LOCK THE GATE ALLIANCE
AUSTRALIANS WORKING TOGETHER TO PROTECT OUR LAND, WATER, AND FUTURE

Reply to: Georgina Woods
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Submission: Springvale modification 2

Thank you for the opportunity to submit to the environmental assessment of this modification application.

Lock the Gate Alliance objects to this modification. It expressly counters advice and assurances upon which the consent for the Springvale extension project was granted two years ago.

It seems to us highly likely that consent would not have been granted for the project without the conditions that this modification is now seeking to remove and delay, since those conditions were crucial to the EPA's acceptance of the project.

Centennial Coal has acted in bad faith and has been repeatedly in breach of the generous licencing conditions imposed on them by the EPA. The Department of Planning must uphold the agreement made between Centennial and the EPA and instruct the proponent that it must pursue another path to ensuring the mine complies with its conditions of consent.

Modification would undermine negotiated basis on which consent was granted

With this modification, Centennial proposes two remove or change two conditions limiting polluted discharge to the Coxs River, which enters Warragamba Dam, Sydney's primary drinking water storage, 80km downstream from the discharge point at the Springvale coal mine which is at issue with this modification. According to the Independent Expert Scientific Committee, the Coxs River is the second largest tributary in the Warragamba catchment and contributed approximately 30 percent of the total inflow volume to Warragamba Dam during 2012-13.

The main justification provided for this modification by the proponent is "to ensure Springvale mine will be compliant with its consent conditions." That is, rather than take action to ensure they can comply with conditions the company agreed to more than eighteen months ago, Centennial now seek the removal of conditions imposed on the operation to improve and safeguard the water supply upon which Sydney relies for drinking water.

We urge the Department of Planning to reject this application. The correspondence between the EPA and the Department and Centennial Coal on this issue make very clear that these two conditions are crucial to its acceptance of the project.

In a letter to David Kitto dated 22 June 2015, the Chief Regulator of the EPA, Mark Gifford wrote that, "The purpose of this letter is to provide the EPA's position that support for the Spingvale Mine Extension Project (SSD 5594) and agreement to licence this project (subject to planning approval) is dependent on these key limits being include as statutory variations to environmental protection liceces for any discharge from the Centennial Springvale Colliery." After which, they list the limit

agreements. These are that by 30 June 2017 Centennial will meet a 50th percentile of 700, a 90th percentile of 900 and a 100th percentile limit of 1,000 microsiemens per centiment Electrical Conductivity (EC) and that by 30 June 2019, Centennial meet a 90th percentile limit of 500 EC. Gifford appended to his letter to David Kitto a copy of a letter from Centennial Coal which "acknowledges and agreed" to the EPA's 700/900 limits and agreed "in principle" to the 500 limit by 2019, "subject to the completion of Centennial's feasibility of such further reductions and the subsequent commercial evaluation required to assess the impact to those operations." They add, "To be clear any commitments made to further redctions need to ensure continuity of supply to the local power stations and provide long term security of employment to the Lithgow community."

There is no equivocation in the company's acceptance of the 2017 salinity limits. Indeed, the letter from the EPA to Centennial dated 28 May 2015 which is also provided, shows that the timeframe was proposed by Centennial itself and that the EPA relaxed its proposed longer term limit of 350 microsiemens at Centennial's request (insistence?). In that letter, too, the EPA cites a document prepared for Centennial by GHD which reported acute toxicity of the mine discharge to some aquatic species.

Was Centennial unaware and unprepared at that time for the work that would be required in order to meet these limits that they come to the Department eighteen months later to plead for time? Or did they intentionally mislead the Department and the EPA, knowing that they would not be able to meet the limit, but agreeing to it in the middle of 2015 on the assumption that before two years had passed, they would be able to apply to have the conditions lifted?

Either possibility casts Centennial Coal in a very poor light.

In fact, it appears from the documentation provided that Centennial may be counting on another chance to plead for time in June 2019. The SEE states that the development consent, design and procurement phases of the water treatment project may not be completed until mid-2017 and that it may take two years to construct and commission. This does not leave any additional time to meet the June 2019 deadline for the much lower salinity limit.

We are aware that development consent under the *Environmental Planning and Assessment Act* runs with land, and that the character and history of the company or person proposing an action is not relevant to the Act. It is, however, relevant to the EPA, who must decide whether to grant an Environment Protection Licence to this operation.

History of non-compliance and pollution at Springvale

We provide some context in this submission, which we believe should demonstrate that these conditions should not be lifted and this modification not be granted.

Springvale is licensed to discharge mine-affected water from seven discharge points, some of which are licensed for pollution by metals and some are not. The discharge points release water into waterways feeding two rivers - the Wolgan River, which flows north to the Capertee Valley and Wollemi National Park, and the Coxs River, which forms part of the Hawkesbury-Nepean and flows eventually into Warragamba dam. The Coxs River also receives polluted waste water from nearby coal fired power stations. Testing carried out by researchers from the Blue Mountains Conservation Society showed that this part of the river had high levels of heavy metals including zinc, copper and manganese, 125 times more sulphate than surrounding streams and only 5% of the oxygen that fish need. The mine had been transferring up to 30ML per day of water from the mine workings to the

Wallerawang Power Station for use in cooling towers, but since the power station closed, they have needed to discharge it to dispose of it.

