

**STRATFORD EXTENSION PROJECT
PLANNING ASSESSMENT COMMISSION REVIEW
SUBMISSION BY THE
BARRINGTON-GLOUCESTER-STROUD PRESERVATION ALLIANCE**

Commissioners, thank you for the opportunity to address this hearing today. I do so in my capacity as Chairperson of the Barrington-Gloucester-Stroud Preservation Alliance (BGSPA).

BGSPA made a substantial submission in response to the original EIS. Contributors to that submission from within the community have expertise in the areas of economics, health, environmental management, ground and surface water hydrology, heritage assessment and rural resource management. BGSPA also engaged consultants to assist its evaluation of the noise impacts and socio-economic justification of the project.

Gloucester Shire Council and other community groups also made substantive submissions.

BGSPA has a number of significant concerns regarding the Director General's Preliminary Assessment and proposed conditions. In separate presentations, Dr Steve Robinson and Mr Jeff Kite will be addressing health and water related issues respectively.

BGSPA made a preliminary submission to the PAC. I will be expanding on that submission in my presentation today. I also draw Commissioners' attention to an excellent submission to the PAC on the economic assessment of the project, by Mr Rod Campbell of The Australia Institute. Mr Campbell previously contributed a report on the economic assessment of the project, which formed part of BGSPA's original submission on the EIS.

PROCESS

1 Both the Proponent's Response to Submissions and the DG's Preliminary Assessment make statements that do not accord with the facts. I will be dealing with specific instances in the course of my presentation.

2 The Preliminary Assessment contains surprisingly few references to and very little analysis or discussion about, matters raised in submissions to the EIS. Much of the text is lifted directly from the proponent's Response to Submissions.

3 None of the recommended conditions of consent proposed by BGSPA (and others) have been adopted by the Department of Planning in its recommendation to the PAC. It has simply endorsed the proponent's proposals as outlined in the EIS. Given the depth and breadth of these submissions, it defies credibility that the Department could find nothing of merit to include in its recommendation.

4 The Preliminary Assessment states at Page 55, "It is important to note that GSC objects to the development

This statement does not accord with the facts.

In its response to the EIS, GSC gave qualified support for the project.

Leaving this point aside, the Preliminary Assessment, in attempting to downplay the position of GSC goes on to state, "Nonetheless, it is also important to note that many more public submissions were received in support than objected to the proposal".

This is seriously misleading.

Most of the submissions in favour were short statements by individuals, most of whom were Yancoal employees. BGSPA and other groups made substantive submissions on behalf of their collective memberships, numbering in excess of 500 people. BGSPA does not seek to downplay either the right to make or the validity of those submissions. We simply make the point that it is disingenuous at best for the Assessment Report to use these raw numbers in such a misleading way.

NOISE

5 Intrusive noise disturbance from the Stratford mining complex is a pivotal issue for consideration of the proposed expansion. It is currently a significant problem for neighbouring residents. Despite the application of at-source mitigation and reported compliance with the noise criteria set out in the conditions of consent, intrusive noise – especially low frequency noise – currently affects residents up to 5km from the source. Noise disturbance occurs over a wide area and would seem to be greater than that predicted by previous noise modelling. The complaints record – excluding the most recent period during which operations have been significantly scaled down - indicates that the disturbance is actually getting worse.

6 The Preliminary Assessment states at Page 16 that “Over the period 2008 to 2012, Stratford was compliant with all relevant noise criteria, with two exceptions at properties which have since been either acquired by Yancoal or whose owner has entered into a private landholder agreement in respect of these impacts.” In the next paragraph it goes on to acknowledge that noise complaints have been steadily increasing over the past five years.

BGSPA suggests that these two statements are inherently contradictory and go to the nub of the noise disturbance problem.

If monitoring is accurate and the approved criteria are not being exceeded, it is apparent that significant noise disturbance occurs at levels below the criteria. Hence the issue is not simply about compliance with criteria included in the conditions of consent. Rather, it is about the *adequacy* of the criteria to ensure that neighbouring residents are protected from intrusive noise.

It is seriously deficient that there is no attempt in the Preliminary Assessment to identify, analyse or resolve this apparent contradiction.

