

Mining and Industries Projects  
NSW Department of Planning & Infrastructure  
GPO Box 39 SYDNEY NSW 2001

Forwarded through the on-line submission system

9<sup>th</sup> July 2014

**Objection - Airly Colliery DA 162/91 Modification 3  
Existing Consent Conditions are Inappropriate"**

**In the regrettably short time permitted for submissions with respect to Centennial Coal's application to extend the time of its Airly mine, Capertee Valley Alliance ("CVA") makes the preliminary submission appearing below. Such submission is made in its current abbreviated form as a consequence of the time constraints imposed, and as a more comprehensive submission will follow as agreed with the Department.**

CVA's general submission is that Centennial's application proceeds on the false premise that it is entitled to a "presumption of continuance" of the consent approval which expires in October 2014. CVA submits that Centennial must, in accordance with the provisions of the EPAAct, and the relevant mining SEPP, satisfy the consent authority that the extension of time it seeks for the Airly mine should be granted. CVA submits that Centennial has essentially made a series of assertions which are overwhelmingly unsupported by acceptable evidence. The "environmental assessment" relied upon was prepared by an employee of Centennial whose expertise to express many of the opinions contained in the document is not apparent. There is a demonstrable absence of methodology, sources of data, and general intellectual rigor throughout the document. The expert engineer's report annexed to the environmental assessment was prepared by a consultant paid by Centennial. The document lacks independence, and was not peer reviewed, or otherwise supported by other peer reviewed research.

As is not in dispute, Centennial's consent approval for the Airly mine was obtained more than 20 years ago, in reliance upon the provisions of the EPAACt which were then applicable. Australia had not then ratified the Kyoto Protocol. The 2007 and 2013 mining SEPPs were respectively 14 and 20 years from being legislated. CVA submits that Centennial must satisfy the consent authority that the time should be extended by reference to the planning regulations currently applicable to SSDs, as Airly mine undoubtedly is. CVA submits that, properly understood, Centennial has made no attempt to provide evidence which, in accordance with the "precautionary principle", establishes that the extension should be granted. Unless and until Centennial provides evidence of the matters required by the SEPP, and stakeholders have the right to comment on such evidence in accordance with the principles of natural justice, CVA submits that the application should not be considered by the consent authority. The fact that Airly mine was in care and maintenance mode from December 2012 to March 2014 is submitted to be irrelevant for present purposes.

CVA disputes Centennial's contention that the proposed extension will have minimal environmental impact is not supported by independent expert evidence, and, in reality is a case of "it is because we say it is". The consent authority has received credible independent expert evidence from a number of sources identifying environmental risks posed by the extension of mining at Airly on the basis now proposed by Centennial which differs materially from that previously represented by Centennial to have been undertaken.



With their knowledge and consent, CVA relies in this context upon the evidence of Dr Haydn Washington, Keith Muir of the Colong Foundation, Engineer K W Bayly, and hydro geologist Larry Cook to which more extensive reference will be made in CVA's supplementary submission. In short, this evidence suggests risks to the environment from subsidence, to water resources, and to the environmental heritage of the region in which Airly operates. It is to be remembered that the extension, if granted, permits public resources to be appropriated for private, foreign gain. The consent authority is submitted to be legally and morally obliged to reject the application unless Centennial discharges the onus of proof which it bears.

The 2013 SEPP affords economic considerations principal importance in the assessment of applications for mining licenses. The Centennial submission is transparently devoid of any attempt to place evidence of the economic impact of the extension before the consent authority. Other than the kinds of platitudes seen in television advertisements extolling the virtue of mining, the submission provides no evidence capable of satisfying the requirements for approval. To the extent that Centennial has referred, however superficially, to economic factors, such references raise more questions than they answer: why was the mine placed in care and maintenance in 2012, what became of the then 120 workforce, why was a workforce from another Centennial mine brought in in March 2014, what was the impact on the area from which that workforce was removed, what is their tenure, what is to become of that workforce after October 2015, in what way(s) is it suggested that Airly has benefited the community economically, or will in the future, such as by way of enduring community infrastructure or other tangible benefits, and so the list goes on. To its credit, the PAC has in recent times rejected approval applications in reliance upon inadequate evidence with respect to economic benefits- other than those of the miner. The present application is submitted to fail totally to establish that the extension will have economic benefits for anyone but Centennial Coal.

CVA submits that Centennial's claim that it "acknowledges the need to co-exist with its regional community" is not supported by its own actions with respect to the natural environment of the Capertee Valley, the water resources of the valley, and its conservation, heritage and tourism. A number of submissions by experts qualified to do so address these issues, and CVA relies upon such submissions. Many of these values have been preserved and enhanced by residents of the Valley who were here before Centennial, and will be here long after Centennial has taken what it wants and gone. The justifiable concerns of the long term stewards of this unique place, and entitlement of future generations to enjoy it demand recognition, both legally and morally. CVA submits that the onus is on Centennial to establish the absence of risk, and not on the community to demonstrate its presence.

Centennial's submission does not even acknowledge the reality that agriculture and pastoralism have been the economic and social backbone of the Capertee Valley for more than 170 years, and continue to provide food and fibre for domestic consumption. These enterprises depend on the continued availability of clean safe groundwater, as does life in the Valley itself. Centennial's dismissive assertion that its proposed extension will have no impact on agriculture is unsupported by independent expert evidence, and contradicted by expert evidence which is, or will be, before the consent authority. CVA submits that the quantity of groundwater likely to be extracted, and return to the eco-system of processed water by the proposed extension of Airly mine demand that Centennial provide independent expert evidence establishing that the Valley's water resources would not be at risk before the application is considered.

**CVA will, by 15 July 2014, lodge its supplementary submission elaborating the matters referred to in summary form above. Could you please advise the process to submit our supplementary submission.**

Yours faithfully



Donna Upton,  
Secretary