



Lithgow Environment Group Inc.

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Preserving the Balance of Nature

Ms Sera Taschner (02) 9383 2117
NSW Planning Assessment Commission
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9 September 2012

Dear Ms Taschner

RE: RESPONSE TO SUBMISSIONS - COALPAC CONSOLIDATION PROJECT (10_0178)

Our members ask the PAC to reconsider Coalpac erroneous responses to our concerns on –

1. Aboriginal Archaeology & Cultural Heritage

Appendix A, Summary of Submissions, Table 1, page A3 - a dot has been omitted next to Lithgow Environment Group (LEG) on the issue of Aboriginal Archaeology & Cultural Heritage.

LEG questioned the credibility of local indigenous heritage assessment, given that eight (8) previous assessments over 30 years on the adjacent Baal Bone Colliery mine lease failed to find and/or report a rock shelter with cave art discovered by LEG in 2011. LEG therefore requested an independent Aboriginal Archaeological and Cultural Heritage Impact Assessment for the Project.

The Response in Section 4.11.2 states that –

- A comprehensive assessment of Aboriginal archaeology & cultural heritage was undertaken.
- It included a pedestrian field survey undertaken over a total of 21 days in consultation with members of the seven local Aboriginal community groups.
- All Aboriginal archaeological sites identified were recorded to the standard required by *Code of Practise for Archaeological Investigation of Aboriginal Objects in New South Wales* (OEH 2010).

Despite this, on 28th June 2012 bushwalker Mr Yuri Bolotin and his party discovered a cave shelter with Aboriginal Hand Stencils and Stone Artefacts within the Coalpac Consolidation Project Proposal Area. Appendix K (AECOM 2012) of the Coalpac EA does not identify any cave art sites within the Project Boundary, nor does it identify any rock shelter, cave or PAD sites in the vicinity of this find.

It is an offence under the *National Parks and Wildlife Act 1974* not to notify the Director-General of the location of an object.

LEG understands that the OEH Heritage Unit has been provided with the details of this site, and that the PAC has been advised of this site by BMCS Gardens of Stone campaigner Mr Justin McKee.

LEG therefore formally requests –

- An independent Aboriginal Archaeological and Cultural Heritage Impact Assessment, and
- A mining exclusion zone of at least 300m around this Aboriginal Hand Stencil and stone artefact site to protect it from damage.

2. Water Quality Monitoring 4.8.7

The proponents response to concerns raised in 4.8.7 Water Quality Monitoring are that:

- *The proposed Surface Water Management System described in Section 5.4.1 of the SWIA complies with current industry best practice.*
- *The monitoring program proposed for the Project will test for pH, TSS, Total Dissolved Salts (TDS), Turbidity, Oil and Grease and Electrical Conductivity.*
- *The regional water quality data (in particular turbidity, conductivity and pH) described in Section 2.3 of the SWIA is consistent with ANZECC (2000) guideline values for upland rivers and streams in south-east Australia.*

If mine water that LEG has observed being discharged from Invincible and Cullen Valley Mines represents “industry best practise”, then these practises are in urgent need of review.

LEG believes that given the past history of water quality exceedances from Coalpac and other local mines, that additional monitoring of concentration levels for Aluminium, Manganese, Iron, Nickel, Zinc, Hydrogen Sulphide, and PCB's should also be undertaken on a regular basis.

Coalpac erroneously claim that regional water quality data is consistent with ANZECC (2000) guideline values for upland rivers and streams. LEG would like to submit to the PAC Panel a copy of Coalpac's Annual Return 2007/2008 for Invincible Colliery Licence No. 1095 signed by Coalpac Directors Mr Bret Leismann and Mr Ian Follington, obtained under FOI several years ago. This Report states that –

- Electrical Conductivity or Salinity levels at Discharge & Monitoring Point 1 (Discharge from bore located in Ben Bullen State Forest to tributary of Cox's River) ranged from a low of 1627 microsiemens per centimetre ($\mu\text{S}/\text{cm}$) to a high of 1750 $\mu\text{S}/\text{cm}$;
- Total Suspended Solids averaged 32 milligrams per litre (mg/L);
- Manganese levels averaged 0.684 mg/L;
- Iron levels averaged 14 mg/L;

SCA testing at LDP 01 on 28 June 2007 & 18 July 2007 recorded salinity levels of 1649 $\mu\text{S}/\text{cm}$ and 1648 $\mu\text{S}/\text{cm}$. Salinity levels at LDP 01 were therefore five (5) times higher than the ANZECC (2000) guideline for Fresh and Marine Water Quality for an Upland Stream of 30 – 350 $\mu\text{S}/\text{cm}$.

