

Response submission to: Amendments to the Wallarah 2 Coal Project

Kerry Mountain submit that the Amended DA is inadequate and lacks details and accurate information in order to be fully allowed to assess the impacts e.g.

- (a)** The Amended DA does not include an EIS that contains *“all relevant plans, architectural drawings, diagrams and relevant documentation required under Schedule 1 of the Environmental Planning and Assessment Regulation 2000”* as required by the Director General’s Requirements. The Director-General’s Requirements required that these documents *“be included as part of the EIS rather than as separate documents”*.
- (b)** Fig 5 (p.12) of the Amended DA shows an “indicative” location of where infrastructure will be located. The shows that there will be a *"New Train Load Out Facility"*, a *"New Drive"* a *"New Bin Feed Conveyor"* and a Rail Spur and New Transfer facility, Noise Barrier on various parts of Nikko Rd. No diagrams of the Transfer or the Noise Barrier are provided
- (c)** The Rail Loading system is not described in detail other than that the bin is nominally 12m in diameter, 29m in height and has a maximum nominal capacity of approximately 1,000tonne. The conveyor system is not described in detail.
- (d)** The Amended DA contains no detailed plan views of how the proposed rail siding, transfer station and coal loading facility will be contained within the 20m wide Nikko Road corridor.
- (e)** The Amended DA contains no reference points to access cross sections provided in Appendix B - Designed Drawings.
- (f)** The Amended DA provides no detail on proposed retaining works along the common boundary of the Nikko Rd reserve and western boundaries of Lot 204 and Portion 60;
- (g)** The Amended DA proposes to place mine infrastructure immediately adjacent to our land with no buffer or set back.
- (h)** The Amended DA contains no detail on height of conveyor over Tooheys Road.
- (i)** The Amended DA has no preliminary concept construction management plan.

- (j)** The Amended DA contains no detail on how extensive cut/fill will be managed
- (k)** The Amended DA provides no detail on the proposed sewer system, including an absence of any description of whether it will be a private line, or built to Council specifications consistent with the relevant Development Services Plan (DSP), and intended to provide upgradeable capacity for future planned development in the locality.
- (l)** The Amended DA contains no detail on the location or design of water quality control devices presumably required within the Nikko Road, adjacent to the coal loading infrastructure. The risk of Pollution of the waterways adjacent to the infrastructure placed on Nikko Rd does not address any detail for any stormwater or other run-off generated with the development
- (m)** In relation to the Visual impact the Amended DA fails to address the significant Transfer Station and consider its surroundings -proposed development and future developments.

The assessment visual impacts of the Development Application are inadequate. the Amended DA fails to accurately represent the significant industrial shed (transfer station) adjacent to the Motorway Link Road or the 27m high (8-9 storey) coal loading facility, or elevated conveyor required to reach the top of the loading facility.

The visual impact assessment does not describe how the project will look from Kerry Mountain's land or potential future developments in the area. It will differently be seen from some distance and be an eye sore and devalue the surrounding properties and residential areas.

- (n)** Traffic management does not address the loss of Nikko rd. or the impacts for Spring Creek Rd or Thomason Vale. It does not identify how vehicles will access the site during construction and operational and what the issues are for traffic movements.
- (o)** The assessments of noise and dust in the Amended DA are inadequate. There is no assessment of the impact of dust and noise for the people who have to use the access track and who are required to pass within 3 metres of the rail spur, the coal loader and the conveyor in order to access their land. As the construction works are not identified, there is no basis to identify how the 60 dBA figure is derived.
 - To the extent that heavy machinery is to be used on the site, it is unclear how that machinery is going to get to the 20m corridor, how they can be safely used in a 20m corridor. Nor is it clear how the construction materials will be transported to the site
 - In addition, the Amended DA does not explain what vehicles will need to access the Nikko Rd site once it becomes operational, or

how they will get to the site during construction, and when it becomes operational, off-site road impacts have not been assessed. Nor is there any assessment of the “*construction, operational, and transport noise impacts*”, for the area around Nikko Rd.

