

Presentation for the proposed Vickery Expansion at Boggabri on behalf of the Boggabri Business and Community Progress Association. 4 February 2019.

On behalf of the BB&CPA I would like to extend a warm welcome to the IPC commissioners.

Boggabri is a beautiful town, its motto – “the little town with a big heart” is a very apt description of Boggabri, and the people whom call it their local town. Like most rural towns in NSW now, the ongoing drought, lack of water, costs of living pressures are crippling us. However this is just “our lot in life”, to be managed as best as possible. But on top of this we have been burdened with having our time wasted consistently in arguing for a fair go from the same proponent and DPE that are involved in this current proposal. While we fully understand that this did not occur under your watch, it appears history is repeating itself. So please forgive that our community is somewhat cynical towards the process. Once bitten twice shy. We also have had the experience to know now that once the IPC has ridden off into the sunset, we are left at the mercy of a DPE that suffers from a definite structural conflict and ethical and emotional distance and they won't enforce the commitments made in the EA stage – EVEN THOUGH THEY ACKNOWLEDGE THESE commitments, and that the consent issued by the IPC will be modified with ambiguous wording. The commitments/solemn promises were given in order to mitigate the impacts the projects were going to make, and to convince the community and Government that the costs and risks- which are an inherent part of large scale mining would be internalised. What hope have we got on the mitigation of unknown impacts if the known ones aren't addressed? This is allowing an externalization of costs and risks onto the community and is contrary to the polluter Pays Principle of the NSW Government's Ecological Sustainable Development Policy. We are already dizzy from being placed on the bureaucratic merry-go-round and we can't handle anymore.

NSW EPA SUBMISSION, second paragraph, “.....has determined that it is unable to recommend project approval conditions for the proposal due to inadequate information provided in the EIS. “

Why are we here? The IPC on reading this should have handed it back and explained the importance of adequate information so as to not waste the taxpayers and communities time and money in reviewing an inadequate document that has the potential of being a State Significant Stuff-up if not done properly.

Community members brought this up with Kevin Anderson MP and he has explained to the community that at a meeting with the Minister for Planning in late 2018, he himself brought up the “inadequate EIS” on our behalf. The DPE representative explained at the meeting that it is a draft EIS. When we brought this up with the EPA, they said “no it can't be, the EPA has a policy of not commenting on draft policies”.

Request. We request that the IPC seeks clarification on the DPE “draft EIS” description, as it appears the relevant Minister, a Government MP and the EPA could have been potentially misled by the Government's own department. This is fair. Surely for business and community confidence it is not too much to expect a whole of Government approach to planning and decision making, and

that the experts in the DPE are not just marching to their own drums!! Who's policing the police is the phrase I am looking for.

Kevin Humphries MP letter to the Minister, 13 April 2017.....

What else is there to say? This internal correspondence of the NSW Government sums it up. We have reached saturation level for the impacts, ie, dust, water take, loss of community. What we are asking for is a common sense sustainable approach to mine planning in our area. At a future date, as other mines in the Leard Forest Mining precinct mature, we can possibly revisit this proposal then. The staggering of these projects would ensure long term jobs for generations to come, instead of a short term boom/bust hit. It would also help in the management of our precious water resources; less on the cumulative effects on air quality and infrastructure.

- The proponent owns approx 150000 acres in this area, yet the current proposal is right on the south western corner of their holdings and will have a detrimental affect to neighbours amenity, current and future growth of their businesses. We have seen this in other areas within the LSMP where Independent Property valuers have classed properties that weren't expected to be impacted as "mine affected" in there valuations. This would not occur if any mine proposal was located in the middle of the 150000 acres owned by the proponent.
- There are already community members living on private property classed as "adversely affected" by SSD which are in operation in the LFMP. The cumulative impacts caused by current proposed Vickery expansion will not improve their environment. In 2019 It is ridiculous to expect honest, hardworking Australians to have to sacrifice their physical and mental health and financial wellbeing by subsidizing a multi-national company pursuing their own private wealth.
- Lack of social license and the don't care attitude, even as late as September 2018 at the BBCPA meeting the proponents Mr Brian Cole explained to the community members there that " we don't need your acceptance for the Vickery approval, in fact we don't care".

