

Submission on

Wallarrah 2 Coal Project

To NSW Department of Planning

Submitted by

Ken Scales

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INTRODUCTION

My name is Ken Scales and I live with my wife in the last part of Blue Haven subdivided and sold by Landcom which is closest to the proposed coal mine. During the purchase of my land I made inquiries about mining through the Mine Subsidence Board as advised by my Solicitor. I was told that mining south of the general line of Roper Road would not be an issue and Landcom assured me that this was a pristine area for living. No one mentioned that we would be getting the added bonus of a huge Coal Loader just up the road. I prepared and submitted written submissions to both previous inquiries inquiry into mining in this area and also spoke at both inquiries. I am lodging this submission as an individual with a severe dust allergy who does not want to relocate because of a proposal which I consider immoral to say the least. I worked for many years in both legal and technical fields including drafting and enforcing NSW Acts and Regulations which were passed in State Parliament. I also worked on Coal Titles prepared prior to the 1981 Coal Acquisition Legislation that were held in the former NSW Land Titles Office. I also managed projects to capture all digital land data in NSW and computer match it to the NSW Digital Cadastral Database.

DAMAGE TO THE MINING INDUSTRY

If the mine goes any further it provides options for individuals or organizations opposing this mine to do substantial damage to the coal mining industry by making the NSW Government comply with Sections 86 and 91 of the Australian Constitution. These sections require bounty (revenue) from mining coal (which is a mineral) to be collected by the Commonwealth Government and could easily be enforced if the matter was taken to the High Court of Australia. There are compensation provisions in the NSW Coal Acquisition Act but these largely allow the amount to be determined by the NSW Government and in many cases they simply pay nothing. Were the revenue collection to come under control of the Commonwealth Government the land owners whose properties are undermined to extract coal could become eligible to be compensated on “**just terms**” under Section 51 XXX1 of the Australian Constitution. This would make mining uneconomic for many underground mines that are under privately owned land. This mine provides an ideal opportunity to challenge the NSW Government on this issue. There is no risk management strategy that can mitigate what would come from this issue if the mine proceeds. If you do not think this could happen then I suggest you read Section 117 of the Australian Constitution which made the NSW Greyhound Prohibition Act invalid and look at the end result. There is also the matter of the politicians currently trying to resolve citizenship issues related to the Australian Constitution

FLUSHING OF TUGGERAH LAKE

The reduction in water flowing from the Wyong River into Tuggerah Lake will reduce the flushing ability of the lake. Tuggerah Lake is only partially tidal and the eco systems within the lake are dependent on regular flushing from Wyong River generated by heavy rain. This is recognized in the EIS however there does not seem to be any mitigating strategy to address the effects of reduced water flows from the Wyong River and consequential reduced flushing of Tuggerah Lake. Any reduction in this would cause damage to the eco systems of the lake and irreparable damage to marine creatures and bird species that live in and on the Tuggerah Lake. Major degradation of the lake such as that caused by pollution from reduced

flushing or permanent lower levels due to water loss from Wyong River would destroy the local tourist industry and cause a huge loss of jobs. The number of jobs lost from an event like this would far exceed any new jobs created by the mine.

OTHER MATTERS

There are some other matters I wish to remind the committee to remember when making their decision.

- There are no available legal controls that would stop Kores transporting the coal to Newcastle or Wollongong by road.
- Most remedial action will be paid for by all NSW taxpayers where ever anything goes wrong despite the use of bonds. There are serious doubts on the future of coal mining in the years to come and it is highly unlikely a mine such as this one operating at such great depths would remain solvent.
- Kores cannot sue the government if the EIS is rejected. The main Statute which governs mining in NSW is the Mining Act 1992 No29. Section 127 of this Act protects the government from any legal action to seek compensation if the mine is refused. However if the EIS is approved other legal avenues for compensation become available
- The purpose of the PAC inquiry is to ensure that this project does not have negative social, physical or monetary impacts on the local community. It was already rejected by the Minister For Planning in March 2011. Tony Kelly stated that the project “**was not consistent with the principals of ecologically sustainable development, including the precautionary principal, and as a result is not to be considered to be in the public interest**”. In view of the issues with dust, water quality, subsidence, and flooding just to name a few I am certain he was right and bringing the loader closer to homes schools and child minding centers has only made this worse.

MORALITY AND ETHICS

In a world that seems to have become violent and uncaring it is about time that the welfare of citizens becomes more important than money. Both current and precious Environmental Impact Statements have stated that here will be increased mortality from both coal dust and Crystalline Silica. The original EIS included maps. One of these which I have attached as Annexure A shows the coal dust from the main mine buildings and stockpiles reaching Blue Haven including the Western end which contains a Primary School and three Child Minding centers. The additional dust from the new mine loader at Blue Haven will only make matters worse with a partially covered conveyor and coal being loaded into uncovered railway wagons with coal dust generated as part of this process. The EIS also does not adequately address volumes transport and storage of fine Crystalline Silica Dust Particles generated by blasting to get access to coal. Much of this will apparently be used as construction fill on both the mine and Blue Haven coal loader. There was a time when low levels of asbestos dust were considered to be acceptable and within government guidelines. The real bottom line is that the dust from this mine will kill people and make others very sick. Yes it is only a few but how many dead people are too many. The EIS actually acknowledges that there are no actual levels of crystalline silica or coal dust which can be guaranteed to be totally safe. On a basic level there is no real difference between a person who approves a process

knowing it will kill people and a person who fires an automatic weapon into a crowd from a hotel window in the dark knowing people will die as a result. Either way you do not have to look at their faces and they end up dead.

The whole concept is morally wrong and simply ruins the lives of those affected by a project that should never be approved. A lot of possible negative outcomes from this project can never be fixed. If this project, already rejected by a former Planning Minister, is approved then our society is in deep trouble.

I formally request that the Wallarah 2 mine proposal be refused for the reasons set out above.

Ken Scales

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[Redacted] 26th October 2017

Annexure A - Dust Map omitted from 2nd EIS showing dust dispersion on busiest days

