

Mining and Industry Projects  
NSW Department of Planning & Infrastructure  
GPO Box 39 Sydney NSW 2001

email: carl.dumpleton@planning.nsw.gov.au

1<sup>st</sup> June 2012

Dear Sir/Madam,

**Re: Submission as an Objection - Coalpac Consolidation Project: Application No: 10\_0178**

I strongly object to the Coalpac Consolidation Project (CCP) proposal. The proponent, Coalpac Pty Ltd, seeks to 'consolidate' its existing Cullen Valley Mine and Invincible Colliery coal mining operations, and continue coal mining under a single, contemporary planning approval. It does so with flagrant disregard to environmental and social values. If approved, this proposal would unnecessarily damage a uniquely scenic and biodiverse area and negatively impact the local community.

I support the wish of the NSW National Parks and Wildlife Service wish to add the entire BBSF to the conservation reserve system as a matter of priority, as it is an area with outstanding natural values.

I also support the objectives of the whole of the Gardens of Stone Stage 2 (GoS2)<sup>1</sup> reserve proposal and wish to acknowledge that this proposal was tabled in 2005, five years before this proposal. The rate of review until 2011 was poor.

Due to the level of public objection to this proposal from local residents, I request the Planning Assessment Commission conduct a public hearing.

## **Objections**

The following items outline in more detail as to why I wish for this proposal to be rejected entirely:

### **Ecological impacts**

The Preliminary Environmental Assessment (PEA) determined that the ecological risk was high and the rating was moderate but certain. This is downgraded in the current EA to a moderate risk with a moderate but remote rating.

Approving the mine would devastate the biodiversity of the area:

- The habitat of literally hundreds of native plant species would be destroyed.
- The iconic lyrebird uses the sides of pagodas in this area to nest and raise its

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<sup>1</sup> Muir, K. (October 2005) *Gardens of Stone Stage Two*. Colong Foundation & Blue Mountains Conservation Society.

young. Mining will completely remove its food habitats in the valley below.

- The project proposes to kill 19,200 vulnerable *Eucalyptus cannonii*, trees and this is unacceptable.
- This mine would destroy the habitat of 35 mammal species, 15 of which are listed under the EPBC Act.
- Habitats for 12 bird species threatened under the EPBC Act, including the Regent Honeyeater and Powerful Owl, will be completely removed.
- Some species prefer living in pagoda related habitats; underscoring a need for a larger step-back buffer zone than the proponent proposes.

There is no argument from Coalpac that the Proposal Area is abundant with threatened species and vegetation communities. This provides a very strong argument to reject the proposal.

### **OEH Sweeteners**

#### **S8.15.5 Management (Long term security)**

This section should be deleted from the EA. Under the circumstances; what is offered presents zero long-term security for... anyone!

*Re: "Further to this, Coalpac will support the progressive establishment of GoS2 and to this end; provide a monetary contribution of \$0.015 per tone of coal sold (approximately \$1,000,000), to OEH (or other relevant body) throughout the life of the Project to assist in the development, implementation and management of the GoS2."*

It is my understanding that there is no framework for the OEH to accept funding for the reserve of GoS2 from Coalpac Pty Ltd under the current circumstances.

*Re: "If required by OEH, rehabilitated areas of the Project Disturbance Boundary and biodiversity offset properties will also be progressively released into conservation into GoS2."*

The land being offered will be degraded. The OEH will not want it.

### **Greenhouse Gas Emissions & Climate Change**

For some reason is it necessary to repeat this information with every submission on coal mining application instead of it forming a basis as to why they should be prevented from being lodged at all. If the latter was the case we could save countless tax dollars:

Coal mining and the burning of coal contribute significantly to greenhouse gases (GHG's) that are causing climate change, in particular through the emission of CO2. Climate change will inarguable weaken the resilience of the environment, threatening the

biological diversity of life on our planet; the quality of water that supports life and increase environmental impacts on human health.