Total Suspended Solids was very near to exceeding Coalpac's EPL upper limit of 33 mg/L.

Manganese exceeded the Australian Drinking Water Guidelines (ADWG) concentration in drinking water of 0.1 mg/L. Guidelines state that concentrations exceeding 0.1 mg/L impart an undesirable taste to water and stain plumbing fixtures and laundry. Levels of 0.6mg/L can cause stomach problems. Many people camp in Long Swamp, and may assume the water is fit to drink if boiled.

Iron levels exceeded the recommended ANZECC and ADWG guideline upper limit of 0.3mg/L by a factor of 46. The ADWG state that based on aesthetic considerations (precipitation of iron from solution and taste), the concentration of iron in drinking water should not exceed 0.3 mg/L.

The quality of water discharged from Discharge & Monitoring Point 1 is likely to be identical to other discharge points of the consolidated Coalpac mines.

Clearly Coalpac have once again failed to tell the whole truth to the DoP and general public by withholding the true water quality information contained in their own Annual Report.

Coalpac must be required to identify and address these water quality issues through their Water Quality Monitoring and SWIA proposals before approval, not after approval.

3. Erosion and Sediment Control of Rehabilitation 4.8.10

Coalpac's response to 4.8.10 Erosion and Sediment Control of Rehabilitation states that -

- Available water quality data from the nearby monitoring sites (as outlined in Section 2.3 of Appendix N) indicates iron levels in the catchments draining the Project are typically in line with guideline values provided in ANZECC (2000) (i.e. <0.3mg/L).
- There is no data available to suggest that iron levels in surface water discharged from the Project site would exceed background levels.
- No data is available on likely manganese concentrations in runoff from the area.

LEG would like to submit to the PAC Panel a copy of Coalpac's Annual Return 2007/2008 for Invincible Colliery Licence No. 1095 signed by Coalpac Directors Mr Bret Leismann and Mr Ian Follington, which was obtained under FOI. That Report states for LDP 01 –

- Iron levels averaged 14 mg/L;
- Manganese levels averaged 0.684 mg/L;

Clearly Coalpac do have available data on both Iron and Manganese, which proves that Iron levels do exceed natural background levels the ANZECC (2000) limit of <0.3mg/ by a factor of 46. And that Manganese levels also exceed background levels and the ADWG upper limit in drinking of 0.1 mg/L.

4. Discharge from Existing LDPs 4.8.11

Coalpac's response to 4.8.11 Discharge from Existing LDP's claims that only one submission referred to the existing Licensed Discharge Point LDP01 held for Invincible Colliery. In fact the Blue Mountains Conservation Society, Colong Foundation and possibly other respondents also raised this issue.

Coalpac continue to erroneously claim that this proposal will have no impact on the Coxs River or Sydney Drinking Water Catchment, and once again refuse to permanently close LDP01 or the other old borehole site near the AirVent, stating that this discharge point will be 'retained as a flexibility'.

LEG would like to submit to the PAC Panel -

- A copy of Coalpac's Annual Return 2007/2008 for Invincible Colliery Licence No. 1095 signed by Coalpac Directors Mr Bret Leismann and Mr Ian Follington, which shows that Salinity at LDP01 exceeded the ANZECC (2000) guideline upper limit by a factor of 5, Total Suspended Solids was very near to exceeding Coalpac's EPL upper limit of 33 mg/L, Manganese exceeded the ADWG upper limit by a factor of 6.8, and Iron exceeded the ANZECC and ADWG upper limit of 0.3mg/L by a factor of 46.
- A copy of Sydney Catchment Authority (SCA) monitoring data for Invincible Colliery LDP01 undertaken by SCA Scientific staff on 28 June 2007 and 18 July 2007, confirming that Salinity at LDP01 was 1648 and 1649 $\mu\text{S}/\text{cm}$, whereas upstream the background level was 35 $\mu\text{S}/\text{cm}$.

Coalpac's own Annual Report and SCA data provide ample evidence to the PAC that the project will have a likely adverse impact on the Coxs River catchment and Sydney Drinking water Supply, as well as the Turon River, MacQuarie River and ultimately the Murray Darling System.

We call on the PAC to require Coalpac to permanently close LDP01 in Long Swamp, and to address these known water quality issues through their Water Quality Monitoring and SWIA proposals before approval, not after approval.

