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Minister
Department of Planning and Environment
http://planspolicies.planning.nsw.gov.au/index.pl?action=view_job&job_id=7086

Dear Minister

Submission to the review into
Standard Secretary's Environmental Assessment Requirements (SEARs) FOR STATE SIGNIFICANT MINING DEVELOPMENTS

Introduction

The Clarence Environment Centre (CEC) has maintained a shop-front in Grafton for over 25 years, and has a proud history of environmental advocacy. The conservation of the Australia's natural environment, both terrestrial and marine, has always been a priority for our members, and we believe the maintenance of healthy ecosystems and biodiversity is of paramount importance.

Planning and assessment overview

It has to be acknowledged that mining is without doubt, one of the most environmentally and socially damaging activities on the planet. The mining and subsequent burning of coal has shortened the lives of hundreds of millions of people around the world since the start of the industrial revolution, and continues to do so today where, even in Australia, life expectancy in coal mining centres like the Hunter Valley is significantly shorter than elsewhere. In developing countries where environmental controls are virtually non-existent, local environments continue to be turned into toxic wastelands, and local inhabitants have had to abandon tribal lands to escape the consequences. Even here on the NSW north coast we have examples such as the Antimony 'dead zone' at Urunga, all timely reminders of the need for a strong regulatory process.

Therefore we assert that the Government's current push to cut red tape for mining approvals must not weaken the environmental assessment process, and the protection that process must provide humans and wildlife in NSW.

In a recent email response to the question: *"Given the Dorrigo Plateau is the source of drinking water to over 100,000 people in northern NSW, do you agree that mining* (in this case gold and antimony) *is an inappropriate land use on the Plateau...?",* the member for Clarence, the Hon Chris Gulaptis responded with a two line paragraph which read: *"I am keeping a watching brief on these activities. As far as I understand, they are restricted to exploratory works only and should be non-invasive".*

The drilling of an exploration shaft to extract rock core samples, requires no environmental impact assessment beyond the drill site, and this response from the Member gives the direct impression that, should a commercial quantity of mineral be found and the company wish to extract it, then they stand a real chance of being denied approval, something we all know is highly unlikely.

Admittedly there will be hoops to jump through, community consultation to undertake, mitigation measures to be implemented, and offsets to be provided, but ultimately conditional approval will be granted, and down the track, when many of the consent conditions have been ignored, short-cuts have been undertaken, pollution incidents will occur.

Therefore we strongly believe that some areas of Australia, and the Dorrigo Plateau is a prime example, should be off limits to mining of any sort, much less the toxic gold and antimony mine possibilities that are currently being explored.

Our organisation strongly believes that the regulatory process should involve some level of assessment of impacts, environmental and social, of the final proposal that will eventuate in the event that exploration leads to extraction – an open cut mine for example, and this should be undertaken **prior to** an exploration licence being granted, not **after.**

Currently, other than national parks, there is virtually nowhere in NSW where mining is excluded. Even State Conservation Reserves, protected BioBank sites, and private land under "in perpetuity" Voluntary Conservation Agreements, are not exempted from mining. Therefore, we believe that one way to cut red tape is to map the entire state with a view to determining what type of mining can be safely undertaken, and in which areas. Had such mapping been in place, the coal seam gas industry would never have been allowed to explore for gas along the heavily populated NSW coastal strip, because of the social impacts, and impacts on the natural environment.

Unconventional gas mining is a prime example where initial environmental impact assessments are required to cover only the 10th of a hectare taken up by a drilling rig. The industry even attempted to sway public opinion through a television advertising blitz that claimed a gas well took up no more room than a tennis court. At no stage was it broadcast that once exploration turned to extraction there would need to be an industrial gas-field comprising scores of well-heads, all connected by roads and pipelines, with toxic waste water holding ponds, rowdy compressor stations, and endless 24-7 traffic, not to mention the threat to water supplies and human health through the hydraulic fracturing process that creates fugitive methane emissions.

If the industry wants certainty and a reduction in red tape, it makes sense to pre-map the entire country as outlined above, to ensure impacts on the environment and society are minimised. Allowing unconventional gas exploration to occur along the NSW coastal strip was a serious misjudgement on behalf of the Government, probably because it was misled, as was the local community, about what a fully productive gas-field would involve, and the types of impacts that would have on existing rural industries, the environment, land prices, and human health.

Therefore we are in agreement that there needs to be a review into the SEARs requirements, to ensure the safety of NSW residents, protect productive food-producing land, drinking water catchments, and areas containing high conservation values.

