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SUBMISSION

Cobbora Coal Project

Planning Assessment Commission Meeting

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Introduction:

Mudgee District Environment Group (MDEG), based in the Mid-Western Region local government area in NSW, is working for the conservation of our natural heritage and a sustainable future for our children.

MDEG has taken particular interest in the Cobbora Mine proposal since it was first announced by the previous ALP state government in 2009. We lodged a submission to the Environmental Assessment exhibited in 2012, presented to the Planning Assessment Commission (PAC) hearing in December 2012 and submitted to the Preferred Project Report lodged in 2013.

There is significant concern within the community that the Director General's Environmental Assessment Report identifies that the commencement of mining operations could be delayed for a number of years.[1] The ongoing lack of certainty has major socio-economic impacts that have not been adequately addressed. Leaving an entire community and region in limbo for an indefinite period of time is not a good example of a fair and balanced planning process.

The fact that this mining proposal is currently a state-owned project funded through NSW taxpayer's money requires that the final determination be very thorough and considered through independent analysis.

MDEG maintains the position that the Cobbora Coal project is without merit and should not be approved.

This position is maintained for the following reasons:

1. The Director General's Assessment Report is inadequate and gives a biased justification for the project
2. The revised preferred project proposal has recognised significant financial risk
3. The proposed biodiversity offsets will not mitigate the level of impact on a significant number of threatened species in the region
4. Regional water impacts are significant
5. A number of key recommendations from the PAC review report have not been met
6. There are a number of key baseline data gaps relating to environmental impact
7. The recommended conditions of approval are not adequate

MDEG is of the opinion that the poor quality of the coal in the Cobbora mine proposal does not justify the significant impacts on the environment, the local community and the local economy. The ongoing use of NSW taxpayer's money for an indefinite period of time, to prop up a project with a high degree of financial risk cannot be justified.

MDEG trusts that the Commissioners will carefully consider the significant risks associated with the Cobbora Coal project and reject it as an unviable proposal.

[1] Major Project Assessment (EA), February 2014, Cobbora Coal Project (10_0001) p23, 26

Key Issues:

1. Inadequacy of the Director General's Assessment Report

The Cobboral Coal project has undergone significant revisions since first lodged with the Department of Planning and Infrastructure (DPI) in 2012. The revised preferred project has a smaller mine plan with only two open cut pits operating at any given time, dropping back to one pit in the last 8 years.

1.1 Employment Figures

However, the job figures used for the project have remained the same, estimated to be a maximum of 550 construction jobs and a peak of 590 operational jobs[2]. There has been no explanation provided about these job figures or why they have not been scaled back to match the change in the mine plan. DPI continues to use these employment figures in the Assessment Report (the report). MDEG believes they are highly inflated.

The recommended conditions of approval refer to job numbers of 400 or less in the calculations for the voluntary payment agreements for the four local councils in the region[3]. The issue of job numbers for the project needs to be resolved as this is a critical element of the economic analysis and calculation of public benefit of the project.

1.2 Commitment to PAC recommendations

The report supports the position of Cobbora Holdings Company (CHC) in its bid to not adopt the full suite of recommendations provided by the PAC review of the project. The reasons for not substantially reducing or avoiding impacts on the northern woodland corridor, as recommended, are based on the economic viability of the project, the poor quality of the coal in Pit B and added costs of extraction[4].

DPI also notes that because of the delay of commencement of mining operations for a number of years, there would be additional time for restoration of woodland within the offset areas, the northern woodland corridor and other landholdings managed for biodiversity conservation identified in the Integrated Land Management Plan (ILMP).

1.3 Integrated Land Management Plan

However, the ILMP has not been produced yet, it is required under the recommended conditions of approval to be submitted to the Director-General within 6 months of the date of approval.

There is no clear identification of who would be responsible for funding and carrying out the restoration of woodland for conservation on landholdings owned by CHC. Will it be the licencees of the consolidated land packages or CHC using NSW taxpayers funds?

It is irresponsible of DPI to leave the issue of environmental impact to a future plan that cannot be assessed for its merit through this planning and approval process.

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[2] EA Table 2 p6
[3] Project Approval Appendix 4 p41
[4] EA p22

DPI has varied the PAC recommendations for the ILMP by removing the requirement to set up a dedicated trust fund and leaving the funding arrangements to the 'yet to be produced' plan.

1.4 Sale or lease of project

The report notes that the NSW Treasurer has announced that the Government intends to sell or lease the project and that this may cause delays in the project's commencement. This raises questions about the range of commitments that CHC have agreed to, how these will be funded in the interim and how DPI will regulate a new owner of the project to operate under those extensive commitments.

1.5 Cobbora Transition Fund

DPI notes that the $20 million Cobbora Transition Program is *'well placed to address the broader socio-economic impacts of both the project and any delays in its commencement*[5]*.'*

MDEG notes that of the 18 short listed projects announced by the Transition Program last Friday, only 2 are in the Dunedoo area, the most heavily impacted community through the CHC acquisition of 458 squ kms of land displacing 95 farming families.

