

## Matthew Sprott

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**From:** PlanningAlerts <contact@planningalerts.org.au> on behalf of barrie griffiths  
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**Sent:** Friday, 6 March 2015 4:17 PM  
**To:** information-Planning  
**Subject:** Comment on application SSD 5850

# For the attention of the General Manager / Planning Manager / Planning Department

Application SSD 5850  
Address 666 Hebden Road, Ravensworth, NSW  
Description Mount Owen Mining Complex - Extension of existing open cut coal mining operations at the Mt Owen and Ravensworth East mines (see Environmental Impact Statement)  
Name of commenter barrie griffiths  
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## Comment

Barrie Griffiths  
North East Forest Alliance  
P.O. Box 9 Singleton 2330.

March 6th 2015.  
Major Projects, Department of Planning

Objection to Proposed Extension, Mount Owen Mine.

In December 1993 and January 1994, and again in May and July 1994 I submitted detailed written critiques of the Mount Owen project and extension on behalf of NEFA, and made representations to the first and second sessions of the Commission of Inquiry. Again in July 2004, I appeared before the Commission of Inquiry into yet a further extension.

I objected to any further coal mining or mine extensions because of global warming; I was appalled that a State Forest could be sacrificed for a coal mine, that a manifestly inadequate EIS be submitted in support, and specifically that the conservation significance of the remnant Spotted Gum-Ironbark- Grey Box forest and woodland, and of the fauna habitat values of this rare valley-floor remnant, had been so grossly understated and so negligently overlooked. It was evident that the Department of Planning had failed to assess the proposal objectively and professionally; and significantly, although the original Report by NPWS opposed the project, the Service were subsequently persuaded to drop their objection.

It is absurd to pretend that because of offsetting there is not a net loss when an area of high biodiversity and ecosystem services value is destroyed. If the offset area comprises equivalent values, it should be protected in any case on precisely the grounds requiring compensation for the impending loss. And indeed, failure to

do so over past decades has been in breach of environmental protection law and policy, inadequate though these are. A major ground of objection to development and mining approvals during the 1990s and since, has been the increasing politicisation of the assessment and approval processes, to the point today where the bias and dishonesty of Government Agencies in servicing the demands of development and mining interests is absolutely appalling - shameful. Proponents commission and governments routinely approve, assessments which assert - contrary to science, available data and common sense - “no significant impact”; legislative protections have been removed, the Land and Environment Court has been sidelined, public participation and appeal rights have been removed. The Planning and Assessment Commission is fraudulent, supposedly independent but clearly a rubber-stamp mechanism applying token assessment of proposals routinely approved with conditions permitting the destruction of rare, endangered vegetation and habitat, and the decimation or complete destruction of local communities.

Fraudulent use of offsetting has become increasingly prominent in this shameful history, as illustrated here. Mining and other developments in the Hunter Valley overwhelmingly impact remnant habitats and vegetation communities occurring on private land which have suffered very high rates of clearing and fragmentation, and degradation from grazing and frequent fire. Consequently these communities are mostly rare and endangered, and because of inadequacies in the listing process, this includes communities not currently listed. In this situation the EIS resorts to “related” communities and “substitute ratios” to offset the destruction of an area of EEC acknowledged to be irreplaceable. And because in the Hunter Valley Floor remnants with significant mature component and abundance of hollows and forage resource, as is proposed to be destroyed here, constitute a category even more rare and precious, the Offset Strategy here relies significantly on mere assertions that grassland is “likely” to become woodland over time, that existing regeneration is “tending towards” the EEC as defined, and “will result in a substantial gain for hollow-dependent fauna species.” In the end, notwithstanding all this weakening of offset principles, there is still a very significant deficit in the offset area for the Central Hunter Ironbark Spotted Gum Grey Box Forest EEC.

It is all very pathetic, and embarrassing to read; and it is shocking to know, that this nonsense will be approved by the Department of Planning, EPA and other agencies, and of course given the rubber stamp by the PAC.

