

## Minister's PAC Terms of Reference not met

The Maules Ck Community Council has obtained legal advice that the Terms of Reference set by the NSW Planning Minister for the Boggabri and Leard Forest Coal Mines' proposals have not been met by the Planning Assessment Commission.

The advice, provided by the Environmental Defenders Office (EDO) in the form of a letter to the Planning Minister on behalf of the Council, states that:

*"We are of the view that the PAC Review for both Boggabri and Maules Creek projects do not comply with your request to the PAC because **the PAC did not have enough information to undertake an assessment of the cumulative impacts in relation to dust and noise** because of the deficiencies in the studies submitted in the Environmental Assessment"*

"This raises concerns about the legal validity of the planning process. The MCCC has called for the Planning Minister to urgently refer the mines back for a proper merits review of the cumulative noise and dust impacts with the Planning Assessment Commission (PAC) before the project is referred to a second PAC for a decision," said MCCC's Mr. Phil Laird.

The MCCC has also requested they be provided with an opportunity to address a further public meeting before the second PAC that will determine the project.

**Mr. Kevin Anderson MP** in a letter to the MCCC (21/5/12), has supported our commitment to sustainable development and responded by making three separate representations to the Planning Minister, Mr. Brad Hazzard MP. Mr Anderson MP has been "stressing the concerns that the Terms of Reference have not been fulfilled by the PAC and that the various management reports and strategies including air quality and biodiversity management be prepared prior to determination as the projects could be substantially changed via these reports once an approval is given."

"As you know we are aware of the benefits of mining but are not prepared to accept these at the cost of our environment and community. The compromise solution of underground mining was heard by the Minister and made sense to him however the company, the PAC and the DofP are ploughing on regardless," said Mr. Laird for the MCCC.



Birds of Leard's Forest - Zebra Finch. photo R. Druce

**The Minister for Planning and Infrastructure Mr. Brad Hazzard MP, in correspondence to Mr. Laird (7/6/12)**, said he had forwarded Mr. Laird's correspondence to the Department.

He also said "Whilst I understand your concerns, particularly after your family have been involved in farming locally for such a long time, the process for consideration must be objective and at arms length from me as Minister."

**The Minister for Planning and Infrastructure Mr. Brad Hazzard MP, in correspondence to the EDO (18/6/12)** made available to the MCCC Newsletter said that the PAC will consider the legal issues raised by the EDO on the MCCC's behalf.

He also said that the PAC is not planning to hold additional public meetings prior to the determination of the project, as requested by the EDO on MCCC's behalf. And that the Department has considered the cumulative impacts of the Boggabri Coal project and is satisfied that there is adequate information available.

Mr. Hazzard MP said that the Department has "recommended ...conditions specifically to manage cumulative impacts associated with the Boggabri Coal Project including Boggabri Coal to "comply with cumulative noise and dust criteria, minimize, monitor and manage cumulative noise and dust in collaboration with surrounding mines, acquire properties found to exceed defined cumulative noise and dust criteria, at the landowners request and prepare and implement detailed noise and dust management plans, in conjunction with adjoining mines."

Mr Hazzard MP said that while he noted the EDO's request on behalf of the MCCC for management plans and regional strategies, his advice was that it was common practice for these to be worked out post project approval.

In relation to the Maules Creek Coal Project Mr Hazzard MP said "I can assure you the Department will comprehensively assess the impacts of the project, including potential cumulative impacts, prior to forwarding the application to the PAC for determination."

The MCCC would welcome any further work done on this issue, as it is clear more work needs to be done. Listen to Gabrielle Kibble from the Planning Assessment Commission admit that they did not consider cumulative dust impacts when assessing the Boggabri Coal Mine in Leard State Forest and then go on to say that more work needed to be done.

[http://mpegmmedia.abc.net.au/local/new-england/201202/r897355\\_9077157.mp3](http://mpegmmedia.abc.net.au/local/new-england/201202/r897355_9077157.mp3)

"Cumulative dust and noise assessments are essential, according to the legal advice, to determining the zone of affectation and identifying which properties must be purchased by the mining companies.

"Unfortunately, the Planning Assessment Commission has put the cart before the horse - leaving assessment of cumulative impacts to regional strategies that will be drafted after the mines are approved." said Mr. Laird.