- The Coalpac proposal would if approved make a large contribution to Australia's already high carbon footprint.
- Coalpac's environmental assessment for this proposal inaccurately dismisses viable alternatives such as renewable energy and energy conservation that could make this project unnecessary.

### **Renewable energy alternatives**

The EA argues essentially that if they don't mine this coal, then someone else will mine and burn it elsewhere. This seriously misrepresents both the current status and ability of renewable energy to meet energy needs.

Note the excerpt below from the forthcoming book 'Human Dependence on Nature' (Washington, 2012)<sup>2</sup>:

*Renewable energy supplied an estimated 16% of global final energy consumption at the end of 2010 (REN21 2011). In regard to electricity, renewables produced 1,320 GW (312 GW excluding hydroelectricity) of electricity in 2010. By early 2011, renewables comprised 25% of electricity capacity from all sources. They accounted for approximately half of the estimated 194 GW of new electric capacity added globally during 2010. ... Civilisation can reach a 95% sustainably-sourced energy supply by 2050. There are up front investments required to make this transition in the coming decades (1-2% of global GDP), but they will turn into a positive cash flow after 2035, leading to a positive annual result of 2% of GDP in 2050 (WWF 2011). A large-scale wind, water, and solar energy system can reliably supply all of the world's energy needs, with significant benefit to climate, air quality, water quality, ecological systems, and energy security, at reasonable cost (Delucchi and Jacobson 2011).*

The energy and climate change arguments in the Coalpac EA are misleading. This project will be a significant contributor to global warming, and there clearly are alternatives to burning coal to produce electricity.

### **Native plant species in existence in Ben Bullen State Forest**

In addition to the objections below regarding flora species, I wish to request you acknowledge the work the Lithgow Environment Group has done. The group has carried out *extensive* field investigations in relation to the ecology and biodiversity of the local region. A volume of data provided by the Lithgow Environment Group to the Office of Environment and Heritage (OEH) identifies a large number of flora species existing within the BBSF that do not appear in the wildlife atlas. This data provides factual, detailed account of species in terms of initial identification, location and distribution and official

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<sup>2</sup> Washington, H. (2012 forthcoming) Human Dependence on Nature: How to Help Solve the Environmental Crisis. Earthscan (due to be published Nov, 2012).

recordings of the species. The data highlights the high conservation values of the BBSF and each species is being added to the atlas as time and OEH resources allow.

### **Inadequate flora assessments**

Coalpac has failed yet again to conduct an adequate flora survey. The Lithgow Environment Group has identified an additional 123 species to that which are indicated in the environment assessment (EA), this leaves us with a minimum total number of 590 plant species.

This highlights that the Ben Bullen State Forest is inarguably a biodiversity hotspot. Is the state seriously considering destroying part of it?

The proponent shows a serious and repeated pattern of omissions and errors with regards to its flora assessments. The proponent has failed to identify flora species in its flora assessments for existing projects and I notified Carl Dumbleton of the Department of Planning & Infrastructure about this matter on July 28, 2011 in my position as Campaigner for the Blue Mountains Conservation Society. I am happy to forward that information again if required.

I support the request by conservation groups for an independent flora assessment into the Ben Bullen State Forest.

### **The proposed step-back and risk-review buffer zone**

CCP v1 Exec Summary (pix) emphasises the 50 m step-back as discussed above. It also refers to a 100 m monitoring zone adjacent to sandstone cliffs and pagodas. This is further developed in S8.2.3 p109 and termed a 100 m risk-review buffer zone. Coalpac claims that experience at Cullen Valley mine justifies this risk-review/risk-management approach.

Although highwall mining is stepped back 50m, it can still undermine cliffs and pagodas by approximately 250m deeming the buffer tokenistic.

With regards to the highwall mining underneath and blasting near the pagodas and cliffs, Coalpac's Community Relations & Compliance Manager commented in discussion with concerned residents "It would be remiss of me to state there could be no cracking or falling of the cliffs".

I therefore call for a minimum step-back of **1,000 metres**.

