

## **APPENDIX B: SUBMISSIONS**

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Government Agency and Special Interest Group submissions are attached. Community submissions are available from the Department's Major Projects Website [www.majorprojects.planning.nsw.gov.au](http://www.majorprojects.planning.nsw.gov.au)



Mr Tim Stuckey  
Planning Officer  
Resource Assessments & Planning Services  
Department of Planning & Environment  
GPO Box 39  
SYDNEY NSW 2001

Tim.Stuckey@planning.nsw.gov.au

Dear Tim

**Springvale Extension Project Modification 2 - Exhibition**

I refer to your email dated 23 January 2017 inviting the Division of Resources & Energy (DRE) to provide comments on the Springvale Extension Project Modification 2 Statement of Environmental Effects (SEE).

DRE has reviewed and assessed the adequacy of information provided in the SEE and provides the following comments.

DRE notes that there will be no changes to rehabilitation activities or timeframes as a result of the proposed modification and has no objections to the modification.

Should you have any enquires regarding this matter please contact Steve Cozens, Senior Project Officer, Royalty & Advisory Services on 9842 8573.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Zane West', written over a white background.

Zane West  
**Manager Royalties & Advisory Services**

1466722: LGS  
Environment & Development Dept.

31 January 2017

Attention: Tim Stuckey  
Mining Projects  
NSW Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

tim.stuckey@planning.nsw.gov.au

Dear Sir/Madam,

**SPRINGVALE MINE STATE SIGNIFICANT DEVELOPMENT (SSD 5594)  
MODIFICATION 2, WOLGAN ROAD, LIDSDALE**

I refer to the abovementioned project and your request for submissions for the proposed modified development.

Council considers the Environmental Assessment adequately highlights the relevant issues, and has no objection to the project subject to Council's original conditions remaining on the consent.

Please do not hesitate to contact Miss Lauren Stevens who is available between 8:15am and 10:30am Monday to Friday on (02) 63549999, in Council's Environment & Development Department should you have any queries in relation to this matter.

Yours sincerely



J Nichols  
**ACTING GROUP MANAGER ENVIRONMENT AND DEVELOPMENT**



Your reference :  
Our reference : EF13/3625; SF; DOC17/35064-03  
Contact : Mr Allan Adams; (02) 6332 7610

Tim Stuckey  
Planning Officer  
Resource Assessments – Planning Services  
GPO Box 39  
Sydney NSW 2001

24 February 2017

Dear Mr Stuckey

I refer to your email correspondence dated 23 January 2017 allowing the Environment Protection Authority (EPA) to provide comments and advice on recommended conditions of consent for Modification 2 of the Springvale Extension Project (SSD 5594).

Centennial Springvale Pty Limited (Springvale Coal) is seeking to modify SSD 5594 (approved 21 September 2015) to amend Schedule 4 Condition 12 of SSD 5594 to;

- remove the condition to meet salinity limits for Electro-conductivity (EC) of 700  $\mu\text{S}/\text{cm}$  (50<sup>th</sup> percentile), EC 900  $\mu\text{S}/\text{cm}$  EC (90<sup>th</sup> percentile), and EC 1000  $\mu\text{S}/\text{cm}$  (100 percentile) by 30 June 2017, and
- to defer to 30 June 2019, the condition to eliminate acute and chronic toxicity (as defined in the consent condition) from LDP009 discharges to aquatic species by 30 June 2017.

The EPA is concerned about the delay in treatment options being implemented for the ongoing discharge, however, it is understood that Springvale Coal is working towards an improved environmental outcome by linking this project with the Water Treatment Project (SSD 7592). The EPA notes that as the Water Treatment Project (SSD 7592) is yet to be approved, and the construction duration for the water treatment plant was predicted to be 18 months as stated in Volume 1 of the Environmental Impact Statement (EIS), the 2017 condition will not be met. While the proposed modification will delay the first stage of the treatment (2017 condition), the ultimate goal of achieving a salinity discharge limit of EC 500  $\mu\text{S}/\text{cm}$  (90<sup>th</sup> percentile) and eliminating toxicity impacts to the Coxs River from LDP009 by 30 June 2019 will remain in place.

The EPA recommended, and in December 2016 supported, an amended application to the Water Treatment Project (SSD 7592) to transfer all excess treated water from Mount Piper Power Station (MPPS) to Thompsons Creek Reservoir for Power Station reuse, rather than discharge to the Coxs River.

While the proposed modification will delay the first stage of the treatment (2017 condition), the 2019 condition requiring EC 500  $\mu\text{S}/\text{cm}$  (90<sup>th</sup> percentile) be met, and the reuse rather than discharge all treated water will ensure that a better long-term environmental outcome will be achieved. The EPA therefore accepts that the 2017 condition will not be met and supports the modification given that all treated water excess to the Power Stations needs will now be stored and reused under SSD 7592 rather than discharged to the Coxs River. In the interim, the EPA would support any additional measures Springvale Coal could put in place to improve discharge water quality.

The EPA has no other recommended conditions of consent with respect to SSD 5594 Modification 2. However the EPA considers it appropriate to include key milestones in any consent that DPE approves with respect to SSD 7592. Such milestones would provide certainty that Springvale Coal were working towards meeting their environmental responsibilities due at 30 June 2019. These milestones could include, designs being completed, tenders being let, construction and commissioning phases or similar. The EPA recommends that DPE seek timing and description of such milestones from the proponent and include these in any consent they decide to issue.

Should you have any further enquiries in relation to this matter please contact Mr Allan Adams at the Central West (Bathurst) Office of the EPA by telephoning (02) 6332 7610.

Yours sincerely



**DARRYL CLIFT**  
**Head Central West Unit**  
**Environment Protection Authority**



OUT17/8972

Mr Tim Stuckey  
Resource Assessments  
NSW Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

Tim.stuckey@planning.nsw.gov.au

Dear Mr Stuckey

**Springvale Colliery Extension Project (SSD 5594 MOD 2)  
Comment on the Statement of Environmental Effects (SEE)**

I refer to your email of 23 January 2017 to the Department of Primary Industries (DPI) in respect to the above matter. Comment has been sought from relevant divisions of DPI. Views were also sought from NSW Department of Industry - Lands that are now a division of the broader Department and no longer within NSW DPI. Any further referrals to DPI can be sent by email to [landuse.enquiries@dpi.nsw.gov.au](mailto:landuse.enquiries@dpi.nsw.gov.au).

DPI recommends the proponent consider additional options to improve the current water quality in Sawyers Swamp Creek rather than or in addition to modification of the Conditions of Consent and continued discharge of mine water at the current water quality criteria until the Springvale Water Treatment Plant (WTP) becomes operational. Potential alternatives for consideration may include:

- storing the excess groundwater in the disused mine workings until the WTP is operational, or
- shanding the groundwater to improve water quality before it is discharged at LDP009 into Sawyers Swamp Creek.

Yours sincerely

Mitchell Isaacs  
**Director, Planning Policy & Assessment Advice**  
27 February 2017

*DPI appreciates your help to improve our advice to you. Please complete this three minute survey about the advice we have provided to you, here:*  
<https://goo.gl/o8TXWz>



DOC17/95100  
SSD 5594 Mod 2

Mr Tim Stuckey  
Planning Officer  
NSW Department of Planning and Environment  
[paul.freeman@planning.nsw.gov.au](mailto:paul.freeman@planning.nsw.gov.au)

Dear Mr Stuckey

**Springvale Mine Extension Project Modification 2 (SSD 5594 MOD 2)**

I refer to your email of 23 January 2017 requesting advice from the Office of Environment and Heritage (OEH) on a Statement of Environmental Effects for a proposed modification to the Springvale Mine Extension Project (SSD 5594).

It is understood that the proposed modification would amend Schedule 4 Condition 12 of SSD 5594 to enable Springvale Mine to continue to discharge mine water at the current water quality criteria until the Springvale Water Treatment Project assessment and construction has been completed, and the project is operational.

OEH has no specific comments to make on the proposed modification. If you have any queries, please contact Liz Mazzer, Conservation Planning Officer on 02 6883 5325 or email [liz.mazzer@environment.nsw.gov.au](mailto:liz.mazzer@environment.nsw.gov.au).

Yours sincerely

**PETER CHRISTIE**  
**A/ Director North West**  
**Regional Operations Division**

1 March 2017  
Contact officer: LIZ MAZZER  
02 6883 5325

Ref: D2017/18308

Tim Stuckey  
Planning Officer  
Resource Assessments, Planning Services  
NSW Department of Planning & Environment  
GPO Box 39  
SYDNEY NSW 2001

Dear Mr Stuckey

### **Springvale Mine Extension Project Modification (SSD5594 MOD 2)**

Thank you for your email received 23 January 2017 seeking WaterNSW's comments on the Springvale Mine Extension Project Modification 2 (SSD 5594 MOD 2). WaterNSW has reviewed the Statement of Environmental Effects (SEE) prepared by Centennial Coal (dated December 2016).