5. Discharge of Water from Underground Workings 4.9.1

In response to 4.9.1 Discharge of Water from Underground Workings, Coalpac state that *Invincible Colliery bore LD001 under EPL 1095 entitles Coalpac to discharge up to 2 ML/day of the water stored within the abandoned underground mine workings into Long Swamp (a tributary of the Coxs River).*

This is at odds with the EPA POEO Licence register, which states that by Licence Variation 1073146 for EPL 1095 on 20 July 2007 the licensee was granted approval to increase the discharge rate from discharge point LDP 01 in Ben Bullen State Forest from 2 ML/day up to 4 ML/day.

Coalpac go on to say -

“.....water stored within the flooded underground working was of good quality and laboratory analyses confirmed that the water stored within the underground workings is very fresh, low salinity water with an electrical conductivity value of 150 μ S/cm (AGE 2012). The low salinity of the water stored within the Invincible Colliery void indicates it is predominantly surface water runoff, not groundwater seepage. Although discharge is not proposed from the abandoned Invincible Colliery void, the Long Swamp would not be expected to be impacted by such a discharge given the low salinity of the water in the void.

Should regular monitoring show the presence of dissolved iron and manganese above relevant criteria in the void water, simple treatment methods such as aeration will be implemented to remove these elements prior to any discharge. This will be addressed in the Site Water Management Plan.”

LEG urgently requests that the PAC Panel -

- Clarify with the EPA whether Coalpac’s EPL 1095 Licence Variation 1073146 did increase the discharge from LDP 01 in Long Swamp from 2 ML to 4 ML/day.
- Sight a copy of Coalpac’s Annual Return 2007/2008 for Invincible Colliery Licence No. 1095 signed by Coalpac Directors Mr Bret Leismann and Mr Ian Follington, which states that LDP01 exceeded the ANZECC (2000) guideline upper limit for Salinity by a factor of 5; Total Suspended Solids (TSS) came very close to exceeding Coalpacs EPL upper limit of 33 mg/L; Manganese exceeded the Australian Drinking Water Guideline upper limit in by a factor of 6.8, and Iron exceeded the ANZECC and ADWG upper limit of 0.3mg/L by a factor of 46.
- Sight a copy of Sydney Catchment Authority (SCA) monitoring data for Invincible Colliery LDP 01 undertaken by SCA Scientific staff on 28 June 2007 & 18 July 2007 confirming the above.
- Require that these known water quality issues be addressed as part of the Site Water Management Plan prior to, and not after approval.
- Or preferably, require any and all excess minewater from Coalpac mines to be piped to Mt Piper Power Station via a pipeline along the Coal Conveyor route for treatment in their Reverse Osmosis (RO) Plant, because we all know the new owners of Coalpac if approved will be Delta Electricity aka TRUenergy aka Energy Australia.

5. Subsidence concerns

LEG's submission said that because the Lithgow Coal Seam has previously been bord & pillar mined, the area was already unstable - evidenced by many existing surface cracks and cliff falls recorded by LEG in the Invincible Colliery area - and cannot sustain more highwall mining in multiple coal seams.

The Proponent dismissed this saying highwall mining is "first workings", yet clearly it is 2nd workings.

"Highwall mining is analogous with first workings in an underground coal mine which are routinely permitted beneath subsidence sensitive areas (such railway lines, gas pipelines etc)".

At a meeting between LEG and Coalpac, the Compliance Manager Mr Medlock would not rule out the possibility of cliff and pagoda damage, merely stating monitoring and "adaptive management" "should" protect them. These methods failed to protect cliffs and swamps at Baal Bone Colliery.

LEG maintains that highwall mining in this area does constitute secondary workings, and as the area has already been mined the risk of triggering subsidence along cliff lines and pagodas is high.

Section 4.1 again states that – *"Highwall mining is a well proven and widely applied mining method with more than 70 systems currently operating around the world in a wide range of mining conditions and is based on sound well researched geotechnical design parameters."* And *"...data can be used to validate the Subsidence Management Plan (SMP) in the same way that reviews of the effectiveness of other underground mining methods are conducted."*

However as LEG and many other respondents pointed out in submissions - the SMP process has been a spectacular failure in the Lithgow area - It failed to prevent cliff falls in the Baal Bone and Angus Place longwall leases; failed to protect endangered swamps on Newnes Plateau and in Ben Bullen State Forest; failed to prevent stream flow loss in Kangaroo Creek, Lamb's Ck, Wolgan River, Wollangambe River, Ben Bullen Ck, Baal Bone Ck, Farmers Ck, and the Coxs River in Long Swamp.

And as LEG and many other respondents have pointed out in submissions - the Coalpac section of the Gardens of Stone proposal is unique, world class, but neither does anywhere else have such a complicated geology – there is no evidence that highwall mining will work in such a geotechnically challenged area without damaging pagodas, cliffs, cave overhangs, or escarpments .

