



Blue Mountains Conservation Society Inc

ABN 38 686 119 087

PO Box 29 Wentworth Falls, NSW, 2782

Phone: (02) 4757 1872

E-Mail: bmcs@bluemountains.org.au Web Site: www.bluemountains.org.au

Nature Conservation Saves for Tomorrow

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**Mining and Industry Projects,
NSW Department of Planning and Environment,
GPO Box 39, Sydney NSW 2001**

Submission opposing Springvale Mine SSD_5594 Mod 2

1. Introduction

The Blue Mountains Conservation Society (The Society herein) has approximately 800 members and interacts with various environmental organisations including the Colong Foundation and the Lithgow Environment Group. The latter two and the Society collectively comprise the Gardens of Stone Alliance (GoSA), this having especial commitment to the reservation of the Gardens of Stone Stage 2 (GoS2) proposal.

The GoS2 proposal is concerned with the Western Escarpment and the impact of coal mining (both open cut and underground) on the environmental and social values of the region. It is especially concerned about: the impacts of the longwall mining being undertaken by Springvale Colliery on Newnes Plateau Shrub Swamps, Hanging Swamps and surface-water flows, as currently being implemented under SSD_5594 Consent Conditions; it is equally concerned about the ongoing pollution of the Upper Cocks River catchment by colliery mine-water and coal-treatment discharges.

Centennial Coal became a wholly owned subsidiary of Banpu Public Company limited (listed on the Thai stock exchange) in 2010. Springvale Mine is owned by Centennial Springvale Pty Limited (as to 50%) and Springvale SK Kores Pty Limited (as to 50%) as participants in the Springvale unincorporated joint venture. Springvale Coal Pty Limited (Springvale Coal) is the operator of Springvale Mine on behalf of the joint venture.

2. The justification for Mod 2 – according to the Company

Springvale Coal is seeking to modify development consent SSD 5594 to amend Schedule 4 Condition 12 of SSD 5594 by:

- **removing** the requirement to meet limits for salinity of 700 (50th percentile), 900 (90th percentile) and 1000 (100th percentile) $\mu\text{S/cm}$ EC by 30 June 2017; and,
- **deferring to 30 June 2019** the requirement to eliminate acute and chronic toxicity from LDP009 discharges to aquatic species by 30 June 2017, with acute toxicity defined as >10% effect relative to the control group and chronic toxicity defined as >20% effect relative to the control group.

The Company justifies this on the bases that [Statement of Environmental Effects (SEE) page ix]:

- a) it will be unable to meet the interim water quality criteria because the Springvale WTP, which was developed to meet the SSD 5594 water quality performance criteria, will not be operational by 30 June 2017 due to the time-consuming processes involved in project design, development consent, procurement, construction and commissioning;

- b) the proposed Mod will allow Springvale Mine to remain compliant with its consent conditions **after 30 June 2017**;
- c) the Mod is a continuation of mine-water discharge **at current and historical water quality**, so there is no change to environmental consequences with respect to the macroinvertebrate ecology in the EIS;
- d) modelling of the proposed removal of the interim water quality criteria suggests that changes will be minor to negligible compared with what is currently approved in SSD_5594; and, in summary,
- e) the Mod is deemed to meet the Neutral or Beneficial Effect test (NorBE) when compared to the 'base case' defined by DPE (2015) as the LDP009 EPL 3607 limit of 1,200 $\mu\text{S}/\text{cm}$ existing at the time of the SSD 5594 development application.

