



**WYONG SHIRE
COUNCIL**

building a better tomorrow!



Wyong Shire Council ABN 47 054 613 735
DX 7306, PO Box 20, Wyong NSW Australia 2259
Phone: (02) 4350 5555 Fax: (02) 4351 2098
Email: wsc@wyong.nsw.gov.au
Web: www.wyong.nsw.gov.au

Mr M Long
F2006/01080
D01477773
27 February 2009

Mr Howard Reed
Acting Manager
Mining
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Dear Sir

**SUBMISSION BY WYONG SHIRE COUNCIL IN RESPONSE TO STRATEGIC REVIEW INTO
IMPACTS OF POTENTIAL UNDERGROUND COAL MINING IN THE WYONG LOCAL
GOVERNMENT AREA**

I refer to your letter dated 18 December 2009 inviting Council's comments on the findings and recommendations of the above Strategic Review. Council appreciates the opportunity to respond to this report by 27 February 2009.

SUMMARY

Following a review of the Report Council expresses its extreme disappointment that notwithstanding this report is titled a "Strategic Review" it does not provide any confidence that the full impacts of proposed coal mining under this Shire, and the Wallarah 2 coal venture in particular, have been fully and seriously considered. Council's previous submission (Reference 1) presented in some detail Council's principal concerns on the potential impacts of mining.

Further, as demonstrated in the following response it appears to Council that despite efforts by the Panel the Inquiry has been unable to obtain valid data in a number of significant and critical areas. Yet by drawing conclusions based on those incomplete or missing datasets it presents the mining situation as being able to be judged acceptable subject to further studies for specific applications. A clear case of judging development before the information is provided.

Council finds that many of the Report's findings are questionable or unsubstantiated, or fail to fully address the real concerns of submissions made to the Inquiry.

Expressed in the simplest terms possible:

The findings of this Inquiry cannot be supported from the information presented in the Report. There are too many areas of missing data, too many inconsistencies and evidence of support for the coal industry from the Panel that gives no confidence that this was an independent Inquiry.

Council does not believe that this Inquiry has established, with any degree of credibility, that the extension of coal mining under this Shire – particularly in relation to the Wallarah 2 development – can be confidently undertaken without significant and unacceptable risks to the environment, the water supply and the Central Coast community.

OVERVIEW

At its meeting of 28 January 2009 Council considered a brief report following release of the Strategic Review and resolved as shown below. This submission is a direct consequence of these resolutions.

RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor McNAMARA :

- 1 That Council reject the conclusions of the Impacts of Potential Underground Coal Mining in the Wyong Local government Area – Strategic Review (Chikarovski Report) and reiterate Council's opposition to any new coal mines in Wyong Shire.**
- 2 That Council make a submission on the report from the Strategic Inquiry into Potential Coal Mining Impacts in the Wyong LGA (the Chikarovski Report).**
- 3 That a draft copy of the submission be provided to all Councillors for comment prior to submission.**
- 4 That Council request the Wyong Council Liaison Group to make a submission by 27 February 2009 to the Department of Planning in respect of the Chikarovski Report.**
- 5 That Council through the various media outlets encourage the Shire's various community groups, organisations and residents to also make submissions.**
- 6 That Council recognise the stand taken by Mr. David Harris MP, Member for Wyong supporting Council's position on this proposal.**

The following responses have been provided under the headings of each Term of Reference. It is recognised that the Inquiry covered the issue of coal mining generally under the Shire, while many of the submissions made to the Panel were focused on the proposed Wallarah 2 coal mine. Council's responses have also generally been focused on the Wallarah 2 project, in part because of the critical issues associated with this proposal, and also because it is recognised and confirmed in the Report that the areas for potential coal extraction in the Shire are principally located in areas of the Shire that are targeted by this project.

A considerable part of the Report is committed to quite detailed technical discussions of underground mining and its effects, and Council does not intend to review this information in the short time available for comments. The credentials of the Panel members in their respective areas of expertise are not questioned, although it is noted that the Panel did not have any member with recognised environmental credentials to properly review the environmental concerns relating to coal mining. The following selected comments are intended instead to demonstrate the most obvious areas where contradictions and questionable conclusions are obvious in the Report.

