



THE COLONG FOUNDATION FOR WILDERNESS LTD.

Friday February 22nd, 2019

Emeritus Professor Jim Galvin
Chair
Independent Expert Panel for Mining in the Catchment

catchment.panel@chiefscientist.nsw.gov.au

Dear Professor Galvin,

Further Submission 2 - regarding Mining in the Special Areas

As the state election is upon us, the Colong Foundation for Wilderness has provided questions on our issues of concern to NSW Labor, the NSW Coalition government and the NSW Greens. These matters included:

- Reservation, declaration and other administrative solutions to stop further damage to Sydney Water supply catchments caused by longwall coal mining which may be of interest to your expert panel.

The Colong Foundation does not believe that TARPs and triggers under development consents and subordinate regulatory arrangements, such as SMPs, can provide sufficient regulatory action to adequately protect Special Areas from damage arising from intensive coal mining. Measures that have failed in the past are on balance likely to keep on failing if further attempts are made with them in the future. New measures may have a better chance of being effective in stopping the damage.

The Colong Foundation does not mind 'laying its cards on the table' through your inquiry process regarding the briefing provided to political leadership as our contribution to breaking the cycle of regulatory failure.

The Foundation asks below the same questions of your Panel as asked of our political leadership. I request your panel consider answering these questions in your conscience and to provide a written response in your report. As you would know, catching the ears of the new Ministers is the best way to bring about government reform.

When you seek comment on your Panel's regulatory proposals from government agencies, you would be aware that these are likely to be opposed due to the alterations in the bureaucratic balance of power that would arise, although these objections would be dressed up in public interest

language. The public service is the most conservative force in government. It generally opposes most changes not imposed on it by government, unless it initiates the proposals.

Industry and unions will oppose any effective catchment protection suggestion put forward. The families of the mining employees are amongst those potentially affected by your Panel's recommendations, but they are also currently impacted by occupational health issues. Coal mining seriously impacts on worker health and morbidity, for example from inhaling PM2.5 particles.

The relatively short term financial gains for the workforce and the industry from coal mining are outweighed by the permanent damage to the water supply catchment that impacts on a much broader community. The balance also shifts to a global community with climate change considerations, for even though metallurgical coal and not thermal coal is mined, it still adds to the climate change problem regardless.

Your recommendations must also accept that there are no good substitutes for the water supplies and other ecological benefits provided by our wonderful Special Area catchments, and that fact must also be part of your deliberations.

Reservation of water supply catchments and other administrative actions to protect Special Areas

Special Areas are to protect Sydney's water catchments for drinking water supply. Despite strict prohibition on public access to Schedule One Special Areas, serious damage continues due to intensive coal mining activities south of Sydney.

Decades of mining regulation effort has failed to adequately protect these water supply catchments from mining related damage to stream flows and water quality. Staged development consents, subsidence management plans and other efforts at adaptive management have had little effect on curbing the damage through a necessary reduction in mining intensity.

Administrative actions to stop the damage where mining is currently not approved:

In order to ban future mining and exploration in the Special Areas so as to provide water resource security to 5 million people, these drinking water catchments should be reserved under the *National Parks and Wildlife Act, 1974*.

Noting that Section 45 of the *Sydney Water Catchment Management Act, 1998*, provides that the WaterNSW must not dispose of land except to the Minister administering the *National Parks and Wildlife Act, 1974* at no cost to the Minister – nature reserves should be gazetted over the Metropolitan and Woronora Special Area catchments, excluding areas where mining activity is already approved, private lands (other than lands owned by WaterNSW and those lands can and should be reserved), and lands around dam walls, spillways and other water supply infrastructure.

The large intact natural area in the southern part of the Metropolitan Special Area should be assessed and where appropriate declared under the *Wilderness Act, 1987* – as such a reservation would be in keeping with the preservation of this intact part of the catchment.

Nattai National Park should be extended to include the Upper Nepean, Bargo, Nattai, Burratorang State Conservation Areas (SCAs) and reserved to the centre of the Earth as there is no coal mining in these SCAs.

Will Independent Expert Panel for Mining in the Catchment seek to protect the water supply catchment of Lake Burratorang and the Metropolitan catchment to the east from coal seam gas and coal mining by recommending extension of the Nattai National Park to include the Upper Nepean, Bargo, Nattai and Burratorang SCAs?

The Yerranderie SCA should be added to the Blue Mountains National Park – this SCA was created to allow base metal exploration and mining at Yerranderie and such activities would be unconscionable due to the risks of acid mine drainage and pollution of Sydney’s main water supply with heavy metal.

Will Independent Expert Panel for Mining in the Catchment recommend further protection of the water supply catchment of Lake Burratorang by extending the Blue Mountains National Park to include the existing Yerranderie SCA?

Prevention of damage to the water supply catchments arising from existing coal mining activities:

Where mining activity is already approved in Special Areas, will Independent Expert Panel for Mining in the Catchment recommend reservation of these areas in Bargo, Woronora and Metropolitan State Conservation Areas? Reservation would give the Minister for Environment a concurrence power over additional mining activities or renewal of mining tenure in these parts of the Schedule One Special Areas.

The Dam Safety Committee has power over coal mining near and under dam walls but even this Committee has not prevented all mining damage, as rainfall related inflows to Dendrobium Colliery demonstrates, although no coal was mined under stored waters of a reservoir.

The Dam Safety Committee’s ‘Notification Area’ should be extended to include **all Schedule One Special Areas**, catchment preservation added to its brief, and two nominees of the Nature Conservation Council of NSW added to the Committee.

Will Independent Expert Panel for Mining in the Catchment recommend extension of Dam Safety Committee’s ‘Notification Area’ to include all Schedule One Special Areas?

The Environment Protection Authority should develop broader a ‘Protection of the Environment Policy’ under the Protection of the Environment Operations Act, 1997 for mining activities that requires the preservation of drinking water quality, ecological integrity and stream flow in Special Areas.

Will Independent Expert Panel for Mining in the Catchment recommend development of a Protection of the Environment Policy under the Protection of the Environment Operations Act, 1997 that requires the preservation of drinking water quality, ecological integrity of pools and streams, and secures continued stream flow in Special Areas?

This provision shall ensure that the capacity of Special Area Catchments to collect, transfer and store water remains undiminished. The ecological integrity of pools and streams can be secured by setting performance criteria such as the retention of steam pools and water flow of rock bars on streams

within catchment areas. Retention of near-surface groundwater in upland swamps can also be secured through setting of performance criteria. This approach to catchment protection can be part of the re-establishment of the neutral or benefit effect test (NorBe test), which is a standing Labor commitment for existing and new developments in these catchments.

I hope the above suggestions provide your committee with stimulating material for productive cogitation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K. Muir', written in a cursive style.

Keith Muir O.A.M.

Director

The Colong Foundation for Wilderness Ltd