7 The Preliminary Assessment goes on to state at Page 17: “These complaints relate to night-time noise from train loading/unloading and associated dozer operations on the product coal stockpile. Analysis of complaint records shows that these complaints tend to emanate from a small number of properties near the mine, rather than the wider area.”

This statement does not accord with the facts.

A survey of residents by BGSPA revealed that intrusive noise nuisance was experienced over a wide area and at all points of the compass. There was little variation in the descriptions of the noise. It was usually described as being a constant low roar or rumble accompanied by the sound of heavy machinery operating under load. The nuisance is largely due to the constancy and nature of the noise rather than its volume. There was some variation noted in the time of day when the noise nuisance was most intrusive. For some, it was essentially a problem at night while for others it was a problem during the day, particularly in the morning and late afternoon. For a few, it could occur at any time of the day and night. (Refer to BGSPA Submission on EIS Section 2).

8 The distances over which the intrusive noise is experienced and the common descriptions of the noise, strongly indicate a significant low frequency component in the mine noise that is poorly attenuated by air & distance. The complaints register shows that in recent years the majority of noise-related complaints relate to noise during the daytime hours when current mining operations occur and generally describe noise most probably arising from the operation of mobile plant, including but not limited to, the stockpile dozer. It is the proposed extension through the night of these mining operations that is alarming to residents.

9 The proposed return to 24-hour mining operations is strongly opposed within the community on the basis of predicted effects, current experience of noise from existing mining operations, and past experience of 24-hour mining that was discontinued following completion of mining in the Stratford main pit. Even supporters of the project have spoken out against a return to 24-hour mining.

When this issue was first considered by GSC, the former mayor, Mr Geoff Slack, a well known supporter of the extractive industries, made a memorable if somewhat surprising comment prior to voting to oppose the proposed 24-hour mining. He said, "If they cannot operate in a socially responsible manner, they shouldn't be allowed to operate at all."

The Department has recommended that operations in the Avon North and Stratford East open cut pits be approved on a 24-hour basis. The key reason being that "eliminating night-time mining will not significantly reduce night-time noise levels for residents" citing a potential 1dB(A) reduction for residents of Stratford village (Preliminary Assessment Page 1).

This is a misleading assessment.

Stratford village will not be the area primarily affected by mining at the Avon North and Stratford East pits. The residents of Craven and elsewhere will be. Table 3 on Page 21 of the Preliminary Assessment paints the true picture. The elimination of night-time mining at Avon North is predicted to result in a reduction in noise levels of 11dB(A) at Receiver 23. The elimination of night-time mining at Stratford East is predicted to result in a reduction in noise levels of 10 dB(A) at Receiver 60. These are significant reductions. Reductions of similar magnitude would occur at numerous other privately owned residences where noise levels that would be intrusive and affect the amenity of their property are being experienced, despite being marginally below the noise criteria. Yancoal has agreed to restrict the hours of operation at the Roseville West Extension Pit to protect the residents of Stratford village. This restriction should apply at all pits to protect all residents.

10 The negative impact on the community resulting from the longer period of mining required if hours are restricted is also cited by the Department to support its recommendation that 24-hour mining be approved.

This is not a valid argument.

As evidenced by the piecemeal expansion of the Stratford Coal Mine since opening in 1995, once this project is finished, new pits are likely to be opened to exploit the additional resource and mining will continue. The negative impact on the community will go on.

11 The large number of complaints concerning intrusive noise, lodged by residents located in areas where noise modelling and monitoring for current operations predict noise impacts below the current PSNL, suggest that either the modelling is not a good indicator of potential noise impacts or the monitoring is not accurately recording noise levels.

Residents therefore, have no confidence in the noise modelling presented in the EIS. The EPA submission noted the "significant number of noise amelioration measures the proponent has proposed in order to achieve lower noise levels" and that noise modelling contours show "that the 'line' of noise greater than the Project Specific Noise Level (above the criteria) just skirts the village of Stratford". With the telling observation that, "if noise modelling slightly under predicts the noise impacts, it is likely that many more residents (from Stratford village) would potentially be adversely affected by noise." BGSPA suggests that this is about as close to an objection to the project as the EPA was game to make.