3. BMCS rejects the Company's justification for Mod 2

- a) **In relation to 2a**, the Company strongly resisted the transfer of LDP009 discharges to Mt Piper. Then when it finally saw sense, it presented a proposal which had excess treated water from Mt Piper (with a salinity of 500 $\mu\text{S}/\text{cm}$ EC) sent to Wangcol Ck to help dilute the high-salinity discharges from LDP006 – this was not sensible because the outcome would have been unsatisfactory in terms of the long-term objective for the Coxs river – and in any case, because of unacceptable metal-contents, the LDP006 discharges needed to be fully treated rather than diluted. The Company next decided (following strong submissions by envirogroups) that the excess treated water should be sent to Thompsons Ck Reservoir to be used by Mt Piper at times of greater need (i.e., when running at 75% or even full capacity); but nothing has yet been done in relation to LDP006, although it is supposedly to be handled by the EPA as a separate issue!

There is still more to be resolved, but it is clear that the Company has gone along with what it calls 'delays', because, in the interim, the LDP009, LDP006 and other lesser discharges will still keep pouring into the Coxs system with impunity.

- b) **Item 2b is ridiculous.** The proposed Mod has removed one requirement and deferred another, when the aim of consent condition 12 was to have a staged improvement with significant 'deadlines' leading up to the best outcomes by June 30, 2019. If the Company isn't compliant by 2017 within the context of a staged process, it has fallen behind and is unlikely to catch up by 2019. The Society believes that granting Mod 2, will lay the ground for the next Mod as June 2019 approaches – the company might be happy to leave things unchanged!
- c) **Item 2c is specious.** The Company defies logic in saying that the Mod will have no impact on the macroinvertebrate ecology; were the Company on track to being compliant with condition 12, there would at least have been much-needed research about meeting the toxicity specifications together with some marginal improvements in water quality.
- d) **Item 2d** modelling results – the Society notes the limitations of this type of modelling and points out that data from upstream of Wangcol Ck are irrelevant, whereas from Sawyers Ck onward there are negligible to minor changes as a consequence of the Mod – this effectively says that the Mod has a small degree of impact rather than negligible impact.
- e) **Item 2e** – having demonstrated with the modelling that the Mod would cause minor impacts downflow from Sawyers Ck, the Company now invokes the nonsensical NorBE test as a form of justification. This beggars belief. The reasoning is that as the Mod does not cause a 'significant' increase/decrease in salinity relative to the LDP009 EPL 3607 limit of 1,200 $\mu\text{S}/\text{cm}$ at the time of the SSD_5594 development application, then the Mod is neutral and the NorBE test is satisfied. The only '**justification**' coming from this is that (SEE pvii) Springvale is allowed to continue discharging mine-water with the water quality governed by EPL 3607 for a further two years!

4. *Springvale's previous acceptance of Condition 12*

Mr David Moulton (Managing Director and CEO) replied formally to the EPA (letter dated May 29, 2015) stating that the Company accepts the 700/900 EC limits as per the EPA's letter. The gist of this was affirmed by the Planning Assessment Commission (see the PAC Report, June 2015), which noted that Springvale's advice to the EPA that, by combining pre-treatment of discharge water, duplication of existing reverse osmosis infrastructure, and dilution with water from Clarence Colliery, a performance measure of 700 µS/cm to 900 µS/cm at LDP009 could be met by 31 December 2016. Subsequently, the EPA agreed to a two-year timeframe (i.e., to 30 June 2017) for Springvale to meet the limits in Section 2, dot-point 1 (above). This was locked in, no ifs, no buts!

As with most consent conditions, those for SSD_5594 resulted from protracted interaction between the DPE, EPA, PAC and the Company, plus some input from the 'community'. Once these conditions are established, compliance (i.e., the specifics of how their requirements are achieved) is the company's operational decision. In Springvale's case, the SSD_5594 Conditions were issued and their obligations accepted.

The Society acknowledges that the Company is within its rights to seek modification of SSD_5594 Condition 12, but strongly believes that its application should be rejected for the reasons in Section 3 (above).

5. *Potential outcomes*

5.1 *Rejection and a possible resolution*

The DPE should reject the modification and require Springvale to implement an interim solution. The latter should be in place while Springvale progresses the various factors (e.g., the time-consuming processes involved in project design, development consent, procurement, construction and commissioning, together with any expedient delays by the Company)) which preclude it from meeting SSD_5594 Condition 12.