We request ofr the IPC to truly considering the precautionary principle the IPC has to consider the proponents history at their other similar projects in NSW. Including past, present and expected future Environmental Risk License levels imposed by the EPA. And;

- Any legal proceedings before the courts of NSW relating to their operations,
- Past and current investigations by the resource regulator in work, health and safety at all operations.
- Past and present investigations by the relevant Government agency into water licenses.

- Past and present resolving of disputes performance between their operations and neighbours , communities and councils they operate in.

The only way possible for a net social and economic benefit justification decision to be reached is for the true impacts to be considered on a worst case basis. And the only way we have a chance of predicting the future is look at what has happened in the past and what is happening at present.

In finishing, again we want to make it very clear, we object to having our time wasted by having to study and respond to a draft document that according to the experts “is not worth the paper its written on”.

We have consistently acknowledge the approved 4.5 mt/a Vickery mine, we have consistently objected to this expansion, and object again. The impacts to our community members and their environment and the risk to our river is just too great, and the cost of when something goes wrong (and make no bones about it, it will) will be carried by our community and other downstream communities all the way to Walgett.

Thursday, 13 April 2017

The Hon Anthony Roberts MP
Minister for Planning
Minister for Housing
via email: [REDACTED]

Dear Minister,

Re: Whitehaven Coal Vickery Mine Extension

I am writing to you formally to express my concern on a number of fronts regarding the proposed Whitehaven Vickery Coal Mine Extension located within the Gunnedah Basin and the Barwon Electorate.

As you know I have been a supporter of Whitehaven and the expanded coal sector in the Gunnedah Basin, at times during difficult community circumstances. The community has benefited from the growth in jobs and the regional economy, as has the state through royalty income.

Coal mining in the Namoi Valley can continue to be successful providing a number of key issues are satisfied. Early work by our government through the Strategic Lands Policy highlighted the risks associated with extractive industries interfacing with the floodplain; this was the main factor contributing to the Caroonna licence buyback.

Additional factors such as cumulative impacts, social amenity and change of land use were also contributing factors to decision making and key to our policy moving forward. In other words, as is the same for all industries, there are places where certain industries can and can't go with consideration to size and impact.

The Gunnedah Basin and the Namoi Valley generally should not be viewed as an extension of the Hunter Valley. Agricultural land use and water resources are far more complex in nature than other valleys, which dictates where and under what circumstances extractive industries such as coal mining should be allowed.

[REDACTED]

[REDACTED]



Whitehaven has the largest presence by far in the Gunnedah Basin and whilst the Vickery Mine has an existing approval to extract 4.5 mt/pa, my concern is in relation to the extension to 10 mt/pa.

The problems I see are as follows:

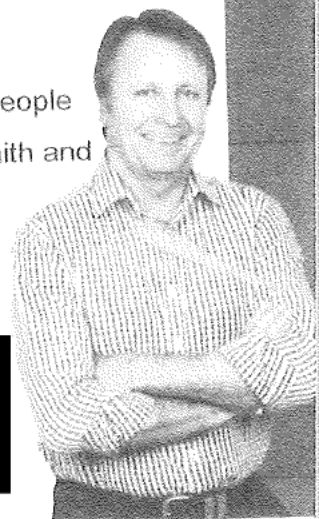
1. A 10 million tonne coal mine operating adjacent (less than 500m) to the Namoi River is not acceptable by any standards. Whilst technically not a floodplain, topographically the area proposed is directly placed within the floodplain and will have an impact.
2. Additional infrastructure to be relocated from Gunnedah will see a large industrial landscape that needs to be facilitated within the impact zone.
3. Whitehaven is by far the largest landholder in the area through buyouts and set asides which has resulted in fewer families living in the area. These people have not been replaced which has an impact on places such as Boggabri.
4. The proposed extension indicates an extensive overhead rail viaduct and river crossing to the west linking the mine with the Narrabri - Gunnedah rail line. Given there is a potential northern option to the existing Maules Creek - Baan Baa line this additional infrastructure is not supported. There are a number of environmental, amenity and social impact reasons to back this up.

