

Department of Planning & Environment

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25th October 2018

**Re: Adjoining Landholder Submission in Response to EIS for Proposed Vickery Coal Mine
Expansion Project ('Project') DA No SSD 7480**

Dear Mr O'Donoghue,

1. INTRODUCTION

My family, the McIlveen's, own and live on 'Clinton' in a pleasant rural setting in private dwelling number 133a as shown in the EIS Figure 3.1.

In relation to the Project, my home is located very close to various pollution sources, namely noise, dust, visual and groundwater drawdown and visually intrusive infrastructure and mining activities. My home is located approximately:

- 2.3 km from the rail spur line;
- 2.6 km from the coal load out on the rail loop;
- 3.7 km from the southern end of the open cut; and
- 3.1 km from the western overburden emplacement area (in Year 7)

In summary, my family lives immediately adjacent to the proposed mine, will be adversely impacted by it, and thus it will come as no surprise that we object in the strongest possible terms. **We respectfully request the NSW Government reject the Project unless private citizens who have environmental, social and economic costs imposed upon them are fairly and rightfully compensated.**

We note the mine proposal is much bigger and has greater impacts than the previous proposal, namely:

- a much larger mine footprint, needed to gain access to 179 Mt of ROM coal reserves compared to 135 Mt for the earlier proposal;
- mining coal at an average rate of 7.2 Mtpa over 25 years (with peak production of 10 Mtpa), compared with 4.5 Mtpa for a period of 30 years for the earlier proposal;
- given more coal is to be mined, a commensurate increase in the size of the waste rock emplacement areas (now to be 1,830 mil bank cubic metres, plus co-disposal of CPP coal rejects);
- construction of 10 water supply bores and use of groundwater from same;
- construction and use of a pump to extract Namoi River surface water on the east bank;
- construction and operation of a 13 Mtpa of ROM Coal Handling and Preparation Plant (CHPP) and train load-out facility and rail spur across the Namoi River Floodplain – not part of the earlier proposal;
- the haulage to the site of 6 Mtpa of ROM coal from other Whitehaven mining operations for processing and transport off site – not part of the earlier proposal;
- haulage of 11.5 Mtpa of product coal from the site by rail – not part of the earlier proposal; and

- a concomitant increase in impacts from noise, dust, blasting, surface water and groundwater water losses, night lighting, flooding changes and visual impacts.

We love our life on ‘Clinton’ because in this rural setting we get to experience Nature’s unique blending of biodiversity, colour, sounds, smell, tranquility, wind, rain and heat. All of the elements together enmesh and interact to provide the land, our home and ultimately our personal wellbeing. We object to the Project for the technical and procedural reasons outlined below.

Based on the real-world experiences of landholders adjacent to coal mines elsewhere in the Gunnedah Basin and the Hunter Valley we remain to be convinced of the accuracy of the EIS impact modelling. Common experience suggests such modelling understates the impacts, leaving it for landholders to suffer the many dis-benefits.

2. TECHNICAL MATTERS

2.1 WATER IMPACTS

On ‘Clinton’ there are two groundwater production bores (numbered CL1 and CL2 – see Fig 15 in the EIS).

2.1A Groundwater Impacts

It is understood from the EIS that:

- privately-owned bores in the Upper Namoi Alluvium surrounding the Project are predicted to experience drawdowns of up to 0.61 m;
- the leakage of groundwater from the Upper Namoi Alluvium to the underlying consolidated sediments of the Maules Creek Formation during the Project and post-mining due to depressurisation of the Maules Creek Formation;
- an increase in river leakage from a 4 km reach of the Namoi River and also Driggle Draggie Creek to the immediate west of the Project mining area, due to the proposed bore field; and
- as a result of mining there will be a permanent reversal in groundwater flow direction in the immediate vicinity of the Project, from a westerly direction, pre-mining, to an easterly direction, post-mining.

2.1B Surface Water Quality Impacts

It is understood from the EIS that there will likely be an increase in salinity in the Namoi River due to the migration of salt from the mine water storage.

2.1C Requested NSW Government Action

The McIlveen family respectfully requests the NSW Government not allow yet another coal mine to be approved where there will be depressurisation of privately-owned groundwater bores.

Furthermore, it is not appropriate for the Proponent to be allowed to determine whether or not groundwater drawdown has occurred and is attributable to the Project. Clearly, the miner has a vested interest in the matter and is not sufficiently impartial to protect the interests of the landholder.

