



Hunter Environment Lobby Inc.

PO Box 188
East Maitland 2323 NSW

6th August 2014

To NSW Department of Planning and Environment
Warkworth Continuation Project 2014 No. **SSD 6464**

Objection by Hunter Environment Lobby Inc.

This is a submission of objection to the Department of Planning and Environment to the proposed extension of the Warkworth Coal Mine, near Singleton by the Hunter Environment Lobby Inc.

The Hunter Environment Lobby Inc (HEL) is a non profit, regionally based community group established to promote environment protection in the Hunter Valley. The group has been in existence for over twenty years and has made many submissions in relation to coal mining projects, participated in committees and public inquiries, and organised a number of successful public workshops.

Deficiencies in the proposal

This submission focuses on deficiencies in the environmental assessment and the principles that should be applied in determining whether or not approval for the extension should be granted. We have seen the saga of the proposed expansion of the Warkworth Mine near Singleton over a long period, and HEL has commented on all those iterations by both the proponent and the Department.

Whilst rejected by the Land and Environment Court in April 2013 because the benefits did not outweigh the very substantial environmental and social costs, the proposal has now been recycled into a new application with the name of the 'Warkworth Continuation Project'.

Consideration of the project will be fortified by amendments to the mining State Environmental Planning Policy (SEPP) made in response to the Court's rejection of the earlier proposal. The amendments make the 'significance of the resource' the principal consideration in deciding whether to grant approval. Predictably, this expression appears repeatedly throughout the latest environmental impact report, and is strongly opposed by HEL. Economic factors must not outweigh environmental values.

The current proposal involves clearing of 611ha of native vegetation, including 72ha of the very restricted Warkworth Sands Woodland endangered ecological community (EEC), 372ha of Central Hunter Grey Box - Ironbark Woodland EEC and 15ha of Central Hunter Ironbark - Spotted Gum - Grey Box Forest EEC. HEL objects to this cumulative loss of EEC on the floor of the Hunter Valley.

Community Transparency

We are particularly concerned that objectors to the previous proposal had a right of appeal to the Land and Environment Court, however this will not be the case with the present proposal, which will be assessed by the Planning Assessment Commission (PAC) under delegation from the Minister.

It can be expected that the PAC will be directed by the Minister to convene a 'public hearing', thereby extinguishing any appeal rights for a merit review. We find this a very worrying concern and HEL would like to stress that this is a diminution of natural justice.

In short, there is an urgent need for protection in perpetuity of the Warkworth Sands Woodland EEC in any amended approval. Given the background to this application and the NSW Government walking away from previous biodiversity conservation arrangements, there must be a concrete and lasting alternative.

Community Expectations of the Department

In our previous correspondence with the then Minister for Planning, the Hon. Frank Sartor in November 2010, HEL asked for an undertaking that the NSW Government ensure:

- 1 A Hunter Coalfields Flora and Fauna Advisory Committee be established to consider the biodiversity impacts of the proposed mine extension;
- 2 A Warkworth Sands Nature Reserve be established in secure public ownership to protect a suitable representative sample of the Warkworth Sands Woodland endangered ecological community;
- 3 Proposed biodiversity offset areas be secured in public ownership with full management funding of these offset areas being provided for the life of the mine extension.

We have had no assurances over the years that these sensible points have been considered fully, in fact there seems to be evidence that community objections are taken lightly.

We see by the history of approvals at the mine that there are continuous amendments. It is important to raise the question of the lack of certainty about approvals and compliance with conditions. What assurances can the Department provide that any recommendation they impose will happen in practice, and what actions can it take to minimise risk of non-compliance?

In particular, the proposal will further degrade regional biodiversity values and is likely to contribute to further loss of the Warkworth Sands Woodlands EEC. The mine does not comply with ecologically sustainable development criteria and will contribute significantly to greenhouse gas emissions.

Current Objections

The objections to the proposed Warkworth Mine extension by the Hunter Environment Lobby can be summarised as follows:

- 1 There should be no further loss of native vegetation or habitat from the site.
- 2 The biodiversity offsets proposed are wrong in principle, and fail to guarantee long term protection of biodiversity or establish minimum viable areas for survival of important species.
- 3 Greenhouse gas impacts arising from the mine are significant.
- 4 Post mining rehabilitation of the site and the natural ecosystems is not acceptable.
- 5 The proposal fails to comply with the objects of the Environmental Planning and Assessment Act to protect threatened species, and also fails to comply with the zone objectives of the Singleton Local Environmental Plan 1996.

6 Enforcement of Environmental Laws and Standards - Environmental laws and standards must be made more stringent, and compliance must be enforced. A public programme of monitoring of environmental quality is essential in order that the achievement of objectives is measured.

7 Economic Production - The worth of economic production should be measured by its real benefit to the community, and not simply by private monetary returns. Development should as far as possible have a favourable benefit / cost ratio in social and environmental terms. A key economic objective is to maximise and increase the efficiency in the use of resources.

8 Equitable Distribution of Resources Development should be consistent with improving the equitable distribution of wealth, income and resources between all members of the community in the Region. In addition, development should be consistent with improving the distribution of wealth to the Hunter Region with respect to other regions of Australia. Currently, the level of wealth in Hunter Region is not commensurate with the level of wealth generated by the Region.

9 Maintenance of Diversity- The diversity of land use, biological organisms, natural ecosystems and culture should not be reduced. Importantly in its Hunter Regional Environmental Action Plan 1995, the Hunter Environment Lobby recognised the importance of the native vegetation in the Warkworth Sands area and identified the need to create a Warkworth Sands nature reserve, to be protected under the National Parks and Wildlife Act 1974.

In conclusion, we believe that there are serious flaws not only in the information presented to the public but but also in the terms the Department has allowed the proponent to couch the proposal.

In particular HEL would like to ask for the results of research conducted by University of New England as a condition of the current Warkworth approval? This research was to investigate the re-establishment of Warkworth Sands Woodland. What provisions of ongoing reporting are provided for in the condition of consent?

Also, HEL objects to the Department's *laisse faire* attitude in allowing the proponent to use the biodiversity assessment and offsetting approach for the proposal which follows the principles and guidelines outlined in the 'Draft NSW Biodiversity Offsets Policy for Major Projects (OEH 2014a)' and the accompanying 'Draft Framework for Biodiversity Assessment (OEH 2014b).'¹

HEL strongly objects to these major policy changes and to draft policies being used as basis for biodiversity impact assessment and outcome for this project. HEL is still waiting for a response from Government following community consultation on these proposed flawed policies.

We await your prompt acknowledgement of our submission by return email.
Sincerely yours,



Jan Davis
President Hunter Environment Lobby Inc

¹ Warkworth Continuation 2014 EIS, Executive Summary, p 8