My comments are supported by the fact there are more appropriate sites for coal extraction that are far less contentious and riskier than the proposed Vickery extension; for example in the Maules Creek area.

There is one aspect of a recent Community Consultative Committee meeting regarding the Vickery Project that took place on 26/11/2016 in Gunnedah's Whitehaven office that I raise with particular concern. I quote:

"GM (a community representative) said that in 2012 they were told the Blue Vale pit would never go ahead and now it is proposed to be mined.

BC (Whitehaven official) said the Government was making/putting pressure on Whitehaven to mine the whole resource in the Vickery Mine. BC said Whitehaven people may have or may not have made such comments but it would have been in good faith and based on knowledge held at the time."



This comment raises two concerns. Firstly the Blue Vale pit proposal is one of the major concerns due its proximity to the Namoi River and risk profile it presents mainly to the river itself. Secondly I am seeking some form of clarification just as to who from government would have made such a comment about pressuring the mine to expand the proposal. I find this statement very unusual, potentially misleading and even misrepresenting government.

Personally I would not like to see this development application process dragged out with the angst and stress that previous experience elsewhere in similar sensitive areas would suggest will indeed occur. As you know my experience in the valley goes beyond Whitehaven's time and I have the initial support of the local community on this matter so I don't raise my concerns lightly.

I am seeking your support in acknowledging the existing mining approval for the Whitehaven Vickery mine (which is further back from the river) but not the extension or any additional significant infrastructure across the floodplain. The existing approval of 4.5 mill tonnes a year is enough. If Whitehaven says it isn't viable then that is a commercial decision for them.

I look forward to discussing this with you in more detail.

Regards,



Kevin Humphries MP

Member for Barwon



To: Ms Carolyn McNally, Secretary, Department of Planning and Environment.

Dear Carolyn,

We are writing to request the DPE implement a mandatory Independent Review ('the Audit') consistent with Schedule 4, conditions 4, (a and b), 5 (a and b) Schedule 2, conditions 1, 2 (a and b), 3 and 4 of the Maules Creek Coal Mine (MCCM) Project Approval.

Currently it is of grave concern to us that some of the mitigation and management measures (mmm) proposed/promised by the proponent to offset the environmental, social and economic impacts haven't been fulfilled. This is not only unfair but it is unreasonable and not feasible on us to have to carry WHC responsibilities as well as our own.

The mmm proposed by the proponent was taken into account during the approval stages when considering the objects of the EP&A Act and other legislation. The NSW Government gave approval contrary to the other relevant NSW Government experts, Land and Environment Court rulings and its own policies simply because it seems the Government was confident that fulfilling the mmm obligations would protect, preserve and maintain the community and environment. It must have had confidence in WHC'S reputation at the time in being "good to its word" and the companies past performance working within different communities to proactively fulfill it's commitments/promises.

The attached 'Voluntary Mitigation and Management Measures' document shows clearly how important these mmm promises were to the sustainability of the MCCM and were considered by the WHC 'reasonable and feasible' measures in

order to gain approval. It also explains what the community was to expect from this company in relation to the responsibility they have towards us whilst pursuing their private development and private wealth.

WHC made it clear publically in 2016 that the responsibility for the actions and omissions from the MCCM – the duty of care – is “*shared between WHC and the Government*”. It was the Government who gave approval for the mine contrary to the experts advice, not us. It was the Government who was happy to believe that the mmm promised in the EA to offset the known impacts would be fulfilled, not us. So now we are asking the Government to work with us through this audit to help us understand where and how it went wrong so it can be fixed.