WaterNSW notes that the Department is also currently assessing the following projects which are related to the Springvale Mine Extension Project (SMEP) Modification 2:

- Springvale Water Treatment Project (SSD 7592) to treat SMEP mine water discharges for reuse at Mount Piper Power Station and cease mine water discharges at LDP009
- Springvale Mine Extension Project Modification 1 to increase coal production, and
- Western Coal Services Project Modification 1 to dispose of sludge generated by the Springvale Water Treatment Project (SWTP) at the reject emplacement area of the Coal Services Site.

#### **Overall Comments**

WaterNSW is disappointed that there has been a delay in the implementation of measures to achieve the performance measures relating to salinity and toxicity of mine water discharges. In this regard WaterNSW notes that Centennial Coal agreed in July 2015 to meet a 50th percentile of 700, a 90th percentile of 900 and a 100th percentile limit of 1,000 micro-Siemens per centimetre Electrical Conductivity ( $\mu\text{S}/\text{cm}$  EC) limits for salinity at LDP009 by July 2017.

If the modification application is approved the result would be a greater concentration and load of salts entering the catchment downstream of LDP009 (than that currently permitted) with resulting current chronic toxicity continuing until June 2019 (or earlier if an appropriate mitigation measure is implemented). In such circumstances WaterNSW considers Centennial Coal should be required to undertake compensatory water quality and/or catchment improvement measures and suggests the imposition of an appropriate condition for such measures (with a specified monetary value) to be implemented at or within the vicinity of the impacted watercourses and that these measures are implemented by 30 June 2018.

### ***Elimination of Acute Toxicity from LDP009 Discharges***

The SEE states that acute toxicity has been eliminated from LDP009 discharges due to changes to flocculant agent and dosing rates. Therefore there is no need to modify the condition relating to acute toxicity.

### ***Impact of SSD5594 MOD1 on SSD5594 MOD2***

The SEE states that the proposed modification achieves NorBE by meeting the discharge limit for salinity as defined by the DPE 'base case' of 1200  $\mu\text{S}/\text{cm}$  for discharges at LDP009 into Sawyers Swamp Creek, that existed at the time of the original SMEP SSD 5594 application.

WaterNSW notes that the SMEP Mod 1 (SSD 5594 MOD 1) estimated an increase in mine water discharges by 10 L/s or 0.86 ML/day at LDP009 into Sawyers Swamp Creek over that approved in the original application, as a result of the proposed increase in annual coal production to 5.5 Mtpa. WaterNSW considers the SMEP Mod 2 appears to not have considered the mine water discharge increases as a result of SMEP Mod 1. Recent additional sensitivity analyses for SMEP Mod 1 by Jacobs (dated 2 February 2017) show minor deterioration of water quality downstream in the Coxs River catchment as a result of the SMEP Mod 1 compared to the original SMEP. Clarification and justification is required in this regard.

The salinity in Table ES1 of the SEE for Mod 2 and Tables 4.12 and 4.22 (Jacobs December 2016) for 50 and 90%-ile for Lake Wallace (Node#074) and Lake Burragorang (Node#280) for approved case are not the same as in Tables 3.34 and 3.40 (Jacobs 26 March 2015); Table 6 (Jacobs 3 August 2015) and Additional Sensitivity Analyses for SMEP Mod 1 by Jacobs (dated 2 February 2017). Clarification is also required in this regard.

### ***Impact of Springvale Mine Water Treatment Plant (SSD7592) on SSD5594 MOD 2***

WaterNSW notes that a separate proposal is being considered by the Department for the Springvale Water Treatment Plant (SWTP) (SSD 7592). The SEE states that the SWTP will be operational by 30 June 2019. When the SWTP is operational, it will treat mine water to the water quality criteria of 500 $\mu\text{S}/\text{cm}$  (90<sup>th</sup> Percentile) and that this treated water is proposed to be reused at Mount Piper Power Station, any excess water be discharged to Thompsons Creek Reservoir and mine water discharges at LDP009 will cease.

### ***WaterNSW Recommendations***

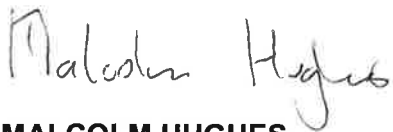
Water NSW recommends that:

1. The SMEP Mod 2 is not determined until the Springvale Water Treatment Plant Project (SSD 7592) is determined and the SWTP should have a condition requiring the Project to be constructed and implemented within 18 months of the approval to ensure current untreated mine water discharges occurring at LDP009 as part of the SMEP proposal ceases as early as possible.
2. If the SWTP become operational before the 30 June 2019, the chronic toxicity criteria in Schedule 4, Condition 12 proposed to be deferred to 30 June 2019 should be met at such time when the Springvale Mine Water Treatment Plant (SSD 7592) becomes operational, whichever occurs first.
3. The proposed amended condition be reworded to:
  - Eliminate acute toxicity from LDP009 discharges to aquatic species by 30 June 2017 and chronic toxicity to aquatic species by 30 June 2019 or such time that the Springvale Mine Water Treatment Plant (SSD 7592) becomes operational (whichever occurs first), with acute toxicity defined as >10% effect relative to the control group and chronic toxicity defined as >20% effect relative to the control group.

4. A condition is included in the consent which requires Centennial Coal to implement an appropriate level of water quality or catchment improvement at or within the vicinity of the watercourse impacted by the ongoing discharge of mine waters by 30 June 2018.

Water NSW would appreciate continuing to be involved in the assessment of this application.

If you wish to discuss this letter or the project more generally please do not hesitate to contact me on 4724 2452.



**MALCOLM HUGHES**  
**Manager Catchment Protection**

2/3/17

At its Ordinary Meeting of 31 January, 2017, Council resolved:

That the Council writes to the Minister for Planning the Hon. Anthony Roberts MP, the Premier of NSW the Hon. Gladys Berejiklian MP and the Member for Blue Mountains Trish Doyle MP, expressing its concern at the Centennial Coal application to remove a license requirement to reduce the salinity of discharges from the Springvale mine into the Cox's River, and urging the Minister of Planning to maintain appropriate levels of protection for the drinking water supply and the Greater Blue Mountains World Heritage Area, noting its outstanding natural values and contribution to the Blue Mountains regional tourism economy.

[Minute 09]

Council is therefore is writing to express its concern regarding the application by Centennial Springvale Pty Limited and Springvale SK Kores Pty Limited, seeking to modify development consent SSD 5594 to: remove the requirement to meet limits for salinity by June 30, 2017, and ; defer to June 2019, the requirement to Eliminate acute and chronic toxicity from LDP009 discharges to aquatic species by June 2017.

As you are aware, Springvale Coal Mine is an established underground longwall coal mine, located in the Western Coalfield of New South Wales, approximately 15 kilometres from Lithgow. The mine currently discharges into the Cox's River, increasing the river's salinity, metal concentrations, pH and water temperature.

Council asks that you do not approve the above application, and urges you to protect Sydney's drinking water supply and the Greater Blue Mountains World Heritage Area (GBMWH), noting the potential for discharges from the mine to have a significant negative impact on these important values. In particular, the significant impact of the discharges on the fragile aquatic and riparian ecosystems of the Blue Mountains.

The Minister should note that discharges from the mine are regulated by NSW Environment Protection Authority (EPA), and that this agency has indicated that further pollution of Cox's Rive by Springvale is inappropriate.

This position is supported by recent research by the University of Western Sydney, which demonstrates that the health of many of the rivers within the GBMWH, including the Grose, Wollangambe and the Cox's, are at risk from discharges resulting from the coal mining industry.

It is Council's strong view that the application, if approved, will compound the existing significant impacts of the coal industry on the natural environment of the Blue Mountains, and the thriving nature-based tourism industry which relies on it. Council therefore again urges the Minister to reject this application

Reply to: Georgina Woods  
PO Box 290  
Newcastle 2300

27 February 2017

## **Submission: Springvale modification 2**

Thank you for the opportunity to submit to the environmental assessment of this modification application.

Lock the Gate Alliance objects to this modification. It expressly counters advice and assurances upon which the consent for the Springvale extension project was granted two years ago.

It seems to us highly likely that consent would not have been granted for the project without the conditions that this modification is now seeking to remove and delay, since those conditions were crucial to the EPA's acceptance of the project.