In the data reported to the National Pollution Inventory (NPI) in 2013/14, Springvale was the largest single reported water polluter of Cobalt and compounds in New South Wales, producing 44% of the total reported volume of Cobalt to water that year. Springvale also reported the second largest level of Chromium III pollution into water in the NPI, producing a quarter of the total amount reported that year. It was the third largest polluter of Mercury, the fourth largest polluter of Lead and the fifth largest water polluter of Copper. It also reported polluting water with Zinc, Beryllium, Boron, Fluoride and Nickel. In the most recent NPI reporting year, Springvale was the largest single source of Cobalt pollution to water in NSW and the second largest source of lead pollution to water, being responsible for 28% and 20% of the total pollution to water of these toxins in NSW.

The EPA stated that it intended to place water quality limits for these pollutants on discharges at this point based on the results of this assessment. The company was tasked by the EPA to assess "the acute and chronic toxicity of the mine water being discharged from Licensed Discharge Point 9" by August 2014. It has repeatedly been found by the EPA to be in breach of its licence for exceeding limits on arsenic and other pollution from one discharge point, and for failing to monitor properly from another. After several non-compliance findings when Centennial breached the volume limit for water discharges, EPA responded by varying the licence to remove volume discharge limit.

In 2013, there was an incident at LDP 009 where dirty water was discharged into Sawyers Swamp Creek and ultimately to the Coxs River. The EPA issued a Penalty Infringement Notice of $1,500 for discharging water that exceeded the turbidity limit for up to four and other $5000 PIN for not immediately reporting an incident which threatened material harm to the environment. In September 2014, wet coal fines overtopped a dirty water drainage channel and into a discharge channel leading to discharge point 001, sending them into a wetland in the upper reaches of the Coxs River and the EPA later issued an caution notice to Springvale Coal over the incident.

Springvale exceeded the electricity conductivity (EC) limit at LDP009 on 15 occasions in 2015 and environmental monitoring data shows that for much of last year the water discharged at LDP009 was in breach of the generous 1,200 microsiemens per centimetre EC limit that currently applies on Springvale's Environment Protection Licence. The mine also breached the arsenic limit on its EPL last year. We have written to the EPA seeking action from them to enforce the condition of the EPL and issue a compliance order to Centennial Coal.

In June this year the mine is supposed to meet the tighter conditions that keeps the EC limit below 700 microsiemens per centimetre half the time. There was no time last year when they dropped below 1,000 microsiemens.

This background information reveals three things. Firstly, that Centennial Coal is a company with a poor track record of environmental compliance and that the EPA should consider revoking its licence if the company refuses to meet the conditions very generously granted to it. Secondly, it reveals that the EPA has been in discussion with Centennial about the need to reduce salinity of its discharge for at least three years, since well before the Springvale Extension was granted consent and the new conditions imposed. The company has had ample time to comply and indeed, does not appear to have acted in good faith in its dealings with the EPA. Finally, and crucially for this application, the EPA made clear to the company that the toxicity and salinity of its discharge were above acceptable limits

and that they must be reduced. In a further demonstration of bad faith, the company compares the effect of removing the salinity and toxicity conditions with what it calls “historical water quality levels” and draws conclusions about the environmental impact via that comparison. But the “historical” pollution levels at the discharge site, Centennial’s own discharge site, are already above acceptable limits. That is the purpose of the condition, to reduce it.

Poor and misleading assessment of impacts

The assessment material provided with this modification application is self-serving and misleading and reinforces Springvale’s unfitness to be operating a highly polluting mine in an environmentally sensitive area.

The company refers throughout the assessment to water quality in Lake Burragorang, without using the more commonly used name Warragamba Dam. The assessment material presents the results of salinity modelling in milligrams per litre without indicating what the electrical conductivity is likely to be for the salt concentrations expected. This is despite the consent conditions and the company’s Environment Protection Licence setting salinity limits with EC measures. Using a formula provided by OEH, and applying it to the modelling results presented in Table 20, we can infer that the EC of the Coxs River Upstream of Lake Wallace will be over 1000 microsiemens per cm at the 90th percentile, and over 1,200 at maximum, above what would be considered good drinking water. Such tricks are designed to disguise the environmental impact of the mine. They are relatively simple to see through, but that does not mean that the Department of Planning should accept such obfuscation as a matter of course. Recent work by the Department of Planning has sought to improve the accessibility and honesty of mining project assessment material. It is disappointing to have to read through a misleading and at times incoherent assessment document for such a controversial mine.