The recent publically available 2015 Independent Environmental Audit (<https://www.whitehavencoal.com.au/environment/docs/2015-iea-and-response-to-recommendations.pdf>) shows on page 20, 4.3, WHC breached its Statement of Commitment, therefore its Consent Conditions twice. As the supporting document explains, the aim of this SOC is for WHC to internalize their costs and risks using the mmm proposed/promised in the EA. Why has the 2015 Audit only picked out 2 mmm to see if they complied? This is not fair nor reasonable. Whilst we agree that the Oral History will be important for future generations, whether the Oral History of landholding's acquired is done or not is not going to help the community with the noise, dust, blasting, water, crop damage impacts and other social impacts. These impacts and the unfulfilled measures that were promised in order to gain approval are what is destroying our homes, properties, businesses, superannuation, lifestyles through the externalization of WHC's costs and risks onto us, not some oral history.

In order to resolve the problems imposed onto us unfairly, it is critical to firstly identify the breakdown of proposed measures and then address the issues caused by the Project. They cannot be ignored any longer. If WHC doesn't want to be

responsible for their actions, then the Government needs to step up implement measures to ensure our health, safety and lifestyle can be maintained.


REQUEST:

The DPE implement an Audit of the mitigation and management measures proposed/promised in the EA which are transposed into the consent conditions through the SOC. This Audit requires the following:

- The DPE develops the scope and criteria for the Audit in consultation with the community.
- The DPE pays for the Audit, not the proponent; this will help lead to trust within the community that the Audit is independent.
- The Audit has to encompass all mitigation and management measures proposed by WHC in order to gain approval compared to what measures have been implemented.
- Recommend ameliorative measures – as non-compliances are identified – to be implemented until promised measures are fulfilled; e.g. scaling back of operations or reduced operating times until it can be showed that compliance with the mitigation and management measures is achieved.
- Make the EPA aware of any findings of any Audit so WHC's risk to the Government, Environment and Community is reflected truly under the Risked Based Licensing system of which they operate.
- The Narrabri Shire Council and the Boggabri Business & Community Progress Association be made aware of findings in the hope the same problems can be bypassed with the Whitehaven Coal proposed Vickery Expansion Project.

Regards,

Boggabri Business & Community Progress Association, President Mr John Shaw.



LOCAL RESIDENTS

[REDACTED] Anna Miller
[REDACTED]
Brighton Primary

[REDACTED] Catherine Colyer
[REDACTED]

[REDACTED] Lochie Leitch
[REDACTED]

[REDACTED] Phil Lewis
[REDACTED]

Graeme Keys
Catherine Keys
[REDACTED]

Importance of Mitigation and Management Measures for the MCCM to be classed as a sustainable significant benefit to NSW	Some of the Voluntary Mitigation and Management Measures proposed/promised by Whitehaven Coal in the MCCM EA, transposed into the Statement of Commitments.
<p>1. Maules Creek Coal Project Approval, 23 October 2012</p> <p>(a) In the <i>Consolidated Statement of Commitments</i> (SoC) of the Project Approval, Whitehaven Coal:</p> <p><i>'commits to the operational controls outlined in the Environmental Assessment (EA) for all activities associated with the Project ... The aim of this SoC is to ensure that any potential environmental impacts resulting from the project are minimized and managed by implementing relevant environmental management, mitigation and monitoring strategies.'</i> [Emphasis added]</p> <p>(b) Definitions, pages 3 and 4</p> <ul style="list-style-type: none"> • <i>'Reasonable:</i> Relates to the application of judgement in arriving at a decision, taking into account mitigation benefits, cost of mitigation versus benefits provided, <i>community views</i> and the nature and extent of potential improvement'. • <i>'Feasible:</i> relates to engineering considerations and what is practical to build or carry out'. <p>2. MCCM EA:</p> <p>(a) Section 9 Project Justification: Page 205, 9.4.4, Conclusion:</p> <p><i>'Due to the substantial positive economic and social impacts associated with the project and the nature of the environmental impacts resulting from the project (in consideration of the mitigation and management measures proposed) , it can be well justified on environmental, socio-economic and environmental grounds'.</i> [Emphasis added]</p>	<p>1. MCCM EA:</p> <p>(a) Page 99, 7.3.4, Mitigation and Management:</p> <p><i>'For all other privately owned receivers not listed in table 23. Proactive and reactive ... practices will be implemented to ensure that the project does not exceed the intrusive criteria.'</i></p> <p>Aston will continue to consult with landholders shown in table 23 ... Aston will endeavor to establish <i>negotiated agreements with each landholder prior to the worst case noise level ... from the project being experienced at the receiver'</i>. [Emphasis added]</p> <p>(b) Page 97, 7.3.3, Sleep Disturbance:</p> <p><i>'The noise assessment predicted potential sleep disturbance effects at receiver 126, (D. Watson, Tralee) assuming occasional dozer track noise occurs at night in the mining areas or on the OEA'.</i> [Emphasis added]</p> <p>(c) Page 91, 7.3.1:</p> <p><i>'The noise assessment.... has been undertaken in accordance with the NSW INP (EPA) for operational and construction noise'.</i></p> <p>(d) Page 97, 7.3.3, Low Frequency Noise:</p> <p><i>'Low frequency noise Are implicitly controlled by the intrusive noise criteria, as intended by the INP ...'</i> [Emphasis added]</p> <p>(e) Page 194, 7.20.9, Mitigation and Management:</p> <p>Aston (WHC) acknowledges the potential social impacts associated with the Project <i>on the local community ...</i> Aston (WHC) will employ the following <i>management strategies to mitigate impacts from the Project on the</i></p>