Centennial Coal has acted in bad faith and has been repeatedly in breach of the generous licencing conditions imposed on them by the EPA. The Department of Planning must uphold the agreement made between Centennial and the EPA and instruct the proponent that it must pursue another path to ensuring the mine complies with its conditions of consent.

## **Modification would undermine negotiated basis on which consent was granted**

With this modification, Centennial proposes to remove or change two conditions limiting polluted discharge to the Coxs River, which enters Warragamba Dam, Sydney's primary drinking water storage, 80km downstream from the discharge point at the Springvale coal mine which is at issue with this modification. According to the Independent Expert Scientific Committee, the Coxs River is the second largest tributary in the Warragamba catchment and contributed approximately 30 percent of the total inflow volume to Warragamba Dam during 2012-13.

The main justification provided for this modification by the proponent is "to ensure Springvale mine will be compliant with its consent conditions." That is, rather than take action to ensure they can comply with conditions the company agreed to more than eighteen months ago, Centennial now seek the removal of conditions imposed on the operation to improve and safeguard the water supply upon which Sydney relies for drinking water.

We urge the Department of Planning to reject this application. The correspondence between the EPA and the Department and Centennial Coal on this issue make very clear that these two conditions are crucial to its acceptance of the project.

In a letter to David Kitto dated 22 June 2015, the Chief Regulator of the EPA, Mark Gifford wrote that, "The purpose of this letter is to provide the EPA's position that support for the Springvale Mine Extension Project (SSD 5594) and agreement to licence this project (subject to planning approval) is dependent on these key limits being included as statutory variations to environmental protection licences for any discharge from the Centennial Springvale Colliery." After which, they list the limit

agreements. These are that by 30 June 2017 Centennial will meet a 50<sup>th</sup> percentile of 700, a 90<sup>th</sup> percentile of 900 and a 100<sup>th</sup> percentile limit of 1,000 microsiemens per centimetre Electrical Conductivity (EC) and that by 30 June 2019, Centennial meet a 90<sup>th</sup> percentile limit of 500 EC. Gifford appended to his letter to David Kitto a copy of a letter from Centennial Coal which “acknowledges and agreed” to the EPA’s 700/900 limits and agreed “in principle” to the 500 limit by 2019, “subject to the completion of Centennial’s feasibility of such further reductions and the subsequent commercial evaluation required to assess the impact to those operations.” They add, “To be clear any commitments made to further reductions need to ensure continuity of supply to the local power stations and provide long term security of employment to the Lithgow community.”

There is no equivocation in the company’s acceptance of the 2017 salinity limits. Indeed, the letter from the EPA to Centennial dated 28 May 2015 which is also provided, shows that the timeframe was proposed by Centennial itself and that the EPA relaxed its proposed longer term limit of 350 microsiemens at Centennial’s request (insistence?). In that letter, too, the EPA cites a document prepared for Centennial by GHD which reported acute toxicity of the mine discharge to some aquatic species.

Was Centennial unaware and unprepared at that time for the work that would be required in order to meet these limits that they come to the Department eighteen months later to plead for time? Or did they intentionally mislead the Department and the EPA, knowing that they would not be able to meet the limit, but agreeing to it in the middle of 2015 on the assumption that before two years had passed, they would be able to apply to have the conditions lifted?

Either possibility casts Centennial Coal in a very poor light.

In fact, it appears from the documentation provided that Centennial may be counting on another chance to plead for time in June 2019. The SEE states that the development consent, design and procurement phases of the water treatment project may not be completed until mid-2017 and that it may take two years to construct and commission. This does not leave any additional time to meet the June 2019 deadline for the much lower salinity limit.

We are aware that development consent under the *Environmental Planning and Assessment Act* runs with land, and that the character and history of the company or person proposing an action is not relevant to the Act. It is, however, relevant to the EPA, who must decide whether to grant an Environment Protection Licence to this operation.

### **History of non-compliance and pollution at Springvale**

We provide some context in this submission, which we believe should demonstrate that these conditions should not be lifted and this modification not be granted.

Springvale is licensed to discharge mine-affected water from seven discharge points, some of which are licensed for pollution by metals and some are not. The discharge points release water into waterways feeding two rivers - the Wolgan River, which flows north to the Capertee Valley and Wollemi National Park, and the Coxs River, which forms part of the Hawkesbury-Nepean and flows eventually into Warragamba dam. The Coxs River also receives polluted waste water from nearby coal fired power stations. Testing carried out by researchers from the Blue Mountains Conservation Society showed that this part of the river had high levels of heavy metals including zinc, copper and manganese, 125 times more sulphate than surrounding streams and only 5% of the oxygen that fish need. The mine had been transferring up to 30ML per day of water from the mine workings to the

Wallerawang Power Station for use in cooling towers, but since the power station closed, they have needed to discharge it to dispose of it.

In the data reported to the National Pollution Inventory (NPI) in 2013/14, Springvale was the largest single reported water polluter of Cobalt and compounds in New South Wales, producing 44% of the total reported volume of Cobalt to water that year. Springvale also reported the second largest level of Chromium III pollution into water in the NPI, producing a quarter of the total amount reported that year. It was the third largest polluter of Mercury, the fourth largest polluter of Lead and the fifth largest water polluter of Copper. It also reported polluting water with Zinc, Beryllium, Boron, Fluoride and Nickel. In the most recent NPI reporting year, Springvale was the largest single source of Cobalt pollution to water in NSW and the second largest source of lead pollution to water, being responsible for 28% and 20% of the total pollution to water of these toxins in NSW.

The EPA stated that it intended to place water quality limits for these pollutants on discharges at this point based on the results of this assessment. The company was tasked by the EPA to assess “the acute and chronic toxicity of the mine water being discharged from Licensed Discharge Point 9” by August 2014. It has repeatedly been found by the EPA to be in breach of its licence for exceeding limits on arsenic and other pollution from one discharge point, and for failing to monitor properly from another. After several non-compliance findings when Centennial breached the volume limit for water discharges, EPA responded by varying the licence to remove volume discharge limit.

In 2013, there was an incident at LDP 009 where dirty water was discharged into Sawyers Swamp Creek and ultimately to the Coxs River. The EPA issued a Penalty Infringement Notice of \$1,500 for discharging water that exceeded the turbidity limit for up to four and other \$5000 PIN for not immediately reporting an incident which threatened material harm to the environment. In September 2014, wet coal fines overtopped a dirty water drainage channel and into a discharge channel leading to discharge point 001, sending them into a wetland in the upper reaches of the Coxs River and the EPA later issued an caution notice to Springvale Coal over the incident.

Springvale exceeded the electricity conductivity (EC) limit at LDP009 on 15 occasions in 2015 and environmental monitoring data shows that for much of last year the water discharged at LDP009 was in breach of the generous 1,200 microsiemens per centimetre EC limit that currently applies on Springvale’s Environment Protection Licence. The mine also breached the arsenic limit on its EPL last year. We have written to the EPA seeking action from them to enforce the condition of the EPL and issue a compliance order to Centennial Coal.

In June this year the mine is supposed to meet the tighter conditions that keeps the EC limit below 700 microsiemens per centimetre half the time. There was no time last year when they dropped below 1,000 microsiemens.

This background information reveals three things. Firstly, that Centennial Coal is a company with a poor track record of environmental compliance and that the EPA should consider revoking its licence if the company refuses to meet the conditions very generously granted to it. Secondly, it reveals that the EPA has been in discussion with Centennial about the need to reduce salinity of its discharge for at least three years, since well before the Springvale Extension was granted consent and the new conditions imposed. The company has had ample time to comply and indeed, does not appear to have acted in good faith in its dealings with the EPA. Finally, and crucially for this application, the EPA made clear to the company that the toxicity and salinity of its discharge were above acceptable limits

and that they must be reduced. In a further demonstration of bad faith, the company compares the effect of removing the salinity and toxicity conditions with what it calls “historical water quality levels” and draws conclusions about the environmental impact via that comparison. But the “historical” pollution levels at the discharge site, Centennial’s own discharge site, are already above acceptable limits. That is the purpose of the condition, to reduce it.

### **Poor and misleading assessment of impacts**

The assessment material provided with this modification application is self-serving and misleading and reinforces Springvale’s unfitness to be operating a highly polluting mine in an environmentally sensitive area.