- The nature of the recommendations set out in Appendix E (p.47) highlight the extent of the impacts on residences in the vicinity and highlights the level of noise that will be generated. People in rural / residential areas do not live their lives as prisoners in their homes. They are entitled to enjoy their land without noise pollution of the kind generated by this project. The Amended DA offers no solution for the unsatisfactory noise levels that will be generated for people on adjoining land outside their homes or to the amenity of their land generally or further planning,

- (p) In relation to the proposed easement, the Amended DA interferes with Public access and fails to properly identify where the easement will be located, how it will link to existing access points, and how existing access will be maintained when the existing access traverses the proposed route of the conveyor belt and the

The 3m access easement put forward as an alternative was not provided with clear detail drawings and information. There is no plan showing:

- In relation to the Nikko Rd area, there is no site plan that indicates the existing levels of the land in relation to buildings and roads.
- the proposed finished levels of the land in relation to existing and proposed buildings and roads.
- proposed parking arrangements, entry and exit points for vehicles, and provision for movement of vehicles within the site (including dimensions where appropriate),
- proposed landscaping and treatment of the land (indicating plant types and their height and maturity), or
- proposed methods of draining the land.
- There is no layout plan for the infrastructure. The Amended DA shows “*indicative*” locations only

The Amended DA is premised on the closure of Nikko Rd and the placement of private coal loading and rail infrastructure on that land. It is said that there will be a single 3m access track which will also operate as a maintenance road and the sole road for the daily operation of the facility. The Amended DA also appears to assert that authority will also be sought pursuant to s 138 of the Roads Act

The Amended DA states:

"There are privately owned lots with frontage along Nikko Road, including lots owned by DLALC. The proposed infrastructure on Nikko Road has been designed so that physical access to these lots is maintained. Furthermore, the lots to the north of the Motorway Link Road are legally accessible via Thompson Vale Road, Spring Creek Road and Wyee Road (in the case of Lot 204 DP 1117900). Thompson Vale Road is a formed road and is considered to be the primary access road to these lots, as opposed to the largely unformed Nikko Road and Spring Creek Road"

In relation to the sewerage pipeline the Amended DA states that the "pipeline will be installed so as to ensure that they will not present any impediment to the use of Nikko Rd". At para 2.4.2 the Amended DA states that the rail spur will require earthworks and the construction of a retaining wall. It notes that 60,000m³ of additional fill material will be required for the rail spur

Let it be noted that Kerry Mountain has not been provided with a copy of Closure Application W56973. The precise area that it relates to has not been disclosed.

- Nikko Rd has been land set aside for road purposes as part of the long-term strategic planning of the area. As is apparent from its on-going use, it remains an important part of the road network.
- Kerry mountain require this road for access to it land and future planning. *Nikko Road* is only access to some parts of the property. A means for emergency services and in particular to one of the only areas that can be developed given the zoning on the property at present.
- In addition to above and consideration to the long term strategic planning of the area. It is more than likely to be needed for road purposes in the future. As noted above, Wyee and Warnervale and the central coast generally are rapidly expanding residential areas. Maintain the existing road network is important to accommodate that expansion. If the Wyee Residential Development Area proceeds, then as shown on Figure 1.6, Nikko Rd, will have the potential for development as an important link road between Wyee and Warnervale which will provide an alternative to residents having to travel in a circular route on the expressway to commute between those areas.

The Amended DA proposes to provide access through the creation of a 3m wide easement. The Drawing 22-17704-C206 in Appendix B shows the assumption of a 3 m wide easement. The proposed easement is ill-conceived and manifestly inadequate for a number of reasons:

- a. The land is not Wyong Coal's land. It cannot provide an easement unless the road is closed and it purchases the land. Kerry Mountain objects and does not believe that the road should be closed.