(b) Page 207, 9.6, Conclusion:

This section of the EAprovides the justification for the Project and shows the Environmental impact assessment of the project has:

- Establishes that the social and environmental risks of the project have been identified with certainty, in accordance with the relevant *guidelines and standards*.
- Identifies the proposals for the *management of the environmental issues as appropriate*;
- Establishes that the Project as *proposed* minimizes environmental harm;
- Establishes that the Project proposes appropriate measures to limit and *manage environmental consequences* of the Project;
- Reaffirms that the Project has been developed to ensure consistency with the Objects of the EP&A Act. [Emphasis added]

(c) 9.3 Overview:

With *the management and mitigation measures proposed by Aston (WHC) for the Project*, none of the environmental impacts identified in this EA are considered unacceptable...

(d) 9.4 Environmental, Social and Economic impacts:

... adopted the following methodology;

- The consideration of the Objects of the EP&A Act, including principles of ESD....
- Commitments for specific *mitigation and management measures*

(e) 9.4.1 Environmental:

Environmental impacts have been assessed on worst case scenarios ... with all feasible and reasonable management and mitigation measures applied.

(f) 9.4.3 Social:

community.

- Implement an Employee Incentive Scheme ... encouraging progressive relocation to the local area by provision of financial assistance with emphasis on construction of new dwellings.
- Commitment to financial contributions of up to \$20,000 per year to encourage retainment of medical staff in Boggabri.
- Focus relocation and development strategies for all non-local hires to the Narrabri LGA to mitigate against cumulative impacts on housing in the Gunnedah LGA.
- Provide an annual scholarship for a locally based student to study child care related course as well as sponsoring a traineeship program for child care workers.

(f) Page 157, 7.11.4 Mitigation and Management:

As part of the EMS, Aston (WHC) will develop a water management plan ... It will ensure ... any potential unforeseen groundwater impacts can be quickly identified and managed.....In the unlikely event that landholders bores decline as a consequence of the Project.....the supply will be substituted by WHC by..... providing comparable water from a external source.

(g) Page 127,

- Mitigate: where certain impacts are unavoidable through design change, mitigation measures should be introduced to ameliorate the ecological impact of the proposed development; and
- Compensate: the residual impacts of the project should be compensated for in some way.
- Provide linkages and or crossing zones between isolated vegetation remnant patches, where feasible.

A basis has ... for an ongoing synergistic relationship ... and maintain with the MC community throughout the life of the project.

(g) 9.5 consistency with the Objects of the EP&A Act:

The Project has evolved ... to *ensure* that it appropriately address the principles of ESD...