The company refers throughout the assessment to water quality in Lake Burragorang, without using the more commonly used name Warragamba Dam. The assessment material presents the results of salinity modelling in milligrams per litre without indicating what the electrical conductivity is likely to be for the salt concentrations expected. This is despite the consent conditions and the company’s Environment Protection Licence setting salinity limits with EC measures. Using a formula provided by OEH, and applying it to the modelling results presented in Table 20, we can infer that the EC of the Coxs River Upstream of Lake Wallace will be over 1000 microsiemens per cm at the 90th percentile, and over 1,200 at maximum, above what would be considered good drinking water. Such tricks are designed to disguise the environmental impact of the mine. They are relatively simple to see through, but that does not mean that the Department of Planning should accept such obfuscation as a matter of course. Recent work by the Department of Planning has sought to improve the accessibility and honesty of mining project assessment material. It is disappointing to have to read through a misleading and at times incoherent assessment document for such a controversial mine.

The company gives itself a pass on the Neutral or Beneficial Effect test when compared to the “base case” it says was defined by the Department of Planning and Environment as an electrical conductivity of 1,200 microsiemens. The company states that there is will be “no change to modelled median salinity in Lake Burragorang over the prediction period, compared to that currently approved.” This is ambiguous. What is currently approved is for the salinity limits to drop in June 2017 and then again in June 2019. Is this the “currently approved” scenario against which the company is modelling its impact, or are they modelling against the “current approved” activity being undertaken right now, which this modification would propose to continue unchanged after June 2017?

This is a crucial point which creates considerable confusion in the SEE. The sole sentence that comprises the assessment of the impact of the modification on macroinvertebrates states that “Given that the modification is a continuation of mine water discharge at current and historical water quality, there is no change to environmental consequences with respect to aquatic ecology (macroinvertebrates) compared to that presented in the SVM EP EIS (Golder Associates, 2014).”

The same sentence comprises the assessment for the impact on the Coxs River: “Given that the modification is a continuation of mine water discharge at current and historical water quality, there is no change to environmental consequences with respect to aquatic ecology (macroinvertebrates) in Coxs River catchment compared to that presented in the SVM EP EIS.”

The proponent relies on the EIS for the Extension Project as if that document were a demonstration that the mine without Schedule 4 condition 12 imposed would not have a significant impact, entirely suppressing the origin of the conditions in question and their purpose. When the EIS was published, the EPA's response to the mine was that, "The EPA is unable to support the Springvale and Angus Place expansions in their current form given the absence of any commitment in the EISs to address the handling/treatment of the mine water, in either the short or long term. It is important to the EPA that any approval by the Department, if granted, aligns with the ongoing programs of the EPA. The EPA recommends that treatment to significantly reduce the salt and contaminant levels of this mine water, or achieve beneficial re-use (or a combination of both by a set date should be a condition of consent if the extension projects are approved.)"<sup>1</sup> The Coxs River Ecotoxicology Assessment prepared for the proponent following Departmental feedback that the EIS had failed to address the effect of toxicity on macro-invertebrate ecology showed that, "the discharge at LDP009 is having an acute impact on cladoceran species at the Sawyers Swamp Creek site downstream of discharges." The new toxicology assessment presented with this application claims that there is no longer an acute toxicity problem, but that chronic toxicity remains. It concludes "that salinity is the potential cause of toxicity in Springvale Mine water discharges."

Along with the interim salinity limit, Centennial is now seeking to remove the condition of its consent that requires it to eliminate acute and chronic toxicity from the LDP009 discharge to aquatic species by 30 June 2017, with acute toxicity defined as greater than 10 percent effect relative to the control group and chronic toxicity defined as greater than 20 percent effect relative to the control group.

This is not acceptable and this modification application must be rejected.

The proponent includes information about the salt balance for the Springvale Delta Water Transfer Scheme that is contradictory and unclear. In the Executive Summary of this SEE it is stated that "salt balance modelling for mine water discharges for the proposed condition in 2031 (when the mine inflows will be maximum)" at 10,067 tonne/year of salt. It calls this the "do nothing scenario" but also says the salt load will stop when the water transfer project is operational and the discharges cease. Immediately below this, the proponent describes another "do nothing scenario" with salt-load contribution on a catchment level at 21,583 tonnes per year which it claims will reduce to 12,219 "for a modelled operational scenario of 50% power generation (correlates to recent historical trends and corresponds to the approximate volume of water available from the [Springvale Delta Water Transfer Scheme]." The meaning of this sentence, and how it related to the previous figure for "do nothing" salt loads is opaque. In any case, the modelling for the Springvale Delta Water Transfer scheme is not relevant. That project is being assessed on its merits. If the proponent has failed to have arrangements in place to begin the scheme in time to meet the conditions of consent for the Springvale Extension, then it must come up with alternative arrangements. The alternative should obviously have been that the PAC should have withheld consent until the Water Transfer Scheme and/or a water treatment option was operational. A condition of consent should have been imposed that prevented the company moving to operating the Springvale Extension without adequate water

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<sup>1</sup> Letter from the EPA to DPE, November 2014.

[https://majorprojects.affinitylive.com/public/17ad8f0af07de60af15dd822ab0299fc/Springvale%20MEP\\_%20Environment%20Protection%20Authority's%20comments%20on%20RTS.pdf](https://majorprojects.affinitylive.com/public/17ad8f0af07de60af15dd822ab0299fc/Springvale%20MEP_%20Environment%20Protection%20Authority's%20comments%20on%20RTS.pdf)

treatment and handling infrastructure in place that would ensure the Neutral or Beneficial Effect test was met and Sydney's drinking water protected.

The company claims that the impacts of this modification "is insignificant compared to the significant benefit in water quality improvements in the Coxs River catchment that will be achieved by the operation of the Springvale WTP and the subsequent cessation of minewater discharges"

This is not a valid comparison to draw, given that the company has already undertaken to build the WTP and meet the criteria. This modification must be subjected to the NORBE test against the current legal requirements for the company: the conditions requiring lower salinity limits by June 2017.

We hope that the Department of Planning rejects this request for a modification and works with the EPA and the proponent to pursue another course of action that would ensure the mine complies with its conditions of consent.



# Lithgow Environment Group Inc.

PO Box 3081 Bowenfels, NSW 2790

[www.lithgowenvironment.org](http://www.lithgowenvironment.org)

*Preserving the Balance of Nature*

Mining and Industry Projects  
NSW Department of Planning & Environment  
GPO Box 39 Sydney NSW 2001

27 February 2017

Dear Sir/Madam,

**RE: SPRINGVALE MINE SSD\_5594 MOD 2**

The Lithgow Environment Group Inc. (LEG) **objects** to this proposal to defer compliance with the September 2015 development consent conditions for a further 2 years until 30 June 2019.

## **ABUSE OF THE PLANNING SYSTEM**

LEG members are outraged that Springvale Colliery are being permitted to flagrantly abuse the aims and intent of the NSW Planning system by failing to comply with the original September 2015 Consent Condition 12 of SSD 5594 by:

1. Seeking to remove the requirement to meet limits for salinity of 700 (50th percentile), 900 (90th percentile) and 1000 (100th percentile)  $\mu\text{S}/\text{cm}$  EC by 30 June 2017; and,
2. Deferring to 30 June 2019 the requirement to eliminate acute and chronic toxicity from LDP009 discharges to aquatic species by 30 June 2017, with acute toxicity defined as >10% relative to the control group and chronic toxicity as >20% relative to the control group.

And LEG members are outraged that the DP&E is allowing Springvale Colliery to delay further by lodging this Modification whilst numerous intimately related DA's are currently in play, ie.

- The Springvale Water Transfer and Treatment Project SSD 16\_7592;
- The proposed Modification of SSD 16\_7592 proposal to store treated mine water in the Thompsons Creek Reservoir;
- The Western Coal Services SSD 5579 Mod 1 (proposed emplacement of waste from the water treatment plant);
- And this application Springvale Mine SSD 5594 Mod 2.

It is plainly obvious to everyone except perhaps the NSW DP&E that Springvale Colliery never had any intention of complying with the original September 2015 Consent Condition 12 of SSD 5594. Springvale freely agreed to comply with this condition so that mining (and pollution of the Coxs River) could continue 'business as usual'. But just as clearly had every intention of delaying, stonewalling, and muddying the waters (pun intended) to avoid compliance with the Consent Conditions. And when the proposed date of compliance for this Modification arrives in June 2019, Springvale will no doubt lodge yet another Modification to defer again.

Centennial Coal are not proposing to fix a minor error in the original Consent, or make a minor Modification to the Consent that will cause minimal environmental harm - they are abusing Section 96 (4) of the EP&A Act to avoid compliance with a Consent Condition they don't like!