1.6 Project Justification

The report outlines the need for the project[6] being the ongoing high demand for coal as an energy source without discussing any of the more viable and ecologically sustainable alternatives such as solar thermal as an adequate, reliable and affordable supply of energy.

The justification provided that society is heavily reliant on coal to meet its basic energy needs does not recognise the ongoing drop in demand for coal-fired electricity and the increased usage of renewable energy sources.

There is no recognition in the DPI justification argument that the IMF and other major global investment bodies have identified the cost of climate change as a significant threat to the global economy. The combustion of coal to provide electricity is the single largest source of carbon dioxide emissions that are causing the climate to change. The report uses very similar language to the latest campaign launched by the coal industry in late February called Advanced Energy for Life.

It is evident that DPI is not providing recommendations to the PAC based on unbiased and independent merits assessment.

2. Significant financial risk for the revised preferred project

CHC has recognized some significant financial risks in the revised mine plan that restricts mining to only one or two pits[7]. These include:

i) The coal quality requirements may not be met

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[5] EA p26
[6] EA p42
[7] Response to Recommendations of the PAC Review incorporating a Revised Preferred Project Report, August 2013, CHC Appendix A '*Revised Mine Plan – technical and financial considerations'* p17

ii) Towards the end of the mine life the ash content increases and yield decreases resulting in a difficult product to market
iii) Difficulty in selling a higher ash content to a domestic market
iv) Lowering productivity and /or mine output hence higher costs due to machinery congestion on two pit faces
v) Problems with flooding
vi) Higher dump heights with potential increase in dust generation and visual impacts

These issues add significant weight to the argument that the Cobbora Coal project is unviable. These risks have not been adequately identified or addressed in the DPI report.

3. Inadequacy of proposed biodiversity offsets

This issue has been covered by Dr Martine Maron

4. Impacts on regional water sources

This issue has been covered by Inland Rivers Network

5. Key recommendations from the PAC review report have not been met

The PAC handed down a set of recommendations after conducting a substantial review of the project. These recommendations were aimed at ensuring that the mine is appropriately designed and managed.

The DPI report identifies a number of areas where these recommendations will not be met. MDEG believes that this has greatly affected the merit of the proposal.

The key recommendations not to be met include that:
1. dewatering bores be used prior to mining,
2. dewatering technologies be used for tailings management to save on water demand,
3. the mining sequence be staged to mitigate the impacts of the removal of woodland in the northern biodiversity corridor.

The issue of the clearing of the northern corridor has been dealt with previously in this submission.

The issue of use of dewatering bores prior to mining has raised concerns about additional drawdown. DPI has recommended that additional groundwater modeling be undertaken prior to commencement of mining operations[8].

MDEG believes it is essential for this important data to be made available before the project can be approved on merit.

CHC still proposes to use emplacement of tailings slurry rather than mechanical dewatering options as recommended by the PAC. DPI has supported the CHC

[8] EA p36

justification based on cost and increased energy use. The commitment by CHC to undertake a feasibility study of alternative mechanical dewatering options prior to the commencement of *in pit* disposal is meaningless because CHC will not be operating the mine.

MDEG considers that all information in relation to recommendations made by the PAC must be provided prior to a final determination.

It is important that if approved all conditions and commitments are clearly defined so that whoever buys or leases the mine can be properly regulated.

6. Key baseline data gaps relating to environmental impact

The issue of water demand and interception has been a critical objection to the mine proposal. MDEG is concerned that after a number of independent reviews and a 'high level screening assessment' DPI, NSW Office of Water and two independent experts have identified that more detailed surface water and groundwater modelling is required prior to mining operations commencing on site.[9]

This additional modelling is needed to confirm predictions and to provide input into the detailed design of the mine's water management infrastructure.

Independent expert, Dr Perrens, considered that the peak annual supplementary water demand would not change and that the water savings inferred by CHC may be overstated.

MDEG considers it is critical that all required surface and groundwater modelling be conducted prior to the final determination of the merit of the proposal.

Dr Perrens has also recommended that further modeling of the final void lake be undertaken to incorporate the long term effects of climate change and the effect of increased salinity on evaporation rates to confirm that the void would continue to act as a groundwater sink and that adequate freeboard would always remain to prevent discharge into the natural environment.[10]

MDEG considers that this modeling should also be conducted prior to a final determination on the merit of the project.

The updated surface water and groundwater modelling could require more changes to the project that increase costs and further impact on the viability of the project.

MDEG believes that this information is essential prior to the project being leased or on sold so that the environment is not further compromised because of project costs.