### **Rehabilitation Claims**

The rehabilitation claims made by mining companies are not justified in general.

With regard to this application, it is not possible to dig up a vast quantity of rock, rubble and earth, remove millions of tonnes of coal and related overburden, interfere with the hydrology of the area, fill it all up and claim that all will be fine! The claims are foolish.

## Failure to engage all of government

Regarding the areas of air quality, noise and blasting; it is alarming to me considering the proximity of the proposal and the poor level of health endemic in the Lithgow area, that the Department of Education, the Principal the of Cullen Bullen Primary School or the Napean Blue Mountains Local Health District were invited to comment on the proposal. I know this because I first brought it to all of their attention during the period 10<sup>th</sup> April – 1<sup>st</sup> June 2012 and asked them all to review the EA and lodge a submission.

## Air Quality

Coalpac demonstrates a flagrant disregard to the local community by not properly acknowledge the health and environmental risks associated with PM<sub>2.5</sub> particle sizes, even when the data were collected (S2g.4 p7).

The impacts of PM2.5 are clearly outlined in this paper which is attached for review:

Castleden, WM, et. al. 2011 The mining and burning of coal: effects on health and the environment, Medial Journal of Australia (See Attachment 4).

Fine dust will present a larger problem for local residents, miners and the potential for recreational tourism than the proponent suggests.

The proximity of Cullen Bullen School to the mining activity is alarming and is way too close. It is within about 1000 m of dust and diesel fume generating activities. This is totally unacceptable considering the West Australian EPA recommends a separation distance of 1000-2000m<sup>3</sup> between open-cut coalmines and sensitive land uses such as for schools.

Further more, I support the NSW Nationals call for a **5 km** buffer for future open-cut mines and a **5 km buffer around villages**<sup>4</sup>. Without this, the mining industry will continue to affect the closing down of regional schools and the 'wiping off of the map' of targeted regional towns.

## Noise

The combination of the high AC, and the limited appreciation of cumulative impacts [including those arising from blasting which could be up to 40 blasts per week or 10 per day for limited periods (2H p39), despite the statements in S8.7.4 dot-point 3 p131] require that **these parts of the EA be re-assessed**.

Individual perceptions and responses and reactions to noise and blasting will vary from person to person.

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<sup>3</sup> Guidance for the Assessment of Environmental factors - Separation distances between industrial and sensitive land uses - June 2005; [http://www.epa.wa.gov.au/docs/1840\\_GS3.pdf](http://www.epa.wa.gov.au/docs/1840_GS3.pdf)

<sup>4</sup> Christine Ferguson and Mike Blake, Central Council Natural Resources & Energy Policy Committee - The Nationals NSW, Submission to Director, Strategic Regional Policy, NSW DP&I, 24 April 2012

## **Blasting**

With regard to blasting within 200m of pagodas and cliffs, a specialist geotechnical examination will be implemented; this should acknowledge my request for a minimum of a 1,000m step-back for the highwall.

In some instances, blasting is tabled to occur close to previously mined areas. It is not possible to definitely predict how the vibration will travel through these. Anyone claiming they can is talking absolute nonsense.

## **Visual impacts – disregard for scenic values**

The report is largely silent in relation to the destructive impacts visible from the high cliff and pagoda country to the east in BBSF.

The 'platy pagodas' of the areas are significant by world standards<sup>5</sup>. Any risk to them should be completely removed (Refer to section on step-back buffer).

## **Impacts on water**

The project is likely to produce acid mine drainage that will impact on local streams for many decades. It may also produce elevated levels of heavy metals that will also kill aquatic life. This is occurring right now with one of Coalpac's old mines, the Canyon Colliery Mine, which is contaminating streams with unsafe levels of zinc and nickel impacting the Heritage-listed Grose Valley.

## **Social matters**

The coal-mining boom comes at a social cost.

When large mining proposals are lodged; communities are at the beginning of a journey to a social divide. Not everyone local is on the same side of the fence as to whether or not it should be approved; and rarely are the locals given a proper voice.