**How can the DP&E stand by and allow such flagrant abuse of the NSW Planning system (or is the DP&E complicit, and colluding with Centennial Coal?)**

**Why have Centennial Coal consistently been given preferential treatment in the Lithgow region compared to coal mines in the Hunter region which must comply with Salinity limits under the Hunter Salinity Trading Scheme - similar to Condition 12 of SSD 5594?**

**Why are Centennial Coal continually allowed to waste huge sums of NSW taxpayer funds on –**

- **Having numerous concurrent and intimately related Planning Assessments in play under the EP&A Act (ie. SSD\_5594 MOD 2; SSD 16\_7592; SSD 5579 Mod 1, SSD 5594 Mod 2)?**
- **Having numerous unresolved Court Cases ongoing for both Springvale and Clarence Colliery's, whilst continuing to operate business as usual?**
- **Continually delaying compliance with, or totally ignoring compliance with, numerous Pollution Reduction Notices issued under the POEO Act over many years?**
- **Allowing Springvale Colliery to maintain its dubious record of having the highest number of POEO Licence Non-compliances for any mine in NSW without penalty?**
- **Wasting huge sums of taxpayer funds by causing massive delays (in excess of 2 years) on the yet to be completed Review of the Clarence Colliery EPL 726?**
- **Triggering yet another PAC Hearing only 18 months after approval of SSD 5594?**

**Centennial Coal appears to have received a high degree of preferential treatment over many years in the Lithgow region from the NSW Government. They operate wholly on publicly-owned land in Newnes State Forest, and the NSW public therefore have a right to scrutinise**

**the relationship between Centennial Coal and the NSW Government, to judge if it is totally open, honest and above board, or whether more sinister dealings have taken place?**

**LEG members believe that a Royal Commission is justified, and urgently required.**

### **ACUTE AND CHRONIC TOXICITY OF THE LDP009 DISCHARGES TO AQUATIC SPECIES**

What part of the words **Acute, Chronic, and Toxic** doesn't the DP&E seem to understand???

LEG cannot comprehend how the DP&E or PAC could possibly have approved the original Springvale Extension in September 2015 despite knowing it was **Acutely and Chronicly Toxic?**

Appendix 10 of the Springvale Extension *Coxs River Ecotoxicology Assessment* clearly stated that the LDP009 discharge was found by the OEH to be significantly toxic to most tested species of animals and plants, with algae and hydra being more sensitive than cladoceran. The LDP009 discharge was acutely toxic ( ie. effectively lethal) to all tested fish species.

Despite originally failing to identify this **Acute and Chronic Toxicity** in their original 2015 EA, Centennial now give us dubious assurances that this Modification will have no impact on the macroinvertebrate ecology downstream of the LDP009 discharges for another 2 years?

And Centennial once again dubiously claim the LDP009 discharge will achieve NorBE (Neutral or Beneficial Effect) on water quality, despite the fact the SCA's Mr Malcolm Hughes wrote to the DP&E's Mr Howard Reed on 12 December 2014 clearly stating that neither the Springvale or Angus Place Colliery Extensions achieved a NorBE on water quality, and recommended refusal unless the applicant treated the mine water to an appropriate level prior to discharge.

The 'creative accounting' used by the DP&E to ignore the SCA's expert advice should also be the subject of a Royal Commission!

### **HUNTER SALINITY TRADING SCHEME**

LEG raised this issue in our original submission on the Springvale Extension, but it was of course totally ignored by the DP&E and PAC. So we will raise it again.

**Why has Centennial Coal in the Lithgow region been given preferential treatment and competitive advantage over coal mines in the Mudgee Region and Hunter Valley Region?**

All operating coal mines (and coal-fired power stations) in Hunter region must comply with Salinity discharges limits specified under the Hunter Salinity Trading Scheme -

- When the Hunter River is in low flow, no discharges are allowed;
- When the river is in high flow, limited discharges are allowed using a system of salt credits;
- The volume of discharge allowed depends on the ambient salinity in the river, so can change daily;
- The total allowable discharge is calculated so that the Salinity doesn't go above 900  $\mu\text{S}/\text{cm}$  in the middle and lower sectors of the river, or above 600  $\mu\text{S}/\text{cm}$  in the upper sector;
- When the river is in flood unlimited discharges so long as salinity doesn't go above 900  $\mu\text{S}/\text{cm}$ .

Springvale Colliery operates in the upper sector of the Coxs River, so if the Hunter Trading Scheme limits were applied fairly across NSW, then the LDP009 discharge would be limited to 600  $\mu\text{S}/\text{cm}$ .

Yet the LDP009 discharge is more than double that – quoted by Centennial at 1200  $\mu\text{S}/\text{cm}$ , but regularly higher. Today (28/2/2017) Sawyers Swamp Creek had a Salinity level of 1240  $\mu\text{S}/\text{cm}$ . It has been up to 1350  $\mu\text{S}/\text{cm}$  in recent months, exceeding the Springvale EPL3607 discharge limit of 1200  $\mu\text{S}/\text{cm}$ . The Coxs River in Lidsdale today was 1340  $\mu\text{S}/\text{cm}$ . LEG could supply all our data for Salinity in Sawyers Swamp Ck and downstream of LDP009, but we doubt the DP&E wants to know.

However LEG requests that the DP&E advise the NSW public in its assessment report –

- How many other mines in NSW have a 1200  $\mu\text{S}/\text{cm}$  discharge limit on their EPL?
- Why does protecting water quality in Hunter River have a higher priority than protecting water quality in the Coxs River?
- Why are cows and horses which drink water from the Hunter River given a higher level of protection than 4.4 million humans in the Sydney catchment who rely on the Coxs River for a large percentage of their drinking water supply?
- Is aquatic life in the Lithgow region more resistant to pollution than in the Hunter?
- Why have Centennial Coal in Lithgow been given a competitive advantage by having to comply with less stringent water quality standards than mines in the Hunter and Mudgee?
- Is this yet another perverse 'subsidy' to the mining industry, and will it set a precedent?
- Does the Hunter R flow through a National Park or World Heritage area like the Coxs River?
- Why was Ulan Mine required to install a Reverse Osmosis Plant to treat Salinity in its mine water in 2008 (MOD 3 DA 113-12-98), yet Springvale aren't being required to install one?
- Will relaxing discharge limits at Springvale set a precedent for all NSW mines to follow?

## **CENTENNIAL COAL MUST PROVIDE INTERIM SOLUTIONS**

Just because Springvale Colliery cannot meet the long-term deadline of transferring the mine water to Mount Piper Power Station, this does not mean that the only solution is to continue polluting the Coxs River until June 2019. Alternative solutions exist.

The DP&E must reject this modification and require Springvale to implement interim solutions after 30 June 2017 deadline, or risk setting a precedent that all NSW coal mines may follow.

It is not LEG's job to find interim solutions, however below are two examples. By requiring such a solution Springvale will have an economic incentive to find a timely long-term solution.

### **1. Reverse Osmosis Plant – Ulan Coal Mine – 2008**

- **Title:** Modification - Ulan Coal Mine – Reverse Osmosis Plant
- MOD 3 to DA 113-12-98
- **Approved:** 19 December 2008
- **Description:** The modification involves construction of a reverse osmosis plant
- **Location:** Ulan
- **Applicant:** Ulan Coal Mines Limited
- **Local government area:** Mid Western Regional
- **Capital cost of development:** \$3,500,000
- **F/T construction jobs:** 0
- **F/T post construction jobs:** 0
- **Approval authority:** Executive Director, Major Project Assessment as delegate for the Minister for Planning
- **Relevant legislation:** Section 96(1A), Part 4 of the *Environmental Planning and Assessment Act 1979*
- **Details of approval:** [Director-General's Assessment Report](#), [notice of modification approval](#) and [consolidated conditions of consent](#) (as amended)

### **2. Cost of a Desalination Plant for minewater**

*From:* Report to Queensland Premier - Review of the Fitzroy River Water Quality Issues November 2008, Professor Barry Hart Water Science Pty Ltd and Water Studies Centre, Monash University

#### ***Option 5b: Mobile desalination plant***

*This Option would involve installation of a mobile desalination plant to supply either:*

*(a) supplemented 'drinking' water only (would require residents to collect the water), or*

*(b) desalinated town water through the existing town reticulation system.*

*Desalination plants to provide an output of about 100 kilolitre/day (or equivalent to about 9 litre/person/day for the total populations of Dysart, Middlemount, Tieri and Blackwater) are available and multiple units of this capacity can increase the capacity.*

*The combined lease, operation and maintenance cost for such a plant would be about \$20,000 per month. Company's that set up these plants can monitor the plants performance remotely and will provide technical backup advice if required.*

*For comparative purposes, a reverse osmosis desalination plant providing an output of about 1.5 ML/day (1,500 kilolitre /day or equivalent to 130 litre/person/day for the total populations of Dysart, Middlemount, Tieri and Blackwater) would cost about \$100,000 per month (\$66,000 per month leasing plus \$30,000 per month operation and maintenance) plus the cost of brine disposal. Such plants are available commercially, generally in a transportable container and are used for mining and construction camps.*

### **Assessment**

*This is a sensible and feasible Option. Obviously funding would have to be found to implement this Option. It is recommended that this option be part of a contingency plan should the water quality deteriorate further.*

## **RECOMMENDATIONS**

That the DP&E reject this modification and require Springvale to implement interim solutions to remain compliant with Condition 12 of SSD 5594 after 30 June 2017.

