

Speaker 9



JASON PERICA ADDRESS TO INDEPENDENT PLANNING COMMISSION (FOR BATTLE FOR BERRIMA) HUME COAL D.A.

Dear Mr Chair, Panel members and senior Departmental staff. Thank you for the opportunity to address you. My name is Jason Perica, a town planner representing Battle 4 Berrima.

I am here to speak against the proposal and in support of the recommendation for refusal.

There are 3 main areas I would like to talk about:

- The unique aspects of the proposal
- The uncertainty regarding the outcome; and
- Sustainability considerations

Firstly, there are a number of unusual or unique aspects of the proposal. These include at least 16 aspects:

1. The untested pine and feather technique and the pillar support and pillar width ratios
2. The reuse of mine-water back into the mine;
3. The surrounding high quality of borewater and being located in the drinking water catchment of Australia's largest city
4. The high number of bores in the vicinity of the mine
5. The Scale of the impact on borewater – quoted as *the most significant for any mining project ever assessed in NSW*
6. The nature of the surrounding land uses affected, in number and type
7. The uncertainty of the "make good process"
8. The geology of the area, the rock permeability and the shallow depth of the resource
9. The size of the mine in the Southern Highlands, being the largest ever
10. The nature of the applicant, being an overseas company with direct export to the source nation, with limited add-on benefits to the local and national economy
11. The limited relative economic benefits
12. The proximity of a significant number of heritage assets, with local and state heritage significance
13. The highly complex modelling, key assumptions, and associated uncertainty
14. The involvement of 10 leading groundwater experts
15. The detailed assessment of the DPE, including 5 independent external experts

16. The level of community opposition, with over 12000 submissions, 97% opposition and a high level of local opposition

These aspects are individually unusual or unique, but as a whole represent a wholly unique proposal to NSW and Australia.

Uniqueness can be positive. However, in this instance the unique aspects of the proposal are not positive. They are negative, both individually and as a whole. The uniqueness of this proposal warrants its refusal, among other matters.

Secondly, there are a number of uncertainties regarding the proposal, all of which undermine its limited perceived benefits. Ill cite just 8:

1. The impact on groundwater;
2. The ability to make good the draw-down for a high number of bores;
3. The impacts from the likely ongoing disputes;
4. The negative direct and indirect economic impacts on the local economy, particularly related to tourism and conferencing;
5. The safety of the mine itself;
6. The ability of the proposed technique to recover the resource;
7. The demand for the resource, also considering international and national responses to climate change;
8. The associated time delays of some of the above in commencing the proposal, with changes in the market and energy framework potentially affecting realisation

These uncertainties are significant. They question the core assumptions and assertions that the proposal can mitigate impacts and realise an economic benefit. They warrant refusal of the proposal.

Thirdly, the ecologically sustainable aspects of the proposal warrant attention as a mandatory consideration under the guiding Act and Mining SEPP. These principles are outlined in BGP Properties v Lake Macquarie City Council.

There are key ESD principles, apart from the precautionary principle, which warrant refusal of the DA.

The first is the conservation of biological diversity and ecological integrity. Clearly the likely impacts on the groundwater resource affects water supply, and the ecological framework. This is added to the impact on 10 Hectares of native vegetation including endangered species and potential groundwater and stream impacts.

The other is intergenerational equity. Namely, by quote "*that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations*". The health, diversity and productivity of the environment are undoubtedly compromised. The benefits of the proposal are uncertain and short-lived. Yet the impacts are long lasting for future generations, on both the local environment and

broader climate change considerations. These climate change considerations were identified in a recent judgement by the Chief Judge of the Land and Environment Court for a mine in Gloucester. While in the Hunter Valley and having some key differences, in terms of potential Co2 generation, this mine will produce almost 50% more coal per annum than the Gloucester mine, namely 3.5Mtpa compared to 2.5Mtpa, and an additional 3 years of mining. The concerns related to climate change for that Gloucester case equally apply here, if not more.

More broadly or commonly, the aspects of ESD related to environmental, social and economic considerations do not favour the proposal.