TERM OF REFERENCE 1

Council was interested to read the Panel's response to Term of Reference 1:

"Whether coal mining under the catchment of the Mardi Dam would compromise, in any significant way, the water supply of the Central Coast."

Council's position has always been that guarantees need to be given by the State Government and the Wallarah Areas Coal Joint Venture (WACJV) that there will be **NO** impacts upon the security of the water supply for the Central Coast due to any mining development.

Council in its letter to the Inquiry dated 14 August 2007 stated in part:

"This Council believes that the Precautionary Principle must be applied if there is even the slightest risk to the security of our water supply. Council seeks guarantees from the coal company and the State Government that any mining WILL NOT adversely affect our community's right to a safe, reliable and continuing supply of potable water."

Regrettably, despite nearly 100 pages of discussion this assurance has not been given anywhere in the Report.

Corrections

The following corrections are advised in relation to specific information provided in the Report.

- Section 2.4.1 (page 21 – last paragraph) states in part:

"At times, the Wyong River contains water pumped from Mangrove Creek Dam...."

The water from the dam is released via the Boomerang Creek Tunnel, not pumped.

- In the same Section on page 22 (fourth paragraph) the statements regarding desalination plants require comment. It is important to note that the temporary desalination plants are no longer being considered. The permanent desalination plant has obtained development approval and could provide approximately 15% of the Central Coast's water supply.
- The inference to the desalination plant seems to be that it could be a fallback position. However, this would not be an acceptable response to make up for any loss of supply from the Wyong catchment, particularly as there will be a significant investment of over \$100M in harvesting water from that catchment i.e. the Mardi to Mangrove Link project. Both Wyong and Gosford Councils are fully supporting this project.
- In the last paragraph in Section 2.4.1 (page 22) the Report states:

"The GWCWA also pumps excess water...into the Hunter Water Corporation's storage and supply system."

The inference is that storing water in the Hunter system is a normal occurrence – it is not. Transfers of water to the north tend to be for the operational needs of Hunter Water when it has distribution problems. The link can also be used to provide water in the event that the Hunter has significant drought issues.

- Section 3.2.5 (page 61) refers to groundwater baseflows. Point 1 in paragraph 2 questions the average annual flow at the Wyong River pumping station by quoting the median flow of the gauging station upstream of the pumping station. This is presumably the Gracemere gauging station.

It should be noted that a substantial flow also comes in from the Jilliby Jilliby Creek downstream of this station. Analysis undertaken by the GWCWA using extended historical flows (1885-2006) estimates a natural (i.e. without extractions) average annual streamflow of approximately 84,500 ML/a at the lower Wyong River pump station site.

- The second last paragraph in the section (page 62) indicates that groundwater on average is only 10-15% of the streamflow and hence that it is only a relatively minor matter. In water management it is not the amount of water that is important but under what conditions flows occur. In dry periods it would not be unreasonable to consider that groundwater-derived flows will be very important to those water users along the river who do not have storage, and also would be environmentally important as refuge for species reliant on that water until the flows recover.

Mardi Dam and Other Water Supply Infrastructure

In relation to the protection of Mardi Dam and other water supply infrastructure the Inquiry's summation of industry submissions in Section 3.2.1 (page 58) appears to also be the position taken by the Panel:

"Industry submissions maintained that enough is known about subsidence science to minimise impacts through appropriate mine planning and that any planned or unforeseen impacts can be addressed through the existing SMP process."

Throughout the Report it appears to Council that the Panel frequently accepts similar assurances from industry submissions and those from the WACJV (a vested interest) with minimal challenge. For example, in Section 3.2.2 (page 59) the WACJV advised the Panel that:

"Wallarah 2... will not have any significant implications for other key water supply infrastructure now or planned in the future..."

The Report then notes that:

"The Panel has no reason not to accept this position."