Comments on General Requirements

1. In respect of the general requirement (page 1) to: *"Address the environmental, social and economic issues that the consent authority should consider when assessing the application",* we strongly believe that the traditional granting of equal 'weight' to all three triple bottom line elements (environmental, social and economic), should itself be reviewed.

   For a start, the environmental impacts must be fully costed: In the case of a forest, that land is currently valued at its real estate value, while the value of the eco-services provided by that forest, the provision of critical elements to human survival, such as oxygen and clean water, and wildlife habitat are completely ignored.

All the official biodiversity management strategies, Federal, State and council, acknowledge the fact that biodiversity provides mankind with everything we eat, much of what we wear, and many of the medicines we depend upon. In short, without those, along with the afore-mentioned provision of the two crucial elements, oxygen and water, the human race cannot survive. **In that respect, the destruction of a forest must also rank as a social cost, and there is much truth in the saying that *"there is no economy on a dead planet".***

To some degree, the Government has tried to counter the under-valuing of the environment through "off-setting", using BioBanking and even by making monetary contributions where "like-for-like" vegetation cannot be found. However, **it must be understood that offsetting always leads to a net loss of biodiversity, and despite the use of terms like "in perpetuity protection", off-set sites are not currently protected from mining, nor are they protected if the RMS decides to build a highway through them.**

2. In respect to stakeholder consultation, particularly with affected landowners, and the local community; that consultation must not simply be a matter of a mining company telling the community what they are going to do. Recent events have highlighted the fact that miners require a social licence as well as a licence to explore. Even today, whole villages and communities (like Bulga) can be forced from homes where some have spent a lifetime, by those seeking short-term financial gain; and when the courts support the community's case to be left alone, our government simply changes the law. **This is patently immoral.** For far too long mining companies have ridden rough shod over the wishes of the general public, and this must change.

3. There are some encouraging comments (page 2) suggesting miners must: *"Assess the likely impacts of the development on the environment"*, including, *"an assessment of the likely impacts of all stages of the development".* We believe this statement only applies to the production phase of a mining proposal, not at the exploration stage, after which, given the miner has likely spent millions of dollars finding the resource, it is too late to deny approval. **As it is, we are unaware of any mining proposal that has been denied approval in NSW on environmental grounds, therefore we have good reasons to be sceptical.**

4. The measure calling for: ***"****A consolidated summary of all the proposed environmental management and monitoring measures, identifying all relevant commitments in the EIS",* sounds positive. However, as detailed under "Management commitments" (page 3, 5th dot point) such compliance monitoring will remain the responsibility of the proponent under the same regime of self-regulation which has failed so dismally in the past. **A strong compliance monitoring and enforcement regime by the responsible regulatory bodies must underpin any safe planning policy, particularly in the areas of noise, air and water quality, and waste disposal.**

5. The requirement for a proponent to: *"demonstrate that the proposed methods for baseline and subsequent monitoring are scientifically robust and statistically sound",* requires a level of expertise within the Planning Department that we believe is currently lacking. The example of Whitehaven Coal's choice of an offset site for the proposed Maules Creek coal mine, based on their consultant's claim that the offset contained endangered White Box Woodland, which in fact it didn't, highlights this point. In that instance, the regulator was obliged to accept the consultant's erroneous opinion. **Again, it is crucial that the regulatory body is fully resourced, and qualified to carry out its responsibilities.**

6. When it comes to rehabilitation objectives, and methodology, along with conceptual final landform design, we believe the Planning Department should provide firm guidelines with minimum standards, rather than it being left to the proponent to design.

We also believe a significant bond should be set aside in case of a default by of the proponent. There are altogether too many abandoned toxic sites across the country that have never been adequately rehabilitated.

7. We strongly believe that, while the proponent should cover the full cost of the EIS, the work should be undertaken by a completely independent consultant, not one chosen by the proponent. Too often we have seen cases where threatened species have been misidentified, or overlooked, data manipulated, impacts down-played, and mitigation measures proposed that are totally inappropriate. Under the current regulation, consultants see their primary function as being to ensure their 'employer's' project receives approval, while we believe their primary responsibility should be to ensure the best possible outcome for the environment. If that means the project application is rejected, so be it.

We thank the Minister for this opportunity to comment, and sincerely hope at least some of our comments will be taken seriously

Yours sincerely

John Edwards
Honorary Secretary.