

Hello. My name is Marg Mclean.

I registered to speak today as I am very concerned that you, the (newly constituted?) IPC panel, could be misled by the United Wambo Final Assessment Report of November 2018, produced by the Department of Planning.

That document, which I will refer to as the FAR, reports on the responses to the recommendations you made in the IPC Review Report of March 2018. That IPC panel made 47 recommendations.

I will largely confine my comments to recommendation 30.

In this recommendation you, the consent authority, wisely request the Department of Planning and the Office of Environment and Heritage to review a document. You were seeking to know the relevance of this document to your assessment of the proposed United Wambo Project. This document is titled "Assessment of Mine Rehabilitation Against Central Hunter Valley Eucalypt Forest and Woodland CEEC" prepared by Umwelt, commissioned by the NSW Minerals Council. I will call this the Umwelt Report

I am concerned that the way your recommendation 30 was dealt with and the response presented in the FAR will be misleading you.

You did not get an informed response but you could well be forgiven for thinking that you did. I would actually like to ask you now if you are familiar with this request made by the IPC in March 2018 and if you believe that you have an informed response in the FAR. Particularly as there are 2 new Commissioners for this project following the kerfuffle last year with the conflicts of interest I needed to check. **Are you aware that OEHL, although they apparently reviewed the Umwelt Report, has not provided you with any comments? Nor have they been able to provide a view on the ability of the Applicant to recreate the critically endangered ecological community on mine spoil and overburden?** OEHL requested the data used for the assessment of the mine rehabilitation but did not get it, so, as is only proper, they were unable, as scientists, to provide a view.

Do the hearing protocols allow you to answer me now? If you are all aware that the FAR Summary Response to your Recommendation 30 promotes an unfounded confidence in mine rehabilitation for recreating viable ecosystems then I need not go on much longer.

I will be able to trust that you cannot simply accept that the impact of destroying the CEEC, CHVEFW could possibly be offset by mine rehabilitation works. The issue of what does "Critically Endangered really mean?" will have to continue to weigh heavily in your deliberations on this Project. Indeed, following the Conservation Advice made under the EPBC Act the big patch of CHVEFW on the Wambo United site is "considered critical to the survival of the Central Hunter Valley Eucalypt Forest and Woodland ecological community".

There is a time when the hard decisions have to be made. It is clear that all the time and money invested in a Project holds back the hard decision of "NO", but it is way past time to stop approving coal mines. It would be such a lose lose lose scenario to clear the CEEC woodland, the price of coal falls, and the mine goes in to caretaker mode until there is no longer a market for coal as renewables have taken over.

This is one basis for refusing the Project altogether, this Critically Endangered Ecological Community, one of the last large remnants ironically protected to date by the underground coal mining beneath it, should not move one step closer to extinction. I personally find it a very hard thing to contemplate, that it could happen on my watch.

The impact on biodiversity by this Project would be significant. Indeed, it is a Matter of National Environmental Significance that 250 hectares of Central Hunter Valley Eucalypt Forest and Woodland is proposed to be cleared. This vegetation community is a Critically Endangered Ecological Community (CEEC) under the Commonwealth legislation, the Environmental Protection and Biodiversity Conservation Act (EPBC). To be classed as “critically endangered” means precisely that.

The Conservation Advice for Central Hunter Valley Eucalypt Forest and Woodland (CHVEFW) states that this ecological community would become extinct in 45 to 60 years if there is no abatement of the threats to its existence.

The Umwelt Report is the report that the industry had to have. As it explicitly states on page 1 “This report aims to provide evidence that ecological rehabilitation can conform to the listed threatened ecological communities.”

The report tried very hard, perhaps too hard, and failed in its aim.

The Key Diagnostic Characteristics of CHVEFW and the Condition Thresholds provided in the Conservation Advice were designed to assess remnant vegetation to establish its conservation status. It was not designed to assess vegetation that varied from 3 to 25 years old. This framework was only able to be applied to the rehabilitation vegetation sites by modifying the site data and applying convenient assumptions. The bland statement that some of the areas in all four mine sites are likely to conform to the CHVEFW is questionable from a scientifically rigorous position.