There appears to have been no challenge or test of the WACJV statement, but the Report then immediately challenges and summarily dismisses statements made in the submission by the Australian Coal Alliance regarding its concerns for certain infrastructure.

It is these and other statements throughout the Report that provide little confidence that the Inquiry has undertaken a truly independent, rigorous and thorough investigation of the matters of significant concern to the community and Council, notwithstanding the various assertions provided within the report. Further examples are provided below on the matters reported under ToR 1 to 4.

Wyong River

In relation to the effects of coal mining on Wyong River, Jiliby Jiliby Creek and groundwater, the lack of any detailed information from the WACJV has been noted by the Panel to mean that critical assessments have not been possible as noted in the Report (Section 3.2.3 page 60):

"The Panel has been given an overview of the modelling but has not been provided with detailed results sufficient to make a critical assessment of its validity."

The Panel then goes on to state that:

"Suffice to state, however, that the methodology and conclusions... (for subsidence and water loss into the mine)...appear sensible and consistent with subsidence engineering principles."

On the one hand the Panel states it has been given insufficient detail on this matter, while on the other it draws the conclusion that everything appears to be quite acceptable based on "subsidence engineering principles". Repeatedly throughout the Report the Panel appears to have accepted the WACJV information despite all of its uncertainties, qualifications, missing data, design limitations, adaptive approaches and other inconsistencies. It seriously raises the question as to what purpose the Inquiry was ever going to serve given the apparent lack of truthing data, and stated conclusions of the Panel that more information is required. It is therefore difficult to accept any conclusion that there is no reason not to consider further coal mining in the Wyong LGA.

In summary, Council does not see that the Inquiry has provided any surety or guarantees that would allay Council's concerns in relation to the continued security of the water supply of the Central Coast from coal mining under the Valleys.

TERM OF REFERENCE 2

ToR 2 deals with the environmental impacts of any underground coal mining.

Introduction

Council notes the Inquiry Panel members are generally experts in their own particular fields, but no environmental expert was engaged to give a proper review of the environmental issues that will be associated with any extension of coal mining in the Wyong LGA. This is considered to be a serious deficiency in the Inquiry.

The opening paragraph in Section 3.3.1 (page 63) in Council's view is critical to the validity of any conclusions that may be drawn by the Panel for this ToR, and in particular in relation to the Wallarah 2 project. It says:

"Limited comprehensive baseline data was made available to the Panel by both Government agencies and the WACJV. In several instances it has become apparent that comprehensive information is simply not available (e.g. knowledge of groundwater extraction statistics and groundwater resource potential)."

The crux of the matter is that vital background information in a number of important areas was simply not available in part or whole. Once again any conclusions drawn by the Inquiry must therefore be based on assumptions, and therefore are challengeable as to their validity. To proceed with a project as large as the Wallarah 2 project with such limited data and such serious implications if something goes wrong is simply irresponsible.

The Panel was placed in a difficult position trying to draw conclusions on environmental impacts on the Wallarah 2 project when presented with very limited or missing data, and its guarded responses are an indication of this situation. Statements in Section 3.3.3 (page 66) such as:

"...it is highly unlikely..."

"The Panel was provided with little information..."

"Subsurface flow is unlikely to affect water quality....but it might result in a reduction in water quality for a period of time."

do not provide assurance that important decisions can be made or conclusions drawn on the security of the water supply when apparently so much background information is not available or was not provided to the Inquiry.

Similar restrictions were identified by the Panel in many areas as they proceeded with investigations under this ToR, and a selection of examples are included in the following sections to demonstrate that the Inquiry has not been able to come to any valid conclusions on a wide range of strategic issues.

Subsidence

This ToR makes reference to subsidence hazards and risk, and it considered that commentary should also be made on some of the comments made here and elsewhere in the Report.

The Report somewhat euphemistically refers to significant and sometimes catastrophic subsidences that have occurred in the Wyong LGA as (Section 2.7.5.1, page 36):

"....unexpected subsidence events of the mid 1980s to early 1990s."