12 The descriptions provided in the complaints register suggest that low frequency noise is a significant component of intrusive noise experienced by residents. No data on low frequency noise has been presented and there is no proposal to implement monitoring procedures beyond the inadequate A-weighted filter used in monitoring of current operations.

If the project is approved, C-weighted measurements should be included in all noise monitoring. Where those measurements indicate a significant low-frequency component in noise at a receiver, the correction factors listed in the INP should be added to the measured noise levels at the receiver before comparison with the criteria.

13 Residents have no confidence in Yancoal's noise monitoring and complaints handling process. Residents impacted by intrusive noise nuisance report that it can be highly variable despite identical weather and operating conditions. Yancoal is often unable to identify the specific source(s) of noise or explain its variability, and this proves to be an additional irritant.

The Complaints Handling Procedures are seen to be completely inadequate, focussed more on 'managing' the complaint and the complainant rather than investigating the complaint to finality by identifying the noise source and implementing mitigation measures. There is rarely any explanation of investigative and corrective measures undertaken and inadequate follow-up with the complainant to assess whether the problem has been resolved. If noise monitoring shows that Yancoal was compliant with relevant noise criteria, there is no further investigation and no corrective measures are undertaken. That is the end of the matter - complaint filed, problem resolved. (Example provided)

This point was made to the Department of Planning, but has not been addressed in the Preliminary Assessment.

14 The Preliminary Assessment states that the Department has recommended conditions of consent that require Yancoal to use real-time noise monitors at Stratford and Craven villages as components of its noise mitigation, monitoring and management measures. Should noise impacts be other than expected, Yancoal would be required to reduce or cease its operations to achieve compliance.

This is highly misleading.

Taken at face value, it suggests that the continuous noise monitoring would be employed to monitor compliance, including detecting non-compliance. That is what the EPA recommended, but the proposed conditions do not reflect the EPA's recommendations. Instead, they merely require that continuous monitoring be employed as part of the noise management plan to help calibrate, over a period of time, the periodic attended monitoring and as a trigger for further periodic attended monitoring.

The proposed conditions should be amended to achieve the intent of the EPA's recommendation.

15 The Department has recommended that Yancoal develop a fully revised Noise Management Plan for the project. BGSPA contends that this should be submitted to the Community Consultative Committee, to provide an opportunity for review and comment by community representatives before being submitted for approval.

16 To further reduce the impact of the project on private landholders, the Department has proposed that certain additional mitigation measures be implemented at residences where exceedances of PSNLs are predicted. BGSPA contends that the suggested measures are too prescriptive and limiting. For example, some residences may already have insulation, air conditioning and double-glazing. And people cannot be expected to isolate themselves inside their homes to escape the intrusive noise. A better, more flexible and more equitable approach would be to require Yancoal to negotiate an arrangement with each landholder that suits the particular circumstances of that landholder.

17 BGSPA notes that the matter of operational noise levels and compensation for affected residents was a special focus of attention for the PAC in the matter of the Boggabri Coal Mine Expansion Project (Determination Report 18 July 2012 Pp 6-14). I doubt that Dr Shepherd will need reminding.

BGSPA congratulates the PAC for exploring the issue in such depth and challenging the standard, prescriptive and unsatisfactory position proposed by the Department of Planning. BGSPA supports and endorses the line of reasoning adopted by the PAC.

I will not take the Commission's time and reiterate the detail – I refer commissioners to the Report. However, I particularly wish to note a paragraph at Page 8 of the Report which states: "What is clear to the Commission is that in this broad-acre agricultural setting intrusive noise from mining operations will have an adverse impact on the amenity and lifestyle of residents at levels well below 40dB(A)." While we are not a broad-acre agricultural area, the intrusive noise experienced by residents from the current mining operations at Stratford demonstrates that the same situation occurs in our valley and I am sure that the response of many here in the room would be 'so say all of us'.

The position adopted by the PAC to effectively collapse the tiers of relief available into a single layer with the resident having choice of the option to be applied, was a recommended consent condition proposed by BGSPA in its submission on the EIS.

BGSPA seeks to have the PAC recommend conditions that accord with those stated in Points (i), (ii) and (iv) at Pp 9 & 10 of the Boggabri Determination Report. These are appended in detail to this submission.