The company gives itself a pass on the Neutral or Beneficial Effect test when compared to the “base case” it says was defined by the Department of Planning and Environment as an electrical conductivity of 1,200 microsiemens. The company states that there is will be “no change to modelled median salinity in Lake Burragorang over the prediction period, compared to that currently approved.” This is ambiguous. What is currently approved is for the salinity limits to drop in June 2017 and then again in June 2019. Is this the “currently approved” scenario against which the company is modelling its impact, or are they modelling against the “current approved” activity being undertaken right now, which this modification would propose to continue unchanged after June 2017?

This is a crucial point which creates considerable confusion in the SEE. The sole sentence that comprises the assessment of the impact of the modification on macroinvertebrates states that “Given that the modification is a continuation of mine water discharge at current and historical water quality, there is no change to environmental consequences with respect to aquatic ecology (macroinvertebrates) compared to that presented in the SVMEP EIS (Golder Associates, 2014).”

The same sentence comprises the assessment for the impact on the Coxs River: “Given that the modification is a continuation of mine water discharge at current and historical water quality, there is no change to environmental consequences with respect to aquatic ecology (macroinvertebrates) in Coxs River catchment compared to that presented in the SVMEP EIS.”

The proponent relies on the EIS for the Extension Project as if that document were a demonstration that the mine without Schedule 4 condition 12 imposed would not have a significant impact, entirely suppressing the origin of the conditions in question and their purpose. When the EIS was published, the EPA's response to the mine was that, "The EPA is unable to support the Springvale and Angus Place expansions in their current form given the absence of any commitment in the EISs to address the handling/treatment of the mine water, in either the short or long term. It is important to the EPA that any approval by the Department, if granted, aligns with the ongoing programs of the EPA. The EPA recommends that treatment to significantly reduce the salt and contaminant levels of this mine water, or achieve beneficial re-use (or a combination of both by a set date should be a condition of consent if the extension projects are approved.)"[1] The Coxs River Ecotoxicology Assessment prepared for the proponent following Departmental feedback that the EIS had failed to address the effect of toxicity on macro-invertebrate ecology showed that, "the discharge at LDP009 is having an acute impact on cladoceran species at the Sawyers Swamp Creek site downstream of discharges." The new toxicology assessment presented with this application claims that there is no longer an acute toxicity problem, but that chronic toxicity remains. It concludes "that salinity is the potential cause of toxicity in Springvale Mine water discharges."

Along with the interim salinity limit, Centennial is now seeking to remove the condition of its consent that requires it to eliminate acute and chronic toxicity from the LDP009 discharge to aquatic species by 30 June 2017, with acute toxicity defined as greater than 10 percent effect relative to the control group and chronic toxicity defined as greater than 20 percent effect relative to the control group.

This is not acceptable and this modification application must be rejected.

The proponent includes information about the salt balance for the Springvale Delta Water Transfer Scheme that contradictory and unclear. In the Executive Summary of this SEE it is stated that "salt balance modelling for mine water discharges for the proposed condition in 2031 (when the mine inflows will be maximum)" at 10,067 tonne/year of salt. It calls this the "do nothing scenario" but also says the salt load will stop when the water transfer project is operational and the discharges cease. Immediately below this, the proponent describes another "do nothing scenario" with salt-load contribution on a catchment level at 21,583 tonnes per year which it claims will reduce to 12,219 "for a modelled operational scenario of 50% power generation (correlates to recent historical trends and corresponds to the approximate volume of water available from the [Springvale Delta Water Transfer Scheme]." The meaning of this sentence, and how it related to the previous figure for "do nothing" salt loads is opaque. In any case, the modelling for the Springvale Delta Water Transfer scheme is not relevant. That project is being assessed on its merits. If the proponent has failed to have arrangements in place to begin the scheme in time to meet the conditions of consent for the Springvale Extension, then it must come up with alternative arrangements. The alternative should obviously have been that the PAC should have withheld consent until the Water Transfer Scheme and/or a water treatment option was operational. A condition of consent should have been imposed that prevented the company moving to operating the Springvale Extension without adequate water

[1] Letter from the EPA to DPE, November 2014.
https://majorprojects.affinitylive.com/public/17ad8f0af07de60af15dd822ab0299fc/Springvale%20MEP_%20Environment%20Protection%20Authority's%20comments%20on%20RTS.pdf

treatment and handling infrastructure in place that would ensure the Neutral or Beneficial Effect test was met and Sydney's drinking water protected.

The company claims that the impacts of this modification "is insignificant compared to the significant benefit in water quality improvements in the Coxs River catchment that will be achieved by the operation of the Springvale WTP and the subsequent cessation of minewater discharges"

This is not a valid comparison to draw, given that the company has already undertaken to build the WTP and meet the criteria. This modification must be subjected to the NORBE test against the current legal requirements for the company: the conditions requiring lower salinity limits by June 2017.

We hope that the Department of Planning rejects this request for a modification and works with the EPA and the proponent to pursue another course of action that would ensure the mine complies with its conditions of consent.