

Att: Stephen O'Donoghue
Major Planning Assessments
Department of Planning and Infrastructure
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Friday 8 March 2013

Submission of Objection
Cobbora Coal Preferred Project
Application No: 10_0001

Central West Environment Council (CWEC) is an umbrella organization representing conservation groups and individuals in central west NSW working to protect the local environment for future generations.

Introduction:

CWEC lodged a detailed submission of objection to the Environmental Assessment Report (EAR) for the proposed Cobbora Coal project. This has been identified as G – 17 in the Preferred Project Report and Response to Submissions (the report).

CWEC appreciates the opportunity to further participate in the planning process for this NSW Government owned proposal by submitting comments on the report within a formal public exhibition period.

CWEC maintains an objection to the preferred project (the project) because it will deliver an even greater ecological impact than the original proposal.

It is noted that the report comments on the area of impact of the project used in the CWEC (G-17) submission:

'The Project as reported in the EA will cover an area of 4,700 ha, not 47 km²'.¹

CWEC understands that 100 ha constitutes 1 km² and therefore maintains that correct information about the proposed mine footprint was included in the original G-17 submission.

¹ EMG Mitchell McLennan. February 2013. *Preferred Project Report and Response to Submissions*. Vol 1 p116

The report describes that while the overall footprint of the mine will be reduced to 4,530 ha, the disturbance of temperate woodland ecosystems will increase.

It is of major concern to CWEC that the proposed biodiversity offset package secured to date has not met 50 % of requirements and will culminate in a compromised Tier 3 outcome.

The report responds to issues raised in submissions relating to impacts on threatened species by repeatedly referring to the incomplete offset package. There is no confidence that the extent of the proposed impacts on threatened and declining woodland dependent species can be adequately offset.

CWEC does not support the continued claim made in the report that:

'Ongoing ecological management, rehabilitation works and the offset package will improve the connectivity of remnant habitat within the locality and result in an improvement to the quality, quantity and protection of biodiversity within the region in the medium to long term.'

CWEC is not satisfied that the significant issues raised in submission G-17 have been adequately addressed in the report. In many cases the response refers back to information provided in the EAR that triggered original concerns.

In this submission to the project CWEC wishes to highlight the inherent conflict of interest of the NSW Government and the inadequacies of the proposed offset arrangements for an increased ecological footprint.

1. Planning and reporting process

While CWEC appreciates the opportunity of a second formal exhibition period for this major project, there is concern about the rushed nature of the process.

The order of the planning process for this project appears to be at odds with that conducted for other large coal mining proposals in NSW.

Conducting a Planning Assessment Commission (PAC) hearing less than one month after the close of the initial public exhibition period and before response to submissions had been released appears to be contrary to previous planning processes.

The report now on public exhibition has a number of contradictory figures, particularly associated with biodiversity impacts, that indicate either an unsatisfactory rush to produce the document or that assessment of impacts has been highly inadequate.

This project has major ramifications for the people of NSW regarding the biodiversity impacts; social impacts relating to water use and competition; loss of agricultural land and community; loss of amenity; pressure on local infrastructure and jobs; and economic impacts relating to the investment of tax payers money in an unsustainable development.

The decision-making for this project should not be rushed and should be conducted through a more independent review system than the PAC.

The recent decision by the Land and Environment Court to overturn the PAC approval for the expansion of the Berrima Colliery (Southern Highlands Community Action Group Pty Ltd vs Minister for Planning and Infrastructure and Boral Cement Limited) on the principles of Ecologically Sustainable Development, is an indication that stronger checks and balances are needed for the determination of the Cobbora Coal project.

The inherent conflict of interest of the NSW Government in approving this state-owned proposal has not been clearly addressed.

2. Area of impacted woodland and grassland

The report appears to have a set of conflicting figures associated with the changes to areas of biodiversity impact. This lack of clarity provides no assurance that this project is being assessed in a professional manner.

The report states that *'up to 1,960 ha of woodland vegetation and about 1,200 ha of grasslands... will be directly impacted by the Project.'*²

In response to G -17 in relation to national significance of temperate woodlands, the report states that *'The project will result in about 1,986 ha of woodland (and regrowth) being lost from the study area.'*³

The EAR was based on an impact of the very specific figure of 1,867 ha of woodland ecosystems to be destroyed by the proposed mining activities.

The project impact on nationally significant temperate woodland ecosystems is now being reported to include an additional area of between 93 ha to 121 ha.

Another reference to additional impact on native vegetation identifies that a further 327 ha will be destroyed. *'This consists of 81 ha of native pasture in low condition, 153 ha of DNG and 93 ha of woodland and regrowth vegetation.'*⁴

The inconsistency in figures is alarming when considering the detailed analysis provided in Appendix H: Updated Biodiversity Offset Strategy to justify the possible outcomes of a yet to be completed biodiversity offset package.

CWEC notes that a rapid grassland assessment was conducted in January 2013 in response to submissions from NSW Office of Environment and Heritage (OEH) and the Federal Department of Sustainability, Environment, Water, Population and Communities (SEWPaC).

² EMG Mitchell McLennan. February 2013. *Preferred Project Report and Response to Submissions*. Vol 1 p116

³ EMG Mitchell McLennan. February 2013. *Preferred Project Report and Response to Submissions*. Vol 1 p117

⁴ EMG Mitchell McLennan. February 2013. *Preferred Project Report and Response to Submissions*. Vol 1 p106

The rapid assessment resulted in the reclassification of 153 ha of native pasture as derived native grasslands listed as threatened ecological communities. This outcome demonstrates that a further, more intensive survey effort across a number of seasons is likely to identify a greater area of threatened woodland species in the proposed mine footprint.