That the DP&E and PAC combine all current proposals related to the Springvale Mine and Transfer Pipeline to Mount Piper Power Station together in assessing this proposal.

That the DP&E applies Consent Conditions for water quality in a fair, open, honest and transparent manner on Statewide rather than mine-by-mine, or region-by-region basis.

## **CONCLUSION**

LEG has been monitoring water quality in the local area since 2006. Over the ensuing 11 years we have lodged numerous Submissions to the DP&E raising serious concerns about water quality in the Upper Coxs River Catchment. The DP&E has ignored many of our concerns.

As a consequence water quality in the upper Coxs River catchment has continued to seriously deteriorate, despite the closure of one power station and 72% (9 of 12) of the then operating coal mines. Salinity in the Coxs River is at its highest level since the prolonged drought in the early 2000's, and Salinity has quadrupled at one site (Springvale LDP006) since 2006, and may quadruple again unless the DP&E begins to act in an environmentally responsible manner.

The general public naturally blames coal mines for the deteriorating water quality. However LEG attributes that blame entirely on the DP&E, who have been fully aware of what has been going on, yet continued to ignore the expert advice of the NSW Government's own advisers in the EPA, OEH,

SCA, and NOW; continued to allow mining companies like Centennial Coal to abuse the EP&A Act; and continued to relax environmental standards. This Proposal is just another example.

LEG is extremely disappointed with the DP& E's approval record in the Lithgow LGA in relation to its disregard water quality over the last decade. LEG wonders why the DP&E bothers to ask respondents to lodge submissions, when it has every intention of totally ignoring any and all of their concerns. However we submit this, because apparently we and the environment have rights?

Yours sincerely,

Chris Jonkers - Vice President  
Lithgow Environment Group Inc.

28 February 2017

Ms Carolyn McNally  
Secretary  
NSW Department of Planning and Environment  
GPO Box 39  
Sydney NSW 2001

Also by email: [Carolyn.McNally@planning.nsw.gov.au](mailto:Carolyn.McNally@planning.nsw.gov.au)

**Copy to:** Dr Sandie Jones, Manager Regional Operations (Central West Region)  
[Sandie.Jones@epa.nsw.gov.au](mailto:Sandie.Jones@epa.nsw.gov.au); [paul.freeman@planning.nsw.gov.au](mailto:paul.freeman@planning.nsw.gov.au)

Dear Ms McNally

**Re: Springvale Mine SSD 5594 Mod 2 – Salinity Limit Amendment**

We refer to the above matter in relation to which we act for 4nature Incorporated.

Our client has instructed us to write to you setting out our view on the legal effect of what is being sought by Centennial Coal in its second modification application concerning the salinity limit amendment (**Modification Application**).

**Background**

As you would be aware, clause 10 of the *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 (Catchment SEPP)* prohibited the PAC from approving the Springvale Extension Project unless it was satisfied that “the carrying out of the proposed development would have a neutral or beneficial effect on water quality.”

Through the Modification Application, Centennial Coal is seeking to amend Schedule 4, Condition 12 of SSD 5594 to remove the requirement to meet limits for salinity of 700 (50th percentile), 900 (90th percentile) and 1,000 (100th percentile)  $\mu\text{S/cm EC}$  by 30 June 2017 (the **30 June 2017 Requirement**).

As the Department would be aware, the mine’s impact on Sydney’s drinking water catchment was the source of much objection from members of the public, WaterNSW (formerly the Sydney Catchment Authority) and the EPA during consultation on the original development application (SSD 5594). Initially, the EPA did not support the initial SSD due to its impacts on the drinking water catchment, and only gave its support once Centennial Coal agreed to meet the 30 June 2017 Requirement. That agreement is found in a letter dated 29 May 2015 sent from Mr David Moul, Managing Director and the CEO of Centennial Coal to the EPA in which he states that, “Centennial acknowledges and agrees to the EPA’s proposal for 700/900 EC limits as discussed in your letter.”

Additionally, the PAC records in its First Review Report that, “The Applicant has advised the EPA that it could meet a performance measure of 700 µS/cm to 900 µS/cm at LDP 9 by 31 December 2016, using a combination of pre-treatment of discharge water, duplication of existing reverse osmosis infrastructure and blending of water from Clarence Colliery.”

Centennial Coal’s agreement and active acceptance of the 30 June 2017 Requirement was acknowledged by the PAC in its Second Review Report (dated 15 September 2015, six days prior to granting consent, at p 4).<sup>1</sup>

### **The Modification Application is not “substantially the same development”**

Centennial Coal is now seeking a modification to those conditions under s 96(2) of the *Environmental Planning and Assessment Act 1979*, on the basis that the development as modified will be “substantially the same” as the project for which consent was given in 2015. With respect, we do not agree.

If the Modification Application is approved, this would constitute a substantial alteration to the mine as originally approved, as it would allow Centennial Coal to effectively increase the pollutant concentrations for salinity in the mine water it discharges into Sydney’s drinking water catchment, compared with the development that was originally approved containing the 30 June 2017 Requirement. Such a change would result in development that is not substantially the same as that which was originally approved.

### **The Modification Application cannot rely on the proposal for a Water Treatment Project**

Centennial Coal relies in its Modification Application on its proposed Water Treatment Project (**WTP**) being approved and implemented, which is the subject of a separate SSD application (SSD 16\_7592).

We note that the WTP is currently at the assessment stage, and has not yet been approved by the PAC, or implemented by Centennial Coal. The Department should avoid any perception that the SSD application for the WTP has been predetermined.

As such, we take the view that it would not be proper for the Department to assume that the WTP will be approved and built, given that this separate SSD project proposed by Centennial Coal is still subject to its own merits assessment, and even if approved is not required under the Springvale Mine Extension conditions to be built.

### **Request to consider the timing of the Modification Application**

Our client is concerned as to the timing of the request to modify the consent. As set out above, the PAC Review Reports in 2015 referenced Centennial Coal’s agreement to the pollutant concentration limits for salinity (including the 30 June 2017 Requirement) proposed by the EPA on 29 May 2015.

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<sup>1</sup> Available here:

<http://www.pac.nsw.gov.au/resources/pac/media/files/pac/projects/2015/08/springvale-mine-extension-project-second-review/review/springvalemineextensionprojectsecondreviewreportpdf.pdf>

Our client queries exactly when it was that Centennial Coal became aware that it would be unable to comply with the undertakings it gave to the EPA (and therefore also to the PAC during the course of the PAC's consideration of whether to approve the development), given that it applied for this modification on 22 December 2016, just 15 months after the PAC's approval of SSD 5594 subject to the conditions to which Centennial had agreed. For the WTP, Centennial Coal sought the Secretary's Environmental Assessment Requirements just four months after the PAC's approval of SSD 5594.

In this regard, our client asks that the Department satisfy itself as to the timing of when Centennial became aware that its agreement with the EPA made in May 2015 and referred to by the PAC in September 2015 could not be met, with a view to ensuring compliance with s148B of the *Environmental Planning and Assessment Act 1979* in relation to the approval of the Springvale Extension Project (SSD 5594).

If you have any queries, please contact myself or Elaine Johnson, Principal Solicitor, on (02) 9262 6989.

Yours sincerely

**EDO NSW**

A handwritten signature in black ink, appearing to read 'Rana Koroglu', is centered below the text 'EDO NSW'.

Rana Koroglu  
Senior Solicitor

Our ref: MAF24760



## THE COLONG FOUNDATION FOR WILDERNESS LTD.

Monday February 27<sup>th</sup>, 2016

Mining and Industry Projects  
NSW Department of Planning and Environment  
GPO Box 39  
Sydney NSW 2001

Dear Sir/Madam,

### **Submission regarding Springvale Mine SSD 5594 Mod 2**

The Colong Foundation objects to Springvale Mine modification 2 because the proponent must comply with the clean-up timetable specified for mine water discharge from LDP009 set in the September 2015 development consent and agreed by the proponent in an exchange of letters. We welcome the proposed improvements that will remove mine water from the Coxs River, but the Foundation opposes any weakening of initial consent conditions to allow continued pollution of Sydney's drinking water supplies.