The Baal Bone Colliery experience has taught LEG that while the SMP process may be cautious to protect high-visibility cliffs and pagodas in sight of Cullen Bullen village and the Castlereagh Hwy, once mining is out of public view highwall mining will proceed at far greater intensity, and cause massive cliff, pagoda and cave overhang damage, as occurred above Baal Bone LW28 in 2009.

This is a serious concern as most of the Aboriginal rock shelter PAD sites, and the most significant cave art and artefact site not identified by Coalpac, occurs in areas out of the public view.

LEG's experience in the local area has proven that the Subsidence Management Planning process sanctions the destruction of endangered swamps, cliffs, pagodas, rock shelters, and aboriginal heritage sites. When we complain the Government and mining companies simply go into secrecy, denial, and cover up mode, mining continues business-as-usual, and more damage ensues.

The only certain method of protecting cliffs, pagodas and aboriginal heritage sites is avoidance. Highwall mining should not be approved in such a geotechnically challenged area.

6. Failure to refer EPBC Act Listed Species 4.13.10

LEG went to great detail in our submission describing the total number and location of *Persoonia marginata* occurring within the Proposal area. Coalpac's response totally ignores this and the critical issue – Coalpac and previous Cullen Valley Mine owners contravened the NSW TSC Act and Federal EPBC Act on multiple occasions since 1998 by failing to identify a Vulnerable species on-site in the :

- Coalpac Consolidation Project EPBC Referral (2010/5776) on 13 December 2010
- Hanson and Bailey, Coalpac Consolidation Project Preliminary Environmental Assessment lodged with for NSW Planning - October 2010
- Cumberland Ecology Pty Limited (2010). *Cullen Valley and Invincible Mines: Opportunities and Constraints Analysis*. Review of Environmental Factors for an Exploration Program (Boreholes CP113 to CP 129). Report on behalf of Coalpac Pty Ltd. April 2010
- Gingra Ecological Surveys (2003). Cullen Valley Lease Extension Project Flora Survey. Report prepared for International Environmental Consultants.
- Lembit, R. (1997), Flora Survey for Feldmast Coal Project.

Coalpac are repeat offenders, and should be prosecuted for these breaches of the TSC and EPBC Act.

Given that another population of *Persoonia marginata* occurs 2.5 kilometres south of the main population near a mined section of Cullen Valley Mine in ML 1488, and the fact that Cumberland Ecology identified that it prefers rocky slopes with a westerly aspect, it is inevitable that many 1000's of individual plants have already been destroyed on the Cullen Valley mine site in ML 1488 and ML 1557. Many more would have been lost had LEG volunteers not been so vigilant.

Despite these recurrent breaches of the TSC and EPBC Act, Coalpac have expressed no remorse, and do not appear to have applied any additional caution or rigour to their follow-up flora survey work.

Coalpac state "At the time of the (EPBC) referral the *Clandulla Geebung* was not known in the Project Boundary....Subsequently, when the species was found, detailed surveys were conducted and the population was mapped to estimate its area of occupancy and number of individuals present."

LEG questions the 'detail' of those surveys, as Coalpac's newest tactic is to grossly over-exaggerate the total number of *P. marginata* plants occurring in the Proposal and Biodiversity Offset areas -

- *Coalpac Consolidation Project EA, Hansen & Bailey March 2012*: Coalpac 'estimate' that 17,600 individuals of *Clandulla* occur in the NW corner of the Proposal area. LEG has walked this entire area along 10m transects and recorded only 587 plants – a 3000% exaggeration.
- *Response to Submissions, Section 4.12.10, pg 130*: Coalpac 'estimate' that 76,676 individuals of *Clandulla Geebung* occur in the Hillcroft biodiversity offset. LEG counted all plants visible from public roads through Hillcroft, found only 140 plants, and estimate no more than 1500 plants.

Coalpac have already unlawfully destroyed many 1000's of *P. marginata* plants in previously mined ML 1488 and ML 1557 of Cullen Valley Mine. The coal seams thin out in this northern area anyway.

LEG therefore calls on the PAC to:

- Insist on an independent Flora ASsessment to establish the true number of individuals and their location within the Project Area AND the proposed Biodiversity Offsets areas.
- Permanently protect ALL remaining *P. marginata* plants in the Projects northern area. Further loss of a Vulnerable plant is not justifiable for a small quantity of poor quality coal.

7. Inadequate flora surveys and missed plants in the Project Boundary

LEG went into great detail in our submission listing 4 ROTAP species and 100+ other species that missed in the EA. Coalpac's response again misses the critical point - ROTAP's are the very species most likely to become Extinct in future unless factors leading to extinction are addressed. Deforestation and habitat loss as is the Key Threatening Process identified for all ROTAP's.