This Umwelt document seemed to have had a life of its own, something like Chinese Whispers. On page 4 of the introduction there appears to be the recognition that so called ecological rehabilitation is not yet proven and it is hoped it will have a role in the future. But by the time the Department of Planning reports in the FAR to you, the IPC, in November last year, this Assessment of Mine Rehabilitation against Central Hunter Valley Eucalypt Forest and Woodland CEEC has become a study that demonstrates that mine rehabilitation is capable of establishing the CHVEFW and supports the Applicants proposal to offset the destruction of the 250 ha critically endangered community!!

The excitement generated by the mine rehabilitation assessment against the key characteristics of CHVEFW to find that it could said with a few dubious manipulations of data , some assumptions that exaggerate, some assumptions that pervert and some that merely distort ... that some plots at some mine sites were conforming with the Conservation Advice description of the CEEC CHVEFW ... and we weren't even trying. I suggest that this would have been most unlikely if OEH had made comments. There would have been much more doubt and caution, hopefully much more realism.

Mind you the Applicant themselves were a bit more cautious in their consideration of the mine rehabilitation assessment against the CEEC. In July 2018 they worded their response

(page 54) to Recommendation 30 as follows: *“The report has relevance to the Project in that it indicates that rehabilitation of mined land to areas of CEEC is expected to be achieved with appropriate planning and implementation of rehabilitation”*

Note : The Departments Final Assessment Report did record, on page 37 that OEH have not provided an opinion on the ability of the Applicant to create CHVEFW in mine rehabilitation areas. But on page 36 the opening sentence of the discussion of the response to Recommendation 30 is *“The Department and OEH have reviewed the report titled ‘Assessment of Mine Rehabilitation against Central Hunter Valley Eucalypt Forest and Woodland CEEC’ “* The Department’s Final Assessment Report then goes on to reprint almost word for word the response that Applicant gave to this Recommendation. The Department’s FAR fortunately did omit however one of the Applicant’s sentences ... *“Targeted field surveys and data collection were undertaken to inform the assessment”*. This is because it is not true. The assessment was a desktop assessment only. The plot data at the four mine sites had been collected for different reasons with differing methodologies. Some site data had to be *“modified”* to have the Key Diagnostic Characteristics according to the Conservation Advice applied to it. Another part of the Applicant’s July 2018 response (p55) that Dept Planning did not reprint was the reference to the fact that it was not possible to apply the very important condition threshold of size to the rehabilitation data. *(noting that patch size criteria (minimum 0.5 ha [for CHVEFW CEEC]) was not formally assessed for each site)* in other words, the conformity with CHVEFW is only possible to assert if size does not matter, yet we all know it does. In the Conservation Advice for all Condition Categories the patch size contributes to the determination. The Umwelt Report just states that *“For the purposes of this assessment it is assumed that each site meets the minimum size”*. Some sites used data from 20x20m plots. This is a gross stretching of data.

I read the transcript of the IPC meeting with the DPE on Feb 5 2019. It is not clear to me but it seems that the beginning at the comments at line 17 on transcript page 36 are referring to this embarrassing Umwelt Report. In any case, it appears that there is still a faith in mine rehabilitation as capable of mitigating impacts on biodiversity that the Umwelt report has contributed to engendering, when in fact this report certainly does not.

The Department of Planning states on page 36 of the Final Assessment Report that *“This [the Umwelt Report for the Minerals Council] supports the Applicant’s proposal to establish a high-quality ecosystem, which conforms to CHVEFW, using mine rehabilitation.”* This is misleading.

I call on the IPC to enable OEH to provide you with an objective analysis of the mine rehabilitation in the Hunter Valley, not just the data used in the Umwelt Report but all the mine rehabilitation data that can be compiled. It is wrong to regard mine rehabilitation revegetation works as able to offset the impact on biodiversity from clearing forest and woodland. It is just not the case.

The United Wambo remnant CHVEFW is irreplaceable. It cannot be offset. You are the consent authority, you can refuse this application. It would be a precautionary decision in accord with Ecologically Sustainable Development. If you refused the Joint Venture because it is simply too big, United Mine might even reopen as an underground mine. It could provide jobs and still protect the CHVEFW community. The transition would be in motion.