The McIlveen family respectfully requests that any consent must place the burden of proof with the miner to prove it has NOT caused any drawdown, rather than allowing the unfair scenario of a farmer trying to prove first, that there has been a drawdown and secondly, that the drawdown is directly attributable to the mine, then wait ‘cap in hand’ for the miner to act in the farmer’s best interests. Any proposed consent

conditions must be far stricter and more rigorous than typically adopted and should require the miner to remedy the situation without delay, directed and supervised by NSW Government regulatory and compliance personnel.

In addition, the obligations on the miner to implement high quality, prompt make-good provisions are essential and heavy penalties should be imposed for any delays.

2.2 NOISE IMPACTS

We note the Noise Policy for Industry describes noise impact categories as “negligible”, “marginal”, “moderate” and “significant” and that they are generally consistent with Table 1 of the Voluntary Land Acquisition and Mitigation Policy (VLAMP) (DP&E, 2014) which addresses noise and air quality impacts from State significant mining, petroleum and extractive industry developments. The VLAMP describes the voluntary mitigation and land acquisition policy to address dust and noise impacts, and outlines mitigation and acquisition criteria.

Under the VLAMP, if a miner cannot comply with the relevant impact assessment criteria, or if the mitigation or acquisition criteria may be exceeded, it should consider a negotiated agreement with the affected landowner or acquire the land. In doing so, the land is then no longer subject to the impact assessment, mitigation or acquisition criteria, although provisions do apply to “use of the acquired land”, primarily related to informing and protecting existing or prospective tenants.

An updated draft version of this policy (DPE, 2017) was released in November 2017. It is understood that, given the policy is still in draft form, the revised policy has not been considered in the noise assessment of this Project.

We live 2-3 km from the Project. Based on the experiences of other landholders adjoining mines in the region and plain common sense we are very confident there will be noticeable adverse impacts from evening and night time noise that will disturb the family’s sleep patterns. In addition, day time noise from the mine infrastructure area and the rail loop will likely create further disturbances to our lifestyle and wellbeing. Essentially, if this Project is approved, our rural backyard becomes an industrial one. We do not wish to see that happen. If the Government is inclined to grant approval, it should only be after the proponent has agreed to compensate those suffering private loss due to pollution impacts, including my family.

We are disappointed that the NSW Government has noise policies that can even permit a mine proposal to be contemplated that generates such impacts on so many near neighbours. We urge the NSW Government to refuse the proposed Project.

2.3 AIR QUALITY IMPACTS

As we live 2-3 km from the Project, based on the real-world experiences of landholders adjacent to coal mines elsewhere in the Gunnedah Basin and the Hunter Valley we remain to be convinced of the accuracy of the EIS modelling that suggests we will not be adversely impacted by dust. Again, we request that the NSW Government not permit this mine proposal because of the aggregated impacts on local landholders.

2.4 VISUAL IMPACTS

The McIlveen family will be adversely impacted by views of the waste rock emplacement and mine infrastructure for at least a decade. By Year 7, the overburden stockpile would be at its maximum height

and not rehabilitated. The main source of impact will be the contrasting colour and texture of the existing landscape and the newly placed and unvegetated waste rock.

As our home is just 2.3 km from the rail loop we will also be visually impacted by the mine infrastructure area comprising the CPP and coal load out and rail loop and rail line across the Namoi River floodplain.

We note the findings stated in the EIS regarding our home (identified as VP 9):

- with respect to the Project Mining Area – a moderate level of visual modification, coupled with the moderate level of visual sensitivity, indicating a moderate level of visual impact during operations; and
- With respect to the rail overpass on the Kamilaroi Highway – high levels of visual sensitivity.

Furthermore, our home will be adversely impacted by direct and indirect night-lighting. This will include:

- Direct night-lighting: direct views of Project lighting sources such as stationary work lights, fixed/permanent lights and vehicle-mounted lights and the headlights of trains on the rail line and in the mining infrastructure area;
- Indirect night-lighting: light will spill from vehicles and stationary work lights producing sky glow. The issue will be exacerbated when there is cloud cover, with reflection of the light downwards off the cloud base.

Again, we request that the NSW Government not permit this mine proposal because of the aggregated impacts on local landholders.