Four ROTAP species identified by LEG as being missed in the EA were *Acacia asparagoides*, *Leionema lamprophyllum* ssp. *orbiculare*, *Leucochrysum graminifolium* and *Philothea obovalis*. Despite being unable to find (or not wanting to find) these species within Project Area, Coalpac now claim to be experts on these plants in their response to LEG's submission in claiming –

“The additional four ROTAP species Acacia asparagoides, Leionema lamprophyllum ssp. orbiculare, Leucochrysum graminifolium and Philothea obovalis that were recorded by other individuals and noted in submissions occur in habitats described as sandstone plateaus in heath and open forest, montane rocky heath, rocky cliff line habitat and rocky pagodas and rock shelves. The majority of the habitats described above will not be directly impacted due to avoidance of these areas during open cut operations and will therefore be retained in the Project Boundary.”

Once again Coalpac are not being entirely factual. LEG has recorded *Acacia asparagoides* across a range of habitats in the Project Area including in Scribbly Gum Woodland, Tablelands Broad-leaved Peppermint – Brittle Gum – Red Stringybark Open Forest, and Montane Gully Forests – vegetation types that will almost entirely be wiped out by this proposal.

Whilst *Leionema lamprophyllum* subsp. *orbiculare*, *Leucochrysum graminifolium* and *Philothea obovalis* in pagoda rock complex and montane heaths, these areas will be severely impacted upon by the massive edge effects of this proposal. The OEH (Submission R6) highlighted this very issue:

*In addition to the direct impacts resulting from the removal of native vegetation and habitats, there will be indirect impacts (as conceded by the proponent): “ecological impacts of the open cut could extend beyond the areas to be cleared and into areas of forest and woodland that are being retained” (p. 4.19); “Clearing of vegetation may increase edge effects on the retained portion of Box Gum Woodland” (p. 4.13); “fragmentation and edge effects will have consequences for the integrity of the remaining hollow-bearing forest” (p. 4.16); and “fragmentation and associated edge effects reduce the availability and quality of refugia for native fauna and increase feral access” (p. 4.39) (note that this is at odds with the proponent's assertion that “the Project is not likely to increase the presence of effects of feral species” (p. 4.39)). While the proponent allows a 20m area of influence around the edge of the *P. marginata* habitat to be removed, which increases the impact by 0.19ha, no other such recalculation of impact is presented.*

The proponent states that edge effects will be mitigated by the implementation of “best practise measures to control impacts from erosion, sedimentation and associated weed invasion” (p. 4.19), in addition to the development of a Biodiversity Management Plan that would include feral animal control (p. 4.39). As stated above, however, an accurate estimation of the full impact of the Project remains essential.

LEG points out for example that *Leucochrysum graminifolium* (ROTAP 2R) was once common on the cliffs and pagodas above Lithgow township 40 years ago, but are now gone probably because of grazing pressure from feral goats and rabbits. Massive edge effects will occur to within 50 metres of cliffs and pagodas, increasing grazing pressure on Pagoda Daisy from Rabbits, Hares (which were not identified in the EA but are prevalent across the Proposal area), feral Goats, and 100's of displaced

native animals such as Wallabies, Kangaroos, and Wombats. Weed invasion is already evident in pagoda communities within the proposal area, and exotic weeds will displace Pagoda Daisy habitats.

The OEH (Submission R6) further states that:

The following species that were identified in a previous EA (July 2011) as “could potentially occur” but which were not targeted for survey are: Acacia bynoeana, Prostanthera stricta, Darwinia peduncularis, Persoonia acerosa, Thesium australe and Euphrasia arguta. Although for each of these species the proponent states “Not detected during past or current surveys”, highly cryptic species that occur at low densities such as Acacia bynoeana are extremely unlikely to be detected unless they are targeted for survey.

LEG pointed out in our submission that *Thesium australe*, *Veronica (syn. Derwentia) blakelyi* and a yet to be identified *Euphrasia spp.* have been recorded by LEG at the nearby Pine Dale Mine site. *Chiloglottis palachila* occurs in nearby Sunny Corner State Forest – all are highly cryptic species that occur at low densities in exactly the same habitats as those that occur within the proposal area, and are extremely unlikely to be detected unless they are targeted for survey.

As for the 100+ other species missed, Coalpac basically respond by saying that LEG is nit-picking, and that it is impossible to identify all species. Once again Coalpac miss the point – biodiversity offsets are supposed to represent like-for-like, and unless adequate surveys are undertaken of the species that will be lost and species that actually occur in offsets, then we are not comparing apples with apples.