(h) Page 81, Section 6, Risk Assessment:

Each of the environmental issues has now been assessed and addressed to a relevant extent, and where appropriate, *management and mitigation options were developed.*

(i) Page 78, 5.5 Ongoing Stakeholder Engagement:

Aston (WHC) is committed..... and is seeking to achieve the best possible outcomes for *all project stakeholders.*

(j) Page 42, 3.11, Environmental Management System:

Aston (WHC) is committed to the Project's ...operation activities being undertaken in an environmentally responsible manner, *ensuring* regulatory compliance and that expectations of the ... immediate local community are met.

(k) Page ix, Executive Summary:

Predicted noise levels ...include all *feasible and reasonable* noise management and mitigation measure. An analysis ... which showed that the measures proposed in this EA are *feasible and reasonable.*



Mr John Shaw
President Boggabri Business and Community Progress Association
By email to [REDACTED]

Dear Mr Shaw

Thank you for your letter to the Secretary of the Department of Planning and Environment, requesting an independent review of the Maules Creek Coal Mine and raising the concerns of the Boggabri Business and Community Progress Association. The Secretary has asked me to reply on her behalf.

The concerns of the Association were discussed with your members, Mr Pat Murphy and Lochie Leitch, at a meeting on 10 February 2017. I also understand that Mr Steve O'Donoghue attended a meeting of the Association on 28 March 2017 to discuss a range of matters relating to mining projects in the region.

I want to assure you that the Department takes its compliance role seriously, and has undertaken a number of audits and inspections on the Maules Creek mine over recent years. The Department has also taken enforcement action on several occasions, including three fines and an official caution for breaches of the project approval.

The Department is currently investigating the non-compliances identified in the latest Independent Environmental Audit in accordance with the Department's Compliance Policy, including those relating to the Statement of Commitments. Should any enforcement action be taken in regard to these matters, it will be reported on the Department's website at <http://www.planning.nsw.gov.au/Assess-and-Regulate/Compliance-functions/Compliance-reports>.

In addition to the Department's ongoing compliance activities, two independent reviews of the Maules Creek mine have recently been completed including a mandatory noise audit, required by the Environment Protection Authority (EPA), and a best practice dust management benchmarking study being prepared by Katestone, jointly commissioned by the EPA and the Department.

The noise audit summary report is now available on the public register (licence number 20221) on the EPA's website at: <http://www.epa.nsw.gov.au/prpoeoapp/>.

Whitehaven is now required to submit an implementation plan to the EPA to address the recommendations of the audit. If you need further details on the noise audit and

the implementation plan please contact Mr Lindsay Fulloon, EPA Regional Manager North – Armidale, on (02) 6773 7000.

The Department and the EPA are currently considering the recommendations from the best practice dust review. The report will be made publicly available on the Department's website, and I have asked the Department's compliance team to let you know when this occurs.

In regard to the 'independent review', an independent review can only be triggered by landowners who consider that the specific environmental criteria in the approval are being exceeded at their property, and an assessment is made as to whether a review is warranted.

The other matters you raise in the attachment to your letter relate to the general commitments made by Whitehaven in its Environmental Assessment to minimise and manage environmental impacts of the mine, rather than any specific Statement of Commitments.

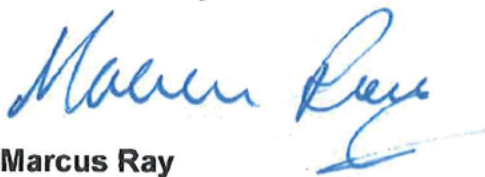
While the Department acknowledges these statements, the project approval establishes the framework for managing and monitoring the impacts of the mine in accordance with the criteria in the project approval, and the Department's role is to enforce the conditions of approval which were imposed by the Planning Assessment Commission, as detailed above.

It follows that the Department is not in a position to undertake an 'independent review' as defined under the project approval of the matters raised in your letter.

However, I consider that it is important to continue the dialogue between the Department and the Association, and I have asked the assessment and compliance teams to ensure they make themselves available for future meetings of the committee to answer any questions your members may have.

Please feel free to contact Mr Mike Young, Director Resource Assessments, on (02) 8217 2091 if you wish to discuss any of these matters in more detail.

Yours sincerely



Marcus Ray
Deputy Secretary
Planning Services

16/05/2017

