after exposure to plume gases despite being 4.2 kilometres from the blast zone.

The April 2010 *ABC Four Corners* documentary, *A Dirty Business*, capped a decade-long campaign to get the state government to take action. The network of real-time air quality monitors was activated, a five-year record of air monitoring by industry (68 sites) was posted, and public health officials analysed records linked to air pollution.



The state's chief medical officer appointed an independent expert advisory committee on air quality to review these actions, meet with the Singleton Health Environment Group, and design a health study.

It's a relief that these respected scientists have assumed responsibility, set a broad agenda, and work closely with state official and the Singleton Healthy Environment Group.

Monitoring has begun for PM1 and PM2.5 to identify sources and make-up of particles; blasting hazards were reviewed with an eye toward stricter guidelines.

However, a study awaits more air monitoring data to ensure the study design can produce a clear result about the effects of pollution.

The landscape has changed since April 2010, but momentum must not be lost. Upper Hunter residents live in real-time, going about their daily lives in potentially hazardous air, unprecedented in NSW.

.....
Nick Higginbotham is an associate professor and Ben Ewald is a senior lecturer at the School of Medicine and Public Health at Newcastle University.

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Lieberman family plans to sell coal mines

<http://www.theaustralian.com.au/business/liberman-family-plans-to-sell-coal-mines/story-e6frg8zx-1225944402236>

28 October, 2010

MELBOURNE'S Lieberman family is planning a sale of thermal coal mines west of Sydney that could fetch \$420 million.

The family's CET Resources vehicle is planning to sell its majority owned Coalpac thermal coal project, with 60 million tons of thermal coal reserves in its Cullen Valley and Invincible Colliery operations.

A source said shareholders were modelling their pricing view on the recent sale of Centennial Coal to Thailand's Banpu, which valued the Australian target at \$7 for every ton of coal reserves.

That valuation would imply a price of up to \$420m, although that would likely be a high estimate. "There's no reserve price so we'll see what the market says," the source said.

Marketing of the deal began about a month ago, attracting interest from Indian, Japanese, Korean, Chinese and listed Australian miners. Coalpac chairman Richard Davies said the mines were being sold off because they didn't fit with the Lieberman investment strategy.

"We more manage a portfolio of companies and liquid investments. We're still comfortable holding it, but we're not the natural long-term owner for something like this," he said.

Booming demand for Australian coal exports have driven a run of transactions in the past year, including Banpu's \$2.45 billion Centennial takeover, Yanzhou Coal's \$3.2bn acquisition of Felix Resources, and Adani Enterprises's \$2.7bn purchase of mining tenements from Linc Energy.