LEG therefore requests that the PAC require an Independent Flora Survey for the entire Proposal Area, and an Independent Targeted Survey for all of the abovementioned threatened species plus the following likely-to-occur threatened species: *Diuris aequilis*, *Genoplesium superba*, *Prostanthera hindii*, *P. stricta*, *Prostanthera cryptandroides var cryptandroides*.

8. WEED INVASION

LEG’s submission identified a number of Declared Noxious Weeds that were missed in the EA, including Scotch Broom (*Cytisus scoparius*) on the Hillcroft Offset and adjacent Invincible Collieries old Air Vent and Bore in Long Swamp, and African Lovegrass (*Eragrostis cuvula*). Others include St John’s Wort (*Hypericum perforatum*), Blackberry (*Rubus fruticosus*) and Willows (*Salix sp.*)

It is heartening that the Proponent has finally acknowledged some of these weeds. However Coalpac failed to respond to the fact two are a Key Threatening Process (KTP) under the TSC and EPBC Acts –

- Scotch Broom - *Invasion and establishment of Scotch Broom is a KTP*
- African Lovegrass - *Invasion of native plant communities by exotic perennial grasses is a KTP – The DECCW final determination¹ for this KTP states that African Lovegrass is “Invasive in disturbed areas, especially grasslands. Dominates the groundcover on low-nutrient soils. Has invaded heathlands, woodlands and grasslands in Victoria.”*

Massive soil disturbance and huge edge effects associated with open-cut mining 1000 Hectares of pristine forest will spread all of these highly invasive Noxious weeds deep into previously undisturbed areas of Ben Bullen SF. Steep gullies, cliff lines, pagodas and rocky country adjacent the proposed disturbance area is too inaccessible for normal weed control methods.

It will be physically impossible for Coalpac to prevent the spread of these and the many other weeds identified in LEG’s submission from spreading and invading Ben Bullen State Forest. The Coalpac Consolidation Proposal must be rejected in its entirety.

9. Separation Distances and Buffer Zones

LEG stated in our submission that industrial emissions of noise, dust, and odours are less likely to exceed acceptable amenity levels the further they are located away from sensitive receivers – industrial impacts decrease with increasing distance from the source of the emissions.

LEG highlighted that:

- The 2005 Western Australia Environment Protection Authority document “*EPA Guidance No 3 - Separation Distances between Industrial and Sensitive Land Uses*” provides detailed advice on the use of generic separation distances (buffers) between industrial and sensitive land uses to avoid conflicts between incompatible land uses. The recommended separation distance between an open-cut mine and a school is a minimum of 3 kilometres
- The South Australian EPA “*Guidelines for separation distances*” recommends separation distances between a residential area and coal handling and storage facility of 1 kilometre, and 3 kilometres for extractive industries.
- The Central Council Natural Resources and Energy Policy Committee of the National Party of Australia (NSW) in its submission to the NSW Planning draft Strategic Land Use Strategy requested a 5 kilometre buffer zone between towns and villages and open-cut coal mining.

Coalpac failed to respond. LEG maintains that the safest and surest way to protect the residents of Cullen Bullen from the adverse impacts of this Proposal is to ensure adequate separation distances are maintained between Coalpac and sensitive receivers in Cullen Bullen.

Based on the above we urge the PAC to impose a minimum separation distance of 3 km, but preferably 5 km, between Coalpac open-cut mining operations and the Cullen Bullen community

10. Noise

The EPA state in their submission “*...that the potential for unacceptable noise impacts upon both rural residents and the residents of Cullen Bullen is too great based on the assumptions in the noise modelling of the proposed 24 hours a day/7 days a week operations.*”

These impacts can be mitigated by ensuring adequate Separation Distances between Coalpac and Cullen Bullen residents. Failing this, the EPA are the experts in this field, they will have to deal with complaints from Cullen Bullen residents for the next 21 years if the proposal is approved.

We urge the PAC to heed the advice of the government’s own experts in the EPA, not industry spin.

11. Public Health

The NSW Health - Nepean Blue Mountains Local Health District submission raises serious concerns about the adverse health impacts of noise, dust, blasting on the residents of Cullen Bullen and children attending Cullen Bullen Public School. They make many important points including –

We are concerned that the proposed "real-time management system" to reduce peak particulate matter emissions will have no impact on reducing the overall increase in long-term exposure to particulate matter for local residents.

We recommend that Coalpac conduct further evaluation into measures to prevent or minimise dust impact. This may involve a change to the staging of the project so that the intensity of particulate matter impacts on the Cullen Bullen residents is reduced. We note that Coalpac also proposes to discuss with the other mines in the area ways to develop management measures when elevated dust levels are identified.

