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Nature Conservation Saves for Tomorrow

12 June 2018

Mr Paul Freeman
Mining and Industry Projects
NSW Department of Planning and Environment
GPO Box 39
SYDNEY 2001

Dear Mr Freeman,

Angus Place Mine Extension [06- 0021] - Modification 5 (Part 3A Mod)- Water Management

The Blue Mountains Conservation Society (BMCS) supports Angus Place modification 5 because it will significantly reduce the salinity levels in mine water discharged from LDP001 (EPL 467) to Kangaroo Creek and ultimately the Coxs River. A temporary reverse osmosis plant will treat the mine water as an interim measure before the Springvale Water Treatment Plant commences operations (hopefully by 1 July 2019). Centennial Coal has for years refused to use the reverse osmosis process to lower the high salinity in its mine discharges in the Lithgow area, despite expert evidence that it was the only effective process. Despite arguing that reverse osmosis treatment was economically unviable, Centennial is now in the process of building a Water Treatment Plant for its Springvale mine and will use a temporary Reverse Osmosis (RO) plant for the 001 Angus Place discharge.

These decisions recognise that the Sydney Drinking Water catchment cannot continue to be used to dispose of heavily polluted mine water. This has been soundly rejected by public opinion. It is a good precedent for Centennial and we look forward to reverse osmosis treatment being applied to other discharge points such as LDP006.

However, BMCS believes that the level of treatment for salinity for AP 001 in Mod 5 should be lower as the background level of salinity of the Coxs River headwaters are about 30 microsiemens/cm..¹

¹ Birch G, Siaka M and Owens, C "The source of anthropogenic heavy metals in fluvial sediments of a natural catchment: Coxs River, Australia." *Water, Air and Soil Pollution* 126 (2001) pp.13-35.

Mod 5 is part of a proposal that Angus Place reduce the volume of mine water stored underground so that the area can be used for expected increased discharges from Springvale mine once it starts mining in a new area in July 2018. This requires improved water quality in the discharges and increased discharges from 001 until the Springvale water treatment plant is commissioned. A temporary water treatment plant (TWTP) using the reverse osmosis process will be constructed to reduce the salinity in the mine water. Mod 5 only relates to increasing the discharge volume and reducing salinity in the discharge.

BMCS is concerned about a number of issues relating to this modification:

- The continuing use of Part 3A transitional arrangements despite Part 3A being repealed seven years ago.. BMCS opposes the use of Part 3A;
- The piecemeal approach to approvals for the whole proposal. There are two EPL variations, together with use of the Mining SEPP and use of discredited EPAA s.75W) which is confusing and leads to deficient environmental assessment, lack of transparency and a lack of rigour;
- No publicly available assessment of the impacts of the construction, operations and placement of residuals of the RO plant;
- Serious deficiencies in the environmental assessment of impacts for Mod 5. In particular, there is no flora and fauna assessment, including threatened species, known to be present in the affected area. There is deficient assessment of the potential impacts on several endangered ecological communities (EECs).

Continuing use of Part 3A transitional arrangements

It is unacceptable that Mod 5 can still be processed as a modification under the repealed S.75W (Part 3A). The planning minister stated to the NSW parliament, when introducing the changes to the *Environmental Planning and Assessment Act* (EPAA) in October 2017, that the government "is absolutely committed to the repeal of the transitional arrangements for Part 3A"². However, eight months later this discredited process is still being used. S. 75W is very broad and allows the minister a lot of discretion in approving modifications.

The avenue of a possible Part 3A assessment is also still contained in the Mining SEPP clause 6 which has been used for the approval of the temporary Reverse Osmosis plant as "pollution control works". Under clause 6 the note reads as follows: "*Development to which this clause applies may require approval under Part 3A of the Act or be subject to the environmental assessment and approval requirements of Part 5 of the Act.*"

² Second reading speech, Hansard NSW Parliament, 17 October 2017.

Piecemeal approvals

The piecemeal approach of an approval which requires two separate Pollution Reduction Programs (PRP) added to Environment Protection Licence 467 (one to trigger clause 6 of the Mining SEPP and a second change after Mod 5 approval), together with reliance on the Mining SEPP to approve the RO plant and on the repealed s.75W of the EPAA is confusing. It results in a process without transparency and where decision points are not explained or justified. Consequently, there is no single overall assessment of the whole proposal. Important environmental impacts are not dealt with together (eg the construction and operation of the RO Plant is separated from its discharge levels) or are unassessed, such as assessment of national and state listed swamps and threatened species. The different assessment regimes (PRPs, SEPP, S.75W) define and assess differently. This division reduces the proposal to a series of relatively small changes. This is a loophole which allows polluting industries to avoid full environmental assessment and conditioning.

