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Nature Conservation Saves for Tomorrow

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BMCS Submission re Clarence Colliery's DA 504-00 MOD 2 and DA 504-00 MOD 3 November 2013

The Society notes that these are separate Mods but has opted to deal with them sequentially within a single document.

The EA documents (>100 MB for MOD 2 and ~8 MB for MOD 3) require substantial amounts of downloading and will not be examined in detail, not least because much in the appendices of the MODS is of little pertinence to the Society's concerns.

A. DA 504-00 MOD 2 Reject Emplacement Area VI (REA VI)

A0. Summary

"Error! Reference source not found" occurs in several places in the EA; this is unsatisfactory and must be rectified. At best, it shows that the document was prepared 'in haste' to ensure that community and environmental groups are kept busy at a time when they hope to be winding down; at worst it demonstrates a cavalier belief that the MOD will be approved almost irrespective of what is presented in the EA.

The Society believes that:

- (a) This 'just-too-late' approach to planning is couched in an unnecessary degree of sophistry.
- (b) The impacted NPHS should be subject to an independent investigation – either compensation should be levied, or the matter be considered as an addition to any offset proposals; the Federal Government should act on the referral.
- (c) The noise levels predicted for a contemporary mining operation are unacceptable and must be revisited before any approval is granted – relying on an ill-defined 'Noise Management Plan' to solve the exceedances provides no comfort for residents deprived of their amenity.
- (d) The visual impacts for observers from the north on Newnes Plateau and the east from the GBMWA should be determined, appropriate remediation identified, and implementation of the work prioritised – this should be made a condition of any approval of MOD 3.
- (e) In addition to item (d), expediting rehabilitation of older REAs should be a condition of any approval of REA VI.
- (f) There is need for caution in relation to potential impacts from EPL-compliant discharges and non-compliant leachate leakages into the Wollangambe headwaters.

- (g) MOD 2 could be reassessed once Clarence Colliery provides: clearer information on the resolution of noise exceedances; compensation commitments and/or offset details covering past and any future damage to the NPHS; a clear plan to speed-up rehabilitation of older REAs and reduce visual impacts when viewed from the GBMWha; and evidence that the EPL-compliant discharges have no impact on the Wollangambe headwaters.

The Society does not support MOD 2 as currently presented.

A1. The need for the Proposal

The need for this MOD arises because the capacity of REA IV will be reached in mid-2014, REA V is approved but has not been commissioned, and REA VI is the preferred alternative in that it “...provides a number of environmental improvements and efficiency gains in comparison to the approved REA V...” It would seem that REA V will subsequently be commissioned and used for contingency purposes.

Alternatives are examined (EA Section 3.1.2). In each case it is argued that the times required to implement any of the alternatives are incompatible with REA IV being full by mid-2014, and the costs of implementation are significantly greater. Claims are also made that REA VI will be less environmentally damaging.

BMCS finds it interesting that Clarence Colliery becomes aware of the ‘need’ when it is too late (and/or too expensive) to implement an alternative. This would seem to be a classical case of ‘just-too-late’ planning.

BMCS also notes that REA VI avoids sterilising (EA Section 3.1.3) “...the identified kaolin and sand resource located at REA V.” This should be clarified as it is clearly stated elsewhere that REA V will subsequently be commissioned and used for contingency purposes. **The Society has no preference for exploiting the sand/kaolin resource, but finds little credibility in Clarence’s claim that its move to REA VI proposal had much to do with concerns about sterilising the resource.**

One can only assume that the fall in coal prices has precipitated the ‘need’ and REA VI is the best means of maximising profitability. This is largely substantiated by (EA Section 3.1.2): “*REA VI was identified as a “future potential site” in the 2000 EIS...it was not anticipated that this area would be required within 20 years. The need for REA is a product of the in situ coal quality and the market specifications, both of which are now better understood as opposed to the knowledge base some 14 years ago.*”

Remove the spin and the above quotation says that things have changed relatively recently and that return on investment requires a hitherto little needed modification. **Perhaps it would have been more honest to just state this rather than presenting ‘alternatives’ and offering contrived reasons for rejecting them.**

A2. The irrigation scheme [Section 3.2]

This is seemingly another exercise in sophistry. REA VI will occupy an area “...currently utilised as an effluent application area for the existing reuse scheme. An alteration to the irrigation scheme is therefore required to facilitate the new REA”. “*Alternatives considered for the irrigation system included...relocating the irrigation infrastructure to assist with rehabilitation of existing REAs.*”