2.5 FLOODING IMPACTS

The McIlveen family is concerned that the flood impact assessment is of questionable value as the EIS states that the actual location of openings (bridges and culverts) and height of embankments will not be determined until much later – after any approvals are granted - at the detailed design stage. This means the various assumptions factored into the model may not be correct, thus the value of the model could well be dubious.

We note the EIS indicates that:

- With respect to the 1% AEP event the Project rail spur will cause increases in flood levels up to 1.5 km upstream;
- The velocity impacts under the rail line will be 20% higher than existing conditions;
- The peak 1% AEP flood levels on the Kamilaroi Highway will be increased; and
- With climate change, it is predicted with high confidence there will be an increase in the intensity of extreme rainfall events and these changes will have consequences for increased peak flood discharges and peak flood levels across the study area.

We request that the NSW Government require the rail line design to be fully specified, then more accurate flood modelling be undertaken before there is any contemplation of the granting of approval.

2.6 PREPARATION OF REPORTS

The EIS notes there are several Management Plans that are yet to be completed for inclusion in the development proposal. We request the following Management Plans be completed before there is any contemplation of issuing development consent because they will contain the fine detail necessary to determine how effectively these key issues are to be managed:

- Water Management Plan;

- Noise Management Plan;
- Blast Management Plan;
- Air Quality Management Plan; and
- Mine Closure Strategy.

3. EIA DETERMINATION POLICES AND PROCESSES

3.1 CONSIDERATION OF THE ORDINARY PEOPLE LIKE US WHO HAVE NO SAY IN THE DECISIONS MADE BY BIG BUSINESS AND BIG GOVERNMENT

Whilst the Crown controls the mineral resources of the State found underneath the surface of privately owned land, in the event that they are exploited, the welfare of the public should benefit whether by way of royalties, resource rent taxes or other means. **However, the pursuit of a public advantage of mineral exploitation is not to be yielded at the cost of arbitrarily allocating private loss and damage.**

It follows that every effort should be made to avoid casting on anyone who has to accommodate a significant impact to their land, any private cost or detriment. Fundamentally, the landholder should not be worse off because of this situation.

This means that to the maximum extent reasonably possible, the cost of obtaining the supposed benefit of mineral exploitation is not to be borne by the impacted landholder, but by the company that seeks the rewards of mining. Such costs are, in effect, to be recognised as a cost to the business of mine project planning, assessment and approval.

We respectfully request the proponent, via its social licence obligations, and the NSW Government, via the making and implementation of fair and just public policy, ensure that our private property rights are given proper and just consideration and are not subservient to the generation of a private profit at public expense.

We would also appreciate it if the proponent could acknowledge that having to deal with the impacts of the mine are not of our making but rather is a situation foisted upon us. Thus, it is not a negotiation where we are willing participants with an eye to mutual benefits being achieved from the outcome.

3.2 INDEPENDENT PEER REVIEWS

Given the EIS is essentially an advocacy document, we request that truly independent experts in noise, dust, water and flooding be engaged by the NSW Government to forensically examine these highly technical reports.

We also respectfully request:

- that landholder representatives participate in the selection of said experts and in setting the scope of work, to enhance the level of trust in the process; and
- there be a face-to-face briefing in the district from the reviewer once the assignment has been completed.

3.3 DPE PROCESSING AND ASSESSMENT

In conclusion, we respectfully encourage the DPE to redouble its efforts to ensure that the Project is subject to a rigorous analysis and evaluation of the proposal that is scrupulously fair, impartial and objective. All the benefits and disbenefits and trade-offs need clear and transparent articulation.

We welcome engagement that is genuine and where our inputs are valued more and seek outcomes that provide natural justice, that protect our fair and reasonable interests and result in us not having to carry personal costs just so the miner can make profits.

In conclusion, we refer to findings of the August 2017 review conducted by Ms Lisa Corbyn, former head of the EPA and the NSW Department of Environment, Climate Change and Water into the quality of DPE's Assessment Reports for proposed State Significant Developments. After wide consultation it was revealed that industry, including the miners, considered the Assessment Reports to be impartial and properly positioned. On the other hand, community and environmental groups – including local government – found that the reports were not impartial and often ignored community issues. Based on these results we respectfully suggest there needs to be a realignment of the Assessment Reports to better balance the ledger. We encourage the DPE to do so on this Project.

If you wish to discuss any of the matters addressed above please don't hesitate to contact me on telephone 0428 431 500 or email mcilveen04@bigpond.com

Yours sincerely

Kaleb and Carter McIlveen