In the June 2015 Review Report, the Planning Assessment Commission stated that the Applicant 'advised the EPA that it could meet a performance measure of 700  $\mu\text{S}/\text{cm}$  to 900  $\mu\text{S}/\text{cm}$  at LDP 9 by 31 December 2016, using a combination of pre-treatment of discharge water, duplication of existing reverse osmosis [RO] infrastructure and blending of water from Clarence Colliery. The EPA has since agreed to a timeframe of two years (i.e. until 30 June 2017) for the Applicant to meet a 50th percentile of 700  $\mu\text{S}/\text{cm}$ , a 90th percentile of 900  $\mu\text{S}/\text{cm}$  for salinity and a 100<sup>th</sup> percentile limit of 1000  $\mu\text{S}/\text{cm}$  EC' (page 19). Further Mr David Moulton Managing Director and CEO wrote to the Environment Protection Authority on May 29, 2015 to say that 'Centennial acknowledges and agrees to the EPA's proposal for 700/900 EC limits as discussed in your letter.' The terms agreed in the exchange of letters are clear and specific, so there are no reasonable grounds for Modification 2 to be granted.

The Environment Protection Authority (EPA) and the Department of Planning and Environment (DPE) do not state how liquid waste from LDP009 is to be cleaned up. The means of compliance is a matter for the proponent. The DPE and EPA role is to propose and negotiate a compliance timetable and set water quality standards, in consultation with the proponent and the community. Having done that, the Planning Assessment Commission reviews the information and makes first an assessment and then a determination. These steps have been taken and it is not appropriate for the proponent to now seek relief from its agreed obligations to clean up the discharge point, LDP009.

We understand that the proponent, Centennial Coal, cannot meet these conditions with the proposed long term solution of mine water transfer, storage in Thompsons Creek reservoir and reuse of mine water in the Mt Piper power plant. It does not follow that the proponent must obtain a consent variation, although we acknowledge that the long term solution is a good solution.

The Colong Foundation for Wilderness is concerned that Centennial Coal is "gaming the planning system" by seeking this modification. Section 96(4) of the Environmental Planning and Assessment Act, 1979 (EP&A Act) states that "*The modification of a development consent in accordance with this*

*section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.”* As a consequence of this provision in the EP&A Act regarding consent modification, the evaluation of this current modification need not strictly apply the prohibition of clause 10(1) of the State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011, as this applies only to new development applications.

Centennial Coal is using the section 96 (4) provision to game the development consent modification process in a manner inconsistent with the intent of modification of section. In other words Centennial Coal is not fixing an error in their consent or making a **minor** modification to the consent that causes **minimal** environmental impact, but rather Centennial are extracting an aspect of the consent they now no longer wish to comply with. The proposed modified consent **will then allow continuation of a major environmental impact** and so it can't be said to be substantially part of the same project. In other words, the proposed modification is not consistent with the modification provisions in the Act and this proposal and the Department of Planning and Environment (DPE) has to recommend refusal of consent.

The loophole created by section 96 (4) enables Centennial Coal to avoid the obligations they agreed to under the planning evaluation process of their own free will. As a result only section 79(C) of the EP&A Act will apply to the modification application. The determining authority need only *consider* the State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 and not strictly apply the neutral or beneficial effect test to mine water discharges from LDP0009. Again the intent of the modification provisions of the Act would be defeated, adding to the grounds on which the DPE should recommend refusal of this modification of consent.

### **The terms of the September 2015 consent should still apply**

The terms of the consent require a short term solution to meet the above discharge standards. For example, the proponent could install additional temporary RO plant at LDP0009 to meet discharge standards by 30 June 2017.

Energy Australia installed a portable RO Plant at Wallerawang Power Plant to ensure Springvale's mine water was suitable for reuse at the power plant. So a temporary water treatment solution is not unusual in this region, and RO plants of a suitable size for LDP0009 are available.

The Colong Foundation can envisage a scenario where the construction of its proposed long term treatment proposal is delayed, and further consent modifications as a means of gaining extensions of time. The current extension would bring to four years the period required before discharges from LDP0009 need to be further treated. A few years after that and Centennial Coal may argue that the long term treatment proposal is not worthwhile for the time remaining before consent lapses.

Modification 2 should be refused and the proponent should be required to comply with the consent conditions. Centennial Coal should only be allowed to legally continue its discharge of 19ML/day of toxic mine water into Sydney's drinking water supplies if it treats the discharge to the standards specified by the 30 June 2017 deadline.

The Foundation also disputes that the mine water is no longer acutely toxic. We find the evidence presented regarding an unspecified change in discharge treatment in the environmental assessment to be unconvincing, given the state of the Coxs River and the levels of lead, cobalt, mercury and lead in the mine water discharge.

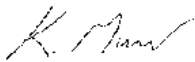
**The Colong Foundation requests that the following proposals be dealt with together through Department of Planning and Environment, and the Planning Assessment Commission processes:**

- Springvale Mine SSD 5594 Mod 2 Western Coal (the proposed discharge deregulation that is the subject of this submission);
- Springvale Water Transfer and Treatment Project SSD 16\_7592 proposal;
- The foreshadowed modification of SSD 16\_7592 proposal for the storage of treated mine water in the Thompsons Creek Reservoir proposal;
- The Western Services SSD 5579 Mod 1 (proposed emplacement of waste from the water treatment plant); and
- The revision of LDP006 discharge standard as this discharge is part of Springvale mining operations, water emplacement from the water treatment plant and the site is owned by Centennial Springvale.

The above proposals are all intimately related to one another and will only be properly understood if assessed together.

Thank you for the opportunity to comment.

Yours sincerely,



Keith Muir  
Director  
The Colong Foundation for Wilderness Ltd



# Blue Mountains Conservation Society Inc

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Phone: (02) 4757 1872

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**Nature Conservation Saves for Tomorrow**

February 22, 2017

**Mining and Industry Projects,  
NSW Department of Planning and Environment,  
GPO Box 39, Sydney NSW 2001**

## **Submission opposing Springvale Mine SSD\_5594 Mod 2**

### **1. Introduction**

The Blue Mountains Conservation Society (The Society herein) has approximately 800 members and interacts with various environmental organisations including the Colong Foundation and the Lithgow Environment Group. The latter two and the Society collectively comprise the Gardens of Stone Alliance (GoSA), this having especial commitment to the reservation of the Gardens of Stone Stage 2 (GoS2) proposal.

The GoS2 proposal is concerned with the Western Escarpment and the impact of coal mining (both open cut and underground) on the environmental and social values of the region. It is especially concerned about: the impacts of the longwall mining being undertaken by Springvale Colliery on Newnes Plateau Shrub Swamps, Hanging Swamps and surface-water flows, as currently being implemented under SSD\_5594 Consent Conditions; it is equally concerned about the ongoing pollution of the Upper Coxs River catchment by colliery mine-water and coal-treatment discharges.

Centennial Coal became a wholly owned subsidiary of Banpu Public Company limited (listed on the Thai stock exchange) in 2010. Springvale Mine is owned by Centennial Springvale Pty Limited (as to 50%) and Springvale SK Kores Pty Limited (as to 50%) as participants in the Springvale unincorporated joint venture. Springvale Coal Pty Limited (Springvale Coal) is the operator of Springvale Mine on behalf of the joint venture.

### **2. The justification for Mod 2 – according to the Company**

Springvale Coal is seeking to modify development consent SSD 5594 to amend Schedule 4 Condition 12 of SSD 5594 by:

- **removing** the requirement to meet limits for salinity of 700 (50th percentile), 900 (90<sup>th</sup> percentile) and 1000 (100th percentile)  $\mu\text{S/cm}$  EC by 30 June 2017; and,
- **deferring to 30 June 2019** the requirement to eliminate acute and chronic toxicity from LDP009 discharges to aquatic species by 30 June 2017, with acute toxicity defined as >10% effect relative to the control group and chronic toxicity defined as >20% effect relative to the control group.

The Company justifies this on the bases that [Statement of Environmental Effects (SEE) page ix]:

- a) it will be unable to meet the interim water quality criteria because the Springvale WTP, which was developed to meet the SSD 5594 water quality performance criteria, will not be operational by 30 June 2017 due to the time-consuming processes involved in project design, development consent, procurement, construction and commissioning;

- b) the proposed Mod will allow Springvale Mine to remain compliant with its consent conditions **after 30 June 2017**;
- c) the Mod is a continuation of mine-water discharge **at current and historical water quality**, so there is no change to environmental consequences with respect to the macroinvertebrate ecology in the EIS;
- d) modelling of the proposed removal of the interim water quality criteria suggests that changes will be minor to negligible compared with what is currently approved in SSD\_5594; and, in summary,
- e) the Mod is deemed to meet the Neutral or Beneficial Effect test (NorBE) when compared to the 'base case' defined by DPE (2015) as the LDP009 EPL 3607 limit of 1,200  $\mu\text{S}/\text{cm}$  existing at the time of the SSD 5594 development application.