However, there is no evidence or explanation within the proposal of how Coalpac and the other mines will conduct their operations if elevated dust levels are recorded and environmental conditions are unstable.

The Environmental Assessment does not include any local evaluation of the impact of blasting on air quality for the township of Cullen Bullen. With the expansion of the mine operations there will be a very significant increase in the number of major blasts (up to 20 per month), and more frequent smaller blasts. Blasting for coal mining in the Hunter Valley is of great concern to that community. Several incidents have occurred where people have reported acute health effects in relation to mine blasts.

The Acoustics Impact Assessment states that on some occasions up to 40 blast events per week or 10 events per day may be required for limited time periods. The ANZECC Guidelines, Technical Basis for Guidelines to Minimise Annoyance due to Blasting Overpressure and Ground Vibration (1990), recommends that blasting should only occur from 9am to 5pm, Monday to Saturday, excluding public holidays and that blasting should generally take place no more than once per day, and

The health status of people living in the Lithgow LGA is on many measures worse than in other parts of NSW. Communities such as Cullen Bullen already have high levels of relative disadvantage, making them more susceptible to additional health impacts from environmental stressors such as air and noise pollution.

These impacts can be mitigated by ensuring adequate Separation Distances between Coalpac and sensitive receivers in the Cullen Bullen community. Failing this, NSW Health are the experts, they will have to deal with health consequences in Cullen Bullen for generations if this proposal is approved.

We urge the PAC to heed the advice of the government experts in NSW Health, not industry spin.

12. PROPONENTS PAST HISTORY AND POOR ENVIRONMENTAL PERFORMANCE

Above LEG has pointed out numerous breaches by Coalpac as part of the EA process –

- Failure to notify the Director General of an Aboriginal Hand Stencil and Artefact site as required under the *National Parks and Wildlife Act 1974*
- Failure to notify the State and Commonwealth Government of the Vulnerable *Persoonia marginata*, as required under the TSC Act 1995 and EPBC Act 1999.
- Failing to identify 4 ROTAP and 100+ other plant species occurring within the Proposal Area.
- Failing to advise the Sydney Catchment Authority that this proposal could have an adverse impact on the Coxs River by refusing to permanently close LDP 01 for ‘flexibility purposes’.
- Dishonestly claiming that Iron levels in the catchments draining the Project are in line with guideline values provided in ANZECC (2000) (i.e. <0.3mg/L) when Coalpacs Annual Report 2007/8 show that iron levels are 46 times higher than 0.3 mg/L, averaging 14 mg/L.

- Dishonestly claiming that no data is available to suggest that Iron levels in surface water discharged from the Project site would exceed background levels, when their Annual Report 2007/8 records iron levels well above natural background levels, averaging 14 mg/L.
- Dishonestly claiming that no data is available on likely Manganese concentrations in runoff from the area, when their Annual Report 2007/8 shows Manganese levels of 0.684 mg/L .
- Dishonestly claiming that Invincible Colliery underground workings contain "*low salinity water with an electrical conductivity value of 150 μ S/cm (AGE 2012)*" when Coalpac's Annual Report 2007/8 show that LDP01 ranged from 1627 μ S/cm to 1750 μ S/cm, and SCA tests in June 2007 recorded 1649 μ S/cm and July 2007 recorded 1648 μ S/cm.
- Falsely claiming that LDP 01 is licenced to discharge 2 ML/day, when Licence Variation 1073146 for EPL 1095 on 20 July 2007 increased the discharge rate from 2 up to 4 ML/day.

In LEG's submission we raised further concerns about Coalpac's past compliance history –

- On 17 May 2012 Coalpac's Canyon Colliery featured on ABC Latelines for causing toxic levels of Zinc and Nickel to pollute the Grose River and Greater Blue Mountains World Heritage Area.
- On 20 June 2010 Coalpac featured in The Land with the headline '*One man approves his own project, another man's dream dies*'. In that article part-owner Mr Noel Craven boasted that "you don't even have to be qualified to write an environmental impact statement for an open-cut mine". "Is that a problem?" the Reporter asked. "Well, it's not a problem for me," he said.
- On 25 September 2008 Coalpac was fined \$200,000 plus \$55,000 prosecution costs for producing/transporting 80% more coal at Invincible Colliery than their consent approved.
- On 5 May 2008 Coalpac featured in the Sydney Morning Herald with the 'Headline Disused mine leak is killing life in river', about Canyon Colliery polluting the Grose River and GBMWHWA.
- In the 2006 Response to Submissions for Invincible Colliery, Coalpac claimed that the open-cut would not be visible from the Castlereagh Highway.
- In the 2006 Response to Submissions for Invincible Colliery (05/0065), Coalpac said Borehole LDP 01 in Long Swamp had not been used since 1998 and they had no intention of using it. Within 6 months of approval Coalpac applied for an EPL Licence variation and started pumping 4 ML/day of eco-toxic water into the Coxs River.
- In July 2003 Cullen Valley Mine was fined \$30,000 plus ordered to pay \$18,000 in costs after pleading guilty to allowing fine particle dust to be emitted from the Cullen Valley Mine.
- Since 2001 Coalpac mines have recorded 27 Licence non-compliances (Canyon Colliery – 3; Cullen Valley Mine – 13; Invincible Colliery - 11). A staggering 75% (18 of 27 licence breaches) were for failing to monitor and report as required by the EPL. (Little wonder Zinc and Nickel exceedences in the Grose River went undetected for so long!)