- b. The provision of a 3m wide easement is not a reasonable or adequate substitution access. The proposed easement will be a shared area as part of an operating coal loading facility.
- c. Contrary to what is said in the Amended DA, Thompson Vale road is not a formed road or linked to Nikko Rd and does not give access to the all of Kerry mountain's property. No part of Amended DA relates to any works on Thompson Vale Rd or Spring Creek Rd. The Amended DA assumes that access will be available through Spring Creek Road and Thompson Vale Rd. As noted above, Thompson Vale Rd is not formed all the way to Nikko Rd. It also crosses a creek. Spring Creek Rd is also not formed and cannot be used because Spring Creek crosses it twice. They are not part of the Project Area identified in the DA. They are not part of an Amended DA.
- d. *Furthermore, in relation to lots owned by DLALC "The proposed infrastructure on Nikko Road has been designed so that physical access to these lots is maintained".* . The Amended DA assumes that access will be available through Spring Creek Road and Thompson Vale Rd. As noted above, Thompson Vale Rd is not formed all the way to Nikko Rd. It also crosses a creek. Spring Creek Rd is also not formed and cannot be used because Spring Creek crosses it twice.
- e. A 3m wide easement is inadequate. The reason why road reserves are 20m wide is that it allows space for appropriate road construction when required. A 3m easement is not wide enough for that purpose. The absence of adequate access will constrain the use of Kerry Mountains' land for the future.
- f. The 3m wide easement is impractical as an alternative access for land owners to access the land. It is not wide enough to allow safe use by a range of vehicles that may need to access land. Even a standard single lane road would not fit within that corridor, let alone allowing for space for vehicles to pass, or stop and allow safe exit where required.
- g. The easement is unsafe, in that in large sections of it will be a narrow channel wedge between a retaining wall and a fence. The excavation is said in one location to be "*at least 2 metres and up to 3.4 metres deep.*"¹ This provides no room for vehicles to pass. At best it will provide 50cm on either side of the car if there is a need to exit the car in an emergency. If there is an accident, it will leave in sufficient room to access the car. These problems are even more acute for larger vehicles.
- h. The easement is also inadequate for a road that maybe required for plant and machinery to access to our land for future development and maintenances. The inadequate road purposes major risks for potential

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accidents and incidents and no control measures for these hazards were offered.

- i. The deficiency in the width of the easement become even more apparent when it is considered that the easement also operates as the maintenance track for both the rail and coal loading facility. Maintenance of these will conceivably involve large machinery which on the access easement. Where parking of staff and visitors is proposed and how it will impact on the free access of the easement is not explained. Kerry Mountain does not believe it can safely occur in such a confined space.
- j. The easement is inadequate for a road which comprises bushfire prone land (vegetation buffer). It does not provide adequate access, let alone a safe turn around area. For example a standard Isuzu FTS750 Crew Cab Tanker Class 1 4 x 4 which is used by Fire and Rescue NSW has a 2.5m width which leaves just 25cm on either side to stay within the easement let alone room to access and use equipment stored on the sides. It has a width of 2.5m and a turning circle of 17m. The Isuzu FTR 800 4 x 2 has a turning circle of 16m. A 3m wide access road with a retaining wall on one side and a fence or coal load facility on the other side is not a defensible space for emergency services. It does not provide sufficient width to allow firefighting vehicle crews to work with firefighting equipment about the vehicle.
- k. It should be noted that the project the subject of the original SSD-4974 anticipated a private maintenance road on either side of the entire length of the rail corridor.² There is now no private access road on any side of the rail line. There is now only a 3m wide road (which presumably has to be fenced off from the rail line and which has to be shared with the public.

Kerry Mountain submits that the proposal in the Amended DA to construct the facility in a 20m wide road corridor is an inappropriate design proposal. The Amended DA does not contain any clear detailed construction plans and construction methods. Its assessment lacks consideration for other users, land owners and potential and strategic plans. The hazards, risks and considerations have not been fully factored into Amended DA e.g.