BMCS contends that relocating the irrigation infrastructure should have been done much earlier because:

- (a) Rehabilitation of the other REAs has been proceeding at too slow a rate (see Section XXX below) – moving infrastructure to speed up the rehabilitation was clearly not a priority – mustn’t compromise the profit margin!
- (b) The existing irrigation area is up-slope from a Newnes Plateau Hanging Swamp (NPHS) which is “...representative of the Temperate Highland Peat Swamps on Sandstone Endangered Ecological Community (EEC), which is listed under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).” Infiltration or run-off could have (and perhaps ‘has’) impact upon water quality in the NPHS and thereby undesirably impacted it. **Far from congratulating itself by suggesting that the relocation of the irrigation system will “...eliminate the potential for run-off from the irrigation system impacting upon water quality in the NPHS”, Clarence Colliery should be required to pay compensation for the damage already inflicted.** This is returned to in Section A3.

A3. The NPHS

EA Executive Summary piii: “*REA VI will be partially located within the catchment of a Newnes Plateau Hanging Swamp (NPHS) and is likely to restrict catchment run-off into the swamp by approximately 1.3%. The minor*

reduction in surface flows feeding the swamp is not anticipated to result in significant impacts as the NPHS is likely to be at least partially reliant upon seepage from an underlying perched aquifer.”

The EA Exec Summary ppiv-v indicates the NPHS is in poor condition in comparison to other swamp areas and that a berm has interfered with the natural water balance. There is also acknowledgement that a “...*small proportion of the catchment upstream of the NPHS has also been subject to 30 years of treated effluent irrigation and disturbance from historic mining activities...*” and that there “...*will be a minor reduction of approximately 1.3% in the catchment area of the swamp as a result of the redirection of rainfall falling directly upon the REA VI into the leachate management system.*”

Despite the past damaging activities and the imposition of further changes to the hydrologic regime arising from construction of REA VI, the EA Exec Summary ppiv-v considers that there will be **no direct impacts** on the NPHS as a result of the proposed REA VI. In fact, we are told that the reduction to inflows is minor and is anticipated to have a negligible impact upon the swamp. Similar comments are made in EA Sections 8.3.4 and 8.4.1, although it is grudgingly stated that the NPHS falls into the category of a GDE (groundwater dependent ecosystem). Then miraculously (EA p62) it is revealed that the absence of direct impacts is due to the fact that any damage is ascribed to **indirect impacts**. In other words, **Clarence hasn't deliberately caused a direct impact by bulldozing the NPHS, but its actions (past and proposed) have caused and will cause indirect impacts!**

All of the above is laced with the usual ‘mays’, ‘unlikely’s and reductionism, and is typical consultant ‘double-speak’. But to be sure, to be sure, Clarence Colliery has adopted a very conservative approach and decided to refer the project to the Federal Government. **The simple fact is that the Clarence proposal has potential to damage the NPHS which has suffered from Clarence’s past activities;** the Federal government should most certainly be concerned.

A4. Noise concerns

Noise concerns are effectively dismissed by stating that the (EA Exec Summary) “...*modelled emissions for both the existing and proposed operations without the rail operations comply with both the existing development consent and the Project Specific Noise Criteria (PSNC) developed in accordance with the EPA’s Industrial Noise Policy (INP).*” However, the existing rail loop is part of the mine operations, so the train loading activities at Clarence Colliery must also be included; and when this is done **the modelled PSNC is exceeded by up to 22 dBA for both existing and proposed operations.**

Instead of recognising that the Clarence Colliery has been unacceptably impacting residents for 30 years, it is suggested that there is no problem because: (i) the mine has been operating for many years in accordance with the impact assessment criteria within the development consent which excludes the train loading and rail operations; (ii) there is negligible difference between modelling of the proposed and existing operations when the rail operations are included; and, (iii) there is no history of complaints related to the rail operations.

BMCS is appalled at this reasoning. Things deemed acceptable 30 years ago are now rejected under current practices. Clarence is proposing modifications which must meet today’s standards. Clarence must prepare a ‘Noise Management Plan’ which truly meets the necessary criteria. It is unacceptable to place the onus on impacted residents (who by now may be suffering from deafness after many years of exposure to disturbing noise levels, or may be elderly and less able to handle dealing with the company at a personal level) to negotiate over issues of impacted amenity.

The issue of cumulative noise impacts anticipated when the Newnes Sand-Kaolin Mine comes on line should be revisited in view of the above exceedances and the additional use of the rail loop.