These "events" caused millions of dollars in damage, drove people from their homes and lead to disrupted and traumatised communities. To this day a number of areas are still showing the significant effects of subsidence (e.g. lake foreshores at Chain Valley Bay, Buff Point and Colongra Bay).

There have been documented submissions to the Inquiry on the history of these events (eg Reference 2). The impact of such subsidence on the lives of people and effects on property and livelihoods cannot be understated. Restoration may be seen by the mining industry as the appropriate and easiest response, but in many cases the adverse effects on people and the environment are very long term.

Notwithstanding improvements in the geotechnical modelling of subsidence, the Report is clear that there will be significant areas of subsidence that will impact surface communities. Of special concern to Council is the likely impact on wetland areas, many of which are home to endangered and threatened species. This important aspect appears to have been given little weight in the Report.

Quite remarkably, Recommendation 8 in the Executive Summary (page 5) recommends that:

“Any new coal mining proposal that would impact on wetlands in the Wyong LGA should provide appropriate offsets to meet the “maintain or improve” principle. Such offsets could include the creation of new wetlands where impacts on natural wetlands are unavoidable or unforeseen.”

The Report's recommendation readily dismisses any concerns about loss of habitat for species that may be threatened or endangered, and protected under various State and Federal legislation. As well Council considers that it would be highly unlikely that comparable wetlands would be available for offset, especially in the coastal floodplain environment and at offset ratios for 12-20:1 or greater.

Groundwater Resources

The Panel's comments in the Executive Summary (page 2) are included here because they again typify the approach taken throughout this Report of working with little or no data and drawing conclusions that must be challenged:

“There is a lack of information relating to groundwater in the Wyong LGA in general. Of particular concern are a lack of aquifer status, lack of metering of groundwater use, the absence of groundwater sharing plans, the lack of government investment in groundwater management and the lack of community involvement in effective monitoring of groundwater. However, based on the available data, while groundwater sourced from the Wyong River and Jilliby Jilliby creek alluvial systems.....(estimated to be between 3.5% and 6%).....any mining activity would not significantly impact on the existing groundwater levels or groundwater availability.”

In this instance it is abundantly clear that there is a lack of necessary information, yet conclusions are drawn that even if mining did affect groundwater sources only some 6% of the total water supply would be affected and this is considered acceptable. Council is strongly of the view, having just been through the worst drought on record, that ANY threat to ANY component of the Central Coast's water supply must be considered unacceptable and all steps taken to protect that source of supply.

Groundwater Users

In Section 3.3.4.1 (page 67) referring to Groundwater Users the Report states:

“It is clear that no-one knows precisely how much groundwater is being used in the Wyong LGA.”

Again this appears to represent a significant data gap that apparently does not prevent a conclusion being reached by the Panel that:

"...even if cracks do occur at the base of the alluvium, they are unlikely to allow significant mixing of water from the hard rock aquifers and the alluvial aquifers."

The manner in which the Report seems to continually reach conclusions based on dubious or even missing data leaves the impression that it is not critically and impartially assessing the impacts of coal mining on the water supply, the environment and the community. Indeed, there often appears to be a bias in favour of the mining industry that allows assertions to be made or implied without proper challenge and testing.

Flooding

It is noted that in relation to flooding in Section 3.3.5 the Panel also did not have access to flood studies and other reports on which to conduct a detailed review. This area therefore has to be left for an assessment under the Part 3A assessment process.

The Panel's concerns about the potential for subsidence under Jilliby Jilliby Creek leading to the Creek becoming a "chain of ponds" (Section 3.3.5 page 70) has at least recognised the concerns of Council and others about this possibility. This may have a serious impact on species dependent on this particular waterway, including possibly threatened and endangered species.

Other Environmental Impacts

In relation to environmental impacts on other areas such as lake, foreshores, wetlands and structures in Section 3.3.6.1 (page 70) the Panel gives assurances that:

"...current Government policy restricts mine subsidence within a Mining Control Zone around the foreshores of the Lakes system..."