The recommended conditions of approval include Schedule 3 condition 31 that the Water Management Plan include:

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[9] EA *Assessment of Revised PPR Mine Plan* p35
[10] EA *Drawdown Impacts and Final Voids* p39

ii) Surface Water Management plan that includes '*baseline data on water flows and quality, aquatic ecology, stream and riparian vegetation health in water courses that could potentially be affected by the project.'*

iii) Groundwater Management Plan that includes *'baseline data of groundwater levels, yield and quality in the region, as well as privately-owned groundwater bores and groundwater dependent ecosystems that could be affected by the project'*[11]

MDEG considers that it is essential for the Commission to have access to all this baseline data before a final determination on merit can be made.

7. The recommended conditions of approval are not adequate

While the DPI report is based on the production of 12 mtpa coal for a period of 21 years the recommended conditions of approval state in Schedule 2 condition 7 that the proponent may carry out mining on the site for a period of 24 years from the commencement of construction on the site.[12]

7.1 Integrated Land Management Plan

In Schedule 3, Environmental Performance Conditions, condition 1 outlines a number of detailed requirements for the Integrated Land Management Plan.

Condition 1 (b) requires the ILMP to be submitted to the Director-General for approval within 6 months of the approval of the mine.

MDEG considers that the ILMP is a critical requirement that needs to be submitted within 3 months of approval, if granted.

The DPI report notes that CHC has commenced preparing the ILMP and has instigated a process for the consolidation and management of its landholdings.[13] MDEG believes that the proper management of 458 squ kms of land purchased with NSW taxpayer's funds is a critical requirement regardless of the approval of Cobbora Coal project.

The ILMP should include an exit strategy involving the sale of land back to primary producers in the event of the project being rejected or not finding a buyer or leasee.

MDEG recommends that Shedule 3 condition 1 include a further requirement that

(l) an exit strategy be developed for resale of blocks if the mine construction and operation has not commenced after a period of 5 years from the date of approval

MDEG also recommends that condition 1 (h) adopt the PAC recommendation that a trust fund be established to manage the funding arrangements for the implementation of the ILMP.

MDEG notes that the current wording for condition 1 (h) refers to a strategic land use plan. There needs to be consistency in the language of the recommended conditions.

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[11] Project Approval p15
[12] Project Approval p5
[13] EA p26

MDEG also recommends that the ILMP be a requirement regardless of the approval or not of the Cobbora Coal project.

7.2 Compensatory Water Supply
The DPI report identifies that drawdown impacts on at least 5 private bores could occur with up to a 9m drawdown.[14]

The proposed condition for compensatory water supply, Schedule 3 condition 27 is highly inadequate. The condition needs to identify the likely affected bores in the same way that the noise and air quality conditions identify affected properties.

The condition requires that if the Proponent is unable to provide a long-term supply of water, then the Proponent shall provide alternative compensation to the satisfaction of the Director -General[15]

This condition means that access to stock and domestic bore water or commercial production opportunities can be lost to surrounding landholders. How can this be adequately compensated for? The loss of water supply basically renders a property unusable.

The Water Supply Compensation condition does not protect affected landholders who lose bore water supply through drawdown impacts from mining operations.

7.3 Changes to natural resource management arrangements
A number of conditions refer to consultation with the Central West Catchment Management Authority. This body has now been disbanded and replaced by Local Land Services.

MDEG notes that the Cobbora Coal project now crosses the boundary of the Central West LLS and the Central Tablelands LLS and possibly the North West LLS because the new arrangements are based on local government boundaries.

Condition 31 for the Water Management Plan, condition 35 for the Biodiversity Management Plan and condition 52 for the Rehabilitation Management Plan need to be updated to reflect the need to consult with appropriate LLS.

7.4 Modelling requirements needed before approval
Condition 30 requires that prior to the commencement of mining operations on site the Proponent shall update the surface and groundwater modeling.[16]

As previously stated MDEG considers that this information is essential prior to a final determination being made on the merit of the project.

7.5 Statement of Commitments
Appendix 3 of the recommended conditions of approval outlines 95 commitments for the mine Proponent if the project is approved.[17]

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[14] EA p38
[15] Project Approval p13
[16] Project Approval p14

However, 21 of these commitments are attributed directly to CHC, including the first one that undertakes to work closely with a wide range of stakeholders and Government agencies so that the project meets community expectations to the greatest extent practical.

If the project is sold or leased then these 21 commitments will not be applicable to the new operators of the mine.

MDEG recommends that the wording of commitments in Appendix 3 be altered from CHC to the Proponent so that they can be clearly regulated as a condition of approval.

Conclusion

MDEG considers that the Planning recommendation to approve the Cobbora Coal project is based on flawed assumptions and biased information.

The impact of the proposal on the local and regional community and economy has already been significant. There is still major doubt as to whether the project will ever go ahead.

The cost to the NSW taxpayer of managing 485 squ kms of land is unwarranted. The land should be sold back to primary producers who have been successfully managing significant biodiversity values in the region for generations.

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[17] Project Approval p35