

12 February, 2019

Ms Carolyn McNally
Secretary
NSW Department of Environment and Planning
GPO Box 39,
Sydney NSW 2001

Dear Ms McNally,

RE: Tahmoor South Coal Project – SSD 17_8445

The National Trust of Australia (NSW) lodges a strong objection to the State Significant Development Application for the *Tahmoor South Coal Project – Extension of Underground Mining*. The National Trust of Australia (NSW) is a neighbour to the project, being the owner of the property at 3105 Remembrance Driveway, Bargo where the Wirrimbirra Sanctuary operates, an area of approximately 95 hectares of bushland directly south of the Tahmoor Coal Mine surface facilities site.

This property is listed on the NSW State Heritage Register for its flora and fauna values and for its historical role in the development and promotion of the understanding and appreciation of Australian native flora and fauna. We note that, as this is a State Significant Development, the NSW Heritage Council is reduced to an advisory role in the Development Approval process.

On 26 October, 1973, an area of 44.19 hectares at Bargo, vested in The National Trust of Australia (NSW), being portions 18, 19 and 33 in the Parish of Bargo, were dedicated for the public purpose of “promotion of the study and conservation of native flora and fauna” under the Crown Lands Consolidation Act, 1913.

The National Trust of Australia (NSW) was notified by letter dated 19 February, 2015 that the registration of a Conservation Agreement between the Minister administering the New South Wales National Parks and Wildlife Act (1974) and The National Trust of Australia (NSW) was complete in respect of Lot 132 DP 130897 and Lot 1 DP 789005 at Bargo. The Conservation Agreement provides that “The Owner and the Minister agree to take steps to protect and manage the conservation values of the Conservation Area as set out in Annexures B and C. Annexure C sets out the management scheme for the Conservation Area and one of the activities not permitted in the Conservation Area is “any works which will adversely affect the natural flows and bodies of water.”

The Trust has reviewed the Environmental Impact Statement (EIS) and its supporting documents, including:

- Environmental Impact Statement (EIS); by AECOM;
- Biodiversity Assessment Report; by Niche Environment and Heritage;
- Historical Heritage Report; by Niche Environment and Heritage;
- Subsidence Predictions And Impact Assessments Report; by Mine Subsidence Engineering Consultants Pty Ltd (MSEC); and
- Conceptual Mine Closure Plan; by SLR Consulting Australia Pty Ltd.

All of these are substantial documents, the presentation and arrangement of which are not conducive to their being easily appreciated and understood. While all of these documents, as expected, provide a basis for proceeding with the project, there are a number of points contained in them about which the Trust takes issue. These include:



- The Subsidence report clearly identifies that there will be subsidence impacts to the land within Wirrimbirra Sanctuary. Amongst other impacts, it predicts that a ground cracking and movement may drain the existing natural watercourse through the property. As an intermittent watercourse, it is suggested that any loss of flow (or mineralised ground water contamination, the other 'likely' adverse impact) will not have a substantive impact, as the surrounding flora and fauna is adapted to intermittent water supplies. The Trust suggests that this is naive and wrong-headed, as clearly, the local ecology is more highly dependent upon the intermittent flows and any loss of flow is likely to have an increased impact, not a lesser one.
- The Biodiversity Assessment Report clearly identifies that there will be negative impacts upon:
 - An identified Critically Endangered Ecological Community, the Shale Sandstone Transition Forest.
 - Threatened Flora Species: the *Persoonia bargoensis* and *Grevillea parviflora*

Close reading of the report also identifies that there is a lack of information regarding fauna species inhabiting the area and that, in the light of this lack of information, no negative impacts can be identified. This is a very unsatisfactory outcome. For example, no koalas were seen during the fauna survey, consequently, no impacts could be suggested. The National Trust's long involvement with this property suggests that koalas, possums, gliders, wallaroos and wombats are all present in the area and that the further shrinking of available habitat can only be considered to be a negative impact. The Biodiversity Assessment Report is focussed on the assessment of species listed as endangered or threatened – it makes no real attempt to assess the impact upon the general biodiversity of the region.

- There is no attempt to assess impacts upon soil biology, upon insect and microfauna, upon eco-systems overall and no consideration of cumulative impacts.

The proposed strategy to mitigate the admitted adverse impacts is to establish Biodiversity Stewardship Agreements over five other areas of land in the vicinity (none of which are contiguous) owned by Tahmoor Coal – ie the mining company will commit not to destroy other areas of land that it owns. This would be supplemented by purchase of Biodiversity Credits from the Public Register and a one-off payment into the NSW Biodiversity Offsets Fund.

Without commencing a detailed critique of the concept of bio-banking (a separate issue of concern), the Trust notes that several of these parcels of land are associated with airshafts for underground mining or are left-over areas sandwiched between existing mine operation areas and are themselves likely to be affected by subsidence, whilst another is mostly cleared farmland (which will be 'encouraged' to regenerate). It is the Trust's contention that this is grossly inadequate and that monetary contributions to Offset Funds amount to no more than a payment-to-destroy, which the Company can clearly afford from the expected profits from the mining activity.

In relation to Wirrimbirra specifically, the Trust notes that the consultant's report states on page 50:

7.3 Other Items

The historical ruins within the Wirrimbirra Sanctuary have been noted to be in poor condition and their contribution to the significance of the Sanctuary is not well understood. It was not possible to assess their condition or historical associations as part of this Project due to time and access restrictions. The heritage structures including a course or two of sandstone foundations stones and a shallow well are unlikely to be affected.

The natural features of the Sanctuary including the 'Bargo Bush' are of heritage significance. There will be detrimental effects on the stream until it is remediated. Teatree Hollow is expected to experience fracturing of bedrock and draining of pools at times of low flow. The wider proportion of the bushland will largely be unaffected by the proposed works.



As discussed in Section 8.2, a detailed management plan for Wirrimbirra Sanctuary will be prepared for the required subsequent Extraction Plan approval. Anderson's Inn has not been included in Table 7 as the item has been demolished and no longer exists.

The Trust can state that it was never approached by the consultants for access to Wirrimbirra Sanctuary. A staff member for the consultants did acquire basic information about the property from the Trust's archives in 2013 and we presume that the information presented in the report is based upon this single occasion. The impacts upon the bushland are admitted but dismissed as they will be "remediated". No arrangement for access, much less 'remediation' activity, within the National Trust's property has been negotiated – in fact, no-one has approached the Trust in this regard.

The Trust notes the third point that a detailed "management plan" will be prepared after approval has been given for the project. This is a completely unacceptable approach for a State-significant area, when potentially significant ecological impacts are proposed.

Overall, the Trust objects to the proposed development as having potentially serious ecological effects. It objects on the grounds that the process on which the assessments and proposed mitigations have been carried out is flawed and on the grounds that, as a stakeholder and neighbouring property owner specifically affected by the proposed development, the Trust has been ignored and treated as irrelevant to the development.

Yours sincerely,

Graham Quint
Director, Conservation