However, these assurances carry very little weight given past experiences in Wyong Shire. As noted elsewhere in this submission history demonstrates that adherence to Government policy may be fine in theory but is often not demonstrated in practice.

The Report's findings in Section 3.3.6.1 (page 71) are also somewhat confusing. It is noted that that more study is required into the Tuggerah Lakes so that, for example, mixing and circulation patterns are better understood. This is reinforced with the statement that:

"The Panel considers that Tuggerah Lake has significant economic, social and environmental values for Wyong LGA that should be protected."

The Panel then goes on to state that it has concerns about subsidence impacts within the Lake until more is known about the potential impacts of subsidence on the ecology and hydrology of Tuggerah Lake. The clear implication appears to be that mining under the Lakes will still be able to occur after further studies are undertaken, and that no area is considered to be restricted from mining no matter what its values.

In the final paragraph of that Section the Panel states that:

“Due to improvements in mine design and restrictions placed on mining in the vicinity of lake foreshores since 1995, the Panel considers that mine subsidence is extremely unlikely to cause increased flooding or inundation of the foreshore of Tuggerah Lake.”

In Council’s view this is a very bureaucratic position that has not always been enforced in the past. Significant lakeside subsidence has occurred on the southern shores of Lake Macquarie and around the Tuggerah Lakes, despite similar assurances that it could never happen (Chain Valley Bay, Buff Point and Colongra Bay). This has led to the need in some areas to remove houses and substantial restoration for many others as documented in submissions to the Inquiry. While Council appreciates the restrictions on mining near the lake foreshores since 1995, it is clear that this is not a guarantee that subsidence will not occur in the future. The areas of affectation identified for most mines show that inundation is now probable even with the setbacks prescribed.

Dust

In relation to an assessment of likely dust impact – an area of significant community concern – the Report in Section 3.3.7.1 states that the Panel did not receive comprehensive information on a range of matters pertinent to this issue. The Report further states that:

“...dust impacts are a significant concern for the community in Wyong LGA.”

The Panel does not appear to have been able to reach any firm conclusion other than to state the obvious – if dust emissions exceed set standards the WACJV should be required to adopt mitigation measures to ensure the criteria are met. An Inquiry did not have to be established to reach this conclusion. The Panel also adds that the Department of Environment and Climate Change (DECC) should be encouraged to review current air quality standards to be consistent with current science and community expectations.

The real issues are whether a coal stockpile of 250,000 tonnes can be managed in such a way that the existing nearby communities and planned Warnervale Town Centre can be assured of coal dust not impacting their properties. There is evidence that water sprays are not, in fact, effective in controlling dust and this appears to be the main method proposed for the Wallarah 2 project. While fully enclosed stockpiles or even loading underground with covered rail wagons, for example, may be the only way to give complete surety the WACJV is apparently only suggesting water sprays.

This is another example where the Report does not fully address the real issues due to lack of detail (again), yet provides statements of assurance that are clearly contradicted by information in the report itself.

Noise

Noise is another area reviewed by the Panel (Section 3.3.7.2). Once again the Panel notes that it only received information from the WACJV that:

“...is very brief, and must be seen as incomplete.”

The Report then goes on to state that the WACJV is confident it can meet Government noise standards, and seems to support this position as satisfactory. This comment is hardly unexpected from the proponent, and the Inquiry's response to this matter does not provide any assurances to the community as to how this will be achieved.

TERM OF REFERENCE 3

ToR 3 refers to the social and economic significance of underground coal mining to the local community, the region and the State.

The Report notes the economic benefit to the region from a predicted 300 additional jobs and the flow-on effects from this employment. The potential economic benefits are rated in the Report as "significant". Council notes that the figure of "300" additional jobs appears to be contradicted by previous figures from the proponent believed to show only 100 permanent positions. This is a point that requires clarification by the Inquiry.