The environmental assessment of the RO plant not publicly available

The EPA required an environment impact assessment (EIA) of the impact of the proposed RO plant's construction and operations. This was to meet the EPA's requirements under s.45 of *Protection of the Environment Operations Act* when deciding to approve varying the Angus Place licence, EPL 746.³ "The impact of establishing and operating the TWTP was assessed in an environmental impact assessment provided to the EPA on 22 March 2018...."⁴ This application to vary EPL467 and accompanying EIA was submitted to EPA on 22.3.18.⁵ The EPA approved it on 11 May 2018. However, this EIA is not publicly available either on the EPA website or Centennial Coal's site. Consequently, the public cannot be informed about what, if any, conditions were placed on construction and operations to protect the environment.

Approving the RO plant works under the *Mining SEPP* cl.6 does not require consent. The note to cl.6 quoted above says that it may be subject to environmental assessment but in this case it seems this was deemed unnecessary. There is no publicly available information about how and why this conclusion was reached. All the public knows is that EPA and Department of Planning and Environment discussed whether a Part 5 approval was needed. This is a loophole available to the proponents. Apparently construction impacts are now evident⁶

Deficiencies and omissions in environmental assessments for Mod 5

A serious deficiency is the omission of assessment of the impacts on nationally and state listed swamps, other EEC and threatened species from the proposal. The additional pumping could cause a drawdown of the water table to up to 21 metres. The

³ Angus Place Mod 5 Environmental Assessment (MOD 5 EA), Part 1 p.69.

⁴ MOD 5 EA, at p. 47.

⁵ MOD 5 EA at p.22 and 29.

⁶ Lithgow Environment Group submission on MOD 5, at pp. 1-2.

very narrow definition of the largest affected swamp, Long Swamp, is inappropriate. The swamp should be assessed as the area defined in its listing under the Environment Protection and Biodiversity Conservation (EPBC) Act as a Temperate Highland Peat Swamp on Sandstone (THPSS) with the status of endangered.⁷ Nearby Kangaroo Creek Swamp and Lambs Creek Swamp are also endangered THPSS EECs.

Swamp damage from mining has been occurring for years in the area above Angus place and the related Springvale Mine. Angus Place and Springvale mines together agreed to an enforceable undertaking of \$1.45M under the EPBC Act relating to actual damage to swamps in 2011. The Independent Monitoring Panel appointed under the Springvale 2015 consent has recognised the wider and serious impacts from longwall mining. Their work has led to Centennial to reduce new underground mining in one area of Springvale to avoid further swamp damage. Previous BMCS submissions, such as to the Springvale Mine Extension Project, and the current LEG submission for Mod 5 [pp. 8-14] have detailed the extensive, long-term destruction of swamps and the loss of waterfalls above these two Centennial mines. These real impacts should not be ignored. The EEC and nationally listed threatened species at risk from this proposal should be referred to the Commonwealth for assessment under the EPBC Act.

The environmental assessment does not cover possible impacts on water dependent species of sudden decrease of the water table water due to increased volumes pumped out from the underground storage area. Previously, the Angus Place extension project EIS 2015 did not identify a number of water dependent plants and animals which occur in the area at risk of being affected by water table fall from the proposal, namely:

- *Kunzea cabbagei* (Vulnerable EPBC Act and Biodiversity Conservation Act (NSW) 2016 (BC Act))
- *Eucalyptus aggregata* (Vulnerable EPBC Act and BC Act (NSW) 2016)
- *Pultanaea glabra* (Vulnerable EPBC Act and BC Act (NSW) 2016). Recorded in Kangaroo Creek in 2010
- *Derwentia blakelyi* (Vulnerable BC Act (NSW) 2016). Occurs along swamp edges in Lambs Creek and Kangaroo Creek areas.

These plants are moisture dependent species which may be affected by 'protracted drying out of their habitat'. They need to be assessed as part of an environmental assessment for this modification and actions to protect them identified and included in the consent conditions. All EPBC Act listed species at risk from this proposal should also be referred to the Commonwealth for assessment. These would include

- *Petalura gigantea* (giant dragonfly) (Endangered BC Act) and
- *Eulamprus leuraensis* (Blue Mountains water skink) (Endangered EPBC Act and BC Act)

These matters are discussed in more detail in LEG submission at pages 2-7.

⁷ LEG Submission, pp3-4.

Inconsistent treatment standards for related mine water discharges

Higher treatment levels of mine water discharges from Centennial's mines should now be applied consistently across all their discharge points, notably to LDP 006. The temporary RO plant could be moved to 006 after December 2019.

Thank you for the opportunity to comment on this modification.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Madi Maclean". The signature is written in a cursive style with a large initial 'M' and a trailing flourish.

Madi Maclean
President