"The community will have no legal right to comment on those strategies and there is not even any requirement for them to be released to the public."

"We will have no rights of appeal in the Land and Environment Court."

"We are going to be locked out from having a say on the levels of dangerous coal dust that we consider acceptable in our communities."

"It's a worst case scenario for farmers in the area and we are calling on the Planning Minister to act urgently to send these assessments back to the drawing board until a proper cumulative assessment of dust and noise impacts has been conducted" he said.

### **The Boggabri Coal and Leard Forest mining applications**

In the same letter to Mr. Phil Laird (12/6/12), Minister for Planning and Infrastructure Mr. Brad Hazzard MP said "The Department has completed its assessment of the Boggabri Coal Project and referred it to the PAC for determination, and is currently finalizing its assessment of the Maules Creek Coal Project with a view to referring it to the PAC for determination shortly."

### **The Namoi Catchment Water Study**

which was commissioned to investigate the potential impacts of mining and Coal seam gas exploration on the water resources of the Namoi catchment is fast approaching the initial completion date of 30th of June. Large changes are occurring due mainly to the efforts of the community members of the Stakeholder Advisory Group (SAG), who collectively are known as the Namoi Community Network, and on which MCCC is represented by Alistair Todd, Phil Laird and Peter Watson.

Chair of the Namoi Community Network Hugh Price recently announced "we could not in good faith have recommended to the Community to attend the Public Meetings scheduled in June," due mainly to the fact the Contractor, Schlumberger Water Services (SWS) have not satisfied the Terms of Reference for the Water Study, after considerable feedback was provided regarding the Phase 4 Report.

The contractors have also been asked by the SAG to model Scenario 7 which asks the question 'What is the impact to the Namoi Valley water resources if known Coal Seam Gas and Coal reserves are extracted in the next 30 to 40 years.' According to Hugh Price "This would simulate a Hunter Valley level of development with a peak of 24 mines extracting 160 million tonnes per annum and 8 gas fields," the study as it stands only models 60 million tonnes per annum, a peak of 8 coal mines and 2 gas fields at

any one time. "The Community representatives feel that looking at Scenario 7 is essential in order to understand the potential risks that high levels of coal and gas extraction may impose on our water resources."

The community members of the SAG have asked for Scenario 7 to be presented at the Community meetings alongside the phase 4 report but the Minister for Resources and Energy Chris Hartcher has not as yet granted this request even though it is essential in making the Water Study satisfy the Terms of Reference, which is the community's contract with the government.

The questions and review of the draft report submitted by the Namoi Community Network direct to SWS have not been answered. The present Phase 4 Draft report is very difficult to understand and not presented in a way that the community can understand the risks to water resources of the Namoi Catchment, this is why the community through the SAG have requested an extension of time until the end of July to allow the contractors SWS to do their job in line with the terms of reference for the Water Study, as well as allowing for Scenario 7 to be completed and incorporated into the final report and presented to the community.

Listen to an ABC radio interview with Hugh Price and Mal Peters. <http://www.abc.net.au/local/stories/2012/06/19/3528806.htm?site=newengland>

### **ALL NEW Take a look at <http://maulescreek.org/>**

Use your local website to take action

A few minutes and your voice is heard. Ask the key decision makers to act (state and federal politicians and the mining companies).

"In your own words, tell them it is up to them to reject these mining proposals, preserve Leard State Forest and protect the farming community of Maules Creek."

<http://maulescreek.good.do/no-new-coal/email-the-key-decision-makers/>

## **Whitehaven Coal Limited have appointed a Project Director for the Maules Creek project construction (28/05/12)**

“Whitehaven Coal Limited (ASX: WHC) today announced the appointment of Brian Cole as Project Director for the Maules Creek project construction. Brian joins Whitehaven from NCIG in Newcastle where he has been Senior Project Manager for the last five years.”  
<http://www.4-traders.com/WHITEHAVEN-COAL-LIMITED-6499701/news/WHITEHAVEN-COAL-LIMITED-28-05-2012-Appointment-of-Project-Director-for-Maules-Creek-14345554/>

## **Whitehaven sells stake in coal project (06/06/12)**

“Whitehaven Coal says it is better placed now to develop the highly regarded Maules Creek coal project in NSW after it sold a stake in the development.