Council is concerned that the Inquiry appears to be uncertain about overall impacts and has downplayed issues relating to the possible negative impacts of the proposed Wallarah 2 development, including its rail head and coal stockpiles, on future development in the (Wyang Employment Zone (WEZ) and Warnervale Town Centre (WTC). The report states that (Section 3.4.1.2 page 82):

"On the evidence presented to it, the Panel is therefore not able to determine whether there is any economic disbenefit associated with any new underground coal mine within the Wyong LGA..."

The Inquiry would be aware, from information provided to it, that major developers for the WTC have expressed considerable reservations about proceeding with any development in this area with the Wallarah 2 project as proposed. The attempt to downplay concerns about possible dust and noise impacts as unimportant or readily resolved is especially disappointing given the Inquiry's previous statements about the lack of substantial information provided on these matters. In short, the Inquiry appears to have already made a decision on this matter regardless of any information brought forward by the community and other industry groups.

The Panel then further clouds the issue by indicating that the economic contribution from the proposed Wallarah 2 coal mine will need to be assessed against the economic significance of economic activity likely to be generated from other developments in the WRC and surrounding area.

The Report's conclusion is to not draw a conclusion but to put the matter back to the Government to decide.

Council is disappointed that the Inquiry was not able to identify that the State Government's directives for more people to settle on the Central Coast with more jobs – 4,000 to 5,000 residents in the WTC with 6,000 jobs in the WEZ over the next 25 years – should carry significantly more weight than a possible 300 jobs in the mine. Or that the threat to these new settlers and jobs by the proposed coal mine is such that to proceed would significantly impact on achieving these targets.

A further concern is the limited attention given to the possible impact of additional coal trains on the rail line between Newcastle and the Central Coast. Given the Coast's projected population growth and potential for increased use of the rail system for commuter and general rail traffic, the additional capacity used by coal trains is likely to have a future impact on this limited and important transport facility.

The Inquiry appears to become an apologist for the WACJV and its efforts to engender community support by providing information on what the project has done to date by way of community involvement and information. However, Recommendation 13 in the Executive Summary (page 6) recommending best practice community consultation, engagement and participation appears to have come too late in the process for the Wallarah 2 project. There is much community concern and resentment directed to the WACJV, rightly or wrongly, for what is seen by many as a lack of openness and failure to provide requested information. It is difficult to see how the community can become engaged when there is open rejection of any moves to mine under the Valleys, and a strong community resistance to the project continuing.

The Report's recommendations that this matter should be included in the Part 3A determination process is another example of the lack of any real findings from this Inquiry, and confirms Council's view that the Inquiry has not provided any significant outcomes that would not be addressed as part of the development application process.

TERM OF REFERENCE 4

This ToR (Section 3.5 page 87) refers to any areas where mining should not be permitted or only permitted under conditions.

Given the consistent lack of information available it is not unsurprising that the Panel was unable to recommend a ban on mining in any area of the Wyong LGA, citing the approval processes under the EP&A Act as providing sufficient mechanisms to manage risk and regulate mining.

On the other hand the potential to relax planning controls on development east of the F3 Freeway is seen as the one positive recommendation that would provide considerable benefits to the Shire and should be pursued.

CONCLUSION

Council is of the view that this Inquiry has been unable to provide any positive outcomes from its investigations due to a combination of lack of vital baseline data, short timeframes and limited Terms of Reference. The Recommendations contain few surprises, and defers all significant points of concern to a Part 3A review.

It is understood that further public submissions will be invited on the final Wallarah 2 development application that is expected to be made by the WACJV. Due to the expected size and complexity of this application it is respectfully requested that additional time be allowed for public comment on this application to allow the fullest possible input for this controversial project.

Should further information or clarifications be required please note that our contact officer is Mr Mike Long, Wyong Shire Council, 16 Hely Street Wyong. Mr Long may be contacted on 4350 5767, or by email at Mike.Long@wyong.nsw.gov.au.

Yours faithfully



Gina Vereker
Director
SHIRE PLANNING

Reference 1 Submission by Wyong Council dated 14 August 2007 to Strategic Inquiry
Reference 2 Submission by Councillor Doug Eaton to Strategic Inquiry