The Offset Strategy is as follows:

“The Cross Creek Offset Site contains a total area of 367 hectares, of which 51.7 hectares comprises Central Hunter Ironbark – Spotted Gum – Grey Box Forest EEC listed under the TSC Act. The remaining area of the property, approximately 315.3 hectares, comprises native grassland, which is likely to have once supported Central Hunter Ironbark – Spotted Gum – Grey Box Forest. Most of the grassland areas are likely to naturally regenerate into a functional woodland ecosystem over time, with the strategic management of stock on the property. Some active management is likely to be required to regenerate the Cross Creek Offset Site into a woodland community due to the high level of clearing the property has been subject to. The regeneration of the woodland community would provide a significant environmental gain as an outcome of offsetting for the Project, balanced with the immediate outcome of protecting 51.7 hectares of Central Hunter Ironbark – Spotted Gum – Grey Box Forest EEC, a community that will be potentially significantly impacted by the Project. The provision of a ‘like for like’ offset, i.e. offsetting the vegetation type impacted with the same vegetation type, is a key outcome of the inclusion of the Cross Creek Offset Site in the Biodiversity Offset Strategy.

“Although much of the vegetation is relatively young and hollow-bearing trees are present only in low abundance, the general health of the vegetation is good and the diversity and abundance of introduced flora species is generally low. The grassland community contains a relatively high diversity of native flora species and these areas are considered likely to regenerate into Central Hunter Ironbark – Spotted Gum – Grey Box Forest, providing grazing and other pressures, are minimised. The ongoing regeneration of the Cross Creek Offset Site will allow hollow-dependent fauna species to colonise from adjacent Biodiversity Offset Areas once the vegetation is mature enough for populations of these

species. This will result in a substantial gain for hollow-dependent fauna species in the central Hunter Valley, especially as hollow-bearing trees are a limiting resource in the local area due to the long history of vegetation clearance for agriculture and the time required for mature trees to develop tree hollows.

“The Cross Creek Offset Site also provides a direct, ‘like for like’ land-based offset for three threatened species that are potentially significantly impacted by the Project and for an additional cave-roosting threatened bat that will also be impacted through the loss of habitat (although not significantly) as a result of the Project.”

The Director-General's Requirements include:

“A comprehensive offset strategy for the development including a justification of how the strategy would maintain or improve the terrestrial and aquatic biodiversity values of the region in the medium to long term.”

We submit it is obvious from the EIS, and from the Offset Strategy as quoted, that this requirement is not met. It is clear that in the medium to long term this project represents a most significant loss of biodiversity values, likely to include a significant contribution to the continuing decline, towards regional extinction, of species of fauna dependent on the hollows and other resources including winter-flowering species, associated with mature Spotted-Gum Ironbark communities.

The EIS claims “The Cross Creek Offset Site provides targeted ‘like for like’ vegetation and threatened fauna habitats.” It manifestly does not do so. The claim is absurd:

“The Proposed Disturbance Area includes approximately 217.7 hectares of woodland and forest communities, where tree hollows were recorded in high densities (75 per hectare) due to the dominance of mature spotted gum in the canopy. “ (EIS App 11 at 4.13).

The Cross Creek Offset Site is predominantly cleared; remnant trees are thinly scattered, such that reckoning it as 50 hectares, and calling this woodland and forest, “like-for-like” to that to be destroyed, seems contrived and ridiculous. Likewise talk of the remaining 300-odd hectares of cleared grazing country becoming in the long-term, compensatory EEC and habitat, and talk of regenerating land as “trending towards the Central Hunter Ironbark – Spotted Gum – Grey Box Forest EEC” to “counterbalance the loss of regionally and state significant vegetation communities, fauna habitats and threatened species” is lame and unconvincing indeed!

The Offset Strategy acknowledges that “like-for-like communities are not readily available for offsetting in the Hunter Valley”, and consequently the strategy relies on ‘related’ vegetation types to offset the Ecologically Endangered Community proposed to be destroyed. The EIS states

“This approach is valid where there is some ecological relationship/similarity between the target community and that with which it is offset. Similarity can be measured through floristic, habitat or geographic relationship.”

This is absurd - almost any two communities could be found to have some similarity within such broad parameters.

The EIS also states that

“As the relative impact on the subject species, population or vegetation community increases, that is, as the entity becomes more ‘irreplaceable’, the proportion of the offset area to impact area typically increases. The degree of ‘irreplaceability’ is generally recognised by the level of listing under NSW and/or Commonwealth legislation afforded to the subject entity, although this is subject to whether or not the entity has been nominated for listing.”