The primary adverse social impact is on the amenity of the inhabitants of Cullen Bullen. The community is already divided – and over what? A proposal to access some poor quality coal in an area everyone is keen to see protected excluding the Minister for Energy and Resources and Coalpac Pty Ltd. This doesn't seem fair or to be the majority in my opinion.

I have had the privilege of working closely with the Cullen Bullen community. The community is very wary of claims the company is making in the lead up to the approval process due to experiences of promises being dishonoured once approvals have been obtained. The community is very wary of increased health risks mainly because there are

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<sup>5</sup> Washington, H. and Wray, R. (2011) The Geoheritage and Geomorphology of the Sandstone Pagodas of the North-western Blue Mountains Region (NSW). *Proc. Linn. Soc. NSW*, **132**: 131-143

locals, including children who attend the local Cullen Bullen Primary School, experiencing health issues as a result of existing activity.

Concerns remain with regards to the industry as a whole on its undertaking of being responsible for damage it causes to dwellings.

Local residents have been battling for years to have property damage rectified by the mining company operating nearby. It is important to note that consultants repeatedly identify anything *other than* the local mining activity as the point of blame to explain property damage. It is important to note this serves the best financial interest of any mining company.

An example of that in Cullen Bullen is with regards to residents Darcy and Glenda McCann who have gathered and lodged large volumes of data regarding damage to his property for over 13 years. Despite obvious movement in walls being evident and a ceramic toilet bowl cracking; no mining company has taken responsibility for the damage to the property.

It was interesting to note that in the meeting held by Lithgow City Council Tuesday 24<sup>th</sup> April at the Cullen Bullen Progress Association Hall, Cullen Bullen; that Coalpac Pty Ltd answered few questions directly or definitively and could only provide one answer to the vast majority of complaints or requests: "We will be using real-time monitoring". This is not an adequate solution for the many issues the company is already causing the Cullen Bullen community nor those this proposal will create. The company has an interesting perspective on 'accountability'.

In addition to the air, noise and blasting issues already outlined, its important to note that Cullen Bullen will become a dusty town. Homes, cars and clothes will be difficult to keep clean. Rainwater tanks will be contaminated.

To reiterate, a minimum 5km buffer zone excluding open-cut mining should be established around the town of Cullen Bullen to protect its social values and amenity. This would provide adequate protection for the children and staff of Cullen Bullen Primary School, ensuring the school is not closed down in the future, due to health and other risk from mining activity.

It is unreasonable for open-cut coal mining activity to continue 24hrs a day, 7 days per week so close to Cullen Bullen or any town.

The mining activity will lower the quality of rural lifestyles in the region forever.

These social issues and the level of public objection to this proposal brings me to repeat my request that the Planning Assessment Commission conduct a public hearing.

**Separately**, if approved, recreational activity in a large part of a public forest will not be possible for at least 21 years. The community expects to be able to access public land freely and for State Forests to be protected in perpetuity. The NSW Government would effectively be allowing the privatization and liquidation of public land if it approves this proposal.

The long-term economic value of keeping the natural assets of this area is held in high

regard by the Chair of the Blue Mountains, Lithgow and Oberon Tourism Board Mr. Randall Walker.

### **Lithgow City Council**

The Cullen Bullen community thought it had the support of the Lithgow City Council regarding the proposal when Councilors voted unanimously against the proposal 22<sup>nd</sup> August 2011 (See Attachment 1). The reasons included that it did not support open-cut mining in the area; however this was not the case for the long term as explained below.

In a meeting held in Cullen Bullen on Friday 3<sup>rd</sup> February 2012<sup>6</sup> that position by Council, was reiterated by Cr Howard Fisher who stated that the majority opinion of Cullen Bullen residents would receive Lithgow City Council's support. This comment was in response to the collection of signatures on a petition shows at that meeting that evidenced that majority of local residents objected to the proposal.