18 In its Response to Submissions at Attachment 5 Page 3, Yancoal states "It is relevant to note that SCPL (Yancoal) has attempted to negotiate private agreements with all four receivers exceeding the Project-specific noise criteria for the Project".

This does not fully state the situation and is misleading.

BGSPA cannot speak for all "receivers". For those for whom it can speak, it is true that Yancoal approached them about the possibility of entering into a negotiated agreement. However, when they sought independent advice to understand the nature and extent of the likely impacts, Yancoal summarily abandoned the negotiations without advice or explanation.

BIODIVERSITY OFFSETS

19 The community has fundamental concerns about the validity of Biodiversity Offset arrangements given that there is no guaranteed long-term protection for these areas from future mining. GSC and GLSC expressed similar concerns in their respective submissions on the EIS. Given the decision of the Planning Assessment Commission in the matter of the Warkworth Coal Mine Modification 6 on 29 January 2014, these concerns are obviously well founded.

SOCIO-ECONOMIC

20 BGSPA notes that the Preliminary Assessment offers no comment on the socio-economic critique provided by Mr Rod Campbell for the BGSPA submission on the EIS.

21 BGSPA supports Mr Campbell's submission to the PAC and wishes to highlight the following points from his submission.

- Projected economic benefits are based on coal prices significantly higher than current levels and analysts long-term forecasts.
- Estimates of changes to NPV in relation to operating hours are unsourced and "the PAC should place no faith in these estimates".
- The precarious economics of the project will likely result in perpetually expanding or contracting operations depending on the market, as seen in recent months. Rather than providing stable, reliable employment and royalty payments, workers and the government will be at the mercy of the coal price.
- Royalty estimates are overly optimistic. A more realistic estimate of around \$6m pa in royalties represents 0.3 per cent of Treasury's budgeted coal royalties for 2013-14 and 0.0096 per cent of budgeted state revenue.
- Projected levels of employment are unlikely to occur unless and until there is a sustained recovery in coal prices, contrary to analysts' expectations.
- At Page 49 the Preliminary Assessment repeats modelling results from the EIS relating to indirect employment and output. The type of modelling used to derive these figures has been described as "biased" by the Australian Bureau of Statistics, "abused" by the Productivity Commission and "deficient" by the NSW Land and Environment Court.

22 The Preliminary Assessment states at Page 2, "the project is considered to be a relatively significant coal resource". In comparison with other mines (for example, Warkworth 12 Mtpa of product coal and Boggabri 7 Mtpa of product coal versus 2.1 Mtpa of ROM coal at Stratford) this assertion seems a significant exaggeration that casts doubt on the objectiveness of the assessment. As Campbell notes, the project represents 0.5 per cent of NSW coal production.

23 Campbell's conclusion:

The Stratford Extension Project is economically dubious. The flaws in the EIS have been accepted uncritically in the Preliminary Assessment. Claimed economic benefits through royalties, taxes and employment are unlikely to materialise as estimated. In the context of state finances and coal resource it is insignificant. Given these conclusions and the local objections to the project, we suggest the PAC should reject the application.

24 The Preliminary Assessment states at Page 56 "Some properties to the south of the project (such as 58, 59, 60, 60, 65, 68 and 70) are surrounded by mine-owned land. The owners of these properties claimed this had affected their ability to sell their properties, and argued that they should be given acquisition right to address this impact. The Department has met with these owners, inspected the relationship between these properties and the surrounding mine-owned land, and investigated the impacts of the project on these properties".

This statement does not accord with the facts.

BGSPA can find no evidence that any of the identified landowners made such a claim. While it cannot speak for all of the landholders identified, none of those for whom it can speak either had contact from the Department, met with the Department or had their properties inspected by the Department.

At Page 7 of its Submission on the EIS, BGSPA identified the very real collateral damage that mining projects have on landholders living within the large footprint of a coal mine and made the following recommendation.

If the owners of the properties identified in the Relevant Land Ownership Plan in the EIS (Figures 1-3a, 1-3b and 1-3c) seek to sell their property for any reason during the course of this project and the property is unable to be sold because of the proximity of the Stratford mining complex, SCPL (Yancoal) must acquire the property in accordance with the procedures in condition 11.1 of the BRNOC development consent (DA-39-02).