State or Commonwealth listing is an inadequate measure of irreplaceability, for a number of reasons. The Scientific Committee occasionally acts to increase an entity's status, for example from Endangered to Critically Endangered, or to reduce the status, or delist an entity; and I believe the Committee may initiate a listing process, although I'm not aware of it doing so directly. NPWS or OEH can and have initiated a listing, although this occurs very rarely, or they may commission and fund an assessment which may lead to a listing (for example, Stephen Bell's surveys of various Spotted Gum - Ironbark communities in the Lower Hunter). Also, for various reasons botanists undertaking surveys tend not to nominate entities, notwithstanding assessing them as meeting criteria for listing. Consequently the process is overly dependent on listings initiated by citizens. NSW listing of Hunter Valley vegetation communities has occurred many years after they have been assessed as meeting criteria, and a number remain to be nominated. The situation is even worse with respect to Commonwealth listing. Over a decade ago I submitted nominations to the NSW Committee, for six Hunter Valley communities, which had been assessed some years previously as meeting criteria; the process to Final Determination took 3 to 4 years in each case, during which time the largest and most significant remnants (for example, of Central Hunter Spotted-Gum Ironbark Grey Box Forest) were destroyed.

The listing process is also an inadequate measure of irreplaceability because with respect to vegetation, it is based on floristics – vegetation type – not structure or condition. For the Hunter Valley, and especially the Valley Floor, sizeable mature forest and woodland remnants on private land are especially rare, and provide critical fauna habitat and resources, regardless of the particular floristics which determine whether listing criteria are met.

So that whilst listing and protecting rare vegetation types, as unique assemblages of plants and animals in place, is vital, it is nonsensical to fail to also recognise and protect the very significant values remnant mature forest and woodland areas provide.

And of course, further illustrating how farcical this is, is the fact that listing is largely a sham, because high conservation value vegetation continues to be approved for clearing, regardless of listed status.

The requirement that offsets should be local has never really been applied, and now seems abandoned entirely. Since 'like-for-like' communities are scarcely to be found locally, or anywhere for that matter, in the Hunter, the strategy in this EIS is "to seek non-local areas where long-term protection can be more readily afforded to the same and 'related' vegetation communities."

Moreover, even offset areas set aside for protection, generally as feeble, inadequate compensation, may be subsequently permitted for mining, as has occurred with this Mount Owen Mine, and a number of others.

In oral submission to the 2004 Commission of Inquiry into Mount Owen Mine we stated:

"If conditions of consent can be breached with impunity (for example, the corridor), and then approval ten years later can be gained in contravention of original conditions of approval, then the assessment and approval process is abused and corrupted. A developer is encouraged to proceed deceitfully, gaining objectives incrementally, in stages - objectives which taken together are unacceptable - and to meanwhile breach, ignore or fail to fully comply with conditions considered expensive or inconvenient. .. (We) object to the use of dishonest and misleading language, such as describing the destruction of an area of forest as "disturbance". This is a matter I raised in submissions to the first Inquiry. Moreover, I consider there is the appearance of a more fundamental dishonesty, in waiting 10 years and then applying for extensions which may have been considered imprudent to seek initially, and which are contrary to the original approval conditions. I consider it is necessary to restore public confidence in the integrity of Inquiries, that communities may feel the question whether to approve is genuinely at issue. "

(Barrie Griffiths, NEFA July 1st 2004)

These grounds of objection are even more compelling now, with Government weakening legislation and regulation, and offsetting principles etc, and colluding with a mining company to subvert the Court's ruling

(Bulga, Warkworth). And it was revealed just recently that complicity between Government, through its agencies, and mining interests, has reached a new low:

“Large swaths of the Upper Hunter are likely to be cleared to make way for as many as 16 new or expanded open-cut coal mines, according to leaked studies prepared by the Office of the Environment and Heritage and 11 major mining companies. The OEH has been working with mining giants, including BHP, Glencore and Rio Tinto, to assess new coal projects that could cover as much as 45,000 hectares, or about 18 times the size of the City of Sydney. Each miner paid \$93,000 to help cover the costs of the assessment, the OEH said.”

( SMH, February 28, 2015, Major new coal mines planned for the Upper Hunter).

I object to this project proceeding, and I object to any further approvals of new mines or mine extensions, as irresponsible and indefensible because of global warming and the severe loss of biodiversity in the Hunter, and the dreadful impacts on the health and amenity of local and regional communities affected, and I object to the cynicism, dishonesty, fraud, and corruption involved in perverting proper assessment and approval processes.

Barrie Griffiths

Co-ordinator, Hunter Region,  
North East Forest Alliance.

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