We urge the PAC to seriously consider this company's past history of unacceptable behaviour. Should this company be permitted to mine a State Forest identified by the OEH "*...as being of suitably high conservation value for future reservation under the National Parks and Wildlife Act.*"?

The abrogation of responsibility by Coalpac with regard to pollution of the Grose River and World Heritage Area certainly erodes LEG's confidence in the promised rehabilitation.

Any approval conditions are likely to contain words like "Adaptive Management" – but how can anyone trust a company that could not find 100's of Vulnerable *Persoonia marginata* plants, or an Aboriginal Hand Stencil and Artefact Site?

When the cliffs begin to fall will they reduce the intensity of highwall mining, or will they deny deny, claim that cliff falls are natural, and continue on business as usual?

Will the health of Cullen Bullen residents be protected, or will they spin, cover-up, deny and lie?

CONCLUSION

If the PAC will not or cannot listen to the concerns of ordinary people or community groups, then we urge you to listen to the advice of your own government departments -

- The Office of Environment and Heritage states that that the whole of Ben Bullen State Forest has been identified "*...as being of suitably high conservation value for future reservation under the National Parks and Wildlife Act.*" LEG calls on the PAC to reject this Proposal so that the area is protected in the conservation reserve system as a matter of priority.
- The Office of Environment and Heritage states that *the environment groups' GoS2 reservation proposal which is referred to in the EA omits an area of Ben Bullen State Forest west of the Castlereagh Highway and north of Cullen Bullen. OEH confirms that its conservation interest is in the entirety of Ben Bullen State Forest, including areas not shown in the environment groups' proposals.* LEG calls on the PAC to rule that this open-cut and highwall mining proposal is totally incompatible with maximising positive reserve outcomes.
- The Office of Environment and Heritage has recognised the 'Gardens of Stone of Stone Stage 2' reserve proposal (as lodged in 2005) by stating that the "*...OEH has been working with other agencies to maximise positive reservation outcomes in the Gardens of Stone area, including the Ben Bullen State Forest.*" LEG calls on the PAC to rule his open-cut and highwall mining proposal is totally incompatible with maximising positive reserve outcomes.
- The Office of Environment and Heritage considers the Biodiversity Offset Proposal (BOP) to be inadequate in terms of the quantum of offset area.
- The EPA states: "*...that the potential for unacceptable noise impacts upon both rural residents and the residents of Cullen Bullen is too great based on the assumptions in the noise modelling of the proposed 24 hours a day/7 days a week operations.*" LEG therefore urges the PAC to heed the EPA's advice and reject this Proposal.

- NSW Health - Nepean Blue Mountains Local Health District has warned of severe health risks associated with dust, noise and blasting for residents of Cullen Bullen. They say - We are concerned that the proposed "real-time management system" to reduce peak particulate matter emissions will have no impact on reducing the overall increase in long-term exposure to particulate matter for local residents,

and

The health status of people living in the Lithgow LGA is on many measures worse than in other parts of NSW. Communities such as Cullen Bullen already have high levels of relative disadvantage, making them more susceptible to additional health impacts from environmental stressors such as air and noise pollution.

- The Central Council Natural Resources and Energy Policy Committee of the National Party of Australia (NSW) in its submission to the NSW Government's draft Strategic Land Use Strategy requested a 5 kilometre buffer zone between towns and villages and open-cut coal mining. We urge the PAC to adopt this recommendation for Cullen Bullen now.

LEG urges the PAC to heed the advice of its own government departments, the National Party of NSW, and the genuine concerns of an overwhelming number of ordinary caring people and community groups by rejecting this proposal in its entirety.

Thank you for allowing our group this opportunity to respond.

Yours faithfully

Chris Jonkers
Natural Area's Project Officer
Lithgow Environment Group Inc

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