### **3. BMCS rejects the Company's justification for Mod 2**

- a) **In relation to 2a**, the Company strongly resisted the transfer of LDP009 discharges to Mt Piper. Then when it finally saw sense, it presented a proposal which had excess treated water from Mt Piper (with a salinity of 500  $\mu\text{S}/\text{cm}$  EC) sent to Wangcol Ck to help dilute the high-salinity discharges from LDP006 – this was not sensible because the outcome would have been unsatisfactory in terms of the long-term objective for the Coxs river – and in any case, because of unacceptable metal-contents, the LDP006 discharges needed to be fully treated rather than diluted. The Company next decided (following strong submissions by envirogroups) that the excess treated water should be sent to Thompsons Ck Reservoir to be used by Mt Piper at times of greater need (i.e., when running at 75% or even full capacity); but nothing has yet been done in relation to LDP006, although it is supposedly to be handled by the EPA as a separate issue!  
  
There is still more to be resolved, but it is clear that the Company has gone along with what it calls 'delays', because, in the interim, the LDP009, LDP006 and other lesser discharges will still keep pouring into the Coxs system with impunity.
- b) **Item 2b is ridiculous.** The proposed Mod has removed one requirement and deferred another, when the aim of consent condition 12 was to have a staged improvement with significant 'deadlines' leading up to the best outcomes by June 30, 2019. If the Company isn't compliant by 2017 within the context of a staged process, it has fallen behind and is unlikely to catch up by 2019. The Society believes that granting Mod 2, will lay the ground for the next Mod as June 2019 approaches – the company might be happy to leave things unchanged!
- c) **Item 2c is specious.** The Company defies logic in saying that the Mod will have no impact on the macroinvertebrate ecology; were the Company on track to being compliant with condition 12, there would at least have been much-needed research about meeting the toxicity specifications together with some marginal improvements in water quality.
- d) **Item 2d** modelling results – the Society notes the limitations of this type of modelling and points out that data from upstream of Wangcol Ck are irrelevant, whereas from Sawyers Ck onward there are negligible to minor changes as a consequence of the Mod – this effectively says that the Mod has a small degree of impact rather than negligible impact.
- e) **Item 2e** – having demonstrated with the modelling that the Mod would cause minor impacts downflow from Sawyers Ck, the Company now invokes the nonsensical NorBE test as a form of justification. This beggars belief. The reasoning is that as the Mod does not cause a 'significant' increase/decrease in salinity relative to the LDP009 EPL 3607 limit of 1,200  $\mu\text{S}/\text{cm}$  at the time of the SSD\_5594 development application, then the Mod is neutral and the NorBE test is satisfied. The only '**justification**' coming from this is that (SEE pvii) Springvale is allowed to continue discharging mine-water with the water quality governed by EPL 3607 for a further two years!

#### **4. *Springvale's previous acceptance of Condition 12***

Mr David Moulton (Managing Director and CEO) replied formally to the EPA (letter dated May 29, 2015) stating that the Company accepts the 700/900 EC limits as per the EPA's letter. The gist of this was affirmed by the Planning Assessment Commission (see the PAC Report, June 2015), which noted that Springvale's advice to the EPA that, by combining pre-treatment of discharge water, duplication of existing reverse osmosis infrastructure, and dilution with water from Clarence Colliery, a performance measure of 700 µS/cm to 900 µS/cm at LDP009 could be met by 31 December 2016. Subsequently, the EPA agreed to a two-year timeframe (i.e., to 30 June 2017) for Springvale to meet the limits in Section 2, dot-point 1 (above). This was locked in, no ifs, no buts!

As with most consent conditions, those for SSD\_5594 resulted from protracted interaction between the DPE, EPA, PAC and the Company, plus some input from the 'community'. Once these conditions are established, compliance (i.e., the specifics of how their requirements are achieved) is the company's operational decision. In Springvale's case, the SSD\_5594 Conditions were issued and their obligations accepted.

The Society acknowledges that the Company is within its rights to seek modification of SSD\_5594 Condition 12, but strongly believes that its application should be rejected for the reasons in Section 3 (above).

#### **5. *Potential outcomes***

##### **5.1 *Rejection and a possible resolution***

The DPE should reject the modification and require Springvale to implement an interim solution. The latter should be in place while Springvale progresses the various factors (e.g., the time-consuming processes involved in project design, development consent, procurement, construction and commissioning, together with any expedient delays by the Company)) which preclude it from meeting SSD\_5594 Condition 12.

There may be various interim solutions open to Springvale. However, an obvious one, which would meet the specified salinity standards and also deal with acute and chronic toxicity from LDP009 discharges (→19 ML/day), would involve the additional installation of a temporary reverse osmosis plant. There are obviously costs associated with this, but failure to comply with the consent conditions could result in a substantial re-evaluation of the consent conditions for SSD\_5594 and might/should incur financial penalties.

##### **5.2 *Approval with additional conditions attached***

The DPE could conceivably approve Mod 2 and reach an agreement whereby a commitment is given to treat the LDP006 charges by reverse osmosis. This could be done by sending the discharges straight to the Mt Piper treatment plant, or to Thompsons Ck Reservoir for blending and ultimate transfer to Mt Piper when needed.

The Company has suggested that direct transfer to Mt Piper's treatment plant is not feasible for reasons linked to the plant's capacity and the high-salinity of the LDP006 discharges. However, these aspects might constitute trade-offs, as opposed to the EPA conducting an independent investigation and engaging in drawn-out discussions with Centennial-Springvale over LDP006 and nearby reservoirs such as Cooks Dam.

##### **5.3 *Approval with no real safeguards***

This is included because there seems to be little attempt to hold Springvale accountable for the ongoing pollution resulting from LDP006, LDP009, and all other Centennial-linked LDPs within the Upper Cocks River catchment, as required under the long-overdue Upper Cocks River Action & Monitoring Plan (SSD\_5594 Condition 13).

Approval without significant trade-offs would send the wrong message to the Company. It would effectively be saying that any time the Company can't comply with a consent condition and submits a modification, the DPE will be 'understanding'. The question inevitably becomes whether or not failure to meet the June 30, 2019 deadline due to (say) design/construction delays would be approved? The next question becomes whether or not the Company is exploiting or even engendering delays, while it's mine-water discharges continue to pollute the Upper Cocks catchment, and ultimately Lake Burragorang, with impunity? Indeed, why

would Springvale be in a hurry to spend money on treatment of its polluted discharges, when it has got away with it for years?

The Society emphasises that the Company is not being accused of unconscionable behaviour, which would be the case were the Company to be deliberately employing such practices, but there seems to have been little attempt to comply with SSD\_5594 Conditions 12 and 13 in part.

## **6. A rational approach following fragmentation**

The decision to transfer LDP009 discharges to Mt Piper has resulted in a series of proposals and contingent modifications. The fragmentary nature of these proposals/modifications has, almost without exception, caused uncertainty and criticisms, including comments about LDP006 being the elephant in the room. Largely reflecting such concerns, the Society has felt the need to oppose the proposals/modifications, while in fact welcoming the broader objective of improving water quality in the Upper Coxs River catchment.

The proposals/modifications are:

- Springvale Mine SSD 5594 Mod 2 Western Coal – the present submission;
- Springvale Water Transfer and Treatment Project SSD 16\_7592 proposal to deal with LDP009;
- the anticipated modification of SSD 16\_7592 embodying the transfer of treated mine-water, excess to Mt Piper's needs, to the Thompsons Ck Reservoir proposal;
- Western Coal Services SSD 5579 Mod 1 involving the emplacement of waste from the Mt Piper water treatment plant; and,
- the proposed referral of LDP006 discharges to the EPA for investigation and action (but when?), despite this being part of Springvale's mining operations, the site being owned by Centennial Springvale, and LDP006 being specified in SSD\_5594 Condition 13(c) within the context of the Upper Coxs River Action & Monitoring Plan.

Very simply, the proposals/modifications are intertwined and need to be evaluated within the broader context rather than treated discretely. The Society therefore reaffirms its previous call for the 'fragments' to be collectively assessed by the DPE and PAC.



**Dr Brian Marshall,  
For the Management Committee.**