Environmental impacts are well outlined in the assessment report. However, negative impacts upon native vegetation, EECs, 10 permanently removed aboriginal sites and many affected other sites, heritage impacts, scenic impacts, traffic, noise, emissions, and safety from increased use of level crossings are not given great emphasis in the report. However, they are undoubtedly negative.

There will be adverse social impacts on existing residents and businesses. There are 9 categories of social impacts within the Department's SIA Guidelines, ranging from the way of life; community; culture; health and wellbeing; surroundings; personal and property rights; and fears and aspirations. The impacts on these factors will be overwhelmingly negative. This is reflected in the high number of objections to the proposal.

Economic impacts are arguable and uncertain. The Department's independent expert questions the potential benefit by around two-thirds. Importantly, this review outlines the difficulty and absence in costing externalities. Particularly, it is difficult to quantify the adverse impact on existing and future tourism and function uses in the region. However, common sense would indicate this will be negative.

These ESD principles warrant refusal of the DA, without reliance on the "Precautionary Principle".

However, it is certain this precautionary principle is applicable and valid in refusing the proposal. The principle as quoted from *Telstra v Hornsby Council* is:

triggered by the satisfaction of two conditions precedent or thresholds: a threat of serious or irreversible environmental damage and scientific uncertainty as to the environmental damage.

It is clear these two criteria are met. That is, there is undeniably a threat of serious or irreversible environmental damage. Secondly, there is clear scientific uncertainty regarding the environmental damage. The fact that 10 leading scientific experts cant agree on the environmental damage is evidence in itself, despite the prolonged and detailed review, assessment and engagement. Similar scientific uncertainty exists regarding the mining technique itself.

In summary, the proposal should be refused on ESD considerations and principles, including but not limited to the precautionary principle.

Finally, I would like to congratulate the Department of Planning and Environment staff in their hard work, professionalism and diligence in assessing the proposal and their comprehensive report to the Panel. I would also commend the applicant. They have compiled a comprehensive application and appointed well-regarded consultants. No doubt this has been costly. They have worked hard to prepare a proposal which adopts an option which may reduce impacts compared to other options. However, this is not the test to acceptability. Unfortunately, the proposal itself is ill-conceived. It is on the wrong site, with the wrong approach, at the wrong time.

Thank you for your time. I hope the Panel agrees with the recommendation before it to refuse to the Development Application by Hume Coal. I am happy to answer questions.

Other notes:

The *Social Impact Assessment Guideline* (Department of Planning and Environment, 2017), to be used in assessing the social impacts of State significant mining, petroleum and extractive industry development, describes a social impact as “a consequence experienced by people due to changes associated with a State significant resource project” (p 5). The Guideline lists nine key categories in which social impacts may occur: way of life; community; access to and use of infrastructure, services and facilities; culture; health and wellbeing; surroundings; personal and property rights; decision-making systems; and fears and aspirations (p 5).

The Guideline states:

“As a guide, social impacts can involve changes to people’s:

- **way of life**, including:
 - o how people live, for example, how they get around, access to adequate housing
 - o how people work, for example, access to adequate employment, working conditions and/or practices
 - o how people play, for example, access to recreation activities
 - o how people interact with one another on a daily basis
- **community**, including its composition, cohesion, character, how it functions and sense of place
- **access to and use of infrastructure, services and facilities**, whether provided by local, state, or federal governments, or by for-profit or not-for-profit organisations or volunteer groups
- **culture**, including shared beliefs, customs, values and stories, and connections to land, places, and buildings (including Aboriginal culture and connection to country)
- **health and wellbeing**, including physical and mental health
- **surroundings**, including access to and use of ecosystem services, public safety and security, access to and use of the natural and built environment, and its aesthetic value and/or amenity
- **personal and property rights**, including whether their economic livelihoods are affected, and whether they experience personal disadvantage or have their civil liberties affected
- **decision-making systems**, particularly the extent to which they can have a say in decisions that affect their lives, and have access to complaint, remedy and grievance mechanisms
- **fears and aspirations** related to one or a combination of the above, or about the future of their community.”