The statement comes after Whitehaven sold a 10 per cent stake in the development to Japan’s biggest electricity company for \$370 million.

The transaction would provide a substantial portion of the funding required to develop Maules Creek, Whitehaven Coal managing director Tony Haggarty said.

Billionaire Nathan Tinkler’s Aston Resources struck a deal to sell the interest before Whitehaven Coal swallowed up Aston in a friendly takeover late last year.”

<http://www.thebull.com.au/articles/a/28869-whitehaven-sells-stake-in-coal-project.html>

## **Nathan Tinkler launched a takeover of Whitehaven Coal (13/06/12)**

“Whitehaven confirmed the approach from the 36-year-old, which it said involved a preliminary privatisation offer in which the company would be de-listed.

It’s believed Mr Tinkler would be negotiating in a consortium with Japan’s Idemitsu and other Japanese and Korean companies already active in NSW’s coal space.”

<http://www.heraldsun.com.au/business/nathan-tinkler-faces-tough-battle-for-whitehaven-coal/story-fn-7j19iv-1226394639218>

## **4th Gunnedah Coal & Energy Conference**

Gunnedah Mayor Adam Marshall is the first speaker at the \$3,300 per ticket industry Conference held in Newcastle 25-26 June 2012.

Providing the Local Government address: titled Gunnedah and mining, Cr Marshall will talk on impacts on community, community engagement and the working relationship with mining companies dealing with local government.

Other key topics are regulation of water-related aspects of mining in NSW – aquifer interference; Exploring legal rights around refusal of land access; Talent attraction and retention strategies; Upgrading transport and infrastructure to develop the Gunnedah basin.

<http://www.iir.com.au/informa-conferences/mining-events/mining/operations/gunnedah-basin-coal-energy-conference>



“They will clear 200,000 tree hollows...It takes 140-400 years for a tree hollow to form.” Wendy Hawe- Terrestrial Ecologist (ABC radio interview 28/2/11)

[http://mpegmedia.abc.net.au/local/newengland/201102/r725430\\_5799473.mp3](http://mpegmedia.abc.net.au/local/newengland/201102/r725430_5799473.mp3)  
Laughing Kookaburra emerging from nest in tree hollow photo R Druce

## **The birds at Maules Creek**

See The birds of Leard Forest as prepared by Ros Druce and maintained M. Dahlem at <http://www.mdahlem.net/birds/maubirds.php>

The Maules Creek Community Council (MCCC) was formed on the 25th of July 2010 at a community meeting to address the concerns of residents regarding the coal and gas developments in the local area. The Maules Creek Community Council (MCCC) was formed on the 25th of July 2010 at a community meeting to address the concerns of residents regarding the coal and gas developments in the local area.

# SRLUP Submission Points

## Key Failings of the New England - [North West Land Use Plan](#)

- **The Plan identifies Strategic Agricultural Land but doesn't protect it, instead providing a 'gateway process' which can be used to approve mining**
- **The gateway process doesn't apply before or during exploration, leaving areas completely unprotected until very late in the process.**
- **The Plan provides a clause for the NSW Cabinet to over-ride the gateway process in 'exceptional circumstances'**
- **The gateway process will not apply to mines that have already had development applications submitted, which includes most of the contentious mines in the region such as Maules Creek Coal and Shenhua Watermark.**
- **The Plan only includes limited areas within the definition of 'Strategic Agricultural Land' leaving around 90% of farm land that does not trigger the 'gateway'. Places left out include extensive areas around Narrabri and Wee Waa.**
- **The Plan maps the highest conservation lands, including the Pilliga and Leard State Forests, but leaves them open for unfettered mining which does not even trigger the 'gateway'.**
- **The Plan does nothing to protect communities or empower them to reject mining proposals which they do not support, and does not include any social impact assessment.**
- **The Plan fails to protect the health of communities from dangerous coal dust, setting dust limits only at Narrabri and Gunnedah and abandoning smaller communities at risk.**
- **Mining and gas developments are basically made exempt from the Aquifer Interference Regulation which is supposed to better protect water resources.**

Submissions can be made online at <http://haveyoursay.nsw.gov.au/regionallanduse-nenw?module=form#tool>