At Page 56 of the Assessment Report, the Department attempts to refute that this collateral damage actually concurs. This represents either appalling ignorance or wilful misrepresentation. This is a very real situation that is causing enormous social harm and needs to be factored into the cost-benefit analysis for the project.

I draw Commissioners attention to submissions made by Glen Road resident, Mrs Patricia McCalden and landholder, Mr John Hughes.

I remind Commissioners of one example, cited in BGSPA's submission on the EIS, which serves to illustrate this point. A couple in late middle-age and of modest means purchased land at Glen Road Craven, built a house and moved here in the late 1990's. They started a business to sustain them until they reached retirement age. The business wasn't successful and they were forced to move out of the area to find an alternative source of income about six years ago. They listed their property for sale. It remains unsold. It has very occasionally been let during this period. This couple's financial position is grim. The stress has been enormous. Their lives are in turmoil at a time when they should be looking forward to winding down to enjoy the fruits of their working lives.

I encourage Commissioners to re-read Page 7 of BGSPA's submission on the EIS as it addresses this issue in some detail.

CONCLUSION

25 The BGSPA submission on the EIS presented an Overview that stated inter alia ...

The EIS is a very lengthy document that attempts to address a range of complex issues and provide broad justification for the project. Not surprisingly, the EIS talks up the economic benefits of the project, down-plays the negative health and welfare impacts that will largely be borne by the residents of Stratford and Craven and dismisses or trivialises most of the environmental impacts that will affect the whole valley and its community.

Our assessment of the EIS is that it is deeply flawed and hence inadequate for the purposes of enabling the Department to fully assess the merits of the application. We find many of the impacts to be understated and much of the proposed mitigation to be either inadequate or overly ambitious. There are serious errors of omission.

The socio-economic assessment for the project should clearly demonstrate to decision makers that the cost the local community must bear, in loss of amenity, damage to health and reduced financial values of properties, is justified by the benefit to the wider community, and why no other alternative is feasible. It has done neither.

We have attempted to deal with these matters in a constructive manner. We have provided detailed comments about specific issues and proposed alternative mitigations or recommended conditions of consent where appropriate. We have suggested that the proponent be required to re-present certain critical information.

Expanded comment on these matters is provided in the body of this submission. We trust that in its assessment of the application, the Department will give due weight to our comments and suggestions.

There are many in the community who say that “enough is enough” and that the Stratford coal mine should be wound up when its current development consent expires. They point to the relatively small amounts of coal being extracted; its marginal economic viability; the impacts of noise and dust on neighbouring residents; the health impacts arising from mining so close to Stratford village and the negative impacts on alternative land uses.

BGSPA objects to the expansion of the Stratford coal mine as proposed in the EIS. We cannot conceive that an approval could be granted based on the information presented. If the Department cannot be persuaded to this view, we expect that the approval would incorporate the recommendations and proposed conditions of consent contained in this submission.

26 BGSPA’s submission also listed 49 recommendations and proposed conditions of consent. Many of these are relevant to submissions being made by others to the PAC at this public hearing and I refer commissioners to them.

27 BGSPA considers the Proponents Response to Submissions to be totally deficient. It does not attempt to respond in any meaningful way to the issues raised in the BGSPA submission. The standard response is to say that no one else has raised these concerns and to then restate the information provided in the EIS.

28 The Preliminary Assessment contains surprisingly few references to and very little analysis or discussion about, matters raised in the BGSPA submission. Much of the text is simply lifted directly from the proponent’s Response to Submissions.

29 No additional information has been presented to cause BGSPA to change its original position. BGSPA considers that the additional economic critique provided to the PAC by Campbell provides justification alone for the PAC to determine that the project not be approved.

30 In the event that the PAC decides to recommend that the project proceed under stringent conditions, BGSPA seeks to have the PAC adopt the following conditions.

30.1 Proposed 24-hour mining operations in the Avon North and Stratford East pits **not** be approved.

30.2 C-weighted measurements to be included in all noise monitoring. Where those measurements indicate a significant low-frequency component in noise at a receiver, the correction factors listed in the INP should be added to the measured noise levels at the receiver before comparison with the project noise criteria.