- a. Nikko Rd itself is variously zoned SP2 - Infrastructure (Road and Traffic Facility), RU6 - Transition and E2 - Environmental Conservation under the *Wyong Local Environmental Plan* 2013. A rail and coal loading facility is a prohibited development under each of those zonings. It is also inconsistent with its zoned purpose.
- b. The Amended DA proposes to place a coal conveyor, and rail and coal loading infrastructure within 400m of the residential suburb of Blue

Haven, and would be immediately adjacent to E2 Environment Conservation land and coastal protection land for the purposes of SEPP 71

- c. The Amended DA provides for no buffer or setbacks to the land adjoining Nikko Rd. Coal loading and rail facilities should be designed with appropriate buffers and setbacks from adjoining land. Indeed having regard to Drawing 22-17704-C205 in Appendix B of the Amended DA, there will be a 27m high construction placed within 4metres of the boundary of the land, and immediately adjacent to bushfire prone land with an environmental protection zoning.
- d. Nikko Rd is bushfire prone land (vegetation buffer) and is adjacent to Category 1 - Vegetation which WSC has identified as the most hazardous vegetation category for bushfires. It is inappropriate, and irresponsible to construct coal loading infrastructure in such an area. See fig. 1.7 below
- e. Despite being a proposal to undertake a development on bushfire prone land (vegetation buffer), the Amended DA is silent on the issue. There is no assessment of bushfire risks.
- f. It does not provide any APZs. It is premised on the removal of a public road which assists in the management of bushfire risks. It proposes to replace that public access with a 3m wide easement which is not connected to any traversable road. The 3m wide easement is not adequate for emergency vehicles. In fact, it creates a fire trap, particularly as the length of the rail siding containing the conveyor and other infrastructure will exceed 1.1km. I refer you to the Department's own publication "Planning For Bush Fire Protection December 2006" Which clearly states the minimum requirements for access roads including Fig 1.8 Property access road requirements (rural areas). Darkinjung repeats the matters set out at paragraph [**Error! Reference source not found.**] above
- g. There are significant residential areas in the vicinity. WSC took the responsible planning measure of identifying bushfire prone vegetation areas. The construction of a coal loading and coal conveyor in such an area without any buffer to the adjoining E2 Environmental Conservation land and without an APZ is irresponsible and cannot be justified from a planning perspective.
- h. There is no provision for an asset protection zone. An APZ should be provided on the proponent's land, not neighbouring land. Nor is it in any event appropriate to place such infrastructure in such a narrow corridor and assume that a neighbour has to remove vegetation on E2 – Environment Conservation land to provide an APZ..
- i. Parts of the Amended DA appear to assume that land owners and emergency services will be able to access their property by Thompson Vale

Road or Spring Creek Road. As noted above, neither of these roads is formed. Both are impassable due to being traversed by Spring Creek which is a deep permanent watercourse. There is no proposed development of these roads. They are in any event outside the project boundary described in the Amended DA.

- j. It is said that the facility will be controlled locally and remotely (p.15) Drawing 22-17704-C205 shows the existence of a "*control room*". However how individuals could be stationed there is unclear. There is no indication of worker's facilities, toilets or other basic amenities. If such are to be provided there is no indication as to how they will be constructed within the corridor or how they will impact on the proposed easement. More fundamentally:
 - there is no provision for parking;
 - no provision for appropriate access for emergency vehicles;
 - it is not even clear how the employees will access the site, given the lack of current access on Spring Creek Road and Thompson Vale Rd, is inadequate, no other road works are proposed or described in the development application.
- k. No drainage is planned, or referred to. The alteration of the land contours in turn create unassessed issues as to the impacts on the water quality in Spring Creek from runoff from around the loading facility where coal dust and other pollutants such as oil and grease will no doubt accumulate.
- l. The 3m wide access road is manifestly inadequate and dangerous. In particular:
 - i. There is no explanation as to how existing access will be maintain on a single 3m wide easement that has to be shared with coal loading and rail operations.
 - ii. A single 3m wide easement will not allow for vehicles to pass. It is insufficient to safely allow for emergency vehicles, noting that the length of the rail siding containing the conveyor and other infrastructure will exceed 1.1km.
 - iii. There is no information as to how the access road will be constructed or to what standards, or how those standards can be achieved in a 3m wide easement.
- m. It is unreasonable to remove existing public access and then require land owners to traverse an operating coal facility in order to enjoy their land. It unnecessarily and unfairly exposes them to risks which they should not have in order to access their property.

- n. It is also unreasonable to remove existing public access which form part of future planning for property owners who have invested into the area and the likely strategic planning for the area.

Yours Sincerely
Kerry Mountain Pty Ltd