There may be various interim solutions open to Springvale. However, an obvious one, which would meet the specified salinity standards and also deal with acute and chronic toxicity from LDP009 discharges (→19 ML/day), would involve the additional installation of a temporary reverse osmosis plant. There are obviously costs associated with this, but failure to comply with the consent conditions could result in a substantial re-evaluation of the consent conditions for SSD_5594 and might/should incur financial penalties.

5.2 *Approval with additional conditions attached*

The DPE could conceivably approve Mod 2 and reach an agreement whereby a commitment is given to treat the LDP006 charges by reverse osmosis. This could be done by sending the discharges straight to the Mt Piper treatment plant, or to Thompsons Ck Reservoir for blending and ultimate transfer to Mt Piper when needed.

The Company has suggested that direct transfer to Mt Piper's treatment plant is not feasible for reasons linked to the plant's capacity and the high-salinity of the LDP006 discharges. However, these aspects might constitute trade-offs, as opposed to the EPA conducting an independent investigation and engaging in drawn-out discussions with Centennial-Springvale over LDP006 and nearby reservoirs such as Cooks Dam.

5.3 *Approval with no real safeguards*

This is included because there seems to be little attempt to hold Springvale accountable for the ongoing pollution resulting from LDP006, LDP009, and all other Centennial-linked LDPs within the Upper Cocks River catchment, as required under the long-overdue Upper Cocks River Action & Monitoring Plan (SSD_5594 Condition 13).

Approval without significant trade-offs would send the wrong message to the Company. It would effectively be saying that any time the Company can't comply with a consent condition and submits a modification, the DPE will be 'understanding'. The question inevitably becomes whether or not failure to meet the June 30, 2019 deadline due to (say) design/construction delays would be approved? The next question becomes whether or not the Company is exploiting or even engendering delays, while it's mine-water discharges continue to pollute the Upper Cocks catchment, and ultimately Lake Burragorang, with impunity? Indeed, why

would Springvale be in a hurry to spend money on treatment of its polluted discharges, when it has got away with it for years?

The Society emphasises that the Company is not being accused of unconscionable behaviour, which would be the case were the Company to be deliberately employing such practices, but there seems to have been little attempt to comply with SSD_5594 Conditions 12 and 13 in part.

6. A rational approach following fragmentation

The decision to transfer LDP009 discharges to Mt Piper has resulted in a series of proposals and contingent modifications. The fragmentary nature of these proposals/modifications has, almost without exception, caused uncertainty and criticisms, including comments about LDP006 being the elephant in the room. Largely reflecting such concerns, the Society has felt the need to oppose the proposals/modifications, while in fact welcoming the broader objective of improving water quality in the Upper Cocks River catchment.

The proposals/modifications are:

- Springvale Mine SSD 5594 Mod 2 Western Coal – the present submission;
- Springvale Water Transfer and Treatment Project SSD 16_7592 proposal to deal with LDP009;
- the anticipated modification of SSD 16_7592 embodying the transfer of treated mine-water, excess to Mt Piper's needs, to the Thompsons Ck Reservoir proposal;
- Western Coal Services SSD 5579 Mod 1 involving the emplacement of waste from the Mt Piper water treatment plant; and,
- the proposed referral of LDP006 discharges to the EPA for investigation and action (but when?), despite this being part of Springvale's mining operations, the site being owned by Centennial Springvale, and LDP006 being specified in SSD_5594 Condition 13(c) within the context of the Upper Cocks River Action & Monitoring Plan.

Very simply, the proposals/modifications are intertwined and need to be evaluated within the broader context rather than treated discretely. The Society therefore reaffirms its previous call for the 'fragments' to be collectively assessed by the DPE and PAC.



***Dr Brian Marshall,
For the Management Committee.***