I wish to draw your attention to the details of the petition evidencing majority opposition to the proposal by Cullen Bullen residents:

Petition 551 tabled 2<sup>nd</sup> May: Mr. Paul Toole - from certain citizens opposing the open-cut mining proposal in Ben Bullen State Forest, and to protect the village of Cullen Bullen and the Ben Bullen State Forest from future open-cut mining proposals.

<http://www.parliament.nsw.gov.au/Prod/la/LATabDoc.nsf/0/8E142467B22144DECA2579F20026B8E7>

The prayer of the petition states

*"Residents object to:*

*1. Increased threats to their health from fine and other damaging particles due to the proximity of the proposed open-cut mining activity.*

*2. Increased threats to the health of the children attending Cullen Bullen Public School from fine and other damaging particles due to the proximity of the proposed open-cut mining activity.*

*3. Increased threats to their property and public amenity from blasting and other high-impact, mining activity.*

*4. Increased threats to the quality of their lifestyle from any increase in the level of open-cut mining activity within hundreds of metres of their village.*

*5. Open-cut activity blighting the scenic landscape and impacting local tourism.*

*6. The loss of habitat for native plants and animals.*

*The undersigned petitioners therefore ask the Legislative Assembly to act to reject the open-cut proposal and take the necessary steps to protect the village of Cullen Bullen and the Ben Bullen State Forest from future open-cut mining proposals."*

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<sup>6</sup> Lithgow Mercury, *Cullen residents out in force to oppose mine*, 11<sup>th</sup> February 2012:

<http://www.lithgowmercury.com.au/news/local/news/general/cullen-residents-out-in-force-to-oppose-mine/2451431.aspx>



Council staff responded to the petition in two ways:

01. Council staff initially ignored the content of the petition in its recommendation to Councilors to support the CCP proposal.
02. Council staff designed its own survey form for the residents of Cullen Bullen for a meeting it hosted in Cullen Bullen on the 24<sup>th</sup> of April 2012. The meeting was first declared public 22<sup>nd</sup> August 2011; then declared private<sup>7</sup> and for Cullen Bullen residents only in correspondence to residents dated 3<sup>rd</sup> April 2012, then declared public again 23<sup>rd</sup> April 2012<sup>8</sup>. The change to a private meeting was highly unexpected and never explained, and was declared public again due to public pressure. It is interesting to note that the Mayor specifically identified the Blue Mountains Conservation Society as 'outsiders' he didn't want in attendance.

The Chair wrongfully instructed those in attendance at the 24<sup>th</sup> April meeting that only Cullen Bullen residents were allowed to complete the survey form and complaints were received from the floor that there was no system in place to validate whether or not forms were in fact only being completed by local residents; especially considering it the form collection box was left unstaffed for a further three days in the local shop.

It was only noted that *anyone* attending the meeting could complete the survey form once the report from Council staff was tabled. This report recommended Councilors vote to support the proposal at the 14<sup>th</sup> May 2012 Council meeting (See Attachment 2).

Despite the multitude of Council staff being present in the 24<sup>th</sup> April meeting, nobody corrected the chair that the survey was in fact able to be completed by anyone, including approximately one third of the audience who had been given forms, did not live in the local area worked for Coalpac Pty Ltd.

After I reported the systemic related problems around this survey and, the failings to include the local residents' petition in Council's submission on the proposal to Andrew Muir, Group Manager Environment and Development for Lithgow City Council, the recommendation around the petition to Council changed (See Attachment 3). Similarly, after Coalpac Pty Ltd offered an in-kind donation to Cullen Bullen in the vicinity of \$5m over the life of the project should it get approval, Lithgow City Council back-flipped on its 'no open-cut mining' position.

It is my opinion that Lithgow City Council's submission and the recommendations by Andrew Muir are not based upon merit but are based upon funding opportunities and instructions from Councilors based upon those funding opportunities.