30.3 Real time continuous noise monitoring to be included in the noise mitigation, monitoring and management program to monitor compliance, including detecting non-compliance, in accordance with the EPA recommendations for the project.

30.4 The Noise Management Plan to be developed for the project to be submitted to the Community Consultative Committee, to provide an opportunity for review and comment by community representatives, before being submitted for approval.

30.5 PSNLs recommended by the Department to be adopted. As noise impacts at some privately owned residences are predicted to exceed PSNLs, the following to apply.

(i) For privately-owned residences where predicted noise impacts exceed 35dB(A), the owner of that residence shall have the option at any time within the period of this approval to take one of the following actions:

(a) enter into a negotiated agreement with the Proponent that allows for noise impacts above the PSNL (a copy of this agreement is to be lodged with the Director-General); or

(b) request the Proponent to implement additional noise mitigation measures at the residence (such as insulation, double glazing, air conditioning, etc.) as per the standard terms for such arrangements including dispute resolution by the Director-General; or

(c) request the Proponent to acquire the property (i.e. the land reasonably associated with the residence) under the standard procedures.

(ii) In order to deal with the situation where the owner of a privately-owned residence has opted for (a) or (b) on the basis of the predicted impacts, but the project's performance is worse than the predicted impacts, an additional measure has been included whereby an owner who has opted for (a) or (b), and who has reasonable belief that the predicted impacts are being exceeded by more than 3dB(A), can request the Proponent to commission an independent noise assessment to determine the issue and, if the exceedance is above 3dB(A), can request the Proponent to acquire the property under (c).

(iii) For privately-owned residences outside the predicted 35dB(A) contour, there needs to be a mechanism for owners who believe that residential impacts above 35dB(A) are occurring to have access to the same options as those owners currently within the predicted 35dB(A) contour. This would require that owners who reasonably suspect that impacts above 35dB(A) are occurring are able to request the Proponent to undertake monitoring to determine the issue and if the impact is above 35dB(A) to provide the owner with the suite of options outlined in (i) and (ii) above.

Impacts above 35dB(A) in these circumstances may constitute a breach of the approval.

30.6 If the owners of the properties identified in the Relevant Land Ownership Plan in the EIS (Figures 1-3a, 1-3b and 1-3c) seek to sell their property for any reason during the course of the project and the property is unable to be sold because of the proximity of the Stratford mining complex, Yancoal must acquire the property in accordance with the procedures in condition 11.1 of the BRNOC development consent (DA-39-02).

APPENDIX

(i) For privately-owned residences⁸ where predicted noise impacts exceed 35dB(A), the owner of that residence shall have the option at any time within the period of this approval to take one of the following actions:

(a) enter into a negotiated agreement with the Proponent that allows for noise impacts above the PSNL (a copy of this agreement is to be lodged with the Director-General); or

(b) request the Proponent to implement additional noise mitigation measures at the residence (such as insulation, double glazing, air conditioning, etc.) as per the standard terms for such arrangements including dispute resolution by the Director-General; or

(c) request the Proponent to acquire the property (i.e. the land reasonably associated with the residence)⁹ under the standard procedures.

(ii) In order to deal with the situation where the owner of a privately-owned residence has opted for (a) or (b) on the basis of the predicted impacts, but the project's performance is worse than the predicted impacts, an additional measure has been included whereby an owner who has opted for (a) or (b), and who has reasonable belief that the predicted impacts are being exceeded by more than 3dB(A), can request the Proponent to commission an independent noise assessment to determine the issue and, if the exceedance is above 3dB(A), can request the Proponent to acquire the property under (c).

(iv) For privately-owned residences outside the predicted 35dB(A) contour, there needs to be a mechanism for owners who believe that residential impacts above 35dB(A) are occurring to have access to the same options as those owners currently within the predicted 35dB(A) contour. This does not appear to be provided for in the Department's recommended conditions of approval. This would require that owners who reasonably suspect that impacts above 35dB(A) are occurring are able to request the Proponent to undertake monitoring to determine the issue and if the impact is above 35dB(A) to provide the owner with the suite of options outlined in (i) and (ii) above.