A5. Visual amenity and rehabilitation

A5.1 Visual impacts

The visual amenity is examined from the viewpoints of local residents. It is concluded that the REA VI and the irrigation infrastructure are not readily visible from any receiver location, and (EA Section 13.2) the significance of the visual impact is considered to have negligible to minor significance.

It is regrettable that no attempt was made to examine the impact of Clarence Colliery from elevated areas on Newnes Plateau and in the immediately adjacent National Park and Greater Blue Mountains World Heritage Area (GBMWA). Viewed from such locations, Clarence Colliery is a major blot on the landscape. REA VI will be an additional feature detracting from the visual amenity of the many visitors who leave the roads and wish to experience the region’s scenic values on foot. For example, few who visit Gooches Crater or Birds Rock can fail to see the combined impacts of Clarence Colliery and Hansons Sand Quarry.

BMCS recognises that these cannot be hidden, but much more can be done to reduce the impacts of their visibility. Any approval of REA VI should require Clarence to assess visual amenity from the north and east and to devise ways of reducing the impacts.

A5.2 Rehabilitation

EA Section 15.1 states that “...*partial rehabilitation works have been undertaken on REA I, REA II, REA III and REA IV...The rehabilitation of the proposed REA VI will be undertaken in accordance with the procedures developed and currently being implemented for REA I to IV.*”

EA Section 15.3 concludes: “*Clarence Colliery is committed to rehabilitation of the site at the end of mine life with progressive rehabilitation being undertaken...before mining ceases. The rehabilitation requirements of REA VI will be incorporated in the existing management documentation and procedures to ensure successful rehabilitation and ongoing management of the area.*”

In terms of visual amenity (Section A5.1) and the ultimate rehabilitation of the site, it is a pity that the previous REAs have only undergone partial rehabilitation. There is reason to believe that REAs I to III should have already been fully rehabilitated. That this hasn't happened suggests that rehabilitation is afforded only a low order of priority. BMCS strongly believes that expediting rehabilitation of older REAs should be a condition of any approval of REA VI.

A6. Site-water management

EA Section 7.2.4 states that the Clarence Colliery catchment and the Wollangambe River downstream of the site can be defined as ‘upland rivers and streams’. It also recognises that the upper reaches of the Wollangambe Catchment comprise a ‘high conservation/ecological value system’. Nevertheless, there is acknowledgement that the immediate catchment within which Clarence Colliery pit top is located has been extensively modified by mining and that the mine discharges into the Wollangambe River catchment and thence into the GBMWA.

EA Section 7.3.3 notes that: “*Reject material has the potential to produce acid and metalliferous drainage...Any leachate released directly to receiving waters prior to treatment has potential to exceed aquatic ecosystem protection triggers and relevant EPL...approval limits.*” All leachate will pass through the water treatment plant (WTP) to ensure that discharges to the Wollangambe River and Farmers Creek (Lithgow's water supply) comply with EPL 726 (See EA Table 7-3).

BMCS is concerned with any leakage of the non-compliant leachate and the potential impacts of the EPL-compliant discharges eastward into the Wollangambe headwaters and westward into the Farmers Creek system. **The decision-makers should exercise extreme caution in relation to EPL-compliant discharges which may compromise the Wollangambe wild river and the encompassing GBMWA.**

B. DA 504-00 MOD 3 Road Haulage Modifications

B0. Summary

The Society believes that:

- (a) Propping up obsolescent power stations is climatically undesirable.
- (b) Rail should be examined as an environmentally sound alternative to road haulage.
- (c) Additional truck movements on the GWH way west of Mt Victoria carry a disproportionate and unacceptable level of risk; this likewise applies to The Darling Causeway and particularly the Station St end.
- (d) The increased noise-level due to the coal trucks would not be welcome.

The Society is unable to support MOD 3.

B1. Proposal

Clarence Colliery produces a solid fine-coal product (FCP). It is currently stored on site due to lack of export demand. Energy Australia is prepared to use the FCP in ‘local’ power stations provided that the price is right. Clarence Colliery believes that a suitable deal can be based on road haulage of the FCP via the Darling Causeway, Great Western Highway and Castlereagh Highway to the Kerosene Vale Stockpile Site (KVSS).

The principal conditions are:

- Modifying DA 504-00 so that up to 100,000 tpa of FCP can be trucked westward via the Great Western Highway through the City of Lithgow Local Government Area (**LGA**).
- There will be **no net increase** in haulage from Clarence Colliery – up to 200,000 tpa will be trucked eastward, but only if no coal is sent to the west.
- There will be no road haulage to the west from 10 pm to 7 am on Monday to Saturday, and 10 pm to 8 am on Sundays and public holidays.
- The maximum number of truck movements to the west will be 25 per day (25 in/25 out).

B2. BMCS' comments

The Society will not address much of what is in the Appendices to the EA. Instead, it elects to emphasise aspects of the proposal which conflict with some of the Society's basic principles, as well as drawing attention to a few specific points which would seem to be anomalous.

B2.1 Basic principles

(a) Renewable or gas-fired power generation

There was a NSW government commitment to increase the amount of power from renewable sources and at least move to gas-fired power (or gas-fired 'readiness'). The Society fully supports this approach in the interests of reducing greenhouse gas emissions. It consequently believes that extending the lives of obsolescent power stations should not be encouraged.

(b) Trucks vs rail

The Society's position on environmental grounds is that high-bulk freight should be moved by rail (rather than road) wherever this is practicable. BMCS believes that the environmental benefits generally outweigh any perceived cost and 'convenience' advantages road may have over rail.

The original reason for Clarence Colliery being granted 200,000 tpa of road haulage to the east was to facilitate servicing a series of small orders by variably distributed small businesses. Rail transport was not a viable option in terms of timeliness of small deliveries and double handling involved with offloading from rail to trucks for completion of deliveries.

The current proposal to service the power stations by truck does not fall into the dispersed small-user category; there is a single loading point at the colliery and a single unloading point at the KVSS.

BMCS believes that Clarence should investigate the option of using the conveniently located rail loop.

B2.2 Traffic and transport

(a) Victoria Pass, River Lett Hill and the Forty Bends

No amount of risk assessment can alter the fact that Victoria Pass is the site of numerous accidents, many of which have involved trucks. Even in its improved state (everything is relative!), the Pass is dangerous because of the combination of gradients, curvatures and variable climatic conditions

River Lett Hill (again improved but only marginally) is similarly dangerous, while the Forty Bends region is particularly prone to icy conditions.

BMCS is strongly opposed to adding an additional 25x2 truck movements per day over the Mt Victoria to Lithgow section of the GWH'way. It may only be a small percentage of the total traffic, **but it is a percentage entirely comprising trucks.** In any accident involving trucks and private cars, few come would dispute that the car drivers suffer most, regardless of who was at fault and whether or not speed was a partial cause.

(b) Darling Causeway

This is a moderately fast road with a poor surface for much of its length. It is argued that for all but the Station St portion there will be no more truck movements, while the additions along Station St are statistically insignificant. However, in terms of local vehicular traffic, cyclists and pedestrians, the Station St section and its junction with the GWH'way are (for Mt Victoria) very busy.

BMCS contends that the additional risk generated by the 25x2 truck movements is far greater than suggested by simple percentage terms. Furthermore, the risk is exacerbated when consideration is given to heavily laden trucks crawling up Station St and turning onto the GWH'way and potentially meeting trucks (not necessarily coal trucks) coming the other way.

B2.3 Noise

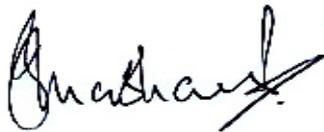
The Society has previously challenged traffic-noise studies as being statistical methods designed to suppress the true nature of the impacts on individuals. Nevertheless, the methodology persists, so this is what will be dealt with in this submission.

EA Section 8.2.2 and Table 8.8 convey that the basic criterion [LAeq (dBA)] is 60. The EA then states that the existing road traffic noise levels on the proposed haulage route are **above** the recommended road traffic noise criteria at most of the receivers. Clarence then suggests that only increases in total traffic noise of 2 dB or more have any significance.

BMCS rejects this approach. When 'receivers' are already subjected to excessive noise, any additional noise is adding insult to injury! BMCS is sure that if those producing the statistics had taken the trouble to speak to those affected in Mt Victoria (including the students at Mt Victoria Public School), they would welcome a reduction of noise to the basic criterion

C. Conclusion

Although the Society appreciates the intentions of Clarence Colliery, as embodied in these two MODS, it is unable to support them in their present forms. Road haulage using the GWH'way is a recipe for disaster, while the development of REA VI should be made more attractive by imposing rigorous conditions.

A handwritten signature in black ink, appearing to read 'Brian Marshall', with a stylized flourish at the end.

***Dr Brian Marshall,
For the Management Committee.***