It is also my opinion that the confusion driven by Lithgow City Council around the survey form can be viewed as convenient as it allowed for majority responses to be received that

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<sup>7</sup> Lithgow Mercury, *Public meeting isn't so public*, 19<sup>th</sup> April 2012:

<http://www.lithgowmercury.com.au/news/local/news/general/public-meeting-isnt-so-public/2526509.aspx>

<sup>8</sup> Lithgow Mercury, *Cullen Bullen meeting open to the public*, 24 April 2012:

<http://www.lithgowmercury.com.au/blogs/mining-in-the-central-west/cullen-bullen-meeting-open-to-the-public/2536772.aspx>

supported its changed position. Survey forms were given to anyone who attended the meeting and over 40 people were not from Cullen Bullen.

Regardless, Lithgow City Council sends an unconscionable message that it cares more for its coffers than it does for the health of Cullen Bullen residents or the local environment.

Due to the backflip in position by Lithgow City Council on this proposal, I request the PAC be granted opportunity to view all of Lithgow City Council's internal documents on this issue, including its correspondence with Coalpac Pty Ltd.

Again, I reiterate that the level of public objection to this proposal from local residents warrants that the PAC invite locals to a public hearing.

### **Other concerns**

#### *Poor environmental management record*

The self-reporting systems around compliance leave communities and the environment vulnerable to impacts from environmental mismanagement. Unfortunately non-compliance is not generally the exception to the rule for any mining company.

Coalpac Pty Ltd.'s alone has been fined on at least eleven occasions for pollution incidents. Once receiving a \$200,000 fine for virtually doubling its capacity without permission. The \$200,000 fine did very little to the company considering the millions of dollars profit it made from the increased volume in revenue from sales.

#### *Other needs for the approval by the proponent*

In the same time frame that Coalpac Pty Ltd was preparing to lodge its application for this proposal; it was preparing to market the company to the Australian and overseas market. The owners are reported as stating in The Australian (newspaper) on 28<sup>th</sup> October 2010<sup>9</sup>:

*Coalpac chairman Richard Davies said the mines were being sold off because they didn't fit with the Liberman investment strategy.*

*"We more manage a portfolio of companies and liquid investments. We're still comfortable holding it, but we're not the natural long-term owner for something like this," he said*

**An approval of this application is critical to the value of the sale.** Macquarie Bank put out feelers for interest in the company again on 14<sup>th</sup> May 2012<sup>10</sup>:

*New South Wales coal producer and developer Coalpac is reportedly back on the market, engaging Macquarie Bank to field offers of interest for the company, Fairfax Media reports.*

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<sup>9</sup> The Australian, *Liberman family plans to sell coal mines*, 22<sup>nd</sup> October 2010:

<http://www.theaustralian.com.au/business/liberman-family-plans-to-sell-coal-mines/story-e6frg8zx-1225944402236>

<sup>10</sup> Coalport.com, *Coalpac testing the waters*, 14<sup>th</sup> May 2012:

[http://www.coalportal.com/newsDetailsPrint.aspx?article\\_headline=18662](http://www.coalportal.com/newsDetailsPrint.aspx?article_headline=18662)

## **Conclusion**

The role of the Department of Planning and Infrastructure is to review this proposal based upon merit. If this occurs, for the abovementioned reasons, the recommendation to the PAC would be to reject the application entirely.

The threats to the local community are real and imminent. The community must have respite from the pressures of mining companies being able to propose to ring their town with mining activity at any time one chooses to do so. The NSW Coalition Government can achieve this by supporting the call from the National Party to create 5km, no mining, buffer zones around towns and villages. This would in turn would place the health and well-being of all children attending regional schools back at the centre of all decision making regarding mining activity and its proximity to all schools.

The value of this uniquely scenic and highly biodiverse and geodiverse area must take precedent over the value of open-cut mining in the proposal area. It is in the State's best long-term interest to protect this pristine area, harnessing the biodiversity as well as building a second industry in recreational tourism, for the local community to enjoy long-term prosperity from.

## **Declaration**

I note for the record that I have not made political contributions of more than \$1,000 over the past two years.

Regards

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