3. Incomplete and Inadequate Biodiversity Offset Package

CWEC is concerned that the report identifies that the possible final offset package will not be able to meet the proposed offset strategy objectives.

The proposed offset to impact ratio recommended in this strategy is well below that required by Biobanking and will still not be met.

The decision that a 6:1 impact ratio for woodland threatened ecological communities (TECs) is an appropriate offset is based on approvals for other mining operations in the region. CWEC submitted strong objections to these large impacts and considers that the cumulative loss of biodiversity in the region is nationally significant. The inadequate offset approvals for the Wilpinjong, Moolarben and Ulan mine developments are a poor example to justify continued large scale destruction of critical threatened species habitats.

This proposed offset package is based on the lowest common denominator offset outcomes in a region with significant pressures already placed on threatened species and ecological communities.

The proposal to provide a Tier 3 offset package will not adequately mitigate the level of impact of this large mining operation.

An additional 3,143 ha of offset area needs to be secured in addition to the 5,046 ha acquired to meet the proposed offset strategy objectives. The additional area needs to include a further 126 ha of Fuzzy Box Woodland and 320 ha of Grey Box Woodland to meet the objective of an offset ratio of 6:1 for these woodland TECs.

No area of Fuzzy Box Woodland TEC has been identified in the secured offset areas. The ability of the proponent to match this TEC on a 'like for like' basis is highly improbable.

The possibility of using surrogate vegetation types is also improbable for both Fuzzy Box and Grey Box Woodland TEC.

The report has identified that the lack of large stands of these TECs on available private land in the locality and the region will prevent a Tier 2 outcome for TECs under the OEH Offset Policy.

CWEC considers that this is an indication that both Fuzzy Box Woodland TEC and Inland Grey Box Woodland TEC are very rare in the vicinity of the proposed mine and that further disturbance will cause ongoing decline of these vegetation communities in the region.

The inability to adequately offset the proposed destruction of 14 ha of Fuzzy Box Woodland and 14 ha of derived native grasses and 49 ha of Inland Grey Box Woodland and 34 ha of derived native grassland is not acceptable.

The minimum offset to impact ratio of 3:1 for threatened species habitat will not be met for threatened flora species. These are the endangered *Tylophora linearis* and Ingram's Zieria (*Zieria ingramii*); and vulnerable *Homoranthus darwinioides*.

The report also outlines that the offset calculator for matters of National Environmental Significance demonstrates that the minimum direct offset requirement for six threatened ecological communities and threatened species has not been met by the offset package.

An additional 11,093 ha would be required to meet a Tier 2 outcome for each of the identified Biometric Vegetation Types impacted by this proposal.

The report has calculated that the cost for acquisition and management of offset sites is approximated at up to \$1,500 ha. This figure is based on current land value in the region and likely management costs.

Under these calculations an additional \$16.5m will need to be invested on additional offset sites. The report concludes that *'This is considered unreasonable as the proposed mine has already made considerable financial contributions to offsets, and these large costs could affect the viability of the Project in the long-term.'*⁵

CWEC considers that the project is already an uneconomic proposition for the tax payers of NSW. The trade off of biodiversity values for low quality, greenhouse gas producing coal is not a long term sustainable proposition.

If the project will be rendered even more unviable through adequate offset of biodiversity impacts then it should not be approved.

4. Response to Submissions

CWEC has major concerns with the responses to objections raised in the G-17 submission. The response to impacts on threatened species continuously refers to the inadequate offset package.

Impacts on declining and threatened birds including loss of foraging areas and viable breeding habitats is covered by the statement: *'The offsets will compensate for any residual impacts on birds by protecting and managing these areas perpetuity'* (sic).⁶

Impacts on nationally threatened microbat species is covered by the statement: *'offsets have been secured that contain suitable cave and tree roost habitat for all microbat species that will be impacted by the Project. The protection and*

⁵ EMG Mitchell McLennan. February 2013. *Preferred Project Report and Response to Submissions* App H p 40

⁶ EMG Mitchell McLennan. February 2013. *Preferred Project Report and Response to Submissions*. Vol 1 p 120

management of such habitat in perpetuity will compensate for any residual impacts on microbat species'.⁷

CWEC does not support this statement. The loss of 16 km of ridgeland microbat habitat cannot be adequately offset. The issue of competition of displaced species for habitat values in offset areas has not been addressed. The concept of replacing limiting habitat features in the landscape such as rocky outcrops and tree hollows has been mentioned but not detailed in any part of the offset proposal.

The impacts on 21 threatened fauna species *'will be compensated by the offset package'⁸*

CWEC does not consider that a Tier 3 offset package will provide adequate compensation for the significant level of biodiversity impacts identified during the assessment of this project.

CWEC does not support the conclusion that the additional removal of important woodland habitat values identified in the report will not add to the cumulative impact on a large number of native species threatened with extinction.

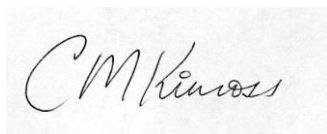
The proposed offset package will not resolve the conclusion that the project could cause the local extinction of at least 12 threatened fauna species.

Conclusion

CWEC is not satisfied that the project can be justified on the grounds of ecologically sustainable development. The biodiversity impacts are too great and a compromised offset package will not reverse the decline in native flora and fauna species in the region.

CWEC continues to recommend that this project not be approved

Yours sincerely

A handwritten signature in cursive script, appearing to read 'CM Kinross', on a light-colored rectangular background.

President

⁷ EMG Mitchell McLennan. February 2013. *Preferred Project Report and Response to Submissions*. Vol 1 p 120

⁸ EMG Mitchell McLennan. February 2013. *Preferred Project Report and